

Approved: _____

Date

4-5-01

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 10:45 a.m. on March 30, 2001 in Room 234-N of the Capitol.

All members were present except:

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

David Brant, Kansas Securities Commissioner

Others attending: See attached list.

Hearing on HB 2563 - Securities commission, fees, creating investor education fund

David Brant, Kansas Securities Commissioner, testified before the Committee in support of **HB 2563**. Such legislation would create a new investor Education Fund to be administered by the Securities Commissioner for the purpose of providing for the education of consumers in matters concerning securities regulation and investments. Moneys collected as fines and civil penalties by the Securities Commissioner would be credited to the new fund. Mr. Brant noted in his written testimony that historically the amount of fines has varied from year to year. Since 1996, fines have annually totaled between \$6,500 to \$70,600. The amount of fines collected in FY 2000 was \$30,949, and \$19,750 had been collected to date in FY 2001. (Attachment 1)

During Committee discussion it was felt that there currently is abundant information for the general public on investing from the industry, and it was questioned whether this legislation is needed. Mr. Brant pointed out that this legislation would provide unbiased information, and it would particularly help the elderly in their decision making on investments. Brochures with information on investing could be distributed at Senior Centers as well as made available to students in order to avoid investment fraud or scam. There also was discussion that the Hispanic population does not have investment information readily available to them, and a need exists to target this population. It was also suggested that with the tight budget situation this year these funds could best be spent elsewhere.

There were no opponents to the bill.

The Chair closed the hearing on **HB 2563**.

Adjournment

The meeting was adjourned at 11:15 a.m.



KANSAS

Bill Graves
Governor

OFFICE OF THE SECURITIES COMMISSIONER

David Brant
Commissioner

TESTIMONY IN SUPPORT OF HOUSE BILL No. 2563
Establish an Investor Education Fund
Senate Financial Institutions and Insurance Committee

DAVID BRANT
Securities Commissioner
March 30, 2001

Madam Chair and members of the committee, thank you for this opportunity to testify in support of House Bill No. 2563 which would establish an Investor Education Fund.

Purpose
Page 2, Line 2 The investor education fund shall be established and administered by the Commissioner for the purpose of providing for the education of consumers in matters concerning securities regulation and investments. Civil penalties collected under K.S.A. 17-1266a shall be credited to this fund. Payments may also be designated to be credited to this fund as a condition in settlements of cases arising out of investigations or examinations.

Sunset Review
Page 2, Line 14 The new subsection (d) also requires a report, similar to a "sunset" review, on the Investor Education Fund to be submitted to the Governor and the Legislature after five years. This provision was modeled after a five year review required by K.S.A. 74-8108a for a KTEC small business financing program.

Fiscal Impact No additional staffing costs would be required and investor education expenditures would be limited by the extent of receipts from fines and settlements.

Historically, the amount of fines has varied from year to year. Since 1996, fines have annually totaled between \$6,500 to \$70,600. The amount of fines collected in FY 2000 was \$30,949 and \$19,750 has been collected to date in FY 2001.

For FY2000, the agency transferred a total of \$6.6 million to the State General Fund and FY2001 receipts are again higher and ahead of budget projections.

Use of Funds The use of fines and settlements for investor education programs could significantly enhance the ability of the agency to inform Kansas investors about illegal investment schemes and unethical sales practices or investment advice. Since 1999, the agency now has a full-time Director of Investor Education. The agency's investor education efforts can be enhanced with additional funding:

- Agency Website
- Toll-free Helpline
- Pamphlets and Publications
- Statewide Yellow-Page Ads
- News Releases and Public Service Announcements
- Presentations to Schools and Service Clubs
- Information Booth for events such as the State Fair
- Investor and Industry Seminars
- Informational Video
- Informational mailings to the industry, retirees, and senior citizens

With additional funding, the agency can increase its support of the Kansas Council of Economic Education and of personal finance education in K-12 schools, curriculum, and teacher training.

Other States Currently, 12 states, including the states of Delaware, Missouri, Utah, and Wisconsin, allow fines and settlements for securities violations to be used for investor education.

Conclusion This proposal was endorsed on December 6, 2000, by the Commissioner's Advisory Council which is comprised of legislators, attorneys, and representatives from the securities industry.

Thank you for your consideration.

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Investment educator warns Kansans of scams

By Mike Surbrugg
Globe Staff Writer

COLUMBUS, Kan. — A lot of time has passed since P.T. Barnum was credited with saying "a sucker is born every minute."

"The birth rate of suckers is (perennial) and there is no birth control," Angela C. Cichocki said during a gathering recently in Columbus. "Scams are not new; they are just faster and look more professional."

The director of investor education

for the Office of the Kansas Securities Commissioner visited the area recently to speak with seniors and others interested in learning about the potential pitfalls of investing.

None of the 26 members of her office gives advice on what to invest in. They do, however, help people steer clear of scams and fraud.

In 1911, Kansas became the first state to develop regulations governing the sale of securities, she said. Federal regulation began in 1933.

A security is any profit-sharing agreement and often involves the

buyer wanting to earn money from work done by others, she said.

Most individuals selling securities and other investments comply with laws and provide investors information needed to make investment decisions, she said.

"Any time somebody tries to sell you a security, ask to see their Central Registration Depository (CRD) federal regulation number," she said.

An individual needs to know his or her financial skills, goals, needs, risk tolerance and how much money he or she can afford to invest.

Investors should keep written records, stay informed and invest only in something suited to their needs, Cichocki said.

"You cannot afford to bet the whole farm on one investment," she said.

The broker or dealer is not to blame if the purchased securities or stock price goes lower with market trends.

However, fraud and abuse occur if investors are not given accurate information for transactions made without prior written authority from

the investor, not telling the truth about an offered securities, or for churning.

Churning means a broker making a lot of transactions for fees at the expense of the investor.

Each state has background information on brokers and dealers.

Investors with any problems should first write the broker, Cichocki said.

If it is not resolved, a letter should be sent to the broker's branch manager, then to the compliance department of the firm and then to the state

securities office.

"Pump and dump" is a scheme where promoters buy quantities of cheap stock they then promote to get the value to increase. They sell their own stock before the market collapses at the expense of later-arriving investors.

Internet trading has brought brave new worlds of opportunity for the scam artist, she said.

"We need to teach investment education in high school," she said.

Information about the Kansas securities program: (800) 232-9580.

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Invest

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age deals," Cichoski said. "That process can be abused." Despite the words of warning, one HCC student said he was looking forward to becoming a stock market investor.

Paul Erickson, 19, of Buhler, said his class was playing an investment game, using \$100,000 in fake money to invest over a 10-week period. Each student had \$10,000 to work with.

"It's not going very well," Erickson admitted. "I've invested \$7,000 of my \$10,000 in five technology stocks, but I've lost \$800 over the last seven weeks. But the way I see it, I'm gaining a lot from this experience so I'll do better when I start investing for real."

See INVEST / B2

158 Commissioner warns students about dangers, laws of investing

Speakers address HCC, stress knowing fine print

By WES JOHNSON
The Hutchinson News

With the stock market soaring and plummeting almost daily, Kansas securities Commissioner David Brant offers these words of warning.

"The most dangerous animal on Wall Street isn't the bull or the bear," Brant said. "It's the bum steer. We're here to help you avoid the bum steer."

Brant was in Hutchinson last week speaking to macroeconomics students at Hutchinson Community College.

He said tumultuous times in the investment business make it all the more important for people to ask a lot of questions before turning over their hard-earned money to a broker or investment firm.

The Kansas Securities Commission investigates complaints of fraud or dishonest investment practices. With links to a national database, the commission also offers background information about brokers or investment companies even if they're not in Kansas.

to 200 complaints a year from Kansas investors.

"About 20 or 30 of those are serious enough that it ends up in some kind of official action," Brant said. "We average about 14 criminal convictions a year — half against Kansans and half against others who are out of state."

His office currently is pursuing three high-profile cases in Kansas:

- An Abilene man is being investigated for allegedly bilking investors out of more than \$1 million.

- "His clients just trusted him so much that they went along with whatever he told them," Brant said.

- Three weeks ago Brant's office shut down a Wichita businessman who allegedly was posting news alerts on the Internet involving penny stocks he owned.

- "He was issuing these press releases over the Internet to entice people to invest in his stocks," Brant said. "We shut him down and seized his assets, including his home. We think people lost between \$500,000 and \$1 million."

- His office also is dealing with a case in the Kansas City area involving a "viatical" insurance investment plan. A company targeted AIDS patients, offering to give them cash

'The most dangerous animal on Wall Street isn't the bull or the bear. It's the bum steer. We're here to help you avoid the bum steer.'

— Kansas Securities Commissioner David Brant

up front to pay for their costly medicines if the patients agreed to sign over their life insurance policies to the company when they died.

The company sought investors, marketing it as a low-risk, high-yield opportunity, Brant said. One investor was a Kansas City woman who invested her entire \$225,000 in retirement savings.

"The good news for the AIDS patients is that the new cocktails are keeping them alive a lot longer than expected," he said. "But that's bad news for the investors because they're not getting the returns they thought they would, and may even lose it all."

Angela Cichoski, director of investor education at the Kansas Securities Commission, told the HCC students that Kansas was the first state in the country to enact laws governing the sale of securities.

"In the early 1900s investors in the United States were losing \$100 million a year through fraud," Cichoski said.

"These came to be known as 'blue-sky laws' because these wildcat investment promoters were selling nothing but blue sky. The name stuck and you still hear them called that today."

Kansas regulations took effect in 1911, followed by the Federal Securities Acts of 1933 and 1934 in response to the stock market crash of 1929.

Kansas required brokers and investment firms to apply for a revocable state license.

"That first year 550 applied for a license, but the state only approved 44," Cichoski said.

When investment fraud occurs, Cichoski said it may be possible for investors to recover some or all of their losses. She said broker misconduct generally falls into four categories, all of which can give an investor an avenue to reclaim lost funds.

Brokers must follow the "know your customer rule," Cichoski said. If a client wants to stay with low-risk

investments, a broker can't sell him on high-risk ventures.

Reputable brokers use an investor profile document that details what the investor's goals are and his willingness to take financial risks. The document can help protect both broker and client.

Brokers can't do unauthorized trading, Cichoski said. Unless a client gives power of attorney to his broker, the broker has a legal obligation to get a stock trade order from his client before he acts.

"Without the order the broker has no business doing business," Cichoski said.

Brokers cannot misrepresent stocks by exaggerating their potential for return, failing to reveal a stock's risks or failing to provide adequate details about the stock.

Cichoski said brokers also are barred from excessive trading in a client's portfolio to produce high commissions from each stock trade. The strategy is called "churning," she said.

"There is an inherent conflict of interest because brokers make money by charging commissions on broker-

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Securities Commissioner offers tips to online investors

Some 200 securities firms offer on-line brokerage services and there are an estimated 10 million-plus on-line accounts. On-line firms are spending hundreds of millions of dollars on advertising to attract new customers, many who are new to investing and the stock market.

Kansas Securities Commissioner David Brant says that this represents a radical change in the relationship between brokerages and their customers. "It is critical that investors understand what to expect as they invest on-line," said Brant. "As technology changes, educating investors is the key to empowering them to understand their choices and avoid mistakes."

As technology changes, educating investors is the key to empowering them to understand their choices and avoid mistakes."

David Brant, Kansas
Securities Commissioner

Recent studies of on-line investing by the New York State Attorney General and the U. S. Securities and Exchange Commission highlight a number of complaints lodged by on-line investors, from delayed execution of orders to slow response times, inadequate customer support and possibly misleading advertising claims.

Brant, along with other members of the North American Securities Administrators Association (NASAA), which represents state and provincial securities regulators in the U.S., Canada and Mexico, offer the following tips to help on-line investors to think carefully about making an investment on-line.

When you invest on-line, be sure to:

1. Receive full disclosure prior to opening your account about the alternatives for buying and selling securities and how to obtain account information if you cannot access the firm's Web site.
 2. Understand that most likely you are not linked directly to the market, and that the click of your mouse does not instantly execute the trade.
 3. Receive information from the firm to substantiate any advertised claims concerning the ease and speed of on-line trading.
 4. Receive information from the firm about significant Web site outages, delays and other interruptions to securities trading and account access.
 5. Obtain information before trading about entering and canceling orders (market, limit and stop loss), and the details and risks of margin accounts (borrowing to buy stocks).
 6. Determine whether you are receiving delayed or real-time stock quotes and when your account information was last updated.
 7. Review the firm's privacy and Web site security policies and whether your name may be used for mailing lists or other promotional activities by the firm or any other party.
 8. Receive clear information about sales commissions and fees and conditions that apply to any advertised discount on commissions.
 9. Know how to, and if necessary, contact a customer service representative with your concerns and request prompt attention and fair consideration.
 10. Contact the Kansas Securities Commissioner to verify the registration/licensing status and disciplinary history of the on-line brokerage firm, or to file a complaint, if appropriate.
- For more information on this and other investor education topics? Kansas residents may call the Securities Commissioner at 1-800-232-9580, or visit the web site at www.ink.org/public/ksecom.

■ Investor services at Kansas securities commissioner's office: (800) 232-9580; Web site, www.ink.org/public/ksecom

■ Investor services at the Missouri Division of Securities, (800) 721-7996; Web site, <http://mosl.sos.state.mo.us/sossec/complnt.html>

■ Investor information hot line at the Securities and Exchange Commission, (800) 732-0330; Web site, www.sec.gov

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