AN ACT concerning the Kansas uniform securities act; relating to victims of securities violations, powers of the administrator; establishing the securities act victim restitution program; securities act victim restitution fund; amending K.S.A. 75-3036 and K.S.A. 2019 Supp. 17-12a601 and 17-12a609 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2019 Supp. 17-12a601 is hereby amended to read as follows: 17-12a601. (a) Administration. (1) This act shall be administered by the securities commissioner of Kansas.

(2) All fees herein provided for shall be collected by the administrator. All salaries and expenses necessarily incurred in the administration of this act shall be paid from the securities act fee fund.

(3) The administrator shall remit all moneys received from all fees, charges, deposits or penalties which have been collected under this act or other laws of this state regulating the issuance, sale or disposal of securities or regulating dealers in this state to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. In accordance with K.S.A. 75-3170a, and amendments thereto, 10% of each such deposit shall be credited to the state general fund and, except as provided in subsection (d), the balance shall be credited to the securities act fee fund.

(4) Except as provided in subsection (e), on the last day of each fiscal year, the director of accounts and reports shall transfer from the securities act fee fund to the state general fund any remaining unencumbered amount in the securities act fee fund exceeding $50,000 so that the beginning unencumbered balance in the securities act fee fund on the first day of each fiscal year is $50,000. All expenditures from the securities act fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator.

(5) All amounts transferred from the securities act fee fund to the state general fund under paragraph (4) are to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other governmental services which that are
performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) Prohibited conduct. (1) It is unlawful for the administrator or an officer, employee, or designee of the administrator to use for personal benefit or the benefit of others records or other information obtained by or filed with the administrator that are not public under K.S.A. 17-12a607(b), and amendments thereto. This act does not authorize the administrator or an officer, employee, or designee of the administrator to disclose the record or information, except in accordance with K.S.A. 17-12a602, 17-12a607(c), or 17-12a608, and amendments thereto.

(2) Neither the administrator nor any employee of the administrator shall be interested as an officer, director, or stockholder in securing any authorization to sell securities under the provisions of this act.

(c) No privilege or exemption created or diminished. This act does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(d) Investor education and protection. (1) The administrator may develop and implement investor education and protection initiatives to inform the public about investing in securities and protect the public from violations of the Kansas uniform securities act, K.S.A. 17-12a101 et seq., and amendments thereto. Such initiatives shall have a particular emphasis on the prevention, detection, enforcement and prosecution of securities fraud. In developing and implementing these initiatives, the administrator may collaborate with public and nonprofit organizations with an interest in investor education or protection. The administrator may accept a grant or donation from a person that is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to develop and implement investor education and protection initiatives. This subsection does not authorize the administrator to require participation or monetary contributions of a registrant in an investor education program.

(2) There is hereby established in the state treasury the investor education and protection fund. Such fund shall be administered by the administrator for the purposes described in subsection (d) paragraph (1) and for the education of registrants, including official hospitality. Moneys collected as civil penalties under this act shall be credited to the investor education and protection fund. The administrator may also receive payments designated to be credited to the investor education and protection fund as a condition in settlements of cases arising out of investigations or examinations. All expenditures from the investor education and protection fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports
issued pursuant to vouchers approved by the administrator or by a person or persons designated by the administrator or the administrator's designee.

The administrator shall remit all moneys received under this paragraph to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the investor education and protection fund.

(e) (1) The administrator may develop and implement a securities act victims restitution program to provide restitution assistance to victims of securities violations who were awarded restitution as the result of a legal or administrative action for violations of this act but who have no reasonable likelihood of receiving the full amount of awarded restitution.

(2) There is hereby established in the state treasury the securities act victim restitution fund to be administered by the administrator. All expenditures of moneys from the securities act victim restitution fund shall be used to provide restitution assistance to victims of securities violations who were awarded restitution as the result of a legal or administrative action for violations of this act but who have no reasonable likelihood of receiving the full amount of awarded restitution. All such expenditures shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by the administrator's designee. The administrator may accept all gifts, grants, donations and bequests to the fund. The administrator shall remit all moneys received under this paragraph to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the securities act victim restitution fund.

(3) For purposes of administering the securities act victim restitution program:

(A) "Claimant" means a person who files an application for restitution assistance from the securities act victim restitution fund on behalf of a victim, including the person awarded restitution in a final order for a violation of this act, the executor of such person and the heirs and assigns of such person. The claimant and the victim may be, but need not be, the same person.

(B) "Final order" means an order issued by the administrator or an order issued in a legal action brought by the administrator or the attorney general pursuant to this act that is not subject to further judicial review or appeal.

(C) "Fund" means the securities act victim restitution fund created by this subsection.

(D) "Restitution assistance" means payment from the fund to an
(E) "Securities violation" means a violation of this act, or rules and regulations adopted or an order issued under this act.

(F) "Victim" means a person who was awarded restitution in a final order.

(G) "Vulnerable person" means a person who met the definition of elder person or dependent adult as defined in K.S.A. 2019 Supp. 21-5417, and amendments thereto, at the time of the securities violation that resulted in an award of restitution in a final order.

(4) Only natural persons who were residents of the state of Kansas at the time of the securities violation that resulted in an award of restitution in a final order are eligible to receive restitution assistance from the fund. The administrator shall not pay such restitution assistance from the fund:

(i) To more than one claimant per victim;

(ii) unless the person ordered to pay restitution has not paid the full amount of restitution owed to the victim before the application for restitution assistance from the fund is due;

(iii) on behalf of a person who is not a victim;

(iv) to or on behalf of a person who sustained monetary injury as a result of committing, attempting to commit, participating in or assisting in the securities violation that resulted in the restitution award for which a claimant seeks restitution assistance from the fund; or

(v) if there was no award of restitution in the final order.

(5) A claimant's application for restitution assistance from the fund shall be received by the administrator no later than two years after the date upon which the order that awarded restitution meets the definition of a final order.

(6) The administrator may grant, in whole or in part, and in the administrator's sole discretion, a claimant's application and award payment of restitution assistance from the fund, if:

(i) A claimant demonstrates eligibility for restitution assistance from the fund;

(ii) the administrator receives a timely application for such assistance; and

(iii) the administrator concludes that there is no reasonable likelihood that the claimant will receive the full amount of restitution awarded by the final order.

(7) Restitution assistance may be awarded as follows:

(A) Except as otherwise provided in this paragraph, the maximum restitution assistance award per victim from the fund shall be the lesser of $25,000 or 25% of the amount of restitution awarded in the final order, excluding any interest awarded, that remains unpaid at the time the administrator awards restitution assistance under this subsection; and
(B) if the victim is a vulnerable person, the maximum restitution assistance award per victim from the fund shall be the lesser of $50,000 or 50% of the amount of restitution awarded in the final order, excluding any interest awarded, that remains unpaid at the time the administrator awards restitution assistance under this subsection.

(8) On July 1, 2020, or as soon as moneys become available, the director of accounts and reports shall transfer $250,000 from the securities act fee fund to the securities act victim restitution fund. Beginning with the fiscal year ending June 30, 2022, and in each fiscal year thereafter, in the administrator's discretion, the administrator may increase the balance in the securities act victim restitution fund by transferring amounts from the investor education and protection fund, however the remaining balance in the investor education and protection fund after any such transfer shall be at least $50,000.

(9) The administrator may establish procedures for the application and determination of restitution assistance awards from the fund by rules and regulations adopted or an order issued under this act.

(10) Determinations made by the administrator with respect to the fund and applications for restitution assistance are subject to the sole discretion of the administrator and shall not be subject to judicial review in accordance with the provisions of the Kansas judicial review act.

Sec. 2. K.S.A. 2019 Supp. 17-12a609 is hereby amended to read as follows: 17-12a609. A final order issued by the administrator under this act is subject to judicial review in accordance with the provisions of the Kansas judicial review act, except as provided in K.S.A. 17-12a601(e), and amendments thereto.

Sec. 3. K.S.A. 75-3036 is hereby amended to read as follows: 75-3036. (a) The state general fund is exclusively defined as the fund into which shall be placed all public moneys and revenue coming into the state treasury not specifically authorized by the constitution or by statute to be placed in a separate fund, and not given or paid over to the state treasurer in trust for a particular purpose, which unallocated public moneys and revenue shall constitute the general fund of the state. Moneys received or to be used under constitutional or statutory provisions or under the terms of a gift or payment for a particular and specific purpose are to be kept as separate funds and shall not be placed in the general fund or ever become a part of it.

(b) The following funds shall be used for the purposes set forth in the statutes concerning such funds and for no other governmental purposes. It is the intent of the legislature that the following funds and the moneys deposited in such funds shall remain intact and inviolate for the purposes set forth in the statutes concerning such funds: Board of accountancy fee fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special
litigation reserve fund of the board of accountancy; bank commissioner fee fund, K.S.A. 9-1703, 16a-2-302 and 75-1308, and amendments thereto, bank investigation fund, K.S.A. 9-1111b, and amendments thereto, consumer education settlement fund and litigation expense fund of the state bank commissioner; securities act fee fund and investor education and protection fund and securities act victim restitution fund, K.S.A. 17-12a601, and amendments thereto, of the office of the securities commissioner of Kansas; credit union fee fund, K.S.A. 17-2236, and amendments thereto, of the state department of credit unions; court reporters fee fund, K.S.A. 20-1a02, and amendments thereto, and bar admission fee fund, K.S.A. 20-1a03, and amendments thereto, of the judicial branch; fire marshal fee fund, K.S.A. 31-133a and 31-134, and amendments thereto, and boiler inspection fee fund, K.S.A. 44-926, and amendments thereto, of the state fire marshal; food service inspection reimbursement fund, K.S.A. 36-512, and amendments thereto, of the Kansas department of agriculture; wage claims assignment fee fund, K.S.A. 44-324, and amendments thereto, and workmen's compensation fee fund, K.S.A. 74-715, and amendments thereto, of the department of labor; veterinary examiners fee fund, K.S.A. 47-820, and amendments thereto, of the state board of veterinary examiners; mined-land reclamation fund, K.S.A. 49-420, and amendments thereto, of the department of health and environment; conservation fee fund and well plugging assurance fund, K.S.A. 55-155, 55-176, 55-609, 55-711 and 55-901, and amendments thereto, gas pipeline inspection fee fund, K.S.A. 66-1,155, and amendments thereto, and public service regulation fund, K.S.A. 66-1503, and amendments thereto, of the state corporation commission; land survey fee fund, K.S.A. 58-2011, and amendments thereto, of the state historical society; real estate recovery revolving fund, K.S.A. 58-3074, and amendments thereto, of the Kansas real estate commission; appraiser fee fund, K.S.A. 58-4107, and amendments thereto, and appraisal management companies fee fund of the real estate appraisal board; amygdalin (laetrile) enforcement fee fund, K.S.A. 65-6b10, and amendments thereto; mortuary arts fee fund, K.S.A. 65-1718, and amendments thereto, of the state board of mortuary arts; board of barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of the Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and 74-2704, and amendments thereto, of the Kansas state board of cosmetology; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments thereto, and medical records maintenance trust fund, of the state board of healing arts; other state fees fund, K.S.A. 65-4024b, and amendments thereto, of the Kansas department for aging and disability services; board of nursing fee fund, K.S.A. 74-1108, and amendments thereto, of the board of nursing;
dental board fee fund, K.S.A. 74-1405, and amendments thereto, and
special litigation reserve fund, of the Kansas dental board; optometry fee
fund, K.S.A. 74-1503, and amendments thereto, and optometry litigation
fund, of the board of examiners in optometry; state board of pharmacy fee
fund, K.S.A. 74-1609, and amendments thereto, and state board of
pharmacy litigation fund, of the state board of pharmacy; abstracters' fee
fund, K.S.A. 74-3903, and amendments thereto, of the abstracters' board of
examiners; athletic fee fund, K.S.A. 74-50,188, and amendments thereto,
of the department of commerce; hearing instrument board fee fund, K.S.A.
74-5805, and amendments thereto, and hearing instrument litigation fund
of the Kansas board of examiners in fitting and dispensing of hearing
instruments; commission on disability concerns fee fund, K.S.A. 74-6708,
and amendments thereto, of the governor's department; technical
professions fee fund, K.S.A. 74-7009, and amendments thereto, and
special litigation reserve fund of the state board of technical professions;
behavioral sciences regulatory board fee fund, K.S.A. 74-7506, and
amendments thereto, of the behavioral sciences regulatory board;
governmental ethics commission fee fund, K.S.A. 25-4119e, and
amendments thereto, of the governmental ethics commission; emergency
medical services board operating fund, K.S.A. 75-1514, and amendments
thereto, of the emergency medical services board; fire service training
program fund, K.S.A. 75-1514, and amendments thereto, of the university
of Kansas; uniform commercial code fee fund, K.S.A. 75-448, and
amendments thereto, of the secretary of state; prairie spirit rails-to-trails
fee fund of the Kansas department of wildlife, parks and tourism; water
marketing fund, K.S.A. 82a-1315c, and amendments thereto, of the Kansas
water office; insurance department service regulation fund, K.S.A. 40-112,
and amendments thereto, of the insurance department; state fair special
cash fund, K.S.A. 2-220, and amendments thereto, of the state fair board;
scrap metal theft reduction fee fund, K.S.A. 2019 Supp. 50-6,109a, and
amendments thereto; and any other fund in which fees are deposited for
licensing, regulating or certifying a person, profession, commodity or
product.

(c) If moneys received pursuant to statutory provisions for a specific
purpose by a fee agency are proposed to be transferred to the state general
fund or a special revenue fund to be expended for general government
services and purposes in the governor's budget report submitted pursuant
to K.S.A. 75-3721, and amendments thereto, or any introduced house or
senate bill, the person or business entity who paid such moneys within the
preceding 24-month period shall be notified by the fee agency within 30
days of such submission or introduction:

(1) By electronic means, if the fee agency has an electronic address
on record for such person or business entity. If no such electronic address
is available, the fee agency shall send written notice by first class mail; or

(2) any agency that receives fees from a tax, fee, charge or levy paid to the commissioner of insurance shall post the notification required by this subsection on such agency's website.

(d) Any such moneys which are wrongfully or by mistake placed in the general fund shall constitute a proper charge against such general fund. All legislative appropriations which do not designate a specific fund from which they are to be paid shall be considered to be proper charges against the general fund of the state. All revenues received by the state of Kansas or any department, board, commission, or institution of the state of Kansas, and required to be paid into the state treasury shall be placed in and become a part of the state general fund, except as otherwise provided by law.

(e) The provisions of this section shall not apply to the 10% credited to the state general fund to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, as provided in K.S.A. 75-3170a, and amendments thereto.

(f) Beginning on January 8, 2018, the director of the budget shall prepare a report listing the unencumbered balance of each fund in subsection (b) on June 30 of the previous fiscal year and January 1 of the current fiscal year. Such report shall be delivered to the secretary of the senate and the chief clerk of the house of representatives on or before the first day of the regular legislative session each year.

(g) As used in this section, "fee agency" shall include includes the state agencies specified in K.S.A. 75-3717(f), and amendments thereto, and any other state agency that collects fees for licensing, regulating or certifying a person, profession, commodity or product.

Sec. 4. K.S.A. 75-3036 and K.S.A. 2019 Supp. 17-12a601 and 17-12a609 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.