

STATE SECURITIES DEPARTMENT

Enabling Laws

Act 95 of 2005
AR Code § 20-17-1001 et seq.
AR Code § 23-35-101 et seq.
AR Code § 23-37-101 et seq.
AR Code § 23-39-501
AR Code § 23-41-101 et seq.
AR Code § 23-42-101 et seq.
AR Code § 23-13-101 et seq.

History and Organization

The Arkansas Securities Department has legislated responsibilities to protect the monetary interests of Arkansas residents by providing administration, regulation, and enforcement of the various Acts.

Act 254 of 1959 placed responsibility for the "sale of securities" under the jurisdiction of the State Bank Department, and provided for a State Securities Commissioner. The Securities Commissioner was to be appointed by the Governor and subject to the supervision of the State Bank Commissioner, and the Securities Department was operated as a division of the State Bank Department. Act 38 of 1971 transferred both the State Bank Department and the State Securities Department to the Department of Commerce. Each division continued to function independently of the Commerce Department with regard to the prescribed statutory powers, authorities, duties, and rulemaking responsibilities they had prior to the transfer. Act 471 of 1973 amended Act 254 of 1959 to provide that the Securities Division was no longer a part of the State Bank Department and the Securities Commissioner was no longer subject to the supervision of the State Bank Commissioner. The Act further provided that the Securities Division be renamed the Arkansas Securities Department and that all Acts previously regulated by the Securities Division be transferred to the new agency effective July 1, 1973.

In early 1975 it became apparent that the special revenue fund balances transferred to the Department by the Bank Department pursuant to Act 471 of 1973 would not be sufficient to continue operation of the Department at its then current level. Act 863 of 1975 amended all Acts administered by the Department to reclassify all revenues received by the Department as general revenues. Thus, effective July 1, 1975, the Department ceased being a special revenue agency and became a general revenue agency with all expenditures paid from the general revenues of the State.

Act 691 of 1983 abolished the Department of Commerce. Section 3 of the Act directed that the State Securities Department shall function as an independent agency. The Securities Commissioner is appointed by the Governor and serves at the pleasure of the Governor.

Act 42 of the First Extraordinary Session of 1989 appropriated funds to the Arkansas Securities Department, up to a maximum of \$200,000 in each fiscal year, to be used to contract for legal, accounting, and other appropriate assistance in addition to that available from the Department's

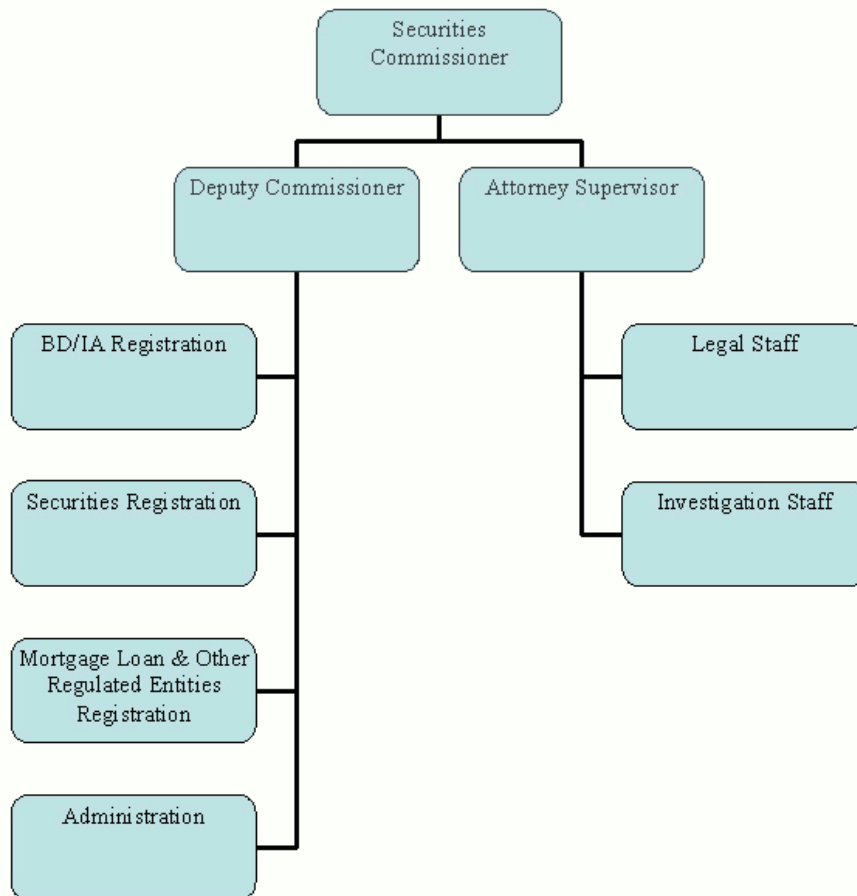
regular staff, in specific cases and situations as deemed necessary by the Securities Commissioner. Act 207 of 1993 provided that all revenues received from administrative fines shall be deposited into the fund account from which the Arkansas Securities Department receives its maintenance and support as special revenues and used only for the stated purposes. Act 66 of 1997 provides in the event specific cases, situations, and/or programs make it necessary that the State Securities Department receives additional appropriations to carry out the objectives of the agency, the Securities Commissioner is hereby authorized to request the approval of the Governor and the Chief Fiscal Officer of the State for transfer of the appropriations provided in the Contingency line item (\$200,000). In no event shall the transfer in any fiscal year exceed the appropriations provided in the Contingency line item. The Governor may approve or modify such request for transfer of appropriations as in his judgment he deems necessary, and shall inform the Chief Fiscal Officer of the State. Upon notification, the Chief Fiscal Officer of the State shall direct the State Auditor to process said transfer upon his books.

Act 659 of 1993 created on the books of the Chief Fiscal Officer of the State and those of the State Treasurer a fund to be known as the "Securities Department Fund". Such fund is to be used for the maintenance, operation, support and improvement of the State Securities Department in carrying out its functions, powers, and duties as set out by law and by rule and regulation not inconsistent with law. Filing fees for initial or renewal registration of agent of a broker-dealer and investment adviser were increased to Seventy-five (\$75), of which twenty-five dollars (\$25) shall be designated as special revenue and shall be deposited in the Securities Department Fund. Also, the filing fee for the filing of a registration statement was increased to a maximum filing fee of no more than two thousand dollars (\$2,000). Any portion of the fee in excess of one thousand (\$1,000) shall be designated as special revenues and shall be deposited in the Securities Department Fund.

The Securities Department's operating appropriation is funded from special revenues deposited with the State Treasurer in the Securities Department Fund. The Securities Department Fund consists of portions of certain filing fees received by the Securities Department. Act 759 of 2003 created the Investor Education Fund. The Investor Education Program is funded from administrative fines received by the Department. The fines deposited into the Investor Education Fund are limited to \$150,000 each fiscal year. Fines received in excess of \$150,000 are deposited into the Securities Department Fund. The fees received by the Department and deposited into the Securities Department Fund are limited to one million dollars (\$1,000,000) each fiscal year. The remaining fees and funds received by the Securities Department are turned over to the State Treasurer as general revenues.

Pursuant to the Savings and Loan Association Act, Act 227 of 1963, as amended, the Securities Commissioner acts as the Supervisor of savings and loan associations. In 1997 the Savings and Loan Association Act was amended to do away with the Savings and Loan Association Board and transferred the Board's power and authority to the Savings and Loan Supervisor.

Pursuant to the Cemetery Act, Act 352 of 1977, as amended, the Securities Commissioner serves as a voting member of the Cemetery Board.



Agency Commentary

The Arkansas Securities Department is responsible for protecting the financial well being of Arkansas citizens and promoting an environment where the financial and capital markets function efficiently and without unnecessary regulatory impediments. The operations of the Department are funded from the receipt of fees collected by the Department. The budget request for the Securities Department reflects \$ 2,621,256 as the Base Level for both FY08 and FY09. The change Level requests include the following items:

Operating Expenses: The Department has been located at its current address for twenty-one years. During this period, the regulatory climate has undergone changes that have required the Department to add staff positions. The Department now finds itself with space limitations at its current location. The Department is requesting additional appropriation to enable the Department to move to a larger location that will continue to meet its needs for an extended period. In fiscal year 2008 and 2009, the Department is requesting an additional \$68,558 and \$77,558, respectively.

Additionally, the Department is requesting additional appropriation in network services to pay for an additional T1 line from the Department of Information Services. The additional bandwidth will be necessary as the Department continues to provide more online services to its registrants and the citizens of the State. The additional T1 line will also provide redundancy in case of failure of one line. The Department is requesting \$1,580 in FY08 and \$5,680 in FY09 in software maintenance for

the SQL databases. This software maintenance expense will decrease in the next biennium in the amount of \$17,400 in each year after the conversion to version II for .Net.

Due to an increase in the number of fraud cases handled by the Department, it is requesting an increase in copying charges resulting from subpoenas issued by the Department in the amount of \$2,000 in each fiscal year. This increased investigative activity has caused an increase in the cost of subscriptions in the amount of \$1,000 in each fiscal year. The remaining increase in the appropriation of the operations of the Department results from a new copier lease of \$1,000 in each fiscal year.

Professional Fees: The Department is also requesting an additional \$20,516 in FY08 and in FY09 for the development of online filings for mortgage loan companies and their branch offices. The online filings will be imported directly in the Department's SQL database saving time and improving the quality of service of the Department. Additionally, the Department will have the current SQL database converted to version II for .NET. The conversion to version II will save the Department in annual software maintenance expenses recouping the cost of the conversion over a three year time span.

Capital Outlay: The Department is requesting \$13,500 in Capital Outlay in each fiscal year for replacement of obsolete and irreparable furniture, equipment, file servers and other technology equipment as set forth in the Department's Information Technology Plan.

Investor Education Program: The Department sponsors an investor education program for the public schools, civic groups and senior citizens. As part of this investor education program, the Department has developed a grant program to non-profit organizations and public schools. The grants allow the grantees the opportunity to purchase research material and the necessary equipment to allow students to participate in the Stock Market game. In the spring 2006 game, all of the statewide winners had benefited from our investor education program either from grants, donated used computers or classroom instruction provided by the staff of the Department. The Department is requesting an increase of \$15,000 in each fiscal year to fund additional grants to qualified grantees. Due to the increased cost of fuel, this program is requesting an increase of \$1000 in each fiscal year.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
STATE SECURITIES DEPARTMENT
FOR THE YEAR ENDED JUNE 30, 2004

<u>Findings</u>	<u>Recommendations</u>
None	None

Employment Summary

	Male	Female	Total	%
White Employees	11	20	31	94 %
Black Employees	1	1	2	6 %
Other Racial Minorities	0	0	0	0 %
			Total Minorities	2 6 %
			Total Employees	33 100 %

Publications

A.C.A 25-1-204

Name	Statutory Authorization	Required for		# Of Copies	Reason (s) for Continued Publication and Distribution
		Governor	General Assembly		
None	None	N	N	0	None

Department Appropriation Summary

Historical Data						Agency Request and Executive Recommendation								
Appropriation	2005-2006		2006-2007		2006-2007		2007-2008				2008-2009			
	Actual	Pos	Budget	Pos	Authorized	Pos	Agency	Pos	Executive	Pos	Agency	Pos	Executive	Pos
027 State Operations	2,304,868	34	2,588,110	35	2,628,747	35	2,741,910	35	2,634,756	35	2,755,010	35	2,634,756	35
1MV Investor Education	46,776	0	62,500	0	62,500	0	78,500	0	78,500	0	78,500	0	78,500	0
867 Refunds and Transfers	0	0	15,000,000	0	15,000,000	0	15,000,000	0	15,000,000	0	15,000,000	0	15,000,000	0
Total	2,351,644	34	17,650,610	35	17,691,247	35	17,820,410	35	17,713,256	35	17,833,510	35	17,713,256	35

Funding Sources		%		%		%		%		%		%	
Fund Balance	4000005	15,095,455	91.9	14,082,694	46.6	12,582,084	43.8	12,582,084	43.8	10,911,674	40.3	11,018,828	40.6
Special Revenue	4000030	1,338,883	8.1	1,150,000	3.8	1,150,000	4.0	1,150,000	4.0	1,150,000	4.2	1,150,000	4.2
Cash Fund	4000045	0	0.0	15,000,000	49.6	15,000,000	52.2	15,000,000	52.2	15,000,000	55.5	15,000,000	55.2
Total Funds		16,434,338	100.0	30,232,694	100.0	28,732,084	100.0	28,732,084	100.0	27,061,674	100.0	27,168,828	100.0
Excess Appropriation/(Funding)		(14,082,694)		(12,582,084)		(10,911,674)		(11,018,828)		(9,228,164)		(9,455,572)	
Grand Total		2,351,644		17,650,610		17,820,410		17,713,256		17,833,510		17,713,256	

Agency Position Usage Report

FY2004-2005						FY2005-2006						FY2006-2007					
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	
35	33	2	35	0	5.71%	35	34	1	35	0	2.86%	35	33	2	35	0	5.71%

Analysis of Budget Request

Appropriation: 027 - State Operations

Funding Sources: SDH - Securities Department Fund

The State Operations appropriation is funded by special revenue fees that are authorized by Arkansas Code § 19-6-475. Administrative fines collected by the Agency are also designated as special revenues. Base Level is \$2,621,256 for each year, with 35 positions authorized.

A cost of living increase is not incorporated in Base Level pending the outcome of the Classification and Compensation Study. FY07 salary levels have been held flat each year for all incumbents. Personal Services Matching may reflect increases in the Base Level due to the Social Security Tax maximum income limit and certain increases in Worker's Compensation and Unemployment Tax rates. Personal Services Matching also includes a \$30 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$350 per month.

Additional resources requested include increases in Operating Expenses of \$68,558 in the first year and \$77,558 in the second year for rent expenses to relocate the Department in larger quarters and \$4,000 each year for copying, subscription, and equipment rental expenses.

To enhance information technology capabilities, \$12,500 each year is requested in Operating Expenses to install and maintain a second T1 line to provide more online services to registrants and the general public, along with \$1,580 in FY08 and \$5,680 in FY09 in software maintenance expenses for the Department's databases. Also requested is \$20,516 each year in Professional Fees to develop online filings for mortgage loan companies and their branch offices. And Capital Outlay of \$13,500 each year is requested for upgrading and replacement of technology equipment as indicated in the Department's Information Technology Plan.

The Executive Recommendation provides for Base Level, plus the Capital Outlay request.

Appropriation Summary

Appropriation: 027 State Operations
Funding Sources: SDH - Securities Department Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item	2005-2006	2006-2007	2006-2007	2007-2008			2008-2009		
	Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	1,548,165	1,555,383	1,582,858	1,555,383	1,555,383	1,555,383	1,555,383	1,555,383	1,555,383
#Positions	34	35	35	35	35	35	35	35	35
Extra Help 5010001	3,986	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000
#Extra Help	1	2	2	2	2	2	2	2	2
Personal Services Matching 5010003	409,831	419,743	432,905	462,889	462,889	462,889	462,889	462,889	462,889
Operating Expenses 5020002	327,080	349,400	349,400	349,400	436,038	349,400	349,400	449,138	349,400
Conference & Travel Expenses 5050009	4,389	17,100	17,100	17,100	17,100	17,100	17,100	17,100	17,100
Professional Fees 5060010	1,807	14,484	14,484	14,484	35,000	14,484	14,484	35,000	14,484
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Capital Outlay 5120011	7,133	10,000	10,000	0	13,500	13,500	0	13,500	13,500
Contingency 5130018	0	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Examination Travel 5900046	2,477	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Total	2,304,868	2,588,110	2,628,747	2,621,256	2,741,910	2,634,756	2,621,256	2,755,010	2,634,756
Funding Sources									
Fund Balance 4000005	14,757,082	13,788,097		12,199,987	12,199,987	12,199,987	10,458,077	10,458,077	10,565,231
Special Revenue 4000030	1,335,883	1,000,000		879,346	1,000,000	1,000,000	866,246	1,000,000	1,000,000
Total Funding	16,092,965	14,788,097		13,079,333	13,199,987	13,199,987	11,324,323	11,458,077	11,565,231
Excess Appropriation/(Funding)	(13,788,097)	(12,199,987)		(10,458,077)	(10,458,077)	(10,565,231)	(8,703,067)	(8,703,067)	(8,930,475)
Grand Total	2,304,868	2,588,110		2,621,256	2,741,910	2,634,756	2,621,256	2,755,010	2,634,756

Change Level by Appropriation

Appropriation: 027-State Operations
Funding Sources: SDH - Securities Department Fund

Agency Request

Change Level		2007-2008	Pos	Cumulative	% of BL	2008-2009	Pos	Cumulative	% of BL
BL	Base Level	2,621,256	35	2,621,256	100.0	2,621,256	35	2,621,256	100.0
C01	Existing Program	72,558	0	2,693,814	102.7	81,558	0	2,702,814	103.1
C08	Technology	48,096	0	2,741,910	104.6	52,196	0	2,755,010	105.1

Executive Recommendation

Change Level		2007-2008	Pos	Cumulative	% of BL	2008-2009	Pos	Cumulative	% of BL
BL	Base Level	2,621,256	35	2,621,256	100.0	2,621,256	35	2,621,256	100.0
C01	Existing Program	0	0	2,621,256	100.0	0	0	2,621,256	100.0
C08	Technology	13,500	0	2,634,756	100.5	13,500	0	2,634,756	100.5

Justification

C01	The need for additional space necessitates that the Department relocate into a larger office that would increase rent payments in the amount of \$68,558 in the first year and \$77,558 in the second year. Additions requested for copying and subscription expenses totaling \$4,000 each year are due to an increase in the number of fraud cases investigated by the Department.
C08	This request would provide \$12,500 each year for installation and operation of a second T1 line in order to provide more online services to registrants and citizens of the State, while also allowing for the development of online filings for mortgage loan companies and their branch offices. The online filings will be imported directly into the Department's database, saving time and improving the quality of service. Also requested for software maintenance are increases of \$1,580 in the first year and \$5,680 in the second year. Additionally, \$20,516 is requested each year to allow for conversion of the Department's database to an upgraded version that would eventually reduce annual software maintenance fees, recouping the cost of the conversion over a three year time span. A Change Level of \$13,500 each year in Capitol Outlay is for replacement of obsolete and irreparable file servers and technology equipment as set forth in the Department's Information Technology Plan.

Analysis of Budget Request

Appropriation: 1MV - Investor Education

Funding Sources: SDH - Investor Education Fund

The Securities Department's Investor Education Program was established by Act 759 of 2003 and is funded by administrative fines levied by the Department. The Program is designed to work in conjunction with various non-profit economic education, religious, civic, and community groups to provide economic and financial education primarily to junior high through first year college students and senior citizen groups and to inform the investing public of investment schemes and unlawful, fraudulent conduct. Base Level is \$62,500 each year.

The Department is requesting the addition of \$15,000 each year in Operating Expenses to provide additional investor education grants to public schools, civic, and senior citizens groups, along with \$1,000 each year for travel expenses to provide on-site instruction with these grants.

The Executive Recommendation provides for the Agency Request.

Appropriation Summary

Appropriation: 1MV Investor Education
Funding Sources: SDH - Investor Education Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item	2005-2006	2006-2007	2006-2007	2007-2008			2008-2009		
	Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses 5020002	43,211	55,000	55,000	55,000	71,000	71,000	55,000	71,000	71,000
Conference & Travel Expenses 5050009	0	0	0	0	0	0	0	0	0
Professional Fees 5060010	0	0	0	0	0	0	0	0	0
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Promotional Items 5090028	3,565	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500
Capital Outlay 5120011	0	0	0	0	0	0	0	0	0
Total	46,776	62,500	62,500	62,500	78,500	78,500	62,500	78,500	78,500
Funding Sources									
Fund Balance 4000005	335,373	291,597		379,097	379,097	379,097	450,597	450,597	450,597
Special Revenue 4000030	3,000	150,000		134,000	150,000	150,000	134,000	150,000	150,000
Total Funding	338,373	441,597		513,097	529,097	529,097	584,597	600,597	600,597
Excess Appropriation/(Funding)	(291,597)	(379,097)		(450,597)	(450,597)	(450,597)	(522,097)	(522,097)	(522,097)
Grand Total	46,776	62,500		62,500	78,500	78,500	62,500	78,500	78,500

Change Level by Appropriation

Appropriation: 1MV-Investor Education

Funding Sources: SDH - Investor Education Fund

Agency Request

Change Level		2007-2008	Pos	Cumulative	% of BL	2008-2009	Pos	Cumulative	% of BL
BL	Base Level	62,500	0	62,500	100.0	62,500	0	62,500	100.0
C01	Existing Program	16,000	0	78,500	125.6	16,000	0	78,500	125.6

Executive Recommendation

Change Level		2007-2008	Pos	Cumulative	% of BL	2008-2009	Pos	Cumulative	% of BL
BL	Base Level	62,500	0	62,500	100.0	62,500	0	62,500	100.0
C01	Existing Program	16,000	0	78,500	125.6	16,000	0	78,500	125.6

Justification

C01	Increase in appropriation for the Investor Education Program in the amount of \$15,000 in each fiscal year. This would increase the amount available for grants to public schools and nonprofit organizations to purchase research materials and the necessary equipment to participate in the Stock Market game. Also requested is additional appropriation of \$1,000 each year for the increased cost to operate the state car used in this program.
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Analysis of Budget Request

Appropriation: 867 - Refunds and Transfers

Funding Sources: NSD - Cash in Treasury

The Securities Department's Overpayments/Transfer to Treasury appropriation is a Cash in Treasury account that is used for transfer of fee collections to other State Treasury fund accounts after necessary refunds have been made. The Department indicates that the current Base Level of \$15,000,000 each year should provide sufficient appropriation to cover all transfers and refunds anticipated in the 2007-2009 Biennium. Accordingly, it is requesting continuation of Base Level.

The Executive Recommendation provides for Agency Request. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: 867 Refunds and Transfers
Funding Sources: NSD - Cash in Treasury

Historical Data

Agency Request and Executive Recommendation

Commitment Item	2005-2006	2006-2007	2006-2007	2007-2008			2008-2009		
	Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Refunds/Reimbursements 5110014	0	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000
Total	0	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000
Funding Sources									
Fund Balance 4000005	3,000	3,000		3,000	3,000	3,000	3,000	3,000	3,000
Cash Fund 4000045	0	15,000,000		15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000
Total Funding	3,000	15,003,000		15,003,000	15,003,000	15,003,000	15,003,000	15,003,000	15,003,000
Excess Appropriation/(Funding)	(3,000)	(3,000)		(3,000)	(3,000)	(3,000)	(3,000)	(3,000)	(3,000)
Grand Total	0	15,000,000		15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000