

Approved: March 22, 1993

Date

## MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:10 a.m. on March 16, 1993 in Room 529-S of the Capitol.

Members present: Senators Corbin, Hensley, Lawrence, Lee, Petty, Praeger, and Steffes.

Committee staff present: William Wolff, Legislative Research Department  
Fred Carman, Revisor of Statutes  
June Kossover, Committee Secretary

Conferees appearing before the committee: Sally Thompson, State Treasurer

Others attending: See attached list

Senator Steffes made a motion, seconded by Senator Praeger, to approve the minutes of the meeting of March 12 as submitted. The motion carried.

The chairman presented to the committee the application and background information on Guylene Stoddard, Gubernatorial Re-appointee to the State Banking Board. (Attachment #1.)

The hearing was opened on SB 408, payment of interest on certain accounts. State Treasurer Sally Thompson appeared before the committee to explain that this bill simply provides necessary technical amendments to SB 480, passed during the 1992 session. There were no other conferees and no questions; the hearing was closed. Senator Lee moved to pass SB 408 favorably and to place it on the Consent Calendar. The motion was seconded by Senator Lawrence. The motion carried.

The hearing was opened on SB 393. Sally Thompson, State Treasurer, appeared as a proponent of this bill and introduced her staff, stating that she would periodically refer to staff members for clarification and detail. Ms. Thompson advised that SB 393 provides major changes to the Unclaimed Property Act and that these changes are so significant that her office recommends repeal of the existing statute and adoption of new uniform language. (Attachment #2.) The major changes center around six basic issues: the combination of reporting and remitting functions; the elimination of duplicative due diligence mailings; state staffing of an audit function; limiting holder service charges; using the last known address of an owner as the factor upon which a state will receive monies; and accounting changes to allow for the recovery of unclaimed property efforts prior to general fund deposit.

The Revisor of Statutes, Fred Carman, presented a balloon containing technical amendments to SB 393. (Attachment #3.)

Senator Bond questioned whether the audit function would add additional employees and Ms. Thompson advised that at the outset only one additional employee would be needed and that, after two years, another employee would be added if necessary. Senator Bond requested Ms. Thompson to address the issue of oil and gas companies holding royalties without paying interest as is required of financial institutions. According to Ms. Thompson, this bill will not address that issue; however, it will prevent their charging a service fee without prior written agreement. Senator Bond also questioned lowering the time frame from 5 years to 6 months in section 9, stating that 6 months may not provide sufficient time to locate all parties in a class action suit.

Senator Bond also expressed concern that the \$100.00 per day penalty for failure to report was too stringent to the small business owner who may be unaware of the reporting laws. Senator Lawrence made a motion, seconded by Senator Petty to add to Sect. 34(a) the language "A person who willfully fails to present a report...". The motion carried.

The State Treasurer also offered three technical amendments. (Attachment #4.)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 529-S Statehouse, at 9:10 a.m. on March 16, 1993.

There were no further questions and no other conferees; the hearing was closed.

Senator Petty made a motion to adopt the amendments presented by the Revisor of Statutes and Ms. Thompson. Senator Praeger seconded the motion. The motion carried. The amended bill will also change the requirement for reporting in court cases from 6 months to one year.

Senator Steffes made a motion to move the bill favorably as amended. Senator Petty seconded the motion. The motion carried.

Senator Hensley made a motion to recommend favorably the confirmation of Guylene Stoddard as a re-appointee to the State Banking Board. Senator Petty seconded the motion. The motion carried.

The committee adjourned at 10:02 a.m.

## GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 3/16/93

[illegible]



APR 17 1992

BILL GRAVES  
SECRETARY OF STATE

## KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

## STATEMENT OF SUBSTANTIAL INTERESTS FOR INDIVIDUALS WHOSE

## APPOINTMENT TO STATE OFFICE IS SUBJECT TO SENATE CONFIRMATION

**INSTRUCTIONS.** This statement (pages 1 through 4) must be completed by each person whose appointment to a state position is subject to Senate confirmation (K.S.A. 46-247 and 46-248). Failure to complete and return this statement may result in a fine of \$10 per day for each day remains unfilled. Also, any individual who intentionally fails to file as required by law, intentionally files a false statement, is subject to prosecution for a class B misdemeanor.

Please read the "Guide" and "Definition" section provided with this form for additional assistance in completing sections "C" through "G". If you have questions or wish assistance, please contact the Commission office at 109 West 9th, Topeka, KS or call 913-296-4219.

**A. IDENTIFICATION:**

PLEASE TYPE OR PRINT

S	T	O	D	D	A	R	D		D	E	A	N	N	A		G	U	Y	L	E	N	E		
---	---	---	---	---	---	---	---	--	---	---	---	---	---	---	--	---	---	---	---	---	---	---	--	--

Last Name

First Name

MI

N	O	N	E																					
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Spouse's Name

1	2	2	1		N	E	L	S	O	N														
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Number &amp; Street Name, Apartment Number, Rural Route, or P.O. Box Number

L	I	B	E	R	A	L		K	A	N	S	A	S		6	7	9	0	1					
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City, State, Zip Code

3	1	6	**	6	2	4	**	1	1	2	9
---	---	---	----	---	---	---	----	---	---	---	---

Home Phone Number

3	1	6	**	6	2	4	**	1	9	7	1
---	---	---	----	---	---	---	----	---	---	---	---

Business Phone Number

**B. APPOINTED POSITION SUBJECT TO SENATE CONFIRMATION:**

K	S		S	T	A	T	E		B	A	N	K	I	N	G		B	O	A	R	D			
---	---	--	---	---	---	---	---	--	---	---	---	---	---	---	---	--	---	---	---	---	---	--	--	--

List Name of Agency, Commission or Board

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Position

\* The last four digits of your social security number will aid in identifying you from others with the same name on the computer list. This information is optional.

\* 

2	3	5	3
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C. **OWNERSHIP INTERESTS:** List any corporation, partnership, proprietorship, trust, joint venture and every other business interest, including land used for income in, which either you or your spouse has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5%, whichever is less. If you or your spouse own more than 5% of a business, you must disclose the percentage held. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "C", check here \_\_\_\_.

BUSINESS NAME AND ADDRESS	TYPE OF BUSINESS	DESCRIPTION OF INTERESTS HELD	HELD BY WHOM	PERCENT OF OWNERSHIP INTERESTS
1. 215 W. 4th St. Liberal, KS 67901	Rental House	owner	<input checked="" type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
2. Seward Co. Kansas	Mineral Interests	owner	<input checked="" type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
3.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
4.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
5.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
6.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	
7.			<input type="checkbox"/> You <input type="checkbox"/> Spouse <input type="checkbox"/> Jointly	

D. **GIFTS OR HONORARIA:** List any person or business from whom you or your spouse either individually or collectively, have received gifts or honoraria having an aggregate value of \$500 or more in the preceding 12 months.  
If you have nothing to report in Section "D", check here X.

NAME OF PERSON OR BUSINESS FROM WHOM GIFT RECEIVED	ADDRESS	RECEIVED BY:
1.		
2.		
3.		

**E. RECEIPT OF COMPENSATION:** List all places of employment in the last calendar year, and a other businesses from which you or your spouse received \$2,000 or more in compensation (salary, thing of value, or economic benefit conferred on in return for services rendered or to be rendered), which was reportable as taxable income on your federal income tax returns.

1. YOUR PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR. IF SAME AS SECTION "B", CHECK HERE \_\_\_\_.

If you have nothing to report in Section "E"1, check here \_\_\_\_.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	First National Bank	P.O. Box 1217, Liberal, KS	Bank
2.			

2. SPOUSE'S PLACE(S) OF EMPLOYMENT OR OTHER BUSINESS IN THE PRECEDING CALENDAR YEAR.

If you have nothing to report in Section "E"2, check here x.

	NAME OF BUSINESS	ADDRESS	TYPE OF BUSINESS
1.	N/A		
2.			

**F. OFFICER OR DIRECTOR OF AN ORGANIZATION OR BUSINESS:** List any organization or business which you or your spouse hold a position of officer, director, associate, partner, proprietor at the time of filing, irrespective of the amount of compensation received while holding such position. Please insert additional page if necessary to complete this section. If you have nothing to report in Section "F", check here \_\_\_\_.

	BUSINESS NAME AND ADDRESS	POSITION HELD	HELD BY WHOM
1.	First National Bank, Liberal, KS	Vice President	You
2.			
3.			
4.			
5.			

- G. **RECEIPT OF FEES AND COMMISSIONS:** List each client or customer who pays fees or commission to a business or combination of businesses from which fees or commissions you or your spouse received an aggregate of \$2,000 or more in the preceding calendar year. The phrase "client or customer" relates only to businesses or combination of businesses. In the case of partnership, it is the partner's proportionate share of the business, and hence of the fee which is significant, without regard to expenses of the partnership. An individual who receives a salary as opposed to portions of fees or commissions is generally not required to report under this provision. Please insert additional page if necessary to complete this section.

If you have nothing to report in Section "G", check here X.

	NAME OF CLIENT / CUSTOMER	ADDRESS	RECEIVED BY
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			

H. **DECLARATION:**

I, Gyulene Stoddard, declare that this statement of substantial interests (including any accompanying pages and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of all of my substantial interests and other matters required by law. I understand that the intentional failure to file this statement as required by law or intentionally filing a false statement is a class B misdemeanor.

4-15-92

Date

Gyulene Stoddard  
Signature of Person Making Statement

NUMBER OF ADDITIONAL PAGES \_\_\_\_.

Return your completed statement to the Secretary of State, State House, Topeka, Kansas 66612.

F/41 3/16/93  
1-4

SENATE CONFIRMATION QUESTIONNAIRE  
APPOINTMENTS BY GOVERNOR JOAN FINNEY

Name: Gylene Stoddard

Home Address: 1221 Nelson

City, State, Zip Code: Liberal, Ks. 67901

Home Phone: 316 / 624-1129

Business Address: P.O. Box 1217

City, State, Zip Code: Liberal, Ks. 67901

Business Phone: 316 / 624-1971

Date of Birth: 4-26-46 Place of Birth Garden City, Ks.

Party Affiliation Demo. KBI Check(Yes/No) Y

Appointed as: Kansas State Bank Board Member

Effective 5-1-93 for the 3 yr term

ending 4-30-96 Succeeding herself

Salary NONE Statutory Authority 74-3004

Statutory Requirements \_\_\_\_\_

1. EDUCATION:  
High School Moscow High School, Moscow, Ks

Year Graduated 1964

Postsecondary	Degree, etc.	Dates
<u>Colorado State University</u>	<u>B.S.</u>	<u>1968</u>
_____	_____	_____
_____	_____	_____

F-11 3/16/93



2. MEMBERSHIP IN BUSINESS, TRADE AND PROFESSIONAL ORGANIZATIONS DURING PAST 10 YEARS:

Dates	Name	Location
<u>1987 - Present</u>	<u>Financial Women International</u>	<u>Liberal, Ks</u>
<u>1978 - Present</u>	<u>Soroptimist</u>	<u>Liberal, Ks</u>
_____	_____	_____

3. HAVE YOU EVER BEEN ELECTED OR APPOINTED TO ANY PUBLIC OFFICE IN KANSAS? Yes ☒ No ☐  
If so, please list dates and offices held.

Date	Office
_____	_____
_____	_____
_____	_____

4. HAVE YOU EVER BEEN EMPLOYED BY OR HELD A POSITION OR OFFICE WITH ANY FEDERAL, FOREIGN STATE, OR LOCAL GOVERNMENTAL ENTITY OR AGENCY? NO  
If so, please list dates and offices held:

_____	_____
_____	_____
_____	_____

5. HAVE YOU BEEN A REGISTERED LOBBYIST OR EMPLOYED A REGISTERED LOBBYIST AT ANY TIME DURING THE PAST 5 YEARS? NO  
If you were a registered lobbyist, did you receive any compensation?  
List groups you represented or for which you employed a lobbyist:

_____
_____
_____

6. EXPERIENCE OR INTERESTS WHICH QUALIFY YOU FOR THE OFFICE TO WHICH YOU HAVE BEEN APPOINTED:

I have been in banking a total of 24 years.

7. SUMMARY OF BUSINESS OR PROFESSIONAL EXPERIENCE:

1986 - Present      First National Bank, Liberal, Ks.  
1969 - 1986      Citizens State Bank, Liberal, Ks.

8. HAVE YOU EVER BEEN A MEMBER OF THE ARMED FORCES OF THE UNITED STATES? No

If so, please list dates of service, branch of service and date and type of discharge:

9. HAVE YOU EVER BEEN ARRESTED, CHARGED OR HELD BY FEDERAL, STATE OR OTHER LAW ENFORCEMENT AUTHORITIES FOR VIOLATION OF ANY FEDERAL LAW, STATE LAW, COUNTY OR MUNICIPAL LAW, REGULATION OR ORDINANCE (EXCLUDING TRAFFIC VIOLATIONS FOR WHICH A FINE OF \$100 OR LESS WAS IMPOSED)? No

10. DISPOSITION OF ANY INTERESTS THAT MIGHT HAVE PRESENTED A POTENTIAL CONFLICT OF INTEREST FOR THIS POSITION.

NONE

Return to: Mary Holladay  
Appointment Secretary  
Office of the Governor  
2nd Floor, State Capitol  
Topeka, KS 66612

Lynne Stoddard  
Signature

F141 3/16/93  
1-7

Mr. Paul Dugan  
267 N. Maize Road  
Wichita 67212  
State Banking Board  
Public Member  
D (316) 721-5500 04/30/94

Mr. Clarence Gideon  
1500 Lakeside Drive  
Topeka 66604  
State Banking Board  
Second District Banker  
(913) 262-0102 04/30/95

Mr. Marvin Max  
9700 Lamar Avenue  
Overland Park 66207  
State Banking Board  
Third District Banker  
04/30/95

Mr. Douglas Morley  
507 East 4th Street  
Belle Plaine 67013  
State Banking Board  
Fourth District Banker  
(316) 488-2211 04/30/94

Mr. Jerry Patterson  
105 7th, Box 115  
Wakefield 67487  
State Banking Board  
2nd District Banker  
04/30/93

Mr. Howard Paul  
Box 5318  
Topeka 66605  
State Banking Board  
Public Member  
04/30/93

Mr. Michael Sarras  
1619 North 81 Street  
Kansas City 66112  
State Banking Board  
Third District Banker  
04/30/94

Mr. Ray Shepherd  
P. O. Box 112  
Fort Scott 66701  
State Banking Board  
Public Member  
D (316) 223-0900 04/30/95

F141 3/14/93

1-8

Ms. Guylene Stoddard  
1221 Nelson  
Liberal  
State Banking Board  
First District Banker

D

04/30/96

F141 3/16/93

1-9

L. 1989, ch. 230, § 1; Repealed, L. 1989, ch. 229, § 4; April 27.

#### 74-2914.

History: L. 1979, ch. 242, § 7; Repealed, L. 1989, ch. 229, § 4; April 27.

#### 74-2915.

History: L. 1986, ch. 289, § 1; L. 1987, ch. 294, § 2; Repealed, L. 1989, ch. 229, § 4; April 27.

### Article 30.—STATE BANKING BOARD

#### Cross References to Related Sections:

Banking code, see ch. 9, arts. 7 to 20.

State bank commissioner, see ch. 75, art. 13.

#### 74-3001 to 74-3003.

History: L. 1925, ch. 256, §§ 1 to 3; Repealed, L. 1947, ch. 102, § 143; June 30.

**74-3004.** State banking board; qualifications; appointment, senate confirmation, residence requirements; terms; vacancies. (a) There is hereby created a state banking board which shall be composed of nine members. Six members of the board shall be bankers with not less than five years' actual banking experience in a state bank in this state and three shall represent the public interest in the regulation, operation and control of state banks and trust companies. All members shall be selected from the state at large. No nonbanker member shall concurrently serve as an officer or director in any state or national bank or trust company wherever located. One of the nine members shall be elected annually as chairperson of the board. The board shall be appointed by the governor. Persons appointed to the board shall be subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Subject to the provisions of K.S.A. 1992 Supp. 75-4315c, of the six banker members, the governor shall appoint one from each Kansas congressional district as presently constituted and the remainder from the state at large. Appointment of nonbanker members shall be made with due consideration for achieving representation of the various geographic sectors of the state.

(b) Terms of members of the board shall begin on May 1 and shall be for three years. Each member shall serve until a successor is appointed and qualifies. No person shall serve more than two terms as a member of the board. In the event of a vacancy on the board, the governor shall appoint a new member of

the same qualification to fill the unexpired term.

History: L. 1947, ch. 102, § 100; L. 1961, ch. 387, § 1; L. 1978, ch. 308, § 62; L. 1981, ch. 299, § 55; L. 1982, ch. 347, § 36; L. 1987, ch. 54, § 13; L. 1992, ch. 262, § 11; July 1.

#### Source or prior law:

74-3001.

#### Revisor's Note:

The state banking board was reestablished and continued in existence by act of the legislature in 1981, see 74-7273.

#### Research and Practice Aids:

Banks and Banking ⇐ 17.

C.J.S. Banks and Banking § 35.

**74-3005.** Compensation and expenses; secretary; records. Members of the state banking board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223. The commissioner shall act as secretary for said board and shall keep a permanent record of all meetings and proceedings of said board in his office.

History: L. 1947, ch. 102, § 101; L. 1974, ch. 348, § 61; July 1.

#### Source or prior law:

74-3001.

**74-3006.** Meetings; quorum; access to records; advisory. The board shall meet once each month, on such dates as it shall agree upon, and shall meet at such other times as the board may deem necessary or when called by the chairman of the board or any three members thereof. Six members of the board shall constitute a quorum, and a majority vote of the board shall be necessary to carry any question, and no action of said board shall be taken except in a formal meeting and after a favorable vote of a majority of the entire board. The members of the board during business hours shall have free access to all of the records in the office of the commissioner. The board shall act in an advisory capacity in all matters pertaining to the conduct and welfare of the banking department and the administration of the banking laws of this state except as herein otherwise specifically provided.

History: L. 1947, ch. 102, § 102; June 30.

#### Source or prior law:

74-3002, 74-3003.

#### Cross References to Related Sections:

Certain records deemed confidential, see 9-1712.



STATE OF KANSAS

Sally Thompson

TREASURER

900 JACKSON, SUITE 201  
TOPEKA, KANSAS 66612-1235

TELEPHONE  
(913) 296-3171

Tuesday, March 16, 1993

Testimony in Support of S.B. 393  
Presented to the  
Senate Financial Institutions and Insurance Committee  
by State Treasurer Sally Thompson

Mr. Chairman, it is a pleasure to come before you today to discuss Senate Bill 393 which provides major changes to the Unclaimed Property Act. The program has been a successful one for the State of Kansas and for hundreds of original owners of property as well. Since 1979, nearly \$13,500,000 has been returned to rightful owners or heirs. An additional \$22,000,000 is held by the state in custody for the rightful owners who may claim these monies in perpetuity. These monies include a variety of assets belonging to Kansans: bank deposits, utility deposits, unclaimed wages, stocks and dividends, and a host of other types of property which are listed below.

The current law, originally enacted in 1979, is based on the 1966 Revision of the 1954 Uniform Act. The majority of the proposed language is developed upon the 1981 Uniform Act. Also included are modifications suggested by the National Association of Unclaimed Property Administrators (NAUPA) as well as language we have gleaned from other states. NAUPA is an association of executives and employees of governmental units responsible for unclaimed or

*Senate 7141  
3/16/93  
Attachment # 2*

abandoned property. The goal of the organization is to promote the exchange of information regarding administration and disposition of unclaimed property; to develop and foster uniform legislation applicable to abandoned property; and to increase the knowledge and ability of those engaged in the administration of unclaimed property by organizing and sponsoring lectures, seminars and training programs.

In addition to bringing this uniform code up to date, these changes will provide protection to unclaimed funds belonging to Kansans, provide additional revenue to the State General Fund, and create efficiencies for the state and the holders who report to the system.

The major changes center around six basic issues:

- 1) the combination of the reporting and remitting functions;
- 2) the elimination of duplicative due diligence mailings;
- 3) state staffing of an audit function rather than reliance on the passive efforts of regulatory bodies;
- 4) holder service charges limited to those cases where there is a written enforceable agreement between an owner and holder;
- 5) the last known address of an owner as the factor upon which a state will receive monies; and
- 6) accounting changes to allow for the recovery of unclaimed property efforts prior to general fund deposit.

Due to the massive changes in updating this Act, we believe that the repeal of the existing statute and adoption of the new uniform language is required. With the length of the bill, we have chosen to highlight major points and group like items together for discussion.

## **I. Definitions and General Rules (Sections 1-3):**

In section 1, the bill provides for expanded coverage and is more specific than the current section (K.S.A. 58-3901), including a definition for mineral and mineral proceeds, as well as expanding "business association" to include mutual fund companies.

In section 2, the general rules for property presumed abandoned include: the 1981 Act and NAUPA language on service charges requiring a written agreement between a business and its customer; charges may only be taken for two years and notice of the service charge must be sent prior to the charge if the property is greater than \$25.

Section 3 provides the general rules for taking custody of unclaimed property. Current statute outlines types of unclaimed property that are reportable only if holder is "doing business within Kansas" and prevents our office from receiving funds owing to Kansans because it does not explicitly use language following the rules set forth in the 1965 Supreme Court ruling in Texas v. New Jersey. In this case the Court ruled that businesses should report unclaimed assets to the state of the last known address, but only if the state's statute provided for such. If there is no provision in statute, then the unclaimed property must be reported to the state of incorporation.

This change in language will allow our office to require out-of-state holders to return unclaimed assets owed to persons having a last known address in Kansas. This should be particularly helpful when dealing with businesses located in neighboring cities such as Kansas City, Missouri; St. Joseph, Missouri; and Joplin, Missouri.

## **II. Identification of Reportable Assets (Sections 4 through 16):**

Property which is reportable is specified and includes:

--travelers checks and money orders (Section 4);



- bank money orders and cashiers checks (Section 5);
- checking and savings accounts, retirement accounts, and certificates of deposit (Section 6);
- life insurance funds (Section 7);
- utility deposits (Section 8);
- refunds by businesses; class action awards and proceeds from bankruptcy estates (Section 9);
- stocks, dividends, and mutual funds (Section 10);
- mineral interests (Section 11);
- moneys held by transfer and other types of agents; condemnations, tax foreclosures and other proceeds from courts (Section 13);
- gift certificates (Section 14);
- wages (Section 15); and
- safe deposit boxes (Section 16).

These sections include important changes relating to securities in Section 10. This section allows Kansas to explicitly require holders to report underlying shares to our state, which was never specified under current statute.

Under the 1981 Act, holders had to maintain additional record keeping for underlying shares for seven rather than five years. Rather than use that language, the changes are proposed from the NAUPA Uniform Revision Project which allow for the same dormancy period for all types of shares.

We have also adopted the proposal from NAUPA regarding unclaimed mineral rights and

interests; in section 11, explicit treatment is given to a significant amount of Kansas holdings.

In addition, in section 13, we have adopted language covering any government agency or subdivision. Because of the decision in Texas v. New Jersey, Kansas will be able to require reporting of property held in other states. Kansas, for instance, will be able to receive unclaimed court proceeds from Jackson (K.C.), Buchanan (St. Joseph), and Jasper (Joplin) Counties in Missouri owed to Kansans who may live in neighboring Kansas counties.

### **III. Procedures for reporting and remitting unclaimed property to Kansas and a holders due diligence requirement (Sections 17 and 19):**

Overall the reporting procedures in 1981 Act are fairly similar to language found within the current statute. Major differences are outlined below.

In section 17, subsection (e), adopted from the 1981 Uniform Act, we have set up rules for holders to perform due diligence in order to try to locate owners of unclaimed assets. Holders must send a letter to owners with more than \$25 in assets. In addition we propose to adopt Virginia statute requiring holders to send letters to owners no later than 60 days and no earlier than 120 days prior to reporting the assets to our office.

In section 19, we have adopted the proposal of NAUPA, whereby holders would deliver unclaimed property at the time of the filing of their report. Well over 50% of our holders already remit unclaimed property at the time of their filed report. This proposal should save the additional recordkeeping expenses that holders and our office experience when a remittance is made six months after a report is filed.

Currently 19 states have a single report/remittance period including neighboring states of Missouri and Nebraska as well as smaller states such as Idaho, New Hampshire, and West

Virginia, and larger states such as California, New York, Illinois, and Texas.

These subsections give holders specific yet flexible rules for determining whether an asset is truly unclaimed prior to reporting the asset to our office. Under the present statute, we have found inconsistent, and in many instances, no real attempt by holders in locating unclaimed owners.

Overall this complete treatment on due diligence should significantly reduce the labor and expenses of the State Treasurer's office that is required under the current statute in paying claims of owners with current addresses. It should also help holders retrace and reconnect with customers with whom they may have lost touch.

We have also adopted NAUPA changes to eliminate a second mailing of notice by our office. Since our proposal requires holders to send notice just prior to the reporting of the assets, it would be duplicative to repeat the task after we have taken custody of the asset.

As you may know, Kansas never actually receives a right of reversion or "taking" of the unclaimed property. Since we act only as custodian of unclaimed property, allowing unclaimed property to be claimed at any time by the actual owner or owner's heirs, there is no real "due process" justification for a repeated written notice.

#### **IV. Publication of Lists of Abandoned Property (Section 18):**

NAUPA changes also alter the treatment of advertising. The changes allow our office the discretion necessary to locate persons through more innovative media. We will have the flexibility of advertising within a given year, rather being required to publish for two weeks twice a year.

We can also be more flexible with the language used in the advertising; current statute and the 1981 Act require very confusing legalistic language to be placed in the advertising.

**V. Funding for the Act (Section 23):**

In section 23, our office has adopted the language found within the 1981 Act which allows for a \$100,000 separate trust for payment of claims. Prior to deposit in the State General Fund, the State Treasurer is allowed to deduct for costs of sale, mailing, publication, office expenses, and costs incurred in examining and collecting property from holders.

**VI. Administrative Procedures (Sections 24 through 26 and section 28):**

These sections address the administrative procedures for claiming property, and the destruction of property which has no substantial commercial value.

Filing a claim remains fairly similar to current statute; appeal and hearing proceedings are governed under the Kansas Administrative Procedures Act and the Act of Judicial Review and Civil Enforcement of Agency Actions.

**VII. Enforcement Mechanisms (Sections 29 through 34):**

Under the proposal, Kansas will be able to require compliance with the reporting of unclaimed property which would be unworkable under the current statute.

In Section 30, using the language of the 1981 Uniform Act, our office will be able to examine the records of holders; examination cost language has been modeled after a similar Insurance Department statute.

The examination function will not only produce direct recovery results, but also create a multiplier effect of better voluntary reporting. Estimates from other states appear to produce approximately \$400,000 brought in for each examiner in the field.

Under Section 33, our office will be able to join with other states in performing joint and cooperative audits. This language is again adopted from the 1981 Uniform Act and is not found within current statute. Our expectations are that Kansas will be able to join in a number

of examinations of holders who owe unclaimed property to Kansans, who otherwise would be out of our physical reach, but with the help of other states within the grasp of this Act.

**Under section 34**, subsection (b) provides for a fine up to \$5.00 for each failure to send written notice. Our current statute uses the language of the 1966 Act. The Uniform Law Commissioners Comments in the 1981 Act say: " A major weakness of the 1966 Act was its ineffective penalty provision... The experience of several states is that many holders find the economic incentive for noncompliance so great that violations of the law are frequent and extensive. The holder who neglects to report or pay has the use of property which is extremely valuable to it."

The bill's language is adopted from the NAUPA proposal clarifying the language used in the 1981 Act to ensure a factual showing for penalties, rather than an inquiry into purposeful or willful behavior or culpability of the holder. Criminal sanction and prosecutorial discretion by the State Treasurer ensure a "give and take" fairness to the section's integrity.

### **VIII. Miscellaneous**

**Section 20.** Custody by State; Holder Relieved from Liability; Reimbursement of Holder Paying Claim; Reclaiming for Owner; Defense of Holder;

**Section 21.** Crediting of Dividends, Interest, or Increments to Owner's Account. This section, not found in 1966 Act, the owner is entitled to receive dividends when reported. Our modification of the statute is to limit payment if the total is less than \$5.00.

**Section 22.** Public Sale of Abandoned Property. This is similar to 1966 Act [K.S.A. 58-3918].

**Section 27.** Election to Take Payment or Delivery. This is similar to 1966 Act [K.S.A. 58-3923]. The 1981 Act allows for early delivery of property, prior to the run of the dormancy

period.

**Section 35.** Agreement to Locate Reported Property. This is identical to language regarding current heirfinder limitations which provide for no agreement for 2 years after the state receives the property; and a maximum fee of 15%.

**Section 42.** Application to certain intangible property originating or issued in Kansas. This allows Kansas to obtain aggregate amounts owed either to the state of incorporation or the state of the principal executive office of the issuer of securities per Delaware v. New York.

**Section 43.** Government agency cooperation. This language is adopted from K.S.A. 58-3924.

**Section 45.** Time of Taking Effect. Legislation will take effect January, 1994.

Suggested changes to the proposal include:

- 1) In Section 17, subsections (g and h) from "the administrator" to "the State Treasurer of Kansas."
- 2) In Section 19, subsections (d and e) from "the administrator" to "the Kansas State Treasurer."
- 3) In Section 45, from "January 1, 1994" to "July 1, 1993."

## SENATE BILL No. 393

By Committee on Ways and Means

2-24

8 AN ACT concerning unclaimed property; providing for disposition  
9 thereof; enacting the uniform unclaimed property act; providing  
10 for administration by the state treasurer; repealing K.S.A. 58-  
11 3901, 58-3906, 58-3908, 58-3911, 58-3913, 58-3914, 58-3915, 58-  
12 3916, 58-3917, 58-3918, 58-3920, 58-3923, 58-3924, 58-3925, 58-  
13 3926, 58-3927, 58-3930 and 58-3931 and K.S.A. 1992 Supp. 58-  
14 3902, 58-3903, 58-3904, 58-3905, 58-3907, 58-3909, 58-3909a, 58-  
15 3910, 58-3912, 58-3919, 58-3921, 58-3922, 58-3929, 58-3932 and  
16 58-3933.

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. As used in this act, unless the context otherwise  
20 requires:

21 (a) "Administrator" means the state treasurer.

22 (b) "Apparent owner" means the person whose name appears on  
23 the records of the holder as the person entitled to property held,  
24 issued or owing by the holder.

25 (c) "Attorney general" means the attorney general of the state of  
26 Kansas.

27 (d) "Banking organization" means a bank, trust company, savings  
28 bank, industrial bank, land bank, safe deposit company, private  
29 banker or any organization defined by other law as a bank or banking  
30 organization.

31 (e) "Business association" means a nonpublic corporation, joint-  
32 stock company, investment company, business trust, partnership or  
33 association for business purposes of two or more individuals, whether  
34 or ~~not for profit~~, including a banking organization, financial organi-  
35 zation, insurance company, utility or any mutual fund or other similar  
36 entity, whether operating in the form of a corporation or a trust,  
37 including but not limited to any investment companies registered  
38 under the federal investment company act of 1940.

39 (f) "Domicile" means the state of incorporation of a corporation  
and the state of the principal place of business of an unincorporated  
person.

42 (g) "Financial organization" means a savings and loan association,  
43 cooperative bank, building and loan association or credit union.

not for profit

Senate 4141 3/16/93  
Attachment #3

1 (h) "Holder" means a person, wherever organized or domiciled,  
2 who is:

3 (1) In possession of property belonging to another;

4 (2) a trustee; or

5 (3) indebted to another on an obligation.

6 (i) "Insurance company" means an association, corporation, fra-  
7 ternal or mutual benefit organization, whether or ~~not for profit~~, not for profit  
8 which is engaged in providing insurance coverage, including acci-  
9 dent, burial, casualty, credit life, contract performance, dental, fi-  
10 delity, fire, health, hospitalization, illness, life, including  
11 endowments and annuities, malpractice, marine, mortgage, surety  
12 and wage protection insurance.

13 (j) "Intangible property" includes:

14 (1) Moneys, checks, drafts, deposits, interest, dividends and  
15 income;

16 (2) credit balances, customer overpayment, gift certificates, se-  
17 curity deposits, refunds, credit memos, unpaid wages, unused airline  
18 tickets and unidentified remittances;

19 (3) stocks and other intangible ownership interests in business  
20 associations;

21 (4) moneys deposited to redeem stocks, bonds, coupons and other  
22 securities, or to make distributions;

23 (5) amounts due and payable under the terms of insurance pol-  
24 icies; and

25 (6) amounts distributable from a trust or custodial fund estab-  
26 lished under a plan to provide health, welfare, pension, vacation,  
27 severance, retirement, death, stock purchase, profit sharing, em-  
28 ployee savings, supplemental unemployment insurance or similar  
29 benefits.

30 (k) "Last known address" means a description of the location of  
31 the apparent owner sufficient for the purpose of the delivery of mail.

32 (l) "Mineral" means oil, gas, uranium, sulphur, lignite, coal and  
33 any other substance that is ordinarily and naturally considered a  
34 mineral, regardless of the depth at which the oil, gas, uranium,  
35 sulphur, lignite, coal or other substance is found.

36 (m) "Mineral proceeds" includes:

37 (1) All obligations to pay resulting from the production and sale  
38 of minerals, including net revenue interest, royalties, overriding roy-  
39 alties, production payments and joint operating agreements; and

40 (2) all obligations for the acquisition and retention of a mineral  
41 lease, including bonuses, delay rentals, shut-in royalties and mini-  
42 mum royalties.

43 (n) "Owner" means a depositor in the case of a deposit, a ben-

4/11 3/16/93  
3-2



(e) If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice given to an insured or owner whose last known address according to the records of the company is in this state is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice ~~must be~~ mailed.

shall

(f) Notwithstanding any other provision of law, if the company learns of the death of the insured or annuitant and the beneficiary has not communicated with the insurer within four months after the death, the company shall take reasonable steps to pay the proceeds to the beneficiary.

(g) Commencing two years after the effective date of this act, every change of beneficiary form issued by an insurance company under any life or endowment insurance policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

(1) The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;

(2) the address of each beneficiary; and

(3) the relationship of each beneficiary to the insured.

Sec. 8. A deposit, including any interest thereon, made by a subscriber with a utility to secure payment or any sum paid in advance for utility services to be furnished that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is presumed abandoned.

Sec. 9. (a) The sum to be paid as a refund, under an order or decision of a court or administrative agency or by agreement, remaining unclaimed for more than six months after it became payable is presumed abandoned regardless of whether the apparent owner has made any claim to the refund unless within the preceding six months there has been a communication between the apparent owner and the holder concerning that sum.

(b) Any sum payable or intangible property distributable in the course of a voluntary or involuntary dissolution or liquidation remaining unclaimed for six months after the date of the final distribution or liquidation is presumed abandoned unless within the preceding six months there has been communication between the apparent owner and the person making the payment or distribution concerning that sum or distribution.

(c) Intangible property payable or distributable to a member of

7/21 3/16/93 3-3

1 which distribution ~~must~~ begin in order to avoid a tax penalty is  
2 presumed abandoned unless the owner or beneficiary within five  
3 preceding years has made additional payments or transfers of prop-  
4 erty to the account or plan, was paid or received a distribution,  
5 communicated concerning the property or otherwise indicated an  
6 interest as evidenced by a memorandum or other record on file with  
7 the account or plan fiduciary.

shall

8 (c) For the purpose of this section, a person who holds property  
9 as an agent for a business association is deemed to hold the property  
10 in a fiduciary capacity for that business association alone unless the  
11 agreement between the agent and the business association provides  
12 otherwise.

13 (d) For the purposes of this act, a person who is deemed to hold  
14 property in a fiduciary capacity for a business association alone is  
15 the holder of the property only insofar as the interest of the business  
16 association in the property is concerned, and the business association  
17 is the holder of the property insofar as the interest of any other  
18 person in the property is concerned.

19 Sec. 13. Any intangible property held by the executive, legis-  
20 lative or judicial branch of the United States government, or a state,  
21 or a county or municipal subdivision of a state, or any of their  
22 authorities, agencies, instrumentalities, administrations, services or  
23 other organizations and remaining unclaimed for more than one year  
24 after it became payable or distributable is presumed abandoned.

25 Sec. 14. (a) A gift certificate or a credit memo issued in the  
26 ordinary course of an issuer's business which remains unclaimed by  
27 the owner for more than five years after becoming payable or dis-  
28 tributable is presumed abandoned.

29 (b) In the case of a gift certificate, the amount presumed aban-  
30 doned is the price paid by the purchaser for the gift certificate. In  
31 the case of a credit memo, the amount presumed abandoned is the  
32 amount credited to the recipient of the memo.

33 Sec. 15. Unpaid wages, including wages represented by unpre-  
34 sented payroll checks, owing in the ordinary course of the holder's  
35 business which remain unclaimed by the owner for more than one  
36 year after becoming payable are presumed abandoned.

37 Sec. 16. (a) Except as otherwise provided by subsection (b), all  
38 tangible and intangible property held in a safe deposit box or any  
39 other safekeeping repository in this state in the ordinary course of  
40 the holder's business which remain unclaimed by the owner for more  
than five years after the lease or rental period on the box or other  
repository has expired are presumed abandoned.

43 (b) Any proceeds of a sale pursuant to K.S.A. 58-817 and amend-

7/14 3/16/93  
3-4

1 ments thereto which remain after satisfaction of the lien provided  
 2 by K.S.A. 58-816 and amendments thereto that have been unclaimed  
 3 by the owner for one year from receipt of the proceeds of the sale  
 4 and satisfaction of the lien are presumed abandoned.

5 Sec. 17. (a) A person holding property tangible or intangible,  
 6 presumed abandoned and subject to custody as unclaimed property  
 7 under this act shall report to the administrator concerning the prop-  
 8 erty as provided in this section.

9 (b) The report ~~must~~ be verified and ~~must~~ include:

shall

10 (1) Except with respect to travelers checks and money orders,  
 11 the name, if known, and last known address, if any, of each person  
 12 appearing from the records of the holder to be the owner of property  
 13 of the value of \$25 or more presumed abandoned under this act;

14 (2) in the case of unclaimed funds of \$25 or more held or owing  
 15 under any life or endowment insurance policy or annuity contract,  
 16 the full name and last known address of the insured or annuitant  
 17 and of the beneficiary according to the records of the insurance  
 18 company holding or owing the funds;

19 (3) in the case of the contents of a safe deposit box or other  
 20 safekeeping repository or of other tangible property, a description  
 21 of the property and any amounts owing to the holder;

22 (4) the nature and identifying number, if any, or description of  
 23 the property and the amount appearing from the records to be due,  
 24 but items of value under \$25 each shall be reported in the aggregate;

25 (5) the date the property became payable, demandable or re-  
 26 turnable and the date of the last transaction with the apparent owner  
 27 with respect to the property; and

28 (6) other information the administrator prescribes by ~~rule and~~  
 29 ~~regulation~~ as necessary for the administration of this act.

rules and regulations

30 (c) If the person holding property presumed abandoned and sub-  
 31 ject to custody as unclaimed property is a successor to other persons  
 32 who previously held the property for the apparent owner or the  
 33 holder has changed names while holding the property, the holder  
 34 shall file with the report all the known names and addresses for each  
 35 previous holder of the property.

36 (d) The report ~~must~~ be filed before November 1 of each year as  
 37 of June 30 next preceding, but the report of any life insurance  
 38 company ~~must~~ be filed before May 1 of each year as of December  
 39 31 next preceding. On written request by any person required to  
 40 file a report, the administrator may postpone the reporting date.

shall

41 (e) Not more than 120 days before filing the report required by  
 42 this section and no later than 60 days before filing the report required  
 43 by this section, the holder in possession of property presumed aban-

4111 3/16/93  
3-5

1 doned and subject to custody as unclaimed property under this act  
2 shall send written notice to the apparent owner's last known address  
3 informing the apparent owner that the holder is in possession of  
4 property subject to this act if:

5 (1) The claim of the apparent owner is not barred by the statute  
6 of limitations; and

7 (2) the property has a value of \$25 or more, or is reported under  
8 section 10 or 16 and amendments thereto.

9 (f) The written notice shall also contain the following:

10 (1) Nature and identifying number, if any, or description of the  
11 funds or other property; and

12 (2) the amount appearing on the records of the holder to be due  
13 the apparent owner.

14 (g) If the holder is not a life insurance company, the written  
15 notice shall set forth an additional statement that the funds or other  
16 property will be reported as unclaimed property to the administrator  
17 no later than November 1 of the current year.

18 (h) If the holder is a life insurance company, the written notice  
19 shall set forth an additional statement that the funds or other property  
20 will be reported as unclaimed property to the administrator no later  
21 than May 1 of the current year.

22 Sec. 18. (a) Within the calendar year next following the year in  
23 which unclaimed property has been paid or delivered to the ad-  
24 ministrator, the administrator shall advertise the unclaimed property  
25 at least one time in a newspaper generally circulating in this state.  
26 The advertisement shall be made in such form as in the discretion  
27 of the administrator is likely to attract the attention of the apparent  
28 owner of the unclaimed property. It ~~must~~ contain the following  
29 information:

shall

30 (1) The name of each person appearing to be the owner of prop-  
31 erty presumed abandoned, as set forth in the report filed by the  
32 holder;

33 (2) the last known address or location of each person appearing  
34 to be the owner of property presumed abandoned, if an address or  
35 location is set forth in the report filed by the holder;

36 (3) a statement explaining that property of the owner has been  
37 presumed to be abandoned and has been taken into the protective  
38 custody of the administrator; and

39 (4) a statement that information about the abandoned property  
40 and its return to the apparent owner can be obtained at any time  
41 by a person having a legal or beneficial interest in that property by  
42 making an inquiry to the administrator.

43 (b) The administrator shall not be required to advertise the name

4/4/2/16/93  
3-6

with section 20 and amendments thereto for any loss or damage caused by the transfer, issuance and delivery of the certificate or security to the administrator.

Sec. 20. (a) Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the administrator in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.

(b) A holder who has paid money to the administrator pursuant to this act may make payment to any person appearing to the holder to be entitled to payment and, upon filing proof of payment and proof that the payee was entitled thereto, the administrator shall promptly reimburse the holder for the payment without imposing any fee or other charge. If reimbursement is sought for a payment made on a negotiable instrument, including a travelers check or money order, the holder ~~must~~ be reimbursed under this subsection upon filing proof that the instrument was duly presented and that payment was made to a person who appeared to the holder to be entitled to payment. The holder ~~must~~ be reimbursed for payment made under this subsection even if the payment was made to a person whose claim was barred under section 29 and amendments thereto.

shall

(c) A holder who has delivered property, including a certificate of any interest in a business association, other than money to the administrator pursuant to this act may reclaim the property if still in the possession of the administrator, without paying any fee or other charge, upon filing proof that the owner has claimed the property from the holder.

(d) The administrator may accept the holder's affidavit as sufficient proof of the facts that entitle the holder to recover money and property under this section.

(e) If the holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.

(f) For the purposes of this section, "good faith" means that:

(1) Payment or delivery was made in a reasonable attempt to comply with this act;

4/14 3/16/93  
3-7

(2) the person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to such person, that the property was abandoned for the purposes of this act; and

(3) there is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.

Sec. 21. Whenever property other than money is paid or delivered to the administrator under this act, the owner is entitled to receive from the administrator any dividends, interest or other increments realized or accruing on the property at or before liquidation or conversion thereof into money if the amount of dividends, interest or other increments is \$5 or more.

Sec. 22. (a) Except as provided in subsections (b) and (c), the administrator, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever city in the state affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property, the property need not be offered for sale. Any sale held under this section ~~must~~ be preceded by a single publication of notice, at least three weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

(b) Securities listed on an established stock exchange ~~must~~ be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

(c) Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities, other than those presumed abandoned under section 10 and amendments thereto, delivered to the administrator ~~must~~ be held for at least one year before they may be sold.

(d) Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities presumed abandoned under section 10 and amendments thereto and delivered to the administrator ~~must~~ be held for at least three years before they may be sold. If the administrator sells any securities delivered pursuant to section 10 and amendments thereto before the expiration of the three-year period, any person making a claim pursuant to this act before the

shall

7/14 3/16/93  
3-6

end of the three-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to subsection (b) of section 23 and amendments thereto. A person making a claim under this act after the expiration of this period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from the sale, less any amounts deducted pursuant to subsection (b) of section 23 and amendments thereto, but no person has any claim under this act against the state, the holder, any transfer agent, registrar or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

(e) The purchaser of property at any sale conducted by the administrator pursuant to this act takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

Sec. 23. (a) Except as otherwise provided by this section, the administrator shall promptly deposit in the general fund of this state all funds received under this act, including the proceeds from the sale of abandoned property under section 22 and amendments thereto. The administrator shall retain in a separate trust fund an amount not less than \$100,000 from which prompt payment of claims duly allowed shall be made. Before making the deposit, the administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or contract listed in the report of an insurance company its number, the name of the company and the amount due. The record ~~must be available~~ for public inspection at all reasonable business hours.

shall

(b) Before making any deposit to the credit of the general fund, the administrator may deduct:

- (1) Any costs in connection with the sale of abandoned property;
- (2) costs of mailing and publication in connection with any abandoned property;
- (3) operating expenses; and
- (4) costs incurred in examining records of holders of property and in collecting the property from those holders.

Sec. 24. (a) A person, excluding another state, claiming an interest in any property paid or delivered to the administrator may

7/14/93  
3.9

1 file with the administrator a claim on a form prescribed by the  
 2 administrator and verified by the claimant. The administrator may  
 3 hold a hearing on the claim in accordance with the provisions of the  
 4 Kansas administrative procedure act. The decision resulting from any  
 5 hearing shall be a public record.

6 (b) The administrator shall consider each claim within 90 days  
 7 after it is filed and give written notice to the claimant if the claim  
 8 is denied in whole or in part. The notice may be given by mailing  
 9 it to the last address, if any, stated in the claim as the address to  
 10 which notices are to be sent. If no address for notices is stated in  
 11 the claim, the notice may be mailed to the last address, if any, of  
 12 the claimant as stated in the claim. No notice of denial need be  
 13 given if the claim fails to state either the last address to which notices  
 14 are to be sent or the address of the claimant.

15 (c) If a claim is allowed, the administrator shall pay over or  
 16 deliver to the claimant the property or the amount the administrator  
 17 actually received or the net proceeds if it has been sold by the  
 18 administrator, together with any additional amount required by sec-  
 19 tion 21 and amendments thereto. Interest reported under the pre-  
 20 vious disposition of unclaimed property act shall not be computed,  
 21 paid or delivered to the claimant after enactment of this act. If the  
 22 claim is for property presumed abandoned under section 10 and  
 23 amendments thereto which was sold by the administrator within  
 24 three years after the date of delivery, the amount payable for that  
 25 claim is the value of the property at the time the claim was made  
 26 or the net proceeds of sale, whichever is greater.

27 (d) Any holder who pays the owner for property that has been  
 28 delivered to the state and which, if claimed from the administrator,  
 29 would be subject to subsection (c) shall add any additional amount  
 30 as provided in section 21 and amendments thereto. The additional  
 31 amount ~~must~~ be repaid to the holder by the administrator in the shall  
 32 same manner as the principal.

33 Sec. 25. (a) At any time after property has been paid or delivered  
 34 to the administrator under this act another state may recover the  
 35 property if:

36 (1) The property was subjected to custody by this state because  
 37 the records of the holder did not reflect the last known address of  
 38 the apparent owner when the property was presumed abandoned  
 39 under this act, and the other state establishes that the last known  
 40 address of the apparent owner or other person entitled to the prop-  
 41 erty was in that state and under the laws of that state the property  
 42 escheated to or was subject to a claim of abandonment by that state;

43 (2) the last known address of the apparent owner or other person

7/11 3/16/93  
3-10



1 entitled to the property, as reflected by the records of the holder,  
2 is in the other state and under the laws of that state the property  
3 has escheated to or become subject to a claim of abandonment by  
4 that state;

5 (3) the records of the holder were erroneous in that they did  
6 not accurately reflect the actual owner of the property and the last  
7 known address of the actual owner is in the other state and under  
8 the laws of that state the property escheated to or was subject to a  
9 claim of abandonment by that state;

10 (4) the property was subjected to custody by this state under  
11 subsection (f) of section 3 and amendments thereto and under the  
12 laws of the state of domicile of the holder the property has escheated  
13 to or become subject to a claim of abandonment by that state; or

14 (5) the property is the sum payable on a travelers check, money  
15 order or other similar instrument that was subjected to custody by  
16 this state under section 4 and amendments thereto, and the instru-  
17 ment was purchased in the other state, and under the laws of that  
18 state the property escheated to or became subject to a claim of  
19 abandonment by that state.

20 (b) The claim of another state to recover escheated or abandoned  
21 property ~~must~~ be presented in a form prescribed by the administrator  
22 who shall decide the claim within 90 days after it is presented. The  
23 administrator shall allow the claim if the other state is determined  
24 to be entitled to the abandoned property under subsection (a).

shall

25 (c) The administrator shall require a state, before recovering  
26 property under this section, to agree to indemnify this state and its  
27 officers and employees against any liability on a claim for the  
28 property.

29 Sec. 26. A person aggrieved by a decision of the administrator  
30 or whose claims have not been acted upon within 90 days may bring  
31 an action to establish a claim in accordance with the act for judicial  
32 review and civil enforcement of agency actions.

33 Sec. 27. (a) The administrator may decline to receive any prop-  
34 erty reported under this act which is considered to have a value  
35 less than the expense of giving notice and of sale. If the administrator  
36 elects not to receive custody of the property, the holder shall be  
37 notified within 120 days after filing the report required under section  
38 17 and amendments thereto.

39 (b) A holder, with the written consent of the administrator and  
40 upon conditions and terms prescribed by the administrator, may  
41 report and deliver property before the property is presumed aban-  
42 doned. Property delivered under this subsection ~~must~~ be held by  
43 the administrator and is not presumed abandoned until such time

shall

414 3/16/93  
3-11

and subsistence as allowed under K.S.A. 75-3201 *et seq.* and amendments thereto, along with any consulting, data processing or other related expenses necessary to perform the examination. In no case may the examination charges exceed the value of the property found to be reportable and deliverable. The cost of examination made pursuant to subsection (c) may be imposed only against the business association.

(e) If a holder fails after the effective date of this act to maintain the records required by section 31 and amendments thereto and the records of the holder available for the periods subject to this act are insufficient to permit the preparation of a report, the administrator may require the holder to report and pay such amounts as may reasonably be estimated from any available records.

Sec. 31. (a) Every holder required to file a report under section 17 and amendments thereto, as to any property for which the holder has obtained the last known address of the owner, shall maintain a record of the name and last known address of the owner for 10 years after the property becomes reportable, except to the extent that a shorter time is provided in subsection (b) or by ~~rule and regulation~~ of the administrator.

rules and regulations

(b) Any business association that sells in this state travelers checks or money orders, other than third-party bank checks on which the business association is directly liable, or that provides such instruments to others for sale in this state shall maintain a record of those instruments while they remain outstanding, indicating the state and date of issue for three years after the date the property is reportable.

Sec. 32. (a) The administrator, for and on behalf of this state, may commence an action, ~~summary or otherwise,~~ in a district court of Kansas:

(1) For an adjudication that certain property is unclaimed and payable or distributable to the administrator;

(2) to compel presentation of a report or payment or distribution of property to the administrator;

(3) to enforce the duty of a person to permit the examination or audit of the records of that person;

(4) to enjoin any act that violates the public policy or provisions of this act; or

(5) to enforce any aspect of this act in any manner.

(b) The administrator may commence such an action in the following situations:

(1) The holder is a person domiciled in this state or is a governmental entity of this state;

(2) the holder is a person engaged in or transacting any business

7/11 3/16/93  
3-12

1 in this state, although not domiciled in this state; or

2 (3) the subject matter is tangible personal property held in this  
3 state.

4 (c) In a situation where no district court in this state can obtain  
5 jurisdiction over the person involved, the administrator may com-  
6 mence such an action in a federal court or state court of another  
7 state having jurisdiction over that person.

8 (d) The administrator shall be deemed an indispensable party to  
9 any judicial or administrative proceedings concerning the disposition  
10 and handling of unclaimed property that is or may be payable or  
11 distributable into the protective custody of the administrator. The  
12 administrator shall have a right to intervene and participate in any  
13 judicial or administrative proceeding when to do so will be in the  
14 best interest of this state, the apparent owner or the unclaimed  
15 property or to conserve and safeguard the unclaimed property against  
16 dissipation, undue diminishment or adverse discriminatory  
17 treatment.

18 Sec. 33. (a) The administrator may enter into agreements with  
19 other states to exchange information needed to enable this or another  
20 state to audit or otherwise determine unclaimed property that it or  
21 another state may be entitled to subject to a claim of custody. The  
22 administrator by ~~rule and regulation~~ may require the reporting of  
23 information needed to enable compliance with agreements made  
24 pursuant to this section and prescribe the form.

25 (b) To avoid conflicts between the administrator's procedures and  
26 the procedures of administrators in other jurisdictions that enact the  
27 uniform unclaimed property act, the administrator, so far as is con-  
28 sistent with the purposes, policies and provisions of this act before  
29 adopting, amending or repealing rules and regulations, shall advise  
30 and consult with administrators in other jurisdictions that enact sub-  
31 stantially the uniform unclaimed property act and take into consid-  
32 eration the rules and regulations of administrators in other  
33 jurisdictions that enact the uniform unclaimed property act.

34 (c) The administrator may join with other states to seek enforce-  
35 ment of this act against any person who is or may be holding property  
36 reportable under this act.

37 (d) At the request of another state, the attorney general of this  
38 state may bring an action in the name of the administrator of the  
39 other state in any court of competent jurisdiction to enforce the  
unclaimed property laws of the other state against a holder in this  
state of property subject to escheat or a claim of abandonment by  
42 the other state, if the other state has agreed to pay expenses incurred  
43 by the attorney general in bringing the action

rules and regulations

7/21 3/16/93  
3-13

1 (f) The administrator shall have discretion to waive or reduce the  
2 payment of penalties and interest in an appropriate circumstance.

3 Sec. 35. (a) All agreements to pay compensation to recover or  
4 assist in the recovery of property reported under section 17 and  
5 amendments thereto made within 24 months after the date payment  
6 or delivery is made under section 19 and amendments thereto are  
7 unenforceable.

8 (b) All agreements to pay compensation to recover or assist in  
9 the recovery of property reported under section 17 and amendments  
10 thereto made more than 24 months after the date payment or de-  
11 livery is made under section 19 and amendments thereto are unen-  
12 forceable if the fee or compensation agreed upon is in excess of 15%  
13 of the value of the recoverable property.

14 (c) State warrants that may be issued in payment for and re-  
15 demption of recoverable property may be issued, in the discretion  
16 of the administrator, directly to the rightful owners or, as fiduciary  
17 of the estate of a deceased owner, to an heir or legatee, and not to  
18 a named attorney in fact, agent, assignee or other person regardless  
19 of written instructions to the contrary.

20 Sec. 36. This act does not apply to any property held, due and  
21 owing in a foreign country and arising out of a foreign transaction.

22 Sec. 37. (a) This act does not relieve a holder of a duty that  
23 arose before the effective date of this act to report, pay or deliver  
24 property. A holder who did not comply with the law in effect before  
25 the effective date of this act is subject to the applicable enforcement  
26 and penalty provisions that then existed and they are continued in  
27 effect for the purpose of this subsection, subject to subsection (b)  
28 of section 29 and amendments thereto.

29 (b) The initial report filed under this act for property that was  
30 not required to be reported before the effective date of this act but  
31 is subject to this act ~~must~~ include all items of property that would  
32 have been presumed abandoned during the ten-year period preced-  
33 ing the effective date of this act as if this act had been in effect  
34 during that period.

shall

35 Sec. 38. The administrator is hereby authorized to adopt such  
36 rules and regulations as may be necessary to carry out the provisions  
37 of this act.

38 Sec. 39. If any provision of this act or the application thereof to  
39 any person or circumstance is held invalid, the invalidity shall not  
40 affect other provisions or applications of this act which can be given  
41 effect without the invalid provision or application, and to this end  
42 the provisions of this act are severable.

43 Sec. 40. This act shall be applied and construed as to effectuate

7/21 3/16/93  
3-14

done and subject to custody as unclaimed property under this act shall send written notice to the apparent owner's last known address informing the apparent owner that the holder is in possession of property subject to this act if:

(1) The claim of the apparent owner is not barred by the statute of limitations; and

(2) the property has a value of \$25 or more, or is reported under section 10 or 16 and amendments thereto.

(f) The written notice shall also contain the following:

(1) Nature and identifying number, if any, or description of the funds or other property; and

(2) the amount appearing on the records of the holder to be due the apparent owner.

(g) If the holder is not a life insurance company, the written notice shall set forth an additional statement that the funds or other property will be reported as unclaimed property to the administrator no later than November 1 of the current year.

(h) If the holder is a life insurance company, the written notice shall set forth an additional statement that the funds or other property will be reported as unclaimed property to the administrator no later than May 1 of the current year.

Sec. 18. (a) Within the calendar year next following the year in which unclaimed property has been paid or delivered to the administrator, the administrator shall advertise the unclaimed property at least one time in a newspaper generally circulating in this state. The advertisement shall be made in such form as in the discretion of the administrator is likely to attract the attention of the apparent owner of the unclaimed property. It must contain the following information:

(1) The name of each person appearing to be the owner of property presumed abandoned, as set forth in the report filed by the holder;

(2) the last known address or location of each person appearing to be the owner of property presumed abandoned, if an address or location is set forth in the report filed by the holder;

(3) a statement explaining that property of the owner has been presumed to be abandoned and has been taken into the protective custody of the administrator; and

(4) a statement that information about the abandoned property and its return to the apparent owner can be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the administrator.

(b) The administrator shall not be required to advertise the name

State Treasurer of Kansas

Senate 7/1/11  
3/16/193  
Attachment #4

1 and address or location of an owner of abandoned property having  
2 a total value less than \$25, nor information concerning travelers  
3 checks and money orders.

4 Sec. 19. (a) At the time of the filing of the report required by  
5 subsection (d) of section 17 and amendments thereto and with that  
6 report, the person holding property presumed abandoned and subject  
7 to custody as unclaimed property shall pay or deliver to the ad-  
8 ministrator all of the property shown on the report and remaining  
9 unclaimed by the apparent owner.

10 (b) Upon written request showing good cause, the administrator  
11 may postpone the payment or delivery upon such terms or conditions  
12 as the administrator deems necessary and appropriate.

13 (c) The property paid or delivered to the administrator shall in-  
14 clude all interest, dividends, increments and accretions due, payable  
15 or distributions on the property on November 1 or May 1 for a life  
16 insurance company. If payment or delivery is postponed, the prop-  
17 erty paid or delivered to the administrator shall include all interest,  
18 dividends, increments and accretions due, payable or distributable  
19 on the day that the property is paid or delivered to the administrator.

20 (d) The holder of an interest under section 10 and amendments  
21 thereto shall issue and deliver to the administrator a duplicate cer-  
22 tificate or other evidence of ownership if the holder does not issue  
23 certificates of ownership, registered in the name of the ~~administrator~~.  
24 Upon delivery of a duplicate certificate to the administrator, the  
25 holder and any transfer agent, registrar or other person acting for  
26 or on behalf of a holder in executing or delivering the duplicate  
27 certificate or other evidence of ownership is relieved of all liability  
28 in accordance with section 20 and amendments thereto to every  
29 person, including any person acquiring the original certificate or the  
30 duplicate certificate issued to the administrator for any losses or  
31 damages resulting to any person by the issuance and delivery of the  
32 duplicate certificate or other evidence of ownership to the  
33 administrator.

34 (e) When a certificate or other evidence of ownership or a bond  
35 or other debt security registered in the name of a person is delivered  
36 to the administrator pursuant to any provision of this act and is  
37 presented by the administrator to the issuer thereof or the agent of  
38 the issuer, the issuer shall transfer and register it in the name of  
39 the ~~administrator~~, and a new certificate or security, so registered,  
40 shall be delivered to the administrator. The issuer and its transfer  
41 agent, registrar or other person acting on behalf of the issuer in  
42 executing and delivering the certificate or security shall be fully and  
43 automatically relieved from any liability to any person in accordance

Kansas State Treasurer \_\_\_\_\_

Kansas State Treasurer \_\_\_\_\_

3/16/83  
714  
4-2

1 out the provisions of this act.

2 Sec. 44. K.S.A. 58-3901, 58-3906, 58-3908, 58-3911, 58-3913, 58-  
3 3914, 58-3915, 58-3916, 58-3917, 58-3918, 58-3920, 58-3923, 58-3924,  
4 58-3925, 58-3926, 58-3927, 58-3930 and 58-3931 and K.S.A. 1992  
5 Supp. 58-3902, 58-3903, 58-3904, 58-3905, 58-3907, 58-3909, 58-  
6 3909a, 58-3910, 58-3912, 58-3919, 58-3921, 58-3922, 58-3929, 58-  
7 3932 and 58-3933 are hereby repealed.

8 Sec. 45. This act shall take effect and be in force from and after  
9 ~~January 1, 1994~~, and its publication in the statute book.

July 1, 1993

7/1/93 3/16/93 4-3