



Proponent Testimony for HB 2558 – Establishment of Securities Victim Restitution Fund

February 12, 2020

Chairman Vickrey and Members of the Committee,

My name is Jeff Wagaman, Kansas Securities Commissioner, from the Kansas Insurance Department, and I am here today testify in support of HB 2558. This legislation would establish the securities act victim restitution fund to help Kansas victims of securities fraud (and other violations) recover some of their losses when the perpetrators of securities fraud are unable to pay ordered restitution.

As you are aware, the Office of Kansas Securities Commissioner is now a division of the Kansas Insurance Department by SB 23, passed by the legislature in 2017. During Insurance Commissioner Schmidt's first year in office, she has worked to fully integrate the securities office into the Department of Insurance. The Securities division's mission is to protect and inform Kansas investors; to promote integrity, fairness, and full disclosure in financial services; to foster capital formation; and to promote investor education. Twenty-five (25) dedicated employees in the division work hard each day to fulfill this mission.

Three other states have created similar programs—Vermont, Montana, and Indiana. We look forward to working with you to create this new program to help some Kansas victims recover a portion of their losses when full restitution is not possible.

The money for the victim restitution fund would come from monetary settlements of state securities law enforcement matters. No taxpayer money would be used. To begin the program, we request a one-time infusion of \$250,000 in start-up money from the securities act fee fund. These monies come from registration fees charged to companies, investment vehicles, brokers, investment advisers, and their agents from all over the nation who pay fees to register to do securities business in Kansas.

Under this program, Kansas victims may apply for assistance from the fund within two years of a final restitution order from the securities commissioner or applicable court. Victims would need to demonstrate that efforts to collect their monies from these restitution orders have been unsuccessful. Claims are limited to the lesser of \$25,000 or 25% of the total restitution ordered, although vulnerable persons, including persons 60 years old and older, could receive up to \$50,000 or 50% of the total restitution ordered.

In the case of securities fraud such as Ponzi schemes, unregistered persons selling unregistered securities, and sometimes dishonest brokers or investment advisers, stolen money is frequently lost or squandered by the scofflaw, leaving Kansans without even the hard-earned money they invested. In particular, senior investors are often targets of financial fraud, scams, and exploitation; in part, because they own tangible assets including homes and pension streams that

are attractive to scam artists. For seniors who are victims of fraud, this means that in retirement—when they most need their money—it is gone. This bill to establish a securities victim restitution fund could help them obtain at least some relief during their time of need.

Again, no taxpayer money will be used for this program, only resources that already fund securities regulation. No new money is required. Our intent is that a portion of the civil penalties ordered by the Securities Commissioner and regularly deposited into the investor education and protection fund will be allocated to this special restitution fund for the benefit of victims.

Thank you again Mr. Chairman for the opportunity to appear before you in support of HB 2558, and I am available for your questions at the appropriate time.

Thank you.