



## 2021 South Dakota Legislature

# House Bill 1165

Introduced by: **Representative Howard**

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2 **An Act to create the trust fund for unclaimed property and to provide for the transfer**  
 3 **of certain unobligated cash balances.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1.** That a NEW SECTION be added:

6 **4-7-53. Trust fund for unclaimed property established.**

7 There is hereby established within the state treasury a trust fund named the trust  
 8 fund for unclaimed property. The principal of trust fund may not be invaded, unless  
 9 approved by a three-fourths vote of all the members-elect of each house of the Legislature  
 10 or unless the state treasurer determines that such amounts are necessary for the payment  
 11 of claims.

12 Upon the conclusion of fiscal year 2023, and upon the conclusion of each fiscal year  
 13 thereafter, the state treasurer shall, after paying all claims and any reasonable  
 14 administrative costs associated with the sale of unclaimed property, deposit into the  
 15 general fund the net receipts from unclaimed property, up to a maximum of forty million  
 16 dollars.

17 Beginning in fiscal year 2025, and each fiscal year thereafter, the market value  
 18 shall be determined by adding the market value of the trust fund at the end of the sixteen  
 19 most recent calendar quarters as of December thirty-first, and dividing the sum by sixteen.  
 20 Upon notice of that amount by the state investment officer, the state treasurer shall  
 21 transfer the amount from the trust fund for unclaimed property to the state general fund  
 22 as soon as practicable after July first of the next fiscal year. The distribution shall be  
 23 appropriated for the improvement of South Dakota.

24 **Section 2.** That § 4-7-31 be AMENDED.

1 **4-7-31. Budget reserve fund established.**

2 There is hereby established within the state treasury the budget reserve fund.  
 3 Expenditures out of the budget reserve fund shall only be by special appropriation of the  
 4 Legislature and shall only redress such unforeseen expenditure obligations or such  
 5 unforeseen revenue shortfalls as may constitute an emergency pursuant to S.D. Const.,  
 6 Art. III, § 1.

7 **Section 3.** That § 4-7-32 be AMENDED.

8 **4-7-32. Transfer of unobligated cash to budget reserve fund--Legislative**  
 9 **action required for reserve fund expenditures.**

10 The transfer of all prior year unobligated cash shall take place in accordance with  
 11 this section as follows:

12 (1) On July first of each fiscal year or at such time that as the prior fiscal year general  
 13 fund ending unobligated cash balance is determined, the commissioner of the  
 14 Bureau of Finance and Management shall transfer all prior year unobligated cash  
 15 up to an amount equal to equaling ten percent of the general fund appropriations  
 16 from the general appropriation act for the prior fiscal year into the budget reserve  
 17 fund. In no event shall the The cash balance in the budget reserve fund be greater  
 18 than may not exceed ten percent of the general fund appropriations from the  
 19 general appropriation act for the prior fiscal year;

20 (2) If any unobligated cash balance remains after the requirements of subdivision (1)  
 21 are met, the commissioner of the Bureau of Finance and Management shall transfer  
 22 that balance, up to an amount equaling fifteen percent of the general fund  
 23 appropriations from the general appropriation act for the prior fiscal year, into the  
 24 trust fund for unclaimed property; and

25 (3) If any unobligated cash balance remains after the requirements of subdivision (2)  
 26 are met, the commissioner of the Bureau of Finance and Management shall transfer  
 27 the remaining amount into the general revenue replacement fund.

28 ~~Expenditures out of the budget reserve fund shall only be by special appropriation of~~  
 29 ~~the Legislature and shall only redress such unforeseen expenditure obligations or such~~  
 30 ~~unforeseen revenue shortfalls as may constitute an emergency pursuant to S.D. Const.,~~  
 31 ~~Art. III, § 1.~~

32 **Section 4.** That § 4-7-39 be REPEALED.

33 **4-7-39. Transfer of unobligated cash to general revenue replacement fund.**