

## LEGISLATIVE BILL 424

Approved by the Governor May 26, 2003

Introduced by Speaker Bromm, 23; at the request of the Governor

AN ACT relating to state government; to amend sections 69-1310, 69-1329, and 81-1120, Reissue Revised Statutes of Nebraska, and section 69-1317, Revised Statutes Supplement, 2002; to create funds; to provide for charges and assessments against certain state funds; to provide powers and duties; to change provisions relating to the Uniform Disposition of Unclaimed Property Act; to provide for abandonment of unclaimed life insurance company property as prescribed; to provide for transfers of funds; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The Treasury Management Cash Fund is created. A pro rata share of the budget appropriated for the treasury management functions of the State Treasurer shall be charged to the income of each fund held in invested cash, and such charges shall be transferred to the Treasury Management Cash Fund. The allocation of charges may be made by any method determined to be reasonably related to actual costs incurred by the State Treasurer in carrying out the treasury management functions under section 84-602. Approval of the agencies, boards, and commissions administering these funds shall not be required.

It is the intent of this section to have funds held in invested cash be charged a pro rata share of the treasury management expense when this is not prohibited by statute or the Constitution of Nebraska.

Transfers may be made from the Treasury Management Cash Fund to the General Fund at the direction of the Legislature. Any money in the Treasury Management Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 2. All intangible personal property distributable in the course of a demutualization or related reorganization of a life insurance corporation that remains unclaimed is presumed abandoned two years after the date of the distribution of the property.

Sec. 3. Section 69-1310, Reissue Revised Statutes of Nebraska, is amended to read:

69-1310. (a) Every person holding funds or other property, tangible or intangible, presumed abandoned under the Uniform Disposition of Unclaimed Property Act shall report to the State Treasurer with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of any property presumed abandoned under the act;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his or her last-known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of less than twenty-five dollars may be reported in the aggregate;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(5) Other information which the State Treasurer may prescribe by rule as necessary for the administration of the act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. A one-time supplemental report shall be filed by life insurance corporations with regard to property subject to section 2 of this act before November 1, 2003, as of

December 31, 2002, as if section 2 of this act had been in effect before January 1, 2003. The property must accompany the report unless excused by the State Treasurer for good cause. The State Treasurer may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under the act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by a limited liability company, by a member; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

Sec. 4. Section 69-1317, Revised Statutes Supplement, 2002, is amended to read:

69-1317. (a) (1) All Except as otherwise provided in this subdivision, all funds received under the Uniform Disposition of Unclaimed Property Act, including the proceeds from the sale of abandoned property under section 69-1316, shall be deposited by the State Treasurer in a separate trust fund from which he or she shall make prompt payment of claims allowed pursuant to the act and payment of any auditing expenses associated with the receipt of abandoned property. All funds received under section 2 of this act shall be deposited by the State Treasurer in a separate life insurance corporation demutualization trust fund, which is hereby created, from which he or she shall make prompt payment of claims regarding such funds allowed pursuant to the act. Transfers from the separate life insurance corporation demutualization trust fund to the General Fund may be made at the direction of the Legislature. Before making the deposit he or she shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the abandoned property, the name and last-known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection during business hours.

The record shall not be subject to public inspection or available for copying, reproduction, or scrutiny by commercial or professional locators of property presumed abandoned who charge any service or finders' fee until twenty-four months after the names from the holders' reports have been published or officially disclosed.

A professional finders' fee shall be limited to ten percent of the total amount of the property presumed abandoned. To claim any such fee, the nature and location of the property must be disclosed to the claimant by the finder.

(2) The unclaimed property records of the State Treasurer, the unclaimed property reports of holders, and the information derived by an unclaimed property examination or audit of the records of a person or otherwise obtained by or communicated to the State Treasurer may be withheld from the public. Any record or information that may be withheld under the laws of this state or of the United States when in the possession of such a person may be withheld when revealed or delivered to the State Treasurer. Any record or information that is withheld under any law of another state when in the possession of that other state may be withheld when revealed or delivered by the other state to the State Treasurer.

Information withheld from the general public concerning any aspect of unclaimed property shall only be disclosed to an apparent owner of the property, or to the escheat, unclaimed, or abandoned property administrators or officials of another state if that other state accords substantially reciprocal privileges to the State Treasurer.

(b) (1) On or after October 6, 1992, the State Treasurer shall periodically transfer any balance in excess of an amount not to exceed five hundred thousand dollars from the separate trust fund to the General Fund no less frequently than on or before November 1 and May 1 of each year, except that the total amount of all such transfers shall not exceed five million dollars.

(2) (i) On the next succeeding November 1 after five million dollars has been transferred to the General Fund in the manner described in subdivision (b) (1) of this section or (ii) on November 1, 1996, whichever occurs first, and on or before November 1 of each year thereafter, the State Treasurer shall transfer any balance in excess of an amount not to exceed five hundred thousand dollars from the separate trust fund to the permanent school fund.

(3) On July 15, 2003, the State Treasurer shall transfer two hundred thousand dollars from the separate trust fund to the General Fund and one hundred thousand dollars from the separate trust fund to the Treasury Management Cash Fund. On September 15, 2004, the State Treasurer shall transfer five hundred thousand dollars from the separate trust fund to the General Fund.

(c) Before making any deposit to the credit of the permanent school fund or the General Fund, the State Treasurer may deduct (1) any costs in connection with sale of abandoned property, (2) any costs of mailing and publication in connection with any abandoned property, and (3) reasonable service charges and place such funds in the Unclaimed Property Cash Fund which is hereby created. Transfers from the fund to the General Fund may be made at the direction of the Legislature. Any money in the Unclaimed Property Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 5. Section 69-1329, Reissue Revised Statutes of Nebraska, is amended to read:

69-1329. Sections 69-1301 to 69-1329 and section 2 of this act may be cited as the Uniform Disposition of Unclaimed Property Act.

Sec. 6. Section 81-1120, Reissue Revised Statutes of Nebraska, is amended to read:

81-1120. (1) There is hereby created the Materiel Division Revolving Fund. The fund shall be administered by the materiel division of the Department of Administrative Services. The fund shall consist of (a) fees paid for printing, copying, central supply, and mailing services provided to state agencies and local subdivisions by the division and (b) assessments charged by the materiel administrator to state agencies, boards, and commissions for purchasing services provided by the division. Such assessments shall be adequate to cover actual and necessary expenses associated with providing the service. The fund shall be used to pay for expenses incurred by the division to provide such services.

(2) State agencies, boards, and commissions shall make the materiel division assessment payments to the fund no later than August 1 of each year, or in four equal payments to be made no later than August 1, October 1, February 1, and April 1 of each year, at the discretion of the materiel administrator.

(3) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. This act becomes operative on July 1, 2003.

Sec. 8. Original sections 69-1310, 69-1329, and 81-1120, Reissue Revised Statutes of Nebraska, and section 69-1317, Revised Statutes Supplement, 2002, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.