

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **House Substitute for SB 315**, on page 14, following line 26, by inserting:

"Sec. 14. K.S.A. 2011 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 or under the uniform land sales practices act, 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) 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~~ \$250,000 so that the beginning unencumbered balance in the securities act fee fund on the first day of each fiscal year is ~~\$50,000~~ \$250,000. 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 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.

(6) The administrator may make or authorize transfers from the securities act fee fund to other special revenue or special purpose funds established in the state treasury for use by the administrator to carry out responsibilities as specified under the Kansas uniform securities act.

(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.* (1) The administrator may develop and implement investor education initiatives to inform the public about investing in securities, with particular emphasis on the prevention and detection of securities fraud. In developing and implementing these initiatives, the administrator may collaborate with public and nonprofit organizations with an interest in investor education. 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 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 fund. ~~Such fund shall be administered by the administrator for the purposes described in subsection (d)(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 fund. The administrator may also receive payments designated to be credited to the investor education fund as a condition in settlements of cases arising out of investigations or examinations. All expenditures from the investor education 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. ~~Two years after the effective date of this act, the administrator shall conduct a review and submit a report to the governor and the legislature concerning the expenditures from the investor education fund and the results achieved from the investor education program.~~ The investor education fund shall be administered by the administrator for the purposes described in subsection (d)(1) or for the following purposes at the discretion of the administrator:

(A) Education of applicants for registration under this act and registrants or their representatives including official hospitality;

(B) training of the administrator's staff; or

(C) grants to public or private schools or universities in Kansas for education in personal or business finance and related subjects.

(3) The administrator may make or authorize transfers from the securities act fee fund to the investor education fund when necessary to replenish the investor education fund for operations as

deemed appropriate by the administrator up to an aggregate maximum amount of \$750,000 in any fiscal year. The maximum aggregate amount of such transfers specified in this subsection may be exceeded by the administrator with the approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto.

(e) There is hereby established in the state treasury the securities litigation fund. The securities litigation fund shall be administered by the administrator for the purpose of enforcing provisions of this act through administrative hearings and actions in state and federal courts to resolve alleged violations of this act or a rule and regulation adopted or order issued under this act. All expenditures from the securities litigation 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. The administrator may make or authorize transfers from the securities act fee fund to the securities litigation fund when necessary to replenish the securities litigation fund for operations as deemed appropriate by the administrator up to an aggregate maximum amount of \$500,000 in any fiscal year. The maximum aggregate amount of such transfers specified in this subsection may be exceeded by the administrator with the approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto.

(f) There is hereby established in the state treasury the securities restitution fund. The securities restitution fund shall be administered by the administrator for the purpose of receiving and disbursing restitution payments in connection with settlements of enforcement cases and other legal proceedings under this act. The administrator may authorize restitution to be paid to Kansas residents who have been awarded damages in connection with alleged or adjudicated violations of this act. Such

restitution payments may be made at the discretion of the administrator or as agreed upon or ordered in settlements of cases or other legal proceedings under this act. The administrator may make or authorize transfers from the securities act fee fund to the securities restitution fund when necessary to provide sufficient funding to enable restitution as deemed appropriate by the administrator. Such transfers at the discretion of the administrator shall be limited to an aggregate maximum amount of \$500,000 in any fiscal year. The maximum aggregate amount of such transfers specified in this subsection may be exceeded by the approval of the administrator with the approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto.

(g) By rules and regulations adopted or order issued under this act, the administrator shall specify definitions, forms, procedures and limitations for payment of restitution awards from the securities restitution fund."

And by renumbering remaining sections accordingly;

Also on page 14, in line 28, after "9-513c," by inserting "17-12a601,";

On page 1, in the title, in line 1, after "concerning" by inserting "financial transactions; relating to"; also in line 1, after the semicolon by inserting "relating to the office of the securities commissioner's special revenue funds;" in line 3, after "9-513c," by inserting "17-12a601,"

_____ District.