

**Enrolled**  
**House Bill 2158**

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of State Treasurer Tobias Read)

CHAPTER .....

AN ACT

Relating to unclaimed property; creating new provisions; amending ORS 63.674, 65.674, 98.352, 98.386, 98.396, 98.992, 112.055, 116.193, 116.253, 178.050, 293.455, 293.701, 327.405, 652.405, 708A.430, 711.225, 711.590, 716.905 and 723.466 and section 85, chapter 678, Oregon Laws 2019; repealing ORS 98.388; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**DUTIES OF STATE TREASURER**

**SECTION 1.** ORS 178.050 is amended to read:

178.050. The State Treasurer shall:

- (1) Keep the office at the seat of government.
- (2) Receive and have charge of all moneys paid into the State Treasury.
- (3) Pay out moneys from the State Treasury as directed by law.

**(4) Manage unclaimed property under ORS 98.302 to 98.436, escheated property under ORS 112.055 and 116.253, the Unclaimed Property and Estates Fund and the Unclaimed Property School Fund.**

**(5) Administer estates under ORS 113.235.**

[(4)] **(6)** Permit the books, papers and transactions of the office to be open at all times to inspection and examination by the Governor, Secretary of State, the legislature and any committee of either branch of the legislature.

[(5)] **(7)** Deliver over to the successor in office all moneys, books, papers, furniture and other effects belonging to or preserved in the office.

[(6)] **(8)** Perform all other duties imposed upon the State Treasurer by law.

**SUBACCOUNTS OF THE COMMON SCHOOL FUND**

**SECTION 2.** Sections 3 and 4 of this 2021 Act are added to and made a part of ORS chapter 273.

**SECTION 3.** (1) There is established the Unclaimed Property School Fund within the Common School Fund.

(2) The Unclaimed Property School Fund consists of:

(a) Moneys appropriated or transferred to the fund by the Legislative Assembly or by act of law; and

(b) Moneys transferred to the fund from the Unclaimed Property and Estates Fund under section 6 of this 2021 Act.

(3) Moneys in the Unclaimed Property School Fund are continuously appropriated to the State Treasurer for the treasurer's costs of administering the fund.

(4) The State Treasurer may transfer from the fund to the Unclaimed Property and Estates Fund amounts necessary to pay any unanticipated expenses payable from the Unclaimed Property and Estates Fund.

(5) Interest earned by the Unclaimed Property School Fund is credited to the fund. Before July 1 of each year, the State Treasurer, with the approval of the State Land Board, shall transfer any interest of the fund that exceeds the net liabilities of the fund to the Distributable Income Account of the Common School Fund under ORS 273.105.

**SECTION 4.** (1) There is established the Legacy Unclaimed Property School Fund within the Common School Fund.

(2) The Legacy Unclaimed Property School Fund consists of moneys transferred to the fund under section 7 of this 2021 Act.

(3) Interest earned by the fund is credited to the Common School Fund.

(4) Moneys in the Legacy Unclaimed Property School Fund are continuously appropriated to the Department of State Lands for the department's costs of administering the fund.

(5) The department shall transfer moneys from the Legacy Unclaimed Property School Fund to the Common School Fund as required under ORS 116.253 (1) and Article VIII, section 2 (1)(b), of the Oregon Constitution.

(6) The department may transfer moneys from the fund to the Unclaimed Property and Estates Fund to cover valid claims against the Unclaimed Property and Estates Fund only if:

(a) After transferring all available moneys to the Unclaimed Property and Estates Fund from the Unclaimed Property School Fund under section 3 (5) of this 2021 Act, there are insufficient moneys available to cover the claim; and

(b) The claim is against moneys that were transferred to the Legacy Unclaimed Property School Fund under section 7 of this 2021 Act.

#### **ADMINISTRATION OF UNCLAIMED AND ESCHEATED PROPERTY**

**SECTION 5.** Section 6 of this 2021 Act is added to and made a part of ORS 98.302 to 98.436.

**SECTION 6.** (1) There is established the Unclaimed Property and Estates Fund, separate and distinct from the General Fund.

(2) The Unclaimed Property and Estates Fund consists of:

(a) Unclaimed property, including the proceeds of unclaimed property, under ORS 98.302 to 98.436;

(b) Penalties related to unclaimed property assessed under ORS 98.992;

(c) Estates escheated to the state under ORS 112.055 and subject to claims under ORS 116.253;

(d) Moneys in accounts that escheat to the state under ORS 708A.430 (5) or 723.466 (5);

(e) Moneys transferred to the fund by the Department of State Lands from the Unclaimed Property School Fund under section 3 of this 2021 Act;

(f) Other moneys appropriated or transferred to the Unclaimed Property and Estates Fund by the Legislative Assembly or by operation of law; and

(g) Interest earned by the fund.

(3) Moneys in the fund are continuously appropriated to the State Treasurer for:

(a) The costs of administering unclaimed property under ORS 98.302 to 98.436;

(b) The costs of administering estates under ORS 113.235;

(c) The payment of valid claims to abandoned property made under ORS 98.392;

(d) The payment of valid claims for escheated property under ORS 116.253; and  
(e) The costs of administering the fund.  
(4) Before July 1 of each year, the State Treasurer shall transfer from the Unclaimed Property and Estates Fund:

(a) To the Common School Fund, all moneys and properties of escheated estates for which any claim has elapsed under ORS 116.253; and

(b) To the Unclaimed Property School Fund, all remaining moneys and properties in the Unclaimed Property and Estates Fund, except for the amount that the State Treasurer anticipates requiring to meet the expenses and liabilities of the Unclaimed Property and Estates Fund until the end of the following fiscal year, including transfers under paragraph (a) of this subsection.

**SECTION 7.** (1) Except as provided in subsections (2) and (3) of this section, effective July 1, 2021, the following accounts, funds and sources of money are hereby transferred to the Unclaimed Property and Estates Fund under section 6 of this 2021 Act:

(a) The Common School Fund Account;

(b) The Unclaimed Property Revolving Fund;

(c) The funds or accounts in which moneys are held by the Department of State Lands or State Treasurer as an estate administrator under ORS 113.235; and

(d) The funds or accounts in which moneys are held by the Department of State Lands or State Treasurer as escheated estates under ORS 116.193, 116.203, 116.253, 708A.430 or 723.466 that are still capable of being claimed under ORS 116.253 (1).

(2) The Department of State Lands and State Treasurer shall transfer only the moneys identified as net activity that occurred on or after July 1, 2020, and on or before June 30, 2021, within the funds listed in subsection (1)(a) and (b) of this section to the Unclaimed Property and Estates Fund.

(3) The Department of State Lands and the State Treasurer shall transfer to the Legacy Unclaimed Property School Fund under section 4 of this 2021 Act moneys in the accounts listed in subsection (1) of this section that are not transferred under subsection (2) of this section.

**SECTION 8.** (1) Sections 2 to 7 of this 2021 Act, the amendments to ORS 98.352, 98.386, 98.396, 98.992, 112.055, 116.193, 116.253, 178.050, 293.455, 293.701, 327.405, 708A.430, 711.225, 711.590, 716.905 and 723.466 by sections 1 and 10 to 25 of this 2021 Act and the repeal of ORS 98.388 by section 9 of this 2021 Act are intended to complete the transfer of the unclaimed and escheated property from the Department of State Lands to the State Treasurer under chapter 678, Oregon Laws 2019, to rename the sources of funds listed in section 7 (1) of this 2021 Act to the Unclaimed Property and Estates Fund and to carry out the purposes of the fund under section 6 of this 2021 Act.

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Common School Fund Account” or “Unclaimed Property Revolving Fund”, wherever they occur in statutory law, other words designating the “Unclaimed Property and Estates Fund.”

(3) Nothing in sections 6 and 7 of this 2021 Act, the amendments to ORS 98.352, 98.386, 98.396, 98.992, 112.055, 116.193, 116.253, 178.050, 293.455, 293.701, 327.405, 708A.430, 711.225, 711.590, 716.905 and 723.466 by sections 1 and 10 to 25 of this 2021 Act or the repeal of ORS 98.388 by section 9 of this 2021 Act relieves a person of a liability or obligation to the Department of State Lands, the Common School Fund Account or the Unclaimed Property Revolving Fund that accrues before, on or after the effective date of this 2021 Act. The State Treasurer may undertake the collection or enforcement of any such liability, duty or obligation for deposit into the Unclaimed Property and Estates Fund.

(4) Nothing in section 7 of this 2021 Act requires the Department of State Lands to transfer any moneys, however designated, that are unrelated to unclaimed or escheated properties. The department may take any steps necessary before, on or after the effective

**date of this 2021 Act to separately identify any moneys and reclassify or transfer any funds for the purposes of facilitating the transfers under section 7 of this 2021 Act. Nothing in sections 2 to 7 of this 2021 Act may be interpreted to affect the use of any source of funds that makes up the Common School Fund as described in Article VIII, section 2, of the Oregon Constitution.**

**(5) The State Treasurer is not required to transfer any funds under section 6 (4) of this 2021 Act for the biennium ending June 30, 2021.**

**SECTION 9. ORS 98.388 is repealed.**

**SECTION 10.** ORS 98.352, as amended by section 10, chapter 678, Oregon Laws 2019, is amended to read:

98.352. (1) A holder of property presumed abandoned under ORS 98.302 to 98.436 and 98.992 shall deliver to the State Treasurer the report described in subsection (2) of this section and shall pay or deliver to the State Treasurer, for deposit in the [*Unclaimed Property Revolving Fund*] **Unclaimed Property and Estates Fund**, all property presumed abandoned, except that for the following funds the holder is not required to deliver the funds presumed abandoned to the State Treasurer:

(a) Funds transferred to the General Fund under ORS 293.455 (1)(a).

(b) Funds in the possession of the Child Support Program described in ORS 180.345.

(c) Funds described in ORS 9.725 (3) or 98.386 (2) that are held in lawyer trust accounts or in the possession of the Oregon State Bar.

(2) A report must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and address, if known, of each person appearing from the records of the holder to be the owner of any property of value of \$50 or more presumed abandoned under ORS 98.302 to 98.436 and 98.992;

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

(c) 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 value under \$50 each may be reported in aggregate;

(d) 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

(e) Other information that the State Treasurer prescribes by rule as necessary for the administration of ORS 98.302 to 98.436 and 98.992.

(3) If the holder of property presumed abandoned is a successor to other holders or has had a name change while holding the property, the holder shall file with the report all prior known names and addresses and effective dates of changes.

(4) The holder shall file the report after October 1, but no later than November 1, of each year for accounts dormant as of June 30. Upon written request from any person required to file a report, the State Treasurer may postpone the reporting date. All records are exempt from public review for 12 months from the time the property is reportable and for 24 months after the property has been remitted to the State Treasurer. All lists of records or property held by a government or public authority under ORS 98.336 are exempt from public review until 24 months after the property is remitted to the State Treasurer.

(5) If the holder of property presumed abandoned under ORS 98.302 to 98.436 and 98.992 knows the whereabouts of the owner and if the owner's claim is not barred by the statute of limitations, the holder shall, before filing the 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.

(6) If the property presumed abandoned is a lawyer trust account established by an attorney or law firm, the report required by this section must indicate that the account is a lawyer trust account.

(7) The holder shall verify the accuracy of the information contained in the report. Verification must be executed by a partner if made by a partnership, by an officer if made by an unincorporated association or private corporation and by the chief fiscal officer if made by a public corporation.

**SECTION 11.** ORS 98.386, as amended by section 20, chapter 678, Oregon Laws 2019, is amended to read:

98.386. (1) Except as provided in subsection (2) of this section, all funds received under ORS 98.302 to 98.436 and 98.992, including the proceeds from the sale of unclaimed property under ORS 98.382, shall be deposited by the State Treasurer in the [*Common School Fund Account*] **Unclaimed Property and Estates Fund**. Before making the deposit, the State Treasurer shall record the name and last-known address of each person appearing from the holders' reports to be entitled to the unclaimed property and 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.

(2) Any amounts identified as lawyer trust account funds in the report required by ORS 98.352 shall be paid or delivered by the holder to the Oregon State Bar along with a copy of the report. All amounts paid or delivered to the Oregon State Bar under this section are continuously appropriated to the Oregon State Bar and may be used only for the funding of legal services provided through the Legal Services Program established under ORS 9.572, the payment of claims allowed under ORS 98.392 (2) and the payment of expenses incurred by the Oregon State Bar in the administration of the Legal Services Program.

(3) Before making a deposit to the credit of the [*Common School Fund Account*] **Unclaimed Property and Estates Fund**, the State Treasurer may deduct:

- (a) Any costs in connection with sale of unclaimed property;
- (b) Any costs of mailing and publication in connection with efforts to locate owners of unclaimed property as prescribed by rule; and
- (c) Reasonable service charges.

**SECTION 12.** ORS 98.396, as amended by section 23, chapter 678, Oregon Laws 2019, is amended to read:

98.396. (1) The State Treasurer shall consider any claim filed under ORS 98.392 and may hold a hearing and receive evidence concerning the claim. If a hearing is held, the State Treasurer shall prepare findings and a decision in writing on each claim filed, stating the substance of any evidence heard by the State Treasurer and the reasons for the decision. A decision is a public record.

(2) If the claim allowed is for property deposited in the [*Common School Fund Account*] **Unclaimed Property and Estates Fund**, the State Treasurer shall return the property or make payment of the proceeds of the sale of the property to the claimant.

(3) If the claim allowed is for funds deposited in the General Fund, the State Treasurer shall pay the claim from the fund against which the check or order represented in the claim was issued.

**SECTION 13.** ORS 98.992, as amended by section 30, chapter 678, Oregon Laws 2019, is amended to read:

98.992. A person who willfully fails to render any report, to pay or deliver property or to perform other duties required by ORS 98.302 to 98.436 and 98.992 may be required to forfeit and pay to the State Treasurer to be deposited in the [*Common School Fund Account*] **Unclaimed Property and Estates Fund**, an amount determined by the State Treasurer pursuant to ORS 183.745 of not more than \$1,000 for individuals and \$50,000 for corporations. This penalty shall be assessed only after at least one reporting cycle, and only after the State Treasurer has provided the person with written instructions, including copies of applicable laws and policies. The State Treasurer may waive any penalty due under this section with appropriate justification.

**SECTION 14.** ORS 112.055, as amended by section 31, chapter 678, Oregon Laws 2019, is amended to read:

112.055. (1) If, after diligent search and inquiry that is appropriate to the circumstances, taking into account the value of the decedent's estate, no person takes under ORS 112.025 to 112.045, the net intestate estate escheats to the State of Oregon.

(2) If a devisee or a person entitled to take under ORS 112.025 to 112.045 is not identified or found, the share of that person escheats to the State of Oregon, **and the share must be delivered to the State Treasurer for deposit into the Unclaimed Property and Estates Fund and subject to claims under ORS 116.253.**

(3) If a devisee or a person entitled to take under ORS 112.025 to 112.045 is not identified or found:

(a) The State Treasurer has the same preference as the missing devisee or person for the purpose of appointment as personal representative under ORS 113.085;

(b) Title to property of the decedent that would vest in the missing devisee or person under ORS 114.215 vests in the State Treasurer **to hold for the benefit of the Unclaimed Property and Estates Fund and subject to claims under ORS 116.253;** and

(c) The State Treasurer has all of the rights of the missing devisee or person for the purposes of ORS chapters 111, 112, 113, 114, 115, 116 and 117, including but not limited to the following:

(A) The right to contest any will of the decedent under ORS 113.075; and

(B) The right to information under ORS 113.145.

**SECTION 15.** ORS 116.193, as amended by section 43, chapter 678, Oregon Laws 2019, is amended to read:

116.193. If it appears to the court, at any time after the expiration of four months after the date of the first publication of notice to interested persons, that there is no known person to take by descent the net intestate estate, the court shall order that the estate escheat to the State of Oregon and that the whole of the estate, after payment of claims, taxes and expenses of administration, be distributed to the State Treasurer **for deposit into the Unclaimed Property and Estates Fund.** There shall be no further proceeding in the administration of the estate, and the estate shall summarily be closed.

**SECTION 16.** ORS 116.253, as amended by section 46, chapter 678, Oregon Laws 2019, is amended to read:

116.253. (1) Within 10 years after the death of a decedent whose estate escheated in whole or in part to the state, or within eight years after the entry of a judgment or order escheating property of an estate to the state, a claim may be made for the property escheated, or the proceeds thereof, by or on behalf of a person not having actual knowledge of the escheat or by or on behalf of a person who at the time of the escheat was unable to prove entitlement to the escheated property.

(2) The claim shall be made by a petition filed with the State Treasurer. The petition must include:

(a) A declaration by the petitioner under penalty of perjury in the form required by ORCP 1 E or an unsworn declaration under ORS 194.800 to 194.835 if the declarant is physically outside the boundaries of the United States;

(b) The age and place of residence of the claimant by whom or on whose behalf the petition is filed;

(c) A brief description of the property or source of funds believed to have been escheated to the state;

(d) That the claimant lawfully is entitled to the property or proceeds;

(e) That at the time the property escheated to the state the claimant had no knowledge or notice thereof or was unable to prove entitlement to the escheated property and has subsequently acquired new evidence of that entitlement;

(f) That the claimant claims the property or proceeds as an heir or devisee or as the personal representative of the estate of an heir or devisee, setting forth any relationship between the claimant and the decedent who at the time of death owned the escheated property;

(g) That 10 years have not elapsed since the death of the decedent or that eight years have not elapsed since the entry of the judgment or order escheating the property to the state; and

(h) If the petition is not filed by the claimant, the status of the petitioner.

[3] If the State Treasurer determines that the claimant is entitled to the property or the proceeds thereof, the State Treasurer shall deliver the property to the petitioner, subject to and charged with any tax on the property and the costs and expenses of the state in connection therewith.]

**(3) If the State Treasurer determines that the claimant is entitled to escheated estate property, the State Treasurer shall:**

**(a) Pay from the Unclaimed Property and Estates Fund the proportional share of the proceeds or value of the property without interest and subject to the proportional share of the costs of administering the estate, including attorney fees and personal representative fees paid by the estate; or**

**(b) If personal or real property is in the Unclaimed Property and Estates Fund, transfer the property without interest and subject to a claim of the Unclaimed Property and Estates Fund of a proportional share of the costs of administering the estate, including attorney fees and personal representative fees paid by the estate, and any property taxes or other costs of managing or improving the property, whether incurred before or after the close of the estate.**

(4) If the person whose property escheated or reverted to the state was at any time a patient of a state institution in Oregon for persons with mental illness or of the Eastern Oregon Training Center, the reasonable unpaid cost of the care and maintenance of the person while a ward of the institution, regardless of when the cost was incurred, may be deducted from, or, if necessary, be offset in full against, the amount of the escheated property. The reasonable unpaid cost of care and maintenance shall be determined in accordance with ORS 179.701.

(5) For the purposes of this section, the death of the decedent is presumed to have occurred on the date shown in the decedent's certified copy of the death record or in any other similar document issued by the jurisdiction in which the death occurred or issued by an agency of the federal government.

(6) A person aggrieved by a determination of the State Treasurer under this section may seek a contested case hearing under ORS 183.413 to 183.470.

**SECTION 17.** ORS 293.455, as amended by section 62, chapter 678, Oregon Laws 2019, is amended to read:

293.455. (1) After October 1, the State Treasurer may refuse payment of the unrepresented checks or orders included in the report referred to in ORS 293.450.

The State Treasurer shall:

(a) Transfer and credit the amounts of the unrepresented checks or orders dedicated for general funding to the General Fund.

(b) Transfer all other funds to the [*Unclaimed Property Revolving Fund within the Common School Fund Account*] **Unclaimed Property and Estates Fund.**

(c) Transfer and credit the amounts of the unrepresented checks issued under ORS chapters 316 and 317 to the [*Unclaimed Property Revolving Fund within the Common School Fund Account*] **Unclaimed Property and Estates Fund.**

(2) In each instance, the State Treasurer shall issue an official receipt for the amount so transferred or credited.

**SECTION 18.** ORS 293.701, as amended by section 64, chapter 678, Oregon Laws 2019, is amended to read:

293.701. As used in ORS 293.701 to 293.857, unless the context requires otherwise:

(1) "Council" means the Oregon Investment Council.

(2) "Investment funds" means:

(a) Public Employees Retirement Fund referred to in ORS 238.660;

(b) Industrial Accident Fund referred to in ORS 656.632;

(c) Consumer and Business Services Fund referred to in ORS 705.145;

(d) Employment Department Special Administrative Fund referred to in ORS 657.822;

(e) Insurance Fund referred to in ORS 278.425;

(f) Funds under the control and administration of the Department of State Lands;

- (g) Oregon Student Assistance Fund referred to in ORS 348.570;
  - (h) Moneys made available to the Commission for the Blind under ORS 346.270 and 346.569 or rules adopted thereunder;
  - (i) Forest Development Revenue Bond Fund referred to in ORS 530.147 and State Forestry General Obligation Bond Fund referred to in ORS 530.280;
  - (j) Oregon War Veterans' Fund referred to in ORS 407.495;
  - (k) Oregon War Veterans' Bond Sinking Account referred to in ORS 407.515;
  - (L) World War II Veterans' Compensation Fund;
  - (m) World War II Veterans' Bond Sinking Fund;
  - (n) Funds in the hands of the State Treasurer that are not required to meet current demands and that are invested in the Oregon Short Term Fund established under ORS 293.728 or in another commingled investment vehicle;
  - (o) State funds that are not subject to the control and administration of officers or bodies specifically designated by law;
  - (p) Funds derived from the sale of state bonds;
  - (q) Social Security Revolving Account referred to in ORS 237.490;
  - (r) Public University Fund established by ORS 352.450;
  - (s) Local Government Employer Benefit Trust Fund referred to in ORS 657.513;
  - (t) Elderly and Disabled Special Transportation Fund established by ORS 391.800;
  - (u) Education Stability Fund established by ORS 348.696;
  - (v) Deferred Compensation Fund established under ORS 243.411;
  - (w) Trust for Cultural Development Account established under ORS 359.405;
  - (x) The State Library Donation Fund and the Talking Book and Braille Library Endowment Fund subaccount established under ORS 357.195;
  - (y) Funds in the [*Unclaimed Property Revolving Fund created in ORS 98.388*] **Unclaimed Property and Estates Fund**; and
  - (z) Funds in the Common School Fund **or any subaccount of the fund**, that are available for investment.
- (3) "Investment officer" means the State Treasurer in the capacity as investment officer for the council.

**SECTION 19.** ORS 293.701, as amended by section 64, chapter 678, Oregon Laws 2019, and section 16, chapter 15, Oregon Laws 2020 (first special session), is amended to read:

293.701. As used in ORS 293.701 to 293.857, unless the context requires otherwise:

- (1) "Council" means the Oregon Investment Council.
- (2) "Investment funds" means:
  - (a) Public Employees Retirement Fund referred to in ORS 238.660;
  - (b) Industrial Accident Fund referred to in ORS 656.632;
  - (c) Consumer and Business Services Fund referred to in ORS 705.145;
  - (d) Employment Department Special Administrative Fund referred to in ORS 657.822;
  - (e) Insurance Fund referred to in ORS 278.425;
  - (f) Funds under the control and administration of the Department of State Lands;
  - (g) Oregon Student Assistance Fund referred to in ORS 348.570;
  - (h) Moneys made available to the Commission for the Blind under ORS 346.270 and 346.569 or rules adopted thereunder;
  - (i) Forest Development Revenue Bond Fund referred to in ORS 530.147 and State Forestry General Obligation Bond Fund referred to in ORS 530.280;
  - (j) Oregon War Veterans' Fund referred to in ORS 407.495;
  - (k) Oregon War Veterans' Bond Sinking Account referred to in ORS 407.515;
  - (L) World War II Veterans' Compensation Fund;
  - (m) World War II Veterans' Bond Sinking Fund;



(n) Funds in the hands of the State Treasurer that are not required to meet current demands and that are invested in the Oregon Short Term Fund established under ORS 293.728 or in another commingled investment vehicle;

(o) State funds that are not subject to the control and administration of officers or bodies specifically designated by law;

(p) Funds derived from the sale of state bonds;

(q) Social Security Revolving Account referred to in ORS 237.490;

(r) Public University Fund established by ORS 352.450;

(s) Local Government Employer Benefit Trust Fund referred to in ORS 657.513;

(t) Education Stability Fund established by ORS 348.696;

(u) Deferred Compensation Fund established under ORS 243.411;

(v) Trust for Cultural Development Account established under ORS 359.405;

(w) The State Library Donation Fund and the Talking Book and Braille Library Endowment Fund subaccount established under ORS 357.195;

(x) Funds in the [*Unclaimed Property Revolving Fund created in ORS 98.388*] **Unclaimed Property and Estates Fund**; and

(y) Funds in the Common School Fund **or any subaccount of the fund**, that are available for investment.

(3) "Investment officer" means the State Treasurer in the capacity as investment officer for the council.

**SECTION 20.** ORS 327.405, as amended by section 66, chapter 678, Oregon Laws 2019, is amended to read:

327.405. (1) The Common School Fund [*shall be*] **is** composed of:

(a) The proceeds from the sales of the 16th and 36th sections of every township or of any lands selected in lieu thereof;

(b) All the moneys and clear proceeds of all property that may accrue to the state by escheat or forfeiture;

(c) The proceeds of all gifts, devises and bequests made by any person to the state for common school purposes;

(d) The proceeds of all property granted to the state when the purpose of such grant is not stated;

(e) All proceeds of the sale of submerged and submersible lands as described in ORS 274.005;

(f) All proceeds of the sale of the South Slough National Estuarine Research Reserve as described in ORS 273.553 in the event such property is sold;

(g) All proceeds of the sale of the 500,000 acres of land to which this state is entitled by an Act of Congress approved September 4, 1841, and of all lands selected for capitol building purposes under Act of Congress approved February 14, 1859;

(h) **Moneys credited to the fund or transferred to the fund by the Legislative Assembly**; and

(i) All proceeds derived from the investment of moneys that compose the fund. [*All such proceeds shall become a part of the fund.*]

(2) Except as otherwise provided by law, the income from the fund [*shall*] **must** be applied exclusively to the support and maintenance of common schools in each school district.

[*(2) The State Treasurer shall audit all lawful claims for repayment of moneys under ORS 98.302 to 98.436 and 98.992, or out of escheated estates and funds, including attorney fees and all other expenses in any suit or proceeding relating to escheated estates and shall pay each lawful claim from the Common School Fund Account.*]

**SECTION 21.** ORS 711.225, as amended by section 71, chapter 678, Oregon Laws 2019, is amended to read:

711.225. Six months after the mailing of the written notice described in ORS 711.220 (3), the Oregon stock bank shall deliver a report and all deposits that remain unclaimed to the State Treasurer as unclaimed property [*for deposit in the Unclaimed Property Revolving Fund*] under ORS

98.352 and deliver a copy of the report filed with the State Treasurer to the Director of the Department of Consumer and Business Services.

**SECTION 22.** ORS 711.590, as amended by section 74, chapter 678, Oregon Laws 2019, is amended to read:

711.590. (1) Two years after the date of the final order closing the liquidation of an institution, the Director of the Department of Consumer and Business Services may withdraw any unclaimed deposits or balances remaining to the credit of dividend accounts, representing the aggregate of undelivered checks or unpaid dividend funds in the possession of the Department of Consumer and Business Services, and report and pay the funds to the State Treasurer as unclaimed property [*for deposit in the Unclaimed Property Revolving Fund*] under ORS 98.352.

(2) The interest earned on the dividend accounts while they remain in the possession of the director shall be paid to the State Treasurer to be credited to the Consumer and Business Services Fund and no person entitled to the accounts has any claim to the interest.

**SECTION 23.** ORS 716.905, as amended by section 75, chapter 678, Oregon Laws 2019, is amended to read:

716.905. (1) Upon approval of a plan under ORS 716.900, the directors shall mail written notice of their intention to close the Oregon nonstock bank to the last-known address of all depositors and other creditors.

(2) All deposits and amounts reserved for creditors that remain unclaimed after six months from the date of the written notice required under subsection (1) of this section shall be reported and transferred by the directors to the State Treasurer as unclaimed property [*for deposit in the Unclaimed Property Revolving Fund*] under ORS 98.352.

(3) A copy of the report of unclaimed deposits and amounts reserved for creditors filed with the State Treasurer shall be filed with the Director of the Department of Consumer and Business Services.

**SECTION 24.** ORS 708A.430, as amended by section 69, chapter 678, Oregon Laws 2019, is amended to read:

708A.430. (1) On the death of a depositor of an insured institution, if the deposit is \$25,000 or less, the insured institution, after receiving an affidavit as provided in subsection (3) of this section from a person that claims the deposit, or a declaration from the Department of Human Services or the Oregon Health Authority as provided in subsection (4) of this section, may pay the moneys on deposit to the credit of the deceased depositor, in the following order of priority, to:

(a) The surviving spouse at the surviving spouse's demand at any time after the depositor's death;

(b) The Oregon Health Authority or the Department of Human Services, if the authority or the department demands the payment not less than 46 days and no more than 75 days after the death of the depositor if the depositor does not have a surviving spouse and if the authority or department has a preferred claim under ORS 411.708, 411.795 or 416.350;

(c) The depositor's surviving children 18 years of age or older, if the depositor does not have a surviving spouse and the authority and department do not have a claim;

(d) The depositor's surviving parent, if the depositor does not have a surviving spouse or surviving child 18 years of age or older and if the authority and department do not have a claim;

(e) The depositor's surviving brothers and sisters 18 years of age or older, if the depositor does not have a surviving spouse, surviving child 18 years of age or older or surviving parent and the authority and department do not have a claim; or

(f) Any other surviving heir of the depositor, if there is no surviving spouse, authority claim, department claim, surviving child 18 years of age or older, surviving parent or surviving brothers or sisters 18 years of age or older.

(2)(a) An insured institution may not pay moneys on deposit under subsection (1)(c) to (f) of this section earlier than 46 days after the death of the depositor.

(b) An insured institution may not pay moneys on deposit under subsection (1)(c) to (f) of this section earlier than 76 days after the death of the depositor unless the financial institution obtains

prior verbal or written authorization from the Oregon Health Authority or its designated representative and the Department of Human Services or its designated representative.

(3) An affidavit or declaration submitted under this section must:

(a) State where and when the depositor died;

(b) State that the total deposits of the deceased depositor in all financial institutions in Oregon do not exceed \$25,000;

(c) Show the relationship of the affiant or declarant to the deceased depositor; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased depositor out of the deposit to the full extent of the deposit if necessary, in the order of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons that are entitled to the moneys by law.

(4) An insured institution shall accept from the Department of Human Services or the Oregon Health Authority, without additional requirements, a declaration under penalty of perjury meeting the requirements of subsection (3) of this section. A declaration submitted under this section must be signed by the declarant and must include the following sentence immediately above the signature line of the declarant: "I hereby declare under penalty of perjury that I am authorized by the Department of Human Services or the Oregon Health Authority to make this declaration, that the above statement is true to the best of my knowledge and belief, and that I understand that it is subject to penalty for perjury."

(5) In the event the depositor died intestate without known heirs, an estate administrator of the State Treasurer appointed under ORS 113.235 is the affiant and shall receive the moneys [*as escheat property*] **for deposit into the Unclaimed Property and Estates Fund as escheated property and subject to claims under ORS 116.253.**

(6) The insured institution shall determine the relationship of the affiant or declarant to the deceased depositor, but paying the moneys in good faith to the affiant or declarant discharges and releases the insured institution from any liability or responsibility for the transfer in the same manner and with the same effect as if the insured institution transferred, delivered or paid the moneys to a personal representative of the estate of the deceased depositor.

(7) A probate proceeding is not necessary to establish the right of the surviving spouse, Oregon Health Authority, Department of Human Services, surviving child, surviving parent, surviving brothers and sisters or an estate administrator of the State Treasurer to withdraw the deposits after filing the affidavit or declaration. If a personal representative is appointed in an estate where a withdrawal of deposits was made under this section, the person that withdraws the deposits shall account for the deposits to the personal representative.

(8) If an insured institution transfers moneys under subsection (1) of this section, the insured institution may require the transferee to furnish the insured institution with a written indemnity agreement that indemnifies the insured institution against loss for moneys the insured institution transferred to the extent of the amount of the deposit.

(9)(a) Moneys disbursed to the Department of Human Services under subsection (1) of this section may be made payable only to the department.

(b) Moneys disbursed to the Oregon Health Authority under subsection (1) of this section may be made payable only to the authority.

(10) This section is subject to the rights of other parties in the account under ORS 708A.455 to 708A.515.

**SECTION 25.** ORS 723.466, as amended by section 77, chapter 678, Oregon Laws 2019, is amended to read:

723.466. (1) On the death of a member of a credit union, if the deposit to the credit of the deceased member is \$25,000 or less, the credit union may, upon receipt of an affidavit from a person claiming the deposit as provided in subsection (3) of this section, or a declaration from the Department of Human Services or the Oregon Health Authority as provided in subsection (4) of this section, pay the moneys on deposit:

(a) To the surviving spouse on demand of the surviving spouse at any time after the death of the member;

(b) If there is no surviving spouse, to the Oregon Health Authority or the Department of Human Services, on demand of the authority or the department no less than 46 days and no more than 75 days after the death of the member when there is a preferred claim arising under ORS 411.708, 411.795 or 416.350;

(c) If there is no surviving spouse and no authority or department claim, to the member's surviving children 18 years of age or older;

(d) If there is no surviving spouse, authority claim, department claim or surviving child 18 years of age or older, to the member's surviving parents;

(e) If there is no surviving spouse, authority claim, department claim, surviving child 18 years of age or older or surviving parent, to the member's surviving brothers and sisters 18 years of age or older; or

(f) If there is no surviving spouse, authority claim, department claim, surviving child 18 years of age or older, surviving parent or surviving brothers or sisters 18 years of age or older, to any other surviving heir of the member.

(2)(a) A credit union may not pay moneys on deposit under subsection (1)(c) to (f) of this section earlier than 46 days after the death of the member.

(b) A credit union may not pay moneys on deposit under subsection (1)(c) to (f) of this section earlier than 76 days after the death of the member unless the financial institution obtains prior verbal or written authorization from the Oregon Health Authority or its designated representative and the Department of Human Services or its designated representative.

(3) An affidavit or declaration submitted under this section must:

(a) State where and when the member died;

(b) State that the total deposits of the deceased member in all financial institutions in this state do not exceed \$25,000;

(c) Show the relationship of the affiant or declarant to the deceased member; and

(d) Embody a promise to pay the expenses of last sickness, funeral expenses and just debts of the deceased member out of the deposit, to the full extent of the deposit if necessary, in the order of priority prescribed by ORS 115.125, and to distribute any remaining moneys to the persons who are entitled to those moneys by law.

(4) A credit union shall accept from the Department of Human Services or the Oregon Health Authority, without additional requirements, a declaration under penalty of perjury meeting the requirements of subsection (3) of this section. A declaration submitted under this section must be signed by the declarant and must include the following sentence immediately above the signature line of the declarant: "I hereby declare under penalty of perjury that I am authorized by the Department of Human Services or the Oregon Health Authority to make this declaration, that the above statement is true to the best of my knowledge and belief, and that I understand that it is subject to penalty for perjury."

(5) In the event the member died intestate without known heirs, an estate administrator of the State Treasurer appointed under ORS 113.235 shall be the affiant and shall receive the moneys [*as escheat property*] **for deposit into the Unclaimed Property and Estates Fund as escheated property and subject to claims under ORS 116.253.**

(6) The credit union shall determine the relationship of the affiant or declarant to the deceased member. However, payment of the moneys in good faith to the affiant or declarant discharges and releases the transferor from any liability or responsibility for the transfer in the same manner and with the same effect as if the property had been transferred, delivered or paid to a personal representative of the estate of the deceased member.

(7) A probate proceeding is not necessary to establish the right of the surviving spouse, Oregon Health Authority, Department of Human Services, surviving children, surviving parents, surviving brothers and sisters or an estate administrator of the State Treasurer to withdraw the deposits upon the filing of the affidavit or declaration. If a personal representative is appointed in an estate where

a withdrawal of deposits was made under this section, the person withdrawing the deposits shall account for them to the personal representative.

(8) When a credit union transfers moneys under subsection (1) of this section, the transferor may require the transferee to furnish the transferor with a written indemnity agreement, indemnifying the transferor against loss for moneys paid to the extent of the amount of the deposit.

(9)(a) Moneys disbursed to the Department of Human Services under subsection (1) of this section may be made payable only to the department.

(b) Moneys disbursed to the Oregon Health Authority under subsection (1) of this section may be made payable only to the authority.

(10) This section is subject to the rights of other parties to the account under ORS 723.474 to 723.498.

## OTHER UNCLAIMED PROPERTY

**SECTION 26.** ORS 63.674, as amended by section 49, chapter 678, Oregon Laws 2019, is amended to read:

63.674. Assets of a dissolved limited liability company that should be distributed to a creditor, claimant or member of the limited liability company who cannot be found or who is not competent to receive them shall be reduced to cash and, within six months after the final distribution of such liquidation or winding up is payable, deposited with the State Treasurer **as unclaimed property under ORS 98.352**. The receiver or other liquidating agent shall prepare in duplicate and under oath a statement containing the names and last-known addresses of the persons entitled to such funds. One of the statements shall be filed with the State Treasurer and another shall be delivered to the office for filing. *[The funds shall then escheat to and become the property of the State of Oregon and shall become a part of the Common School Fund. The person entitled to the distribution may reclaim any funds so deposited in the manner provided in ORS 116.253 for estates that have escheated to the state.]*

**SECTION 27.** ORS 65.674, as amended by section 50, chapter 678, Oregon Laws 2019, is amended to read:

65.674. Assets of a dissolved corporation that should be transferred to a creditor, claimant or member of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash unless they are subject to known trust restrictions and deposited with the State Treasurer *[for safekeeping]* **as unclaimed property under ORS 98.352**. However, in the discretion of the State Treasurer, property of unusual historic or aesthetic interest may be received and held in kind. The receiver or other liquidating agent shall prepare in duplicate and under oath a statement containing the names and last-known addresses of the persons entitled to such funds. One of the statements shall be filed with the State Treasurer and another shall be delivered to the Secretary of State for filing. *[The funds shall then escheat to and become the property of the State of Oregon and shall become part of the Common School Fund. The person entitled to the transfer may reclaim any funds so deposited in the manner provided in ORS 116.253 for estates that have escheated to the state.]*

**SECTION 28.** ORS 652.405, as amended by section 67, chapter 678, Oregon Laws 2019, is amended to read:

652.405. (1) The Commissioner of the Bureau of Labor and Industries shall attempt for a period of not less than three years to make payment of wages collected under ORS 652.310 to 652.414 to the person entitled thereto.

(2) By July 30 of each year, **the commissioner shall pay** wages collected by the commissioner under ORS 652.310 to 652.414 and remaining unclaimed for a period of more than three years from the date of collection *[shall escheat to the state and the commissioner shall pay those wages]* to the State Treasurer *[for the benefit of the Common School Fund]* **as unclaimed property under ORS 98.352 or, by October 1 of each year, transfer the wages to the State Treasurer under ORS 293.455**. The State Treasurer shall issue a receipt for the money to the commissioner. *[No later than*

*10 years after the State Treasurer receives the escheated funds, a person entitled to claim the wages may file a claim with the State Treasurer in the manner provided by ORS 116.253.]*

#### **OPERATIVE DATES**

**SECTION 29.** Section 85, chapter 678, Oregon Laws 2019, as amended by section 18b, chapter 10, Oregon Laws 2020 (second special session), is amended to read:

**Sec. 85.** (1) Sections 1 to 6, chapter 678, Oregon Laws 2019, become operative on [*July 1, 2021*] **the effective date of this 2021 Act.**

(2) The amendments to statutes and session law by sections 7 to 80, chapter 678, Oregon Laws 2019, become operative on [*July 1, 2021*] **the effective date of this 2021 Act.**

[*(3) The amendments to section 22, chapter 105, Oregon Laws 2018, by section 81, chapter 678, Oregon Laws 2019, become operative on the effective date of this 2020 second special session Act.*]

[*(4) The amendments to section 22, chapter 105, Oregon Laws 2018, by section 82, chapter 678, Oregon Laws 2019, become operative on the effective date of this 2020 second special session Act.*]

[*(5)*] **(3)** The State Treasurer, the Department of State Lands and the State Land Board may take any actions before the operative dates specified in subsections [*(1) to (4)*] **(1) and (2)** of this section necessary to enable the State Treasurer to exercise, on and after the operative dates specified in subsections [*(1) to (4)*] **(1) and (2)** of this section, the duties, functions and powers required under chapter 678, Oregon Laws 2019.

#### **UNIT CAPTIONS**

**SECTION 30.** The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

#### **EMERGENCY CLAUSE**

**SECTION 31.** This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

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**Passed by House June 2, 2021**

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

**Passed by Senate June 10, 2021**

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Peter Courtney, President of Senate

**Received by Governor:**

.....M.,....., 2021

**Approved:**

.....M.,....., 2021

.....  
Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2021

.....  
Shemia Fagan, Secretary of State