

ARKANSAS TOBACCO CONTROL

Enabling Laws

Act 227 of 2016
A.C.A. §26-57-255 et seq.

History and Organization

The Arkansas Tobacco Control Board was created by Act 1337 of 1997 of the 81st General Assembly, and authorized an eight (8) member Board appointed by the Governor. The Board was constituted as follows: Two (2) members of the Board were tobacco products wholesalers; two (2) members were tobacco products retailers; and four (4) members were members of the public-at-large who were not public employees or officials, at least one of which was an African American, and two (2) of whom were selected from a list of at least eight (8) candidates supplied to the Governor by the Arkansas Medical Society. The Director of Arkansas Tobacco Control is appointed by, and serves at the pleasure of, the Governor. The Board's mission was to enforce the state laws and regulations pertaining to tobacco sales for the protection of the citizens of Arkansas. The Board authorizes the issuance of permits for all retail, wholesale, manufacturing entities as well as sales representatives and vending machine operators who deal in cigarette or tobacco products in the State of Arkansas. The Board also rules on applications by wholesalers to lower the statutorily presumed cost of doing business that is used to calculate the minimum selling price of cigarettes in Arkansas. The Board acts as a quasi-judicial body, sitting as both judge and jury in disciplinary proceedings against permit holders and other individuals who have been cited for violating Arkansas tobacco laws or rules.

Act 1699 of 2001 authorized the Director to appoint agents as specialized law enforcement officers for the purpose of conducting investigations pertaining to violations of tobacco laws in this state. On July 19, 2001, the Board entered into a sub-recipient contractual agreement with the Arkansas Department of Health to receive monies from the Master Tobacco Settlement Fund for the enforcement of youth access laws.

Act 785 of 2009 designated Arkansas Tobacco Control (ATC) as a law enforcement agency and ATC agents as law enforcement officers with state-wide authority who can bring both administrative charges and initiate criminal investigations for violations of Arkansas' tobacco laws. This recognized the separation between the ATC, the law enforcement and regulatory agency, and the Board as the quasi-judicial adjudicatory body for administrative disciplinary matters and as the primary rule-making body for tobacco issues. ATC is tasked with enforcing both the Board's rules and all of Arkansas' tobacco laws. Violations that constitute criminal offenses may be filed administratively to be dealt with by the Board or agents may file information with local prosecuting attorneys to pursue criminal proceedings against offenders.

At that time, the statutes enforced by ATC were: A.C.A. §26-57-213 Invoices, A.C.A. §26-57-214 Registration and licensing required prior to

§26-57-226 Sale, delivery, etc., without license - Penalty, A.C.A. §26-57-228 Purchases from unregistered, unlicensed dealers unlawful, A.C.A. §26-57-231 Failure to allow inspection unlawful, A.C.A. §26-57-240 Counterfeiting of stamps unlawful - Penalty, A.C.A. §26-57-245 Unstamped products or products with unpaid taxes - Purchase, sale, receipt, etc., a criminal offense, A.C.A. §26-57-262 Sale of export cigarettes, A.C.A. §26-57-1303 Certifications - Directory - Tax stamps, A.C.A. §26-57-1306 Penalties and other remedies, A.C.A. §5-27-227 Providing minors with tobacco products and cigarette papers - Purchase, use, or possession prohibited - Self-service displays prohibited - Placement of tobacco vending machines, A.C.A. §5-78-102 Confiscation of tobacco products authorized, and A.C.A. §4-75-701 et seq. The Unfair Cigarette Sales Act. To accomplish this massive task, ATC works closely with other local, state and federal law enforcement agencies.

Act 697 of 2009, "An Act To Create The Arkansas Cigarette Fire Safety Standard Act; Concerning The Reduced Ignition Propensity Standards For Cigarettes Sold In The State Of Arkansas; To Create The Cigarette Fire Safety Standard Fund; And For Other Purposes" required that all cigarettes sold in Arkansas after January 1, 2010 to comply with the Act's reduced ignition propensity standards and added the enforcement of A.C.A. §20-27-2101 et seq. to ATC's mandate, necessitating additional tobacco inventory inspections and authorizing ATC to undertake random testing of cigarettes to confirm manufacturer compliance with the Act, but did not provide any additional manpower to accomplish this.

Act 697 of 2009 also placed the Cigarette Fire Safety Standard Fund under the ATC Director's control to support fire safety and prevention programs. Act 939 of 2009, "An Act To Establish A Forfeiture Procedure For Tobacco Products; To Establish A Tobacco Control Fund; And For Other Purposes" passed at the behest of the Office of the Prosecuting Coordinator in an effort to combat the growing problem of smuggled, untaxed tobacco, created a forfeiture procedure modeled on Arkansas' drug forfeiture act for use by local prosecuting attorneys and local and state law enforcement agencies to divest tobacco smugglers of property used to facilitate their illegal activities. Tobacco forfeitures are reported to the Director of Arkansas Tobacco Control who compiles and annual report on same for Legislative Audit.

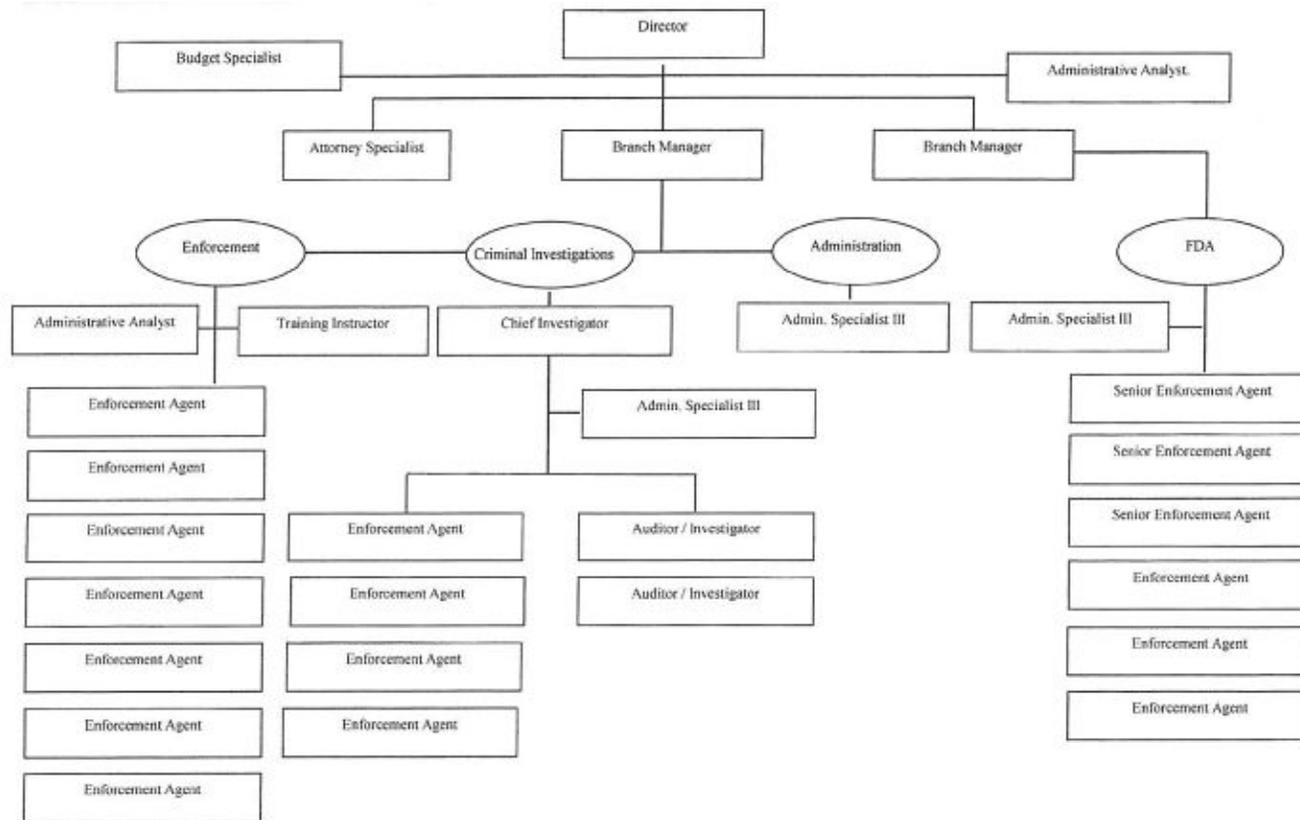
Public Law 111-31 of 2009, the "Family Smoking Prevention And Tobacco Control Act" gave regulatory authority over tobacco products to the Federal Food and Drug Administration (FDA). The FDA subsequently began contracting with individual states to perform enforcement of FDA regulations pertaining to the sale of tobacco products to minors. Arkansas was one of the first states to complete the contract process and then Governor Mike Beebe designated ATC as the state agency to provide enforcement services for the FDA. ATC was authorized to add nine (9) additional personnel to undertake the enforcement of FDA tobacco regulations in the State of Arkansas. FDA reimburses the State of Arkansas for salaries, operating and equipment costs for these FDA enforcement personnel.

Act 198 of 2011 recognized that herbal snuff should be marketed only to adults to avoid any possibility of herbal snuff being regarded as a gateway product for children and therefore prohibits the sale of herbal snuff in this state to persons under the age of eighteen (18) years of age. ATC was again tasked with enforcing this additional youth access law, but no additional personnel were authorized for the agency.

Act 1272 of 2013, "An Act To Require Wholesalers To Report Certain Information To The Arkansas Tobacco Control Board; To Protect Information In The Required Report From Disclosure; And For Other Purposes", allowed ATC to begin working with cigarette and tobacco wholesalers to build a database of legally taxed tobacco products sold to retailers to better enable ATC agents to detect and prosecute retailers who are dealing in untaxed tobacco products.

Act 1273 of 2013, "An Act Concerning The Regulation Of Tobacco Products; To Amend The Arkansas Tobacco Products Tax Act Of 1977; To Make Technical Changes; And For Other Purposes", brought cigarette and tobacco manufacturers under ATC's regulatory umbrella by requiring them to have a permit approved by the Board to deal in tobacco products in Arkansas. The Act also clarified ATC's permitting process and required criminal background checks to be run on all tobacco permit applicants to ensure no one convicted of a felony will own or operate a business that deals in tobacco. This has greatly increased the permit application processing time as no additional personnel were authorized.

Act 1235 of 2015, "An Act to Regulate Vapor Products, Alternative Nicotine Products, and E-Liquid Products; To Amend Certain Laws Concerning the Regulation of Tobacco Products; To Declare and Emergency; And for Other Purposes", put vapor products, e-liquids, and alternative nicotine products under ATC and the Board's jurisdiction, combining them with tobacco manufacturing and wholesale permits but designating an exclusive vapor permit for retail stores specializing in vapor products. This act allowed ATC to keep its permit fees as special revenue to allow funding of a long authorized but to this point, unfunded agent position to help in the policing of the new vapor permits.



Agency Commentary

The Arkansas Tobacco Control Board was created by Act 1337 of 1997. Arkansas Tobacco Control's (ATC) purpose is now to regulate any individual or entity who deals in cigarettes, other tobacco products, vapor products, e-liquids or alternative nicotine products in the State of Arkansas by ensuring that said individual or entity is duly permitted, and that all individuals or entities that deal in such products in Arkansas, comply with all the tobacco and vapor laws and rules of the state.

This compliance includes but is not limited to ensuring that all tobacco and vapor products are purchased according to state statute and regulation, that no tobacco, cigarette paper, herbal snuff, vapor products, e-liquids or alternative nicotine products are sold to anyone under eighteen (18) years of age and that all tobacco and vapor products sold in Arkansas are legitimate products that have been handled, taxed, in

the case of tobacco, and, in the case of cigarettes, priced, in accordance with Arkansas law.

It is ATC's mandate to investigate all violations of Arkansas tobacco and vapor law and, as appropriate, to either prosecute said violations administratively before the Arkansas Tobacco Control Board or refer them to the appropriate prosecuting attorney's office for criminal prosecution.

Following the mandate set forth above, ATC's efforts have a major effect on state revenue by limiting illegal tobacco smuggling and protecting law abiding businesses dealing in tobacco from illegal competition. The budget request has been thoroughly reviewed and meets the needs of the Agency while making efficient use of taxpayer money.

Fund Center 2EH - Arkansas Tobacco Control - Enforcement Division

The Agency is requesting an appropriation increase in Operating Expense, for its Enforcement Division in the amount of \$19,800 each year of the biennium. This increase will cover the added cost of conducting compliance checks due to minimum wage increase (\$1,800.00 per year) and half of the increased cost for the Department of Information Systems to host our new database (\$18,000 per year).

The Agency is also requesting an appropriation increase in Conference and Travel Expenses to cover the cost of attending the annual Federation of Tax Administrators conference and the National Synar Conference and other out-of-state training. These conferences offer good networking opportunities and tremendous insight on tobacco smuggling and under age youth access, respectively.

This fund is used to provide enforcement activities throughout the state with a focus on preventing youth access to tobacco and vapor products. It also funds our merchant training efforts which help to reduce youth access to these products across the state. A federal mandate, the Synar Amendment, requires each state to do a random sample of inspections across the state each year to determine the state's rate of compliance. Without enforcement, Arkansas risks losing up to 40% of its Substance Abuse Block Grant Fund which would amount to several million dollars.

Fund Center 85C - ATC Cigarette Fire Safety

The Agency is requesting Base Level for each year of the biennium. The Agency plans to establish a grant process that will allow fire departments and others to receive grants to help with fire prevention and fire safety in their areas.

Fund Center 85N - Tobacco Inspection Program

The Agency is requesting Base Level for each year of the biennium. This Fund Center is for the Federal Tobacco Inspection Program which is Contract for Services with the Federal Food and Drug Administration, Center for Tobacco Products. The Federal guidelines and the terms of

the contract with the State of Arkansas and Arkansas Tobacco Control allow the Agency to operate the Federal Tobacco program at zero cost to the State. The Contract for Services with the FDA solely provides funding for all aspects of the operation and the Base Level appropriation budgets are locked into said contract. Funding at Base Level for all years of the biennium with adequately cover the Fund Center.

Fund Center 983 - Arkansas Tobacco Control - Criminal Investigations and Administration Divisions

This appropriation funds the Agency's requirement to issue permits and regulate those dealing in cigarettes, other tobacco products, vapor products, e-liquids or alternative nicotine products in the State of Arkansas. It also funds the Agency's Criminal Investigations Division which investigates tobacco smuggling cases and other criminal offenses. Without this enforcement, the State would lose millions of dollars each year to illegal tobacco smuggling.

Recent legislation to regulate the vapor industry retailers, wholesalers and manufacturers has increased the workload of the Agency tremendously. No new personnel have been added, but enforcement costs have increased. The Agency is therefore requesting to reduce appropriation each fiscal year in Conference and Travel Expenses as well as Professional Fees by \$5,000 each, which will allow an increase in appropriation in Operating Expenses by \$10,000 to deal with the additional enforcement costs.

Fund Center U68 - ATC Revenue Enforcement

The Agency is requesting additional appropriation to cover the cost of an additional Enforcement Agent to combat tobacco smuggling. This cost includes salary and benefits plus associated operating expenses. Funding will be from ATC permit fees and will not impact General Revenue. This position is an existing one that has been vacated through attrition; therefore a new position is neither requested nor required.

In addition, the Agency is requesting an appropriation increase in Operating Expense, for its Revenue Enforcement in the amount of \$18,000 each year of the biennium. This increase will cover half of the estimated cost for the Department of Information Systems (DIS) to host the new agency database that is being designed and built by DIS.

This is a new revenue stream that will help cover the costs of enforcement of new vapor laws that took effect last year as well as tobacco smuggling.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
ARKANSAS TOBACCO CONTROL BOARD
FOR THE YEAR ENDED JUNE 30, 2014

Findings

Recommendations

None

None

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016

None

Employment Summary

	Male	Female	Total	%
White Employees	16	7	23	88 %
Black Employees	0	3	3	12 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			3	12 %
Total Employees			26	100 %

Publications

A.C.A. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
None	N/A	N	N	0	N/A	0	0.00

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2015-2016		2016-2017		2016-2017		2017-2018					2018-2019						
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
2EH Sales to Minors Enforcement - Cash	1,468,458	12	969,735	13	896,618	13	972,830	13	997,630	13	992,630	13	973,198	13	997,998	13	992,998	13
85C ATC Cigarette Fire Safety	0	0	50,000	0	50,000	0	50,000	0	50,000	0	50,000	0	50,000	0	50,000	0	50,000	0
85N Tobacco Insp Prog	568,188	7	866,588	8	940,750	8	868,516	8	868,516	8	868,516	8	868,639	8	868,639	8	868,639	8
983 Tobacco Control Board Operations	782,036	9	839,791	10	898,920	10	804,647	10	804,647	10	804,647	10	804,770	10	804,770	10	804,770	10
U68 ATC Revenue Enforcement	0	0	16,270	0	74,384	0	16,270	0	92,384	0	16,270	0	16,270	0	92,384	0	16,270	0
Total	2,818,682	28	2,742,384	31	2,860,672	31	2,712,263	31	2,813,177	31	2,732,063	31	2,712,877	31	2,813,791	31	2,732,677	31

Funding Sources		%		%		%		%		%		%		%		%			
Fund Balance	4000005	455,281	11.7	1,071,948	27.0			1,224,641	30.0	1,224,641	30.0	1,224,641	30.0	1,374,239	32.1	1,273,325	30.4	1,354,439	31.7
General Revenue	4000010	782,036	20.1	839,791	21.2			804,647	19.7	804,647	19.7	804,647	19.7	804,770	18.8	804,770	19.2	804,770	18.9
Federal Revenue	4000020	568,188	14.6	866,588	21.8			868,516	21.3	868,516	21.3	868,516	21.3	868,639	20.3	868,639	20.8	868,639	20.4
Special Revenue	4000030	529,170	13.6	295,000	7.4			295,000	7.2	295,000	7.2	295,000	7.2	345,000	8.0	345,000	8.2	345,000	8.1
Cash Fund	4000045	1,555,955	40.0	893,698	22.5			893,698	21.9	893,698	21.9	893,698	21.9	893,698	20.8	893,698	21.4	893,698	20.9
Total Funds		3,890,630	100.0	3,967,025	100.0			4,086,502	100.0	4,086,502	100.0	4,086,502	100.0	4,286,346	100.0	4,185,432	100.0	4,266,546	100.0
Excess Appropriation/(Funding)		(1,071,948)		(1,224,641)				(1,374,239)		(1,273,325)		(1,354,439)		(1,573,469)		(1,371,641)		(1,533,869)	
Grand Total		2,818,682		2,742,384				2,712,263		2,813,177		2,732,063		2,712,877		2,813,791		2,732,677	

FY17 Budget amount in appropriation 2EH exceeds the authorized amount due to Regular Salaries and Personal Services Matching rate adjustments during the 2015-2017 Biennium.

Agency Position Usage Report

FY2014 - 2015						FY2015 - 2016						FY2016 - 2017					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
31	28	3	31	0	9.68 %	31	27	3	30	1	12.90 %	31	26	5	31	0	16.13 %

Analysis of Budget Request

Appropriation: 2EH - Sales to Minors Enforcement - Cash

Funding Sources: NTC - Cash in Treasury

Arkansas Tobacco Control administers the Sales to Minors program. This program is responsible for executing the sales to minors checks and enforcing any violations that result from these checks. Funding for this program is made available through a grant from the Arkansas Department of Health using Master Tobacco Settlement funds.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases.

The Base Level request is \$972,830 in FY18 and \$973,198 in FY19.

For the 2017-2019 Biennium, the Agency is requesting the following:

- Operating Expenses of \$1,800 each year for the cost of conducting compliance checks due to the minimum wage increase.
- Operating Expenses of \$18,000 each year to cover half of the increased cost for the Department of Information Systems to host the new database.
- Conference & Travel Expenses of \$5,000 to cover the cost of attending annual conferences and training.

The Technology related requests are documented in the Agency's Information Technology (IT) Plan (pages 10-11).

The Executive Recommendation provides for the Agency Request, with the exception of the Conference & Travel Expenses request. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: 2EH - Sales to Minors Enforcement - Cash

Funding Sources: NTC - Cash in Treasury

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	517,105	560,802	502,824	560,902	560,902	560,902	561,202	561,202	561,202
#Positions		12	13	13	13	13	13	13	13	13
Personal Services Matching	5010003	182,505	189,961	174,822	192,956	192,956	192,956	193,024	193,024	193,024
Operating Expenses	5020002	521,146	212,272	212,272	212,272	232,072	232,072	212,272	232,072	232,072
Conference & Travel Expenses	5050009	0	0	0	0	5,000	0	0	5,000	0
Professional Fees	5060010	235	1,700	1,700	1,700	1,700	1,700	1,700	1,700	1,700
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Promotional Items	5090028	1,259	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Capital Outlay	5120011	246,208	0	0	0	0	0	0	0	0
Total		1,468,458	969,735	896,618	972,830	997,630	992,630	973,198	997,998	992,998
Funding Sources										
Fund Balance	4000005	286,916	374,413		298,376	298,376	298,376	219,244	194,444	199,444
Cash Fund	4000045	1,555,955	893,698		893,698	893,698	893,698	893,698	893,698	893,698
Total Funding		1,842,871	1,268,111		1,192,074	1,192,074	1,192,074	1,112,942	1,088,142	1,093,142
Excess Appropriation/(Funding)		(374,413)	(298,376)		(219,244)	(194,444)	(199,444)	(139,744)	(90,144)	(100,144)
Grand Total		1,468,458	969,735		972,830	997,630	992,630	973,198	997,998	992,998

FY17 Budget amount in Regular Salaries and Personal Services Matching exceeds the authorized amount due to salary and matching rate adjustments during the 2015-2017 Biennium.

Change Level by Appropriation

Appropriation: 2EH - Sales to Minors Enforcement - Cash
Funding Sources: NTC - Cash in Treasury

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	972,830	13	972,830	100.0	973,198	13	973,198	100.0
C01	Existing Program	6,800	0	979,630	100.7	6,800	0	979,998	100.7
C08	Technology	18,000	0	997,630	102.5	18,000	0	997,998	102.5

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	972,830	13	972,830	100.0	973,198	13	973,198	100.0
C01	Existing Program	1,800	0	974,630	100.2	1,800	0	974,998	100.2
C08	Technology	18,000	0	992,630	102.0	18,000	0	992,998	102.0

Justification

C01	The Agency is requesting an increase in Operating Expenses to cover the added cost of conducting compliance checks due to the minimum wage increase. The Agency is also requesting an increase in Conference and Travel to cover the cost of attending annual conferences and other out-of-state training.
C08	The Agency is requesting an appropriation increase in Operating Expenses to cover the increased cost for the Department of Information Systems to host our new database.

Analysis of Budget Request

Appropriation: 85C - ATC Cigarette Fire Safety

Funding Sources: SFS - Cigarette Fire Safety Standard Fund

The Arkansas Cigarette Fire Safety Standard Act (A.C.A. 20-27-2101) was established by Act 697 of 2009 to set ignition propensity standards for cigarettes sold in Arkansas to be uniform with other states with enacted reduced cigarette ignition propensity laws. This appropriation is funded by special revenues from cigarette certification fees and civil penalties.

The Agency's Base Level and total request is for appropriation of \$50,000 each year of the 2017-2019 Biennium.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 85C - ATC Cigarette Fire Safety
Funding Sources: SFS - Cigarette Fire Safety Standard Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item	Historical Data			2017-2018			2018-2019		
	2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Fire Safety & Prevention 5900046	0	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Total	0	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000
Funding Sources									
Fund Balance 4000005	168,365	246,100		206,100	206,100	206,100	166,100	166,100	166,100
Special Revenue 4000030	77,735	10,000		10,000	10,000	10,000	60,000	60,000	60,000
Total Funding	246,100	256,100		216,100	216,100	216,100	226,100	226,100	226,100
Excess Appropriation/(Funding)	(246,100)	(206,100)		(166,100)	(166,100)	(166,100)	(176,100)	(176,100)	(176,100)
Grand Total	0	50,000		50,000	50,000	50,000	50,000	50,000	50,000

Analysis of Budget Request

Appropriation: 85N - Tobacco Insp Prog

Funding Sources: FCT - Tobacco Inspection Program - Federal

Arkansas Tobacco Control was awarded a grant in FY10 which allowed ATC to assist the U.S. Food and Drug Administration (FDA) in inspecting retail establishments that sell cigarettes and/or smokeless tobacco products and in surveillance of other entities that fall under the scope of the FDA.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases.

The Agency's Base Level and total request is for appropriation of \$868,516 in FY18 and \$868,639 in FY19.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 85N - Tobacco Insp Prog
Funding Sources: FCT - Tobacco Inspection Program - Federal

Historical Data

Agency Request and Executive Recommendation

Commitment Item	Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
	2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
				Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	325,444	346,690	401,376	346,690	346,690	346,690	346,790	346,790	346,790
#Positions	7	8	8	8	8	8	8	8	8
Personal Services Matching 5010003	117,064	121,032	140,508	122,960	122,960	122,960	122,983	122,983	122,983
Overtime 5010006	0	17,041	17,041	17,041	17,041	17,041	17,041	17,041	17,041
Operating Expenses 5020002	125,680	345,583	345,583	345,583	345,583	345,583	345,583	345,583	345,583
Conference & Travel Expenses 5050009	0	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Professional Fees 5060010	0	31,242	31,242	31,242	31,242	31,242	31,242	31,242	31,242
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Capital Outlay 5120011	0	0	0	0	0	0	0	0	0
Total	568,188	866,588	940,750	868,516	868,516	868,516	868,639	868,639	868,639
Funding Sources									
Federal Revenue 4000020	568,188	866,588		868,516	868,516	868,516	868,639	868,639	868,639
Total Funding	568,188	866,588		868,516	868,516	868,516	868,639	868,639	868,639
Excess Appropriation/(Funding)	0	0		0	0	0	0	0	0
Grand Total	568,188	866,588		868,516	868,516	868,516	868,639	868,639	868,639

Change Level by Appropriation

Appropriation: 85N - Tobacco Insp Prog
Funding Sources: FCT - Tobacco Inspection Program - Federal

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	868,516	8	868,516	100.0	868,639	8	868,639	100.0

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	868,516	8	868,516	100.0	868,639	8	868,639	100.0
C14	Title Change	0	0	868,516	100.0	0	0	868,639	100.0

Justification

C14	Reflects title changes for three (3) ATC FDA Senior Enforcement Agents to ATC Senior Enforcement Agents. The purpose of the title changes is to allow for broader utilization of the positions.
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Analysis of Budget Request

Appropriation: 983 - Tobacco Control Board Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

Arkansas Tobacco Control was established by Act 1337 of 1997 to regulate and issue permits and licenses to any person (except manufacturers) handling, receiving, processing, storing, distributing, taking orders for, soliciting orders of, selling, offering for sale or dealing in, through sale, barter or exchange, any cigarettes or other tobacco products in the State of Arkansas. This appropriation is funded by general revenues.

Base Level Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level request for Regular Salaries includes board member stipend payments.

The Base Level request is for appropriation of \$804,647 for FY18 and \$804,770 for FY19.

The Agency's Change level request is for Base Level appropriation each year of the biennium, and includes the following:

- Conference & Travel Expenses decrease of (\$5,000) due to a reallocation to Operating Expenses.
- Professional Fees decrease of (\$5,000) due to a reallocation to Operating Expenses.
- Operating Expenses increase of \$10,000 due to reallocations from Conference & Travel Expenses and Professional Fees.

These requests are to cover additional enforcement costs brought on by recent legislation.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 983 - Tobacco Control Board Operations

Funding Sources: HUA - Miscellaneous Agencies Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			2017-2018			2018-2019		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	405,373	445,752	457,745	445,852	445,852	445,852	445,952	445,952	445,952
#Positions		9	10	10	10	10	10	10	10	10
Personal Services Matching	5010003	145,201	148,475	152,907	150,830	150,830	150,830	150,853	150,853	150,853
Operating Expenses	5020002	188,718	187,965	268,268	187,965	197,965	197,965	187,965	197,965	197,965
Conference & Travel Expenses	5050009	4,845	10,000	10,000	10,000	5,000	5,000	10,000	5,000	5,000
Professional Fees	5060010	300	10,000	10,000	10,000	5,000	5,000	10,000	5,000	5,000
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	37,599	37,599	0	0	0	0	0	0	0
Total		782,036	839,791	898,920	804,647	804,647	804,647	804,770	804,770	804,770
Funding Sources										
General Revenue	4000010	782,036	839,791		804,647	804,647	804,647	804,770	804,770	804,770
Total Funding		782,036	839,791		804,647	804,647	804,647	804,770	804,770	804,770
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
Grand Total		782,036	839,791		804,647	804,647	804,647	804,770	804,770	804,770

Budget exceeds Authorized Appropriation in Capital Outlay by authority of a Budget Classification Transfer.

Change Level by Appropriation

Appropriation: 983 - Tobacco Control Board Operations
Funding Sources: HUA - Miscellaneous Agencies Fund

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	804,647	10	804,647	100.0	804,770	10	804,770	100.0
C04	Reallocation	0	0	804,647	100.0	0	0	804,770	100.0

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	804,647	10	804,647	100.0	804,770	10	804,770	100.0
C04	Reallocation	0	0	804,647	100.0	0	0	804,770	100.0

Justification

C04	The Agency is requesting a reallocation from Conference and Travel Expenses and Professional Fees to Operating Expenses to cover additional enforcement costs brought on by recent legislation.
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Analysis of Budget Request

Appropriation: U68 - ATC Revenue Enforcement

Funding Sources: STR - ATC Revenue Fund

This appropriation covers personal services and operating expenses of the Arkansas Tobacco Control Board Enforcement. The Arkansas Tobacco Control Revenue Fund was established by A.C.A. §19-6-831.

The Base Level request is for appropriation of \$16,270 in each year of the 2017-2019 Biennium.

The Agency's Change level request is for appropriation of \$76,114 each year of the biennium, and includes the following:

- Regular Salaries and Personal Services Matching of \$42,386 each year for one ATC Enforcement Agent C116 position to be used to combat tobacco smuggling. This position is an existing one that has been vacated through attrition.
- Operating Expenses of \$18,000 to cover half of the estimated cost for the Department of Information Systems to host the new agency database.

The Technology related requests are documented in the Agency's Information Technology (IT) Plan (pages 10-11).

The Executive Recommendation provides for Base Level.

Appropriation Summary

Appropriation: U68 - ATC Revenue Enforcement

Funding Sources: STR - ATC Revenue Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item	Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
	2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
				Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	0	0	42,386	0	42,386	0	0	42,386	0
#Positions	0	0	0	0	0	0	0	0	0
Personal Services Matching 5010003	0	0	15,728	0	15,728	0	0	15,728	0
Overtime 5010006	0	0	0	0	0	0	0	0	0
Operating Expenses 5020002	0	15,770	15,770	15,770	33,770	15,770	15,770	33,770	15,770
Conference & Travel Expenses 5050009	0	0	0	0	0	0	0	0	0
Professional Fees 5060010	0	500	500	500	500	500	500	500	500
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Capital Outlay 5120011	0	0	0	0	0	0	0	0	0
Total	0	16,270	74,384	16,270	92,384	16,270	16,270	92,384	16,270
Funding Sources									
Fund Balance 4000005	0	451,435		720,165	720,165	720,165	988,895	912,781	988,895
Special Revenue 4000030	451,435	285,000		285,000	285,000	285,000	285,000	285,000	285,000
Total Funding	451,435	736,435		1,005,165	1,005,165	1,005,165	1,273,895	1,197,781	1,273,895
Excess Appropriation/(Funding)	(451,435)	(720,165)		(988,895)	(912,781)	(988,895)	(1,257,625)	(1,105,397)	(1,257,625)
Grand Total	0	16,270		16,270	92,384	16,270	16,270	92,384	16,270

There is no authorized number of positions due to single salary section in appropriation act.

Change Level by Appropriation

Appropriation: U68 - ATC Revenue Enforcement
Funding Sources: STR - ATC Revenue Fund

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	16,270	0	16,270	100.0	16,270	0	16,270	100.0
C01	Existing Program	58,114	0	74,384	457.2	58,114	0	74,384	457.2
C08	Technology	18,000	0	92,384	567.8	18,000	0	92,384	567.8

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	16,270	0	16,270	100.0	16,270	0	16,270	100.0
C01	Existing Program	0	0	16,270	100.0	0	0	16,270	100.0
C08	Technology	0	0	16,270	100.0	0	0	16,270	100.0

Justification

C01	The Agency is requesting additional appropriation in Salaries and Personal Services Matching to cover the cost of an additional Enforcement Agent to combat tobacco smuggling. This position is an existing one that has been vacated through attrition; therefore a new position is neither requested nor required.
C08	The Agency is requesting an appropriation increase in Operating Expense to cover half of the estimated cost for the Department of Information Systems to host the new agency database that is being designed and built by DIS.