

# Enrolled Senate Bill 832

Sponsored by Senator GEORGE

CHAPTER .....

## AN ACT

Relating to state finance; creating new provisions; amending ORS 286A.560, 291.003, 293.701, 293.723, 293.761, 293.875, 294.035, 294.135, 294.810, 294.882, 294.895, 295.001, 295.004, 295.006, 295.008, 295.013, 295.015, 295.018, 295.031, 295.034, 295.037, 295.041, 295.046, 295.048, 295.053, 295.061, 295.073, 311.780, 366.505 and 461.510; repealing ORS 295.087; and declaring an emergency.

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

**SECTION 1.** ORS 295.001 is amended to read:

295.001. As used in ORS 295.001 to 295.108, unless the context requires otherwise:

(1) "Adequately capitalized" means a bank depository that is classified as adequately capitalized by its primary federal regulatory authority.

(2) "Bank depository" means an insured institution or trust company that:

(a) Maintains a head office or branch in this state in the capacity of an insured institution or trust company; and

(b) Complies with ORS 295.008.

(3) "Business day" means any day other than a federal or State of Oregon legal holiday or a day on which offices of the State of Oregon are otherwise authorized by law to remain closed.

(4) "**Closed depository**" means a bank depository that is subject to a loss.

[(4)] (5) "Credit union depository" means a credit union as defined in ORS 723.006 or a federal credit union if:

(a) The shares and deposits of the credit union or federal credit union are insured by the National Credit Union Share Insurance Fund; and

(b) The credit union or federal credit union maintains a head office or branch in this state in the capacity of a credit union or federal credit union.

[(5)] (6) "Custodian bank" or "custodian" means one of the following institutions designated by the bank depository for its own account:

(a) The Federal Home Loan Bank designated to serve this state, or any branch of that bank; or

(b) Any insured institution or trust company that:

(A) Is authorized to accept deposits or transact trust business in this state;

(B) Complies with ORS 295.008; and

(C) Has been approved by the State Treasurer to serve as a custodian bank, if the State Treasurer has approved custodians under ORS 295.008.

[(6)] (7) "Custodian's receipt" or "receipt" means a document issued by a custodian bank describing the securities deposited with it by a bank depository to secure public fund deposits.

[(7)] (8) "Depository" means a bank depository or a credit union depository.

[(8)] (9) “Financial institution outside this state” means a financial institution, as defined in ORS 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a bank depository or credit union depository, as defined in this section.

[(9)] (10) “Insured institution” means an insured institution as defined in ORS 706.008.

[(10)] (11) “Loss” means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction:

(a) Restraining a bank depository from making payments of deposit liabilities; or

(b) Appointing a receiver for a [public] depository.

(12) “**Maximum liability**” means a sum equal to 10 percent of the greater of:

(a) **All uninsured public funds deposits held by the bank depository as shown on the date of its most recent treasurer report; or**

(b) **The average of the balances of uninsured public funds deposits on the last two immediately preceding treasurer reports.**

[(11)] (13) [“*Maximum liability*” of] “**Minimum collateral requirement**” for a bank depository on any given date means a sum equal to:

(a) For a well capitalized bank depository **that has not been required to increase its collateral pursuant to ORS 295.018**, 10 percent of the greater of:

(A) All **uninsured** public funds held by the bank depository, as shown on the most recent treasurer report;

(B) The average of the balances of **uninsured** public funds held by the bank depository, as shown on the last [four] **two** immediately preceding treasurer reports; or

(C) An amount otherwise prescribed in ORS 295.001 to 295.108.

(b) For [an *adequately capitalized bank depository*, 25 percent of the greater of] **a well capitalized bank depository that has been required to increase its collateral pursuant to ORS 295.018, the percentage required by the State Treasurer pursuant to ORS 295.018 multiplied by the greater of:**

(A) All **uninsured** public funds held by the bank depository, as shown on the most recent treasurer report;

(B) The average of the balances of **uninsured** public funds held by the bank depository, as shown on the last [four] **two** immediately preceding treasurer reports; or

(C) An amount otherwise prescribed in ORS 295.001 to 295.108.

(c) For an **adequately capitalized bank depository or an** undercapitalized bank depository, 110 percent of the greater of:

(A) All **uninsured** public funds held by the bank depository; or

(B) The average of the balances of **uninsured** public funds held by the bank depository, as shown on the last [four] **two** immediately preceding treasurer reports.

[(12)] (14) “Net worth” of a bank depository means[:]

[(a)] the [equity] **total risk-based** capital of the bank depository, as shown on the immediately preceding report of condition and income, and may include capital notes and debentures that are subordinate to the interests of depositors[: or]

[(b)] *An amount of equity capital designated by the State Treasurer.*

[(13)] (15) “Pledge agreement” means a written agreement among an insured institution or trust company, the State Treasurer and a custodian that pledges the securities deposited by the insured institution or trust company with the custodian as collateral for deposits of **uninsured** public funds held by the insured institution or trust company. The agreement must be approved by the board of directors or loan committee of the insured institution or trust company and must be continuously maintained as a written record of the insured institution or trust company.

[(14)] (16) “Public funds” or “funds” means funds under the control or in the custody of a public official by virtue of office.

[(15)] (17) “Public official” means each officer or employee of this state or any agency, political subdivision or public or municipal corporation thereof, or any housing authority, who by law is made the custodian of or has control of any public funds.

[(16)] (18) "Report of condition and income" means the quarterly report submitted to a bank depository's primary federal regulatory authority.

[(17)] (19) "Security" or "securities" means:

(a) Obligations of the United States, including those of its agencies and instrumentalities and of government sponsored enterprises;

(b) Obligations of the International Bank for Reconstruction and Development;

(c) Bonds of any state of the United States:

(A) That are rated in one of the four highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating state and municipal bonds; or

(B) Having once been so rated are ruled to be eligible securities for the purposes of ORS 295.001 to 295.108, notwithstanding the loss of such rating;

(d) Bonds of any county, city, school district, port district or other public body in the United States payable from or secured by ad valorem taxes and that meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(e) Bonds of any county, city, school district, port district or other public body issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of any county or city within the State of Oregon, if the *[issuing body has not been in default with respect to the payment of principal or interest on any of its bonds within the preceding 10 years or during the period of its existence if that is less than 10 years]* **bonds have a long-term rating of AA or better;**

(f) With the permission of the State Treasurer and in accordance with rules adopted by the State Treasurer, loans made to any county, city, school district, port district or other public body in the State of Oregon, if the borrower has not been in default with respect to the payment of principal or interest on any of its loans within the preceding 10 years or during the period of its existence if that is less than 10 years;

(g) With the permission of the State Treasurer and in accordance with rules adopted by the State Treasurer, bond anticipation notes issued, sold or assumed by an authority under ORS 441.560;

(h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the direct and general obligation of a federal home loan bank or Federal Reserve bank;

(i) Debt obligations of domestic corporations that are rated in one of the three highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations; and

(j) Collateralized mortgage obligations and real estate mortgage investment conduits that are rated in one of the two highest grades by a recognized investment service organization that has been engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations.

[(18)] (20) "Treasurer report" means a written report signed or authenticated by an officer of a bank depository **that has in its possession uninsured public funds deposits** setting forth as of the close of business on a specified date:

(a) The total amount of **uninsured** public funds on deposit with the bank depository;

**(b) The total amount of public funds on deposit with the bank depository;**

[(b)] (c) The net worth of the bank depository;

[(c)] (d) The amount and nature of eligible collateral then on deposit with its custodian to collateralize the bank depository's public funds deposits; and

[(d)] (e) The identity of its custodian.

[(19)] (21) "Treasurer report due date" means a date not less than 10 business days after the date a bank depository's report of condition and income is due to be submitted *[to its federal regulatory authority]*.

[(20)] (22) "Trust company" means a trust company as defined in ORS 706.008.

[(21)] (23) "Undercapitalized" means a bank depository that is classified as undercapitalized, **significantly undercapitalized or critically undercapitalized** by its primary federal regulatory authority.

(24) **“Uninsured public funds” or “uninsured public funds deposits” means public funds deposited in a bank depository that exceed the amounts insured or guaranteed as described in ORS 295.002 (1)(a) and (b) and does not include public funds deposited in a certificate of deposit or time deposit under ORS 295.004.**

[22] (25) “Value” means the current market value of securities.

[23] (26) “Well capitalized” means a bank depository that is classified as well capitalized by its primary federal regulatory authority.

**SECTION 2.** ORS 295.004 is amended to read:

295.004. (1) A public official may deposit public funds in a bank depository in an amount in excess of the amount allowed in ORS 295.002 without requiring the bank depository to show that it has entered into *[the agreement described in ORS 295.008 (2)(b)]* a **pledge agreement** or deposited securities pursuant to ORS 295.015 (1) if the funds are initially deposited into a bank depository in Oregon and the Oregon bank depository participates in a program through which:

(a) The Oregon bank depository arranges for deposit of the funds into one or more certificates of deposit or time deposits issued by other financial institutions in the United States;

(b) Each certificate of deposit or time deposit is fully insured by the Federal Deposit Insurance Corporation;

(c) The Oregon bank depository administers the funds on behalf of the public official; and

(d) Other financial institutions participating in the program place funds into the Oregon depository in an amount at least equal to the amount deposited into the Oregon bank depository by the public official for purposes of the program.

(2) Until the Oregon bank depository places public funds into one or more certificates of deposit or time deposits as provided in subsection (1) of this section, any **uninsured** public funds held by the Oregon bank depository pending such placement *[that are in excess of the amounts allowed in ORS 295.002]* must be collateralized as provided in ORS 295.001 to 295.108 for other **uninsured** public funds deposits.

(3) The provisions of ORS 295.006, 295.013, 295.015, 295.018 and 295.037 do not apply to public funds deposits deposited into a bank depository in Oregon that the bank depository arranges for under the provisions of the program described in this section. The provisions of ORS 294.035 and 295.001 requiring deposit of public funds into depositories that have offices or branches in Oregon do not apply to certificates of deposit or time deposits that an Oregon bank depository arranges for under the provisions of the program described in this section.

**SECTION 3.** ORS 295.006 is amended to read:

295.006. (1) Each bank depository shall keep on file with the State Treasurer the name and address of its custodian bank.

(2) Each public official shall keep on file with the State Treasurer the names, addresses and such other information as the State Treasurer shall prescribe by rule of each depository in which the public official deposits public funds.

**(3) If a public official changes a bank depository in which the public official deposits public funds, the public official shall report the information required under subsection (2) of this section or by rule regarding the change to the State Treasurer within three business days after the effective date of the change.**

**SECTION 4.** ORS 295.008 is amended to read:

295.008. (1)(a) An insured institution or trust company may not be a custodian bank under ORS 295.001 to 295.108, unless it certifies in writing to the State Treasurer that it will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services.

(b) The State Treasurer may approve one or more insured institutions or trust companies to serve as custodians *[for bank depositories]*. The State Treasurer shall promptly notify all bank depositories of the approval of an insured institution or trust company to serve as a custodian.

(2) An insured institution or trust company may not be a bank depository under ORS 295.001 to 295.108, unless it:

(a) Certifies in writing to the State Treasurer that it will furnish, **by the time specified by the Director of the Department of Consumer and Business Services:**

(A) The reports required under ORS 714.075 to the director [*of the Department of Consumer and Business Services*]; **and**

(B) **Any other information the director considers necessary to determine whether to advise the State Treasurer to order a bank depository to increase its collateral under ORS 295.018.**

(b) Except as provided in subsection (4) of this section, enters into a pledge agreement; and

(c) Complies with subsection (3) of this section.

(3) [*After July 1, 2008,*] Any insured institution or trust company [*that is not acting as a bank depository on July 1, 2008, and*] that wishes to become a bank depository shall file with the State Treasurer an initial written report signed or authenticated by an officer of the insured institution or trust company setting forth, as of the date the insured institution or trust company intends to commence acting as a bank depository:

(a) The estimated total amount of public funds that will be on deposit with the insured institution or trust company;

(b) The estimated net worth of the insured institution or trust company;

(c) The amount and nature of the collateral that will be deposited with its custodian to collateralize the public funds deposits; and

(d) The identity of its custodian.

(4) An insured institution or trust company may be a bank depository under ORS 295.001 to 295.108 without entering into a pledge agreement or complying with subsection (3) of this section if the insured institution or trust company does not hold any [*funds on deposit for a public official that exceed the limits specified in ORS 295.002 for that type of depository*] **uninsured public funds deposits**. The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.037 and 295.061 do not apply to an insured institution or trust company that is a bank depository under this subsection.

(5) **An insured institution or trust company that merges with, acquires all the assets of, acquires ownership of or otherwise becomes a successor entity to a bank depository that has entered into a pledge agreement must execute a new pledge agreement or provide evidence satisfactory to the State Treasurer of the assumption by the successor insured institution or trust company of all of the duties and obligations of the bank depository under the existing pledge agreement. An insured institution or trust company that fails to enter into a pledge agreement or provide evidence of its assumption of the existing pledge agreement within the time specified by the State Treasurer shall be treated as a bank depository holding uninsured public funds that has failed to pledge adequate collateral under ORS 295.031.**

**SECTION 5.** ORS 295.013 is amended to read:

295.013. (1) Upon receipt of securities from the bank depository, the custodian bank shall issue to the State Treasurer, with a copy to the bank depository, a custodian's receipt describing the securities.

(2) Each custodian shall:

(a) Maintain an accurate inventory of the securities of each bank depository described in the custodian's receipts issued by the custodian to the State Treasurer, and adjust the inventory to reflect withdrawals and substitutions of securities previously inventoried.

(b) Appraise the value of the securities added to and withdrawn from the inventory of the bank depository, and appraise the value of the entire inventory of the bank depository on the last day of each month and at such other times as the State Treasurer directs.

(c) Provide a monthly report to the State Treasurer listing the securities pledged by each bank depository and setting forth the value of each security and of the entire inventory of securities pledged by the bank depository.

(d) Notify a bank depository in writing [*whenever*] **within one business day after the custodian determines that** the value of the securities held by the custodian for the bank depository is less than **the minimum collateral requirement for the bank depository.**[.]

*[(A) For a bank depository that is subject to increased collateral requirements under ORS 295.018, 110 percent of the greater of:]*

*[(i) All public funds held by the bank depository; or]*

*[(ii) The average of the balances of public funds held by the bank depository, as shown on the last four immediately preceding treasurer reports; or]*

*[(B) For a bank depository that is not subject to increased collateral requirements under ORS 295.018, the maximum liability for the bank depository.]*

(e) Notify the State Treasurer in writing *[if]* **within one business day after the custodian learns that a bank depository *[fails]* failed** to increase the value of its securities within *[five business days after receipt of notice under paragraph (d) of this subsection]* **the time required under ORS 295.015 (3)(b).**

(f) Notify the State Treasurer in writing if a bank depository increases the value of its securities to an adequate amount after receipt of notice under paragraph (d) of this subsection.

(g) Notify the State Treasurer *[whenever]* **within one business day after the custodian determines that** a bond in the inventory of a bank depository no longer meets the rating requirements described in ORS 295.001 *[(17)(c) or (d)]* **(19)(c) or (d).**

**SECTION 6.** ORS 295.015 is amended to read:

295.015. Except as provided in ORS 295.018:

(1)(a) Each bank depository throughout the period of its possession of *[public fund deposits in excess of the amounts insured or guaranteed as described in ORS 295.002 (1)(a) and (b)]* **any uninsured public funds deposits** shall maintain on deposit with its custodian, at its own expense, securities having a value at least equal to its *[maximum liability]* **minimum collateral requirement** and as otherwise prescribed in ORS 295.001 to 295.108. Such collateral shall be deposited with the bank depository's custodian and shall be clearly designated **by the bank depository and the custodian** as security for the benefit of depositors of public funds under ORS 295.001 to 295.108.

(b) For purposes of this section, when pledged as collateral for public funds deposits, loans described in ORS 295.001 *[(17)(f)]* **(19)(f)** shall be discounted to 75 percent of the unpaid principal balance owing on the loan from time to time, or to a lower value determined by the State Treasurer from time to time.

(c) When a bond anticipation note is pledged as collateral for public funds deposits, if there is no readily determinable market value for the note, it shall be discounted to 75 percent of the unpaid principal balance owing on the note from time to time, or to a lower value determined by the State Treasurer from time to time.

(2) The bank depository may deposit other eligible securities with its custodian and withdraw from deposit securities theretofore pledged to secure deposits of public funds, if the remaining securities have a value not less than its *[maximum liability]* **minimum collateral requirement.** The State Treasurer shall execute such releases and surrender such custodian's receipts as are appropriate to effect substitutions and withdrawals of matured and excess pledged securities.

(3) If a bank depository's *[maximum liability]* **minimum collateral requirement** increases because it ceases to be a well capitalized bank depository *[or because it ceases to be an adequately capitalized bank depository,]* **as reflected in the bank depository's last treasurer report, call report or other public filing, or if the bank depository receives notice from the bank depository's custodian under ORS 295.013 (2)(d) or the State Treasurer:**

(a) Within *[five]* **three** business days after the date on which the bank depository's *[maximum liability]* **minimum collateral requirement** increases, the bank depository shall[:]

*[(a)]* notify its custodian, **the Director of the Department of Consumer and Business Services** and the State Treasurer in writing that the bank depository's *[maximum liability]* **minimum collateral requirement** has increased, setting forth the bank depository's new *[maximum liability]* **minimum collateral requirement and the bank depository's plan for increasing its pledged collateral to the minimum collateral requirement;** and

(b) **Within five business days after the date on which the bank depository's minimum collateral requirement increases, or within a longer period approved by the State Treasurer**

and the director, the bank depository shall, in accordance with the plan approved by the State Treasurer and the director, tender to its custodian additional securities having sufficient value to increase the total value of its securities pledged as collateral for public funds deposits to the new *[maximum liability]* **minimum collateral requirement** of the bank depository.

(4) If a bank depository's *[maximum liability]* **minimum collateral requirement** decreases because it moves from being an undercapitalized bank depository **or an adequately capitalized bank depository** to being a well capitalized bank depository *[or an adequately capitalized bank depository, or because it moves from being an adequately capitalized bank depository to a well capitalized bank depository]*, **or because the State Treasurer no longer requires the bank depository to pledge additional collateral under ORS 295.018**, the bank depository may:

(a) Notify its custodian and the State Treasurer in writing that the bank depository's *[maximum liability]* **minimum collateral requirement** has decreased, setting forth the bank depository's new *[maximum liability]* **minimum collateral requirement**; and

(b) With the written approval of the State Treasurer, withdraw from its custodian any securities that exceed the bank depository's new *[maximum liability]* **minimum collateral requirement**.

(5) The State Treasurer shall act upon requests for releases and withdrawals of securities under subsections (2) and (4)(b) of this section within three business days after the receipt of each request.

**SECTION 7.** ORS 295.018 is amended to read:

295.018. (1)(a) The State Treasurer may require any bank depository during any period when it has in its possession *[public fund]* **any uninsured public funds** deposits to maintain on deposit with its custodians securities having a value not less than 110 percent of the greater of:

*[(a)]* (A) All **uninsured** public funds held by the bank depository; or

*[(b)]* (B) The average of the balances of **uninsured** public funds held by the bank depository, as shown on the last *[four]* **two** immediately preceding treasurer reports.

(b) **In consultation with the Director of the Department of Consumer and Business Services, the State Treasurer may permit a bank depository to increase its collateral as required under paragraph (a) of this subsection over a period of time specified by the State Treasurer or may require a bank depository to increase its collateral to an amount that is less than the amount specified in paragraph (a) of this subsection.**

(2) An increase in collateral under subsection (1) of this section shall be ordered upon the advice of the director *[of the Department of Consumer and Business Services]*. If the bank depository is a national bank or a federally chartered savings bank or savings and loan association, in giving advice to the State Treasurer the director may rely exclusively on information provided to the director by federal regulatory agencies and by the **bank, savings bank or association** on forms prescribed by the director. As a condition of being analyzed and reviewed by the director, a *[federal association]* **national bank or a federally chartered savings bank or savings and loan association** shall agree and consent to provide the director with accurate, pertinent and timely information.

(3) **If the State Treasurer orders a bank depository to increase its collateral under subsection (1) of this section, the State Treasurer shall give notice of the order to the director and the custodian of the bank depository within one business day after issuing the order.**

*[(3)]* (4) Failure of the director to inform the State Treasurer of the condition of any bank depository does not give any public depositor any right or impose any liability on the director. The State Treasurer shall not be liable to any public depositor or to any bank depository for increasing or not increasing the collateral requirement as authorized in subsection (1) of this section.

*[(4)]* (5) *[Any bank depository notified by the State Treasurer of the increased collateral requirement shall comply with the order within five business days by increasing the collateral in the same manner as required for the initial deposit of collateral in ORS 295.015 and, within the same five days, shall notify the State Treasurer of its compliance by supplying copies of the custodian's receipts for, or statement of activity showing, the increased collateral.]* **Any bank depository notified by the State Treasurer of the increased collateral requirement shall:**

(a) Within three business days after receiving the notice, submit to the State Treasurer and the director the bank depository's plan for increasing its collateral to the level required by the State Treasurer under subsection (1) of this section; and

(b) Within five business days after receiving approval of its plan submitted under paragraph (a) of this subsection, or within a longer period approved by the State Treasurer and the director, increase its collateral to the level required by the State Treasurer under subsection (1) of this section and notify the State Treasurer and the director of its compliance by supplying copies of the custodian's receipts for, or statement of activity showing, the increased collateral.

[(5)(a)] (6)(a) If the State Treasurer does not receive the notice required in subsection [(4)] (5)(b) of this section within the [required five business days] applicable period under subsection (5)(b) of this section, the State Treasurer shall immediately [notify the director of the failure and shall] send notice to [all public officials served by] each public official who has notified the State Treasurer that the public official has public funds on deposit in that bank depository of [its] the bank depository's failure to comply.

(b) If, after giving notice as required by paragraph (a) of this subsection, the State Treasurer receives notice that the bank depository is in compliance with the increased collateral requirements, the State Treasurer shall notify [the public officials served by the bank depository] each public official who was notified under paragraph (a) of this subsection that the bank depository is once again in compliance.

[(6)] (7) A bank depository that does not comply with subsection [(4)] (5) of this section [shall accept no further public funds deposits that are not insured by the Federal Deposit Insurance Corporation] may not accept additional uninsured public funds deposits.

[(7)] (8) The [names of financial institutions] collateralization requirement for a bank depository and the amount of collateral held by a custodian contained in records received or compiled by the State Treasurer [pursuant to the provisions of this section shall be] is exempt from public disclosure unless the public interest requires disclosure in the particular instance.

(9) The State Treasurer may require a bank depository that is required to increase its collateral under subsection (5) of this section to file the reports required under ORS 295.061 (3).

**SECTION 8.** ORS 295.031 is amended to read:

295.031. (1) Within [five] three business days after the State Treasurer receives notice from a custodian pursuant to ORS 295.013 (2)(e), receives information from the Director of the Department of Consumer and Business Services or other sources under ORS 295.071 or 295.073, or otherwise receives information indicating that a bank depository has failed to pledge adequate collateral with its custodian, the State Treasurer shall send written notice of the failure to each public official who has uninsured public funds on deposit in the bank depository with respect to which the notice [under ORS 295.013 (2)(e)] was given or the information was received.

(2) Within five business days after the State Treasurer receives notice from a custodian pursuant to ORS 295.013 (2)(f) indicating that a bank depository has once again pledged adequate collateral with its custodian, the State Treasurer shall send written notice to each public official who was notified under subsection (1) of this section stating that the bank depository once again has adequate collateral.

**SECTION 9.** ORS 295.034 is amended to read:

295.034. (1) Within [20] 15 business days after a public official receives a notice from the State Treasurer pursuant to ORS 295.018 [(5)(a)] (6)(a), [or] 295.031 (1) or 295.061 (4)(a), the public official shall withdraw from the bank depository to which the notice applies all uninsured public funds deposits [except those deposits that are insured by the Federal Deposit Insurance Corporation].

(2) If a public official receives a notice from the State Treasurer pursuant to ORS 295.018 [(5)(a)] (6)(a), [or] 295.031 (1) or 295.061 (4)(a), beginning [20] 15 business days after the public official receives the notice, the public official may not deposit into the bank depository to which the notice applies any public funds [deposits if, as a result of such a deposit, the total public funds of the



public official on deposit with the bank depository exceed the deposit insurance limit of the Federal Deposit Insurance Corporation] **that, as a result of such a deposit, would be uninsured public funds deposits.** The prohibition on deposits continues until the public official receives notice under ORS 295.018 [(5)(b)] **(6)(b)**, [or] 295.031 (2) **or 295.061 (4)(b)** indicating that the bank depository is in compliance with ORS 295.013, [or] 295.018 **or 295.061**, as applicable.

(3) Except as required by any applicable law or regulation, a bank depository may not impose any early withdrawal penalty or any forfeiture of interest with respect to a withdrawal made by a public official pursuant to this section.

**SECTION 10.** ORS 295.037 is amended to read:

295.037. (1) The deposit of securities by a bank depository with its custodian pursuant to ORS 295.001 to 295.108 constitutes consent by the bank depository to the disposition of the securities in accordance with this section.

(2) When a loss has occurred in a bank depository, the bank depository shall as soon as possible make payment to the proper public officials of all funds subject to the loss, pursuant to the following procedures:

**(a) Immediately upon occurrence of the loss, the State Treasurer shall take possession of the securities segregated as collateral for uninsured public funds deposits held by the closed depository and begin to liquidate as much of the collateral as the State Treasurer estimates is necessary, based upon the most recent information available to the State Treasurer on the amount of uninsured public funds deposits held by the closed depository, for distribution of the proceeds among public officials entitled to the proceeds as provided in this section.**

[(a)] **(b)** The Director of the Department of Consumer and Business Services or the receiver **for the closed depository** shall, within 20 days after the issuance of a restraining order or taking possession of any bank depository, ascertain the amount of public funds on deposit in the bank depository as disclosed by its records and the amount of the public funds covered by deposit insurance **or deposit guaranty bonds** and certify the amounts to the State Treasurer and to each public official who has public funds on deposit in the bank depository.

[(b)] **(c)** Each public official who has **uninsured** public funds on deposit in the bank depository shall, within 10 days after receipt of the certification from the Director of the Department of Consumer and Business Services or the receiver, furnish to the State Treasurer verified statements of the **uninsured** public funds that the public official has on deposit in the bank depository.

(3) Upon receipt of the certification from the Director of the Department of Consumer and Business Services or the receiver and the verified statements from the public officials who have **uninsured** public funds on deposit in the bank depository, the State Treasurer shall ascertain and fix the amount of public funds on deposit in the bank depository, plus interest to the date the funds are distributed to the public official at the rate the bank depository agreed to pay on the funds, minus any amount covered by deposit insurance **or deposit guaranty bonds.**

(4) After making the calculation described in subsection (3) of this section, the State Treasurer shall assess the [net] amount of **uninsured** public funds against all bank depositories, as follows:

(a) First, against the [bank] **closed depository [that suffered the loss]**, to the extent of the full value of [its collateral deposited with its custodian pursuant to ORS 295.001 to 295.108] **the proceeds realized from the liquidation of its collateral by the State Treasurer under subsection (2) of this section, plus the treasurer's estimate of the amount of proceeds expected to be received from the collateral still to be liquidated by the State Treasurer;** and

(b) Second, against [the collateral of all] **all of the** other bank depositories, on a proportionate basis determined as provided in subsection (5) of this section. **The amount assessed against each other bank depository under this paragraph may not exceed the maximum liability of the bank depository.**

(5) For purposes of subsection (4) of this section, the proportionate share of each of the other bank depositories shall be determined by:

(a) Averaging the **total** amounts of [*the total*] **all uninsured** public funds deposits reported on the bank depository's last [*four*] **two** treasurer reports;

(b) Averaging the **aggregate** total amounts of [*the total*] **all uninsured** public funds deposits reported on the last [*four*] **two** treasurer reports of all of the bank depositories; and

(c) Dividing the result of the calculation performed under paragraph (a) of this subsection by the result of the calculation performed under paragraph (b) of this subsection.

(6) Notwithstanding the assessment provisions of subsection (4) of this section, the State Treasurer shall assess the [*net*] amount of **uninsured** public funds deposits of a public official only against the [*bank*] **closed** depository [*that suffered the loss*], and not against [*the collateral of*] other bank depositories, if the public official:

(a) Was given appropriate notice about the [*bank*] **closed** depository by the State Treasurer under ORS 295.018 [(5)(a)] (6)(a), [*or*] 295.031 (1) **or 295.061 (4)(a) and did not comply with ORS 295.034; [and] or**

(b) [*The public official did not comply with ORS 295.034*] **Failed to timely comply with the requirements of ORS 295.006 and, as a result of the failure to timely comply, did not receive appropriate notice about the closed depository from the State Treasurer under ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a).**

(7) **The assessment by the State Treasurer against the closed depository shall be payable immediately from the proceeds of the collateral delivered to the State Treasurer.** Assessments made by the State Treasurer **against the other bank depositories** are payable on the fifth business day following demand. If any bank depository fails to pay its assessment, the State Treasurer shall take possession of **and liquidate** the securities segregated as collateral **for uninsured public funds deposits held** by the bank depository [*and liquidate the securities for the purpose of paying the assessment*] **or so much of the securities as is needed to pay the bank depository's assessment.**

(8) The State Treasurer shall distribute the [*net proceeds of the assessments and of any liquidated collateral*] **amounts received by the State Treasurer from the assessments**, to the extent that they do not exceed the total [*net*] amount of **uninsured** public funds deposits and accrued interest claimed by the public officials, among the public officials entitled to the proceeds in proportion to the public officials' respective claims.

(9) If the [*net proceeds of the assessments and of any liquidated collateral*] **amounts received by the State Treasurer from the assessments** are inadequate, after all other available sources are applied, to meet the total claims of the public officials [*entitled to the proceeds*] **for the amount of their uninsured public funds deposits**, the public officials may make claims against the closed [*bank*] depository as general creditors, **but not against any bank depository other than the closed depository.**

(10)(a) **If the final amount of proceeds from the liquidation of collateral received by the State Treasurer from a closed depository exceeds the amount of the assessment against the closed depository under subsection (4)(a) of this section, the State Treasurer shall pay the amount of the excess to the closed depository.**

(b) **If the final amount of proceeds from the liquidation of collateral received by the State Treasurer from other bank depositories exceeds the amount of the assessment against the other bank depositories under subsection (4)(b) of this section, the State Treasurer shall pay the excess to the other bank depositories in proportion to the amounts paid to the State Treasurer under their assessments.**

(c) **If the final amount of proceeds from the liquidation of collateral received by the State Treasurer from a bank depository, other than the closed depository, under subsection (7) of this section exceeds the amount of the assessment against the bank depository, the State Treasurer shall pay the excess to the bank depository.**

[(10)] (11) The prohibition on transfers of assets set forth in ORS 711.410 does not apply to assessments, payments, transfers or sales of securities made pursuant to this section.

**SECTION 11.** ORS 295.041 is amended to read:

295.041. Upon the distribution of the proceeds of assessments and liquidated collateral pursuant to ORS 295.037 by the State Treasurer to any public official, the State Treasurer shall be subrogated to all of the right, title and interest of the public official against the closed [*bank*] depository, and shall share in any distribution of its assets ratably with other depositors. Any sums received from any distribution shall be paid to the public officials to the extent of any unpaid net deposit liability and the balance remaining shall be paid to the bank depositories against which the assessments were made, pro rata in proportion to the assessments actually paid by each bank depository. However, the closed [*bank*] depository may not share in any distribution of the balance remaining. If the State Treasurer incurs expenses in enforcing the treasurer's rights under this section, the expenses may be charged as provided in ORS 295.106. The State Treasurer shall submit a claim for expenses to the bank depository, and if the charges are thereafter paid to the treasurer, they shall be treated as a liquidation expense of the closed [*bank*] depository.

**SECTION 12.** ORS 295.046 is amended to read:

295.046. (1) A bank depository may not accept a deposit of public funds if the deposit would cause the aggregate of public funds deposits made by any one public official in the bank depository to exceed at any time the net worth of the bank depository. If a bank depository's net worth is reduced, the bank depository may allow public funds on deposit in excess of the reduced net worth to remain if the bank depository deposits with its custodian eligible securities valued at market value in an amount at least equal to the amount of the excess public funds deposits. If the additional securities required by this section are not deposited with the custodian, the bank depository shall permit the public official to withdraw deposits prior to maturity, including accrued interest, in accordance with applicable statutes and governmental regulations.

(2) The limitations of subsection (1) of this section do not apply to public funds deposits held by a bank depository in a certificate of deposit or time deposit under [*the program described in*] ORS 295.004.

**SECTION 13.** ORS 295.048 is amended to read:

295.048. (1) Notwithstanding ORS 295.046, a bank depository may not permit the aggregate of public funds deposits on deposit with the bank depository from all public officials to exceed at any time:

(a) 100 percent of the value of the bank depository's net worth, if the bank depository is an undercapitalized bank depository;

(b) 150 percent of the value of the bank depository's net worth, if the bank depository is an adequately capitalized bank depository;

(c) 200 percent of the value of the bank depository's net worth, if the bank depository is a well capitalized bank depository; or

(d) 30 percent of the total aggregate **uninsured** public funds deposits of all public officials in all bank depositories as reported in the most recent notice received by the bank depository from the State Treasurer.

(2) The State Treasurer shall notify each bank depository and its custodian of the total aggregate **uninsured** public funds deposits of all public officials in all bank depositories, based on the most recently submitted treasurer reports. The treasurer shall give the notification required by this subsection by the last day of the month in which bank depositories are required to submit a treasurer report.

(3) If a bank depository's aggregate of **uninsured** public funds deposits exceeds the amount set forth in subsection (1) of this section, the bank depository shall, [*not later than 20*] **within three** business days after receipt of notice from the State Treasurer, cease accepting deposits of **uninsured** public funds.

(4) Notwithstanding subsections (1) and (3) of this section:

(a) A bank depository may accept and hold **uninsured** public funds deposits in excess of the limits provided in subsection (1) of this section if the State Treasurer, upon good cause shown, approves the request of the bank depository to hold **uninsured** public funds in excess of the limits provided in subsection (1) of this section for a period not exceeding 90 days **and eligible securities**

are deposited with the bank depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits in excess of the limits provided in subsection (1) of this section.

(b) The [limitations] limits of subsection (1) of this section do not apply to public funds deposits held by a bank depository in a [program described in] certificate of deposit or time deposit under ORS 295.004.

(c) A well capitalized bank depository or an adequately capitalized bank depository may accept and hold public funds deposits in excess of the limit provided in subsection (1)(d) of this section if eligible securities are deposited with the bank depository's custodian as collateral in an amount at least equal to the amount of the public funds deposits in excess of the [limitation] limit prescribed in subsection (1)(d) of this section.

**SECTION 14.** ORS 295.053 is amended to read:

295.053. (1) If a bank depository ceases holding **uninsured** public funds deposits, the bank depository's custodian shall continue to hold the pledged securities of the bank depository as collateral pursuant to ORS 295.001 to 295.108. Unless the State Treasurer directs that the bank depository's securities be held for a longer period, the custodian shall hold the bank depository's pledged securities for a period of **30 days**.[:]

[*(a) 30 days, in the case of a bank depository that was well capitalized as of the date the bank depository ceased holding any public funds deposits;*]

[*(b) 90 days, in the case of a bank depository that was adequately capitalized as of the date the bank depository ceased holding any public funds deposits; or*]

[*(c) One year, in the case of a bank depository that was undercapitalized as of the date the bank depository ceased holding any public funds deposits.*]

(2) If any of a bank depository's pledged securities mature during the [periods] **period** described in subsection (1) of this section, the bank depository shall pledge substitute securities that shall be held by its custodian until the expiration of the period.

(3) At the end of the [applicable holding] period **described in subsection (1) of this section**, if the bank depository has not, during that period, [had on deposit] **held** any **uninsured** public funds deposits, the custodian shall tender the bank depository's securities to the bank depository.

[*(4) Notwithstanding the release of a bank depository's securities pursuant to subsection (3) of this section, the bank depository shall continue to be treated as a bank depository and shall be subject to assessment under ORS 295.037 until one year after the bank depository ceased holding any public funds deposits. If the bank depository no longer has pledged collateral that may be used to pay the assessment, the bank depository shall remain liable for payment of the assessment from its other assets.*]

**SECTION 15.** ORS 295.061 is amended to read:

295.061. (1) On or before each treasurer report due date, each bank depository that has in its possession **uninsured** public funds deposits of one or more public officials [*that exceed the limits specified in ORS 295.002*] shall file its treasurer report with its custodian bank and with the State Treasurer.

(2) Each bank depository that files reports with the State Treasurer under subsection (1) of this section shall notify the State Treasurer in writing or by electronic means within [10] **three** business days of:

(a) The date on which the bank depository's net worth is reduced by an amount greater than 10 percent of the amount shown as its net worth on the most recent report submitted pursuant to subsection (1) of this section; or

(b) The date on which the bank depository ceases to be well capitalized and becomes adequately capitalized or undercapitalized, or ceases to be adequately capitalized and becomes undercapitalized.

(3) An **adequately capitalized bank depository or an** undercapitalized bank depository shall report the actual amount of **uninsured** public funds deposits held by it at least weekly to its custodian bank and to the State Treasurer.

(4)(a) If a bank depository fails to file any of the reports or provide any of the notices required under this section or fails to file any of the notices or reports required under ORS 295.018, the State Treasurer shall send a notice to each public official who has uninsured public funds on deposit in the bank depository of the bank depository's failure to comply.

(b) If, after giving notice under paragraph (a) of this subsection, the State Treasurer receives notice that the bank depository has filed the required reports or provided the required notices, the State Treasurer may notify each public official who was notified under paragraph (a) of this subsection that the bank depository is once again in compliance.

(5) If a bank depository fails to comply with this section, the bank depository shall, within three business days after receipt of notice from the State Treasurer, cease accepting deposits of uninsured public funds.

**SECTION 16.** ORS 295.073 is amended to read:

295.073. The Director of the Department of Consumer and Business Services shall advise the State Treasurer **in writing** of any action the director takes or directs any bank depository to take that will result in a reduction of greater than 10 percent of the net worth of the bank depository as shown on the most recent treasurer report submitted pursuant to ORS 295.061.

**SECTION 17.** ORS 286A.560 is amended to read:

286A.560. As used in ORS 286A.560 to 286A.585 and 327.700 to 327.711, unless the context requires otherwise:

(1) "Appropriated funds" for a particular fiscal year means any moneys, other than unobligated net lottery proceeds, that are specifically appropriated or otherwise specifically made available by the Legislative Assembly or the Emergency Board for a fiscal year to replenish reserves established as additional security for lottery bonds pursuant to the authority granted in ORS 286A.580 (6).

(2) "Bond-related costs" means:

(a) The costs and expenses of issuing, administering and maintaining lottery bonds and the lottery bond program, including but not limited to paying or redeeming lottery bonds, paying amounts due in connection with credit enhancements or any instruments authorized by ORS 286A.580 (6) and paying the administrative costs and expenses of the State Treasurer and the Oregon Department of Administrative Services, including costs of consultants or advisors retained by the State Treasurer or the Oregon Department of Administrative Services for the lottery bonds or the lottery bond program;

(b) The costs of funding any lottery bond reserves;

(c) Capitalized interest for lottery bonds;

(d) Rebates or penalties due to the United States in connection with lottery bonds; and

(e) Any other costs or expenses that the State Treasurer or the Director of the Oregon Department of Administrative Services determines are necessary or desirable in connection with issuing lottery bonds or maintaining the lottery bond program.

(3) "Lottery bonds" means:

(a) The state park lottery bonds authorized by ORS 390.060 to 390.067, the infrastructure lottery bonds authorized by ORS 285B.530 to 285B.548 and the education lottery bonds authorized by ORS 327.700 to 327.711;

(b) Any other bonds payable from the revenues of the Oregon State Lottery unless the legislation authorizing those bonds expressly provides that those bonds may not be issued under ORS 286A.560 to 286A.585; and

(c) Any refunding lottery bonds.

(4) "Lottery Bond Administrative Fund" means the fund created by ORS 286A.573.

(5) "Lottery Bond Fund" means the fund created by ORS 286A.570.

(6) "Lottery bond program" means a financing program authorized by:

(a) ORS 285B.530 to 285B.548, 327.700 to 327.711 or 390.060 to 390.067; or

(b) Any other Act of the Legislative Assembly authorizing the issuance of bonds that are payable from the revenues of the Oregon State Lottery, unless the legislation authorizing those bonds expressly provides that those bonds may not be issued under ORS 286A.560 to 286A.585.

(7) "Refunding lottery bonds" means any bonds issued for the purpose of refunding any lottery bonds.

(8) "Unobligated net lottery proceeds" means all revenues derived from the operation of the Oregon State Lottery except for:

(a) The revenues used for the payment of prizes and expenses of the Oregon State Lottery as provided in section 4 (4)(d), Article XV of the Oregon Constitution, and ORS 461.500 and 461.510; **and**

*[(b) The revenues required to be applied, distributed or allocated as provided in ORS 461.543; and]*

*[(c)]* **(b)** The revenues required to be allocated to pay the Westside lottery bonds and any bonds issued to refund the Westside lottery bonds, to fund reserves for any of those bonds and to pay related costs of the Department of Transportation.

(9) "Westside lottery bonds" means the bonds issued by this state under the authority granted in ORS 391.140 that, notwithstanding ORS 267.334, 285B.419, 285B.422, 285B.482, 285B.530 to 285B.548, 286A.560 to 286A.585, 327.700 to 327.711 and 390.060 to 390.067, shall have a claim on lottery funds that is superior to the claim of the lottery bonds authorized by ORS 286A.560 to 286A.585.

**SECTION 18.** Section 19 of this 2009 Act is added to and made a part of ORS 293.701 to 293.820.

**SECTION 19.** (1) The Oregon Short Term Fund is established in the State Treasury as a commingled investment vehicle for investment funds and the moneys described in subsection (2) of this section. Interest earned by the Oregon Short Term Fund shall be credited to the participating investor funds or accounts in the fund in proportion to the amount invested.

(2) Unless a federal law, court order, settlement or similar agreement or business practice requires otherwise, moneys received by the State Treasurer that may not be discretely invested as provided in ORS 293.723 shall be deposited in the fund. Moneys that may be discretely invested as provided in ORS 293.723 may be deposited in the fund.

(3) Moneys in the fund may be transferred as provided in ORS 293.205 to 293.225. The State Treasurer is the officer in charge of the fund for purposes of ORS 293.220 and shall determine the interest rate to be charged until the moneys are retransferred to the fund. The interest rate may not be less than the rate specified in ORS 293.220.

**SECTION 20.** ORS 293.723 is amended to read:

293.723. (1) Moneys in a fund established by law may not be discretely invested unless the law establishing the fund specifically indicates that the moneys may be invested. A provision in a law establishing a fund that requires interest earned by the fund to be retained by the fund is not, by itself, a specific indication that the moneys in the fund may be discretely invested.

(2) As used in this section, "discretely invested" means invested in something other than the *[state investment fund established under ORS 293.701 (2)(o)] Oregon Short Term Fund established under section 19 of this 2009 Act.*

**SECTION 21.** ORS 293.761 is amended to read:

293.761. (1) *[The investment officer shall report quarterly to the officer or body having control and administration of each fund included in the investment funds the changes in investments made during the preceding month for the fund. If requested by the officer or body, the investment officer shall furnish to the officer or body the details on the investment transactions for any fund]* **The investment officer shall follow generally accepted accounting practices and provide to the officer or body having control and administration of any investment funds any information necessary for financial reporting required by law.**

(2) The investment officer shall separately identify investments held in the Oregon Growth Account established in ORS 348.702, the Oregon Resource and Technology Development Subaccount established in ORS 348.706 and the Oregon Commercialized Research Fund created in ORS 284.725 as part of the *[report]* **information provided under this section** on the Education Stability Fund *[required by this section].*

**SECTION 22.** ORS 293.875 is amended to read:

293.875. (1) The State Treasurer is designated the **sole banking and** cash management officer for the state and may review, establish and modify procedures for the efficient handling of [*cash and cash equivalents*] **moneys** under the control of the State Treasury, the Secretary of State, the Judicial Department, the Legislative Assembly, the Public Defense Services Commission and state agencies[,] as defined in ORS 291.002. **The State Treasurer shall perform all activities necessary or desirable to fulfill the duties of the treasurer as the banking and cash management officer. The activities may include, but are not limited to, entering into contracts for the provision of services related to the management, deposit and transfer of, or payment from, moneys deposited with the State Treasurer through banks and other financial institutions. The deposit, transfer or payment may be through physical presentation or drafting of an instrument or document by electronic or other means.**

(2) The State Treasurer shall continuously review the effectiveness of **the** cash management of state agencies, the Secretary of State, the Judicial Department and the Legislative Assembly, and when the State Treasurer considers it appropriate shall report in writing to the subject agency the findings of this review, along with any recommendations. A copy of the report shall be provided to the Legislative Fiscal Officer and to the Secretary of State.

(3) **This section controls over any other law that gives another state agency general responsibility for, or control over, the accounting, fiscal or electronic commerce affairs of the State Treasury, the Secretary of State, the Judicial Department, the Legislative Assembly, the Public Defense Services Commission and state agencies as defined in ORS 291.002.** State agencies shall employ the principles, standards and related requirements for cash management **prescribed by the State Treasurer**, including:

(a) **Practices related to the use of credit, debit or similar cards or devices;**

(b) The use of secure disbursing and receiving **instruments**, documents and systems[, *prescribed by the State Treasurer.*]; **and**

(c) **The use of secure information resources, information technology and networks that meet the requirements of the State Treasurer for the electronic management, deposit or transfer of, or payment from, moneys deposited with the State Treasurer.**

(4) **As used in this section, “information resources” and “information technology” have the meanings given those terms in ORS 291.038.**

**SECTION 23.** ORS 311.780 is amended to read:

311.780. (1) Upon receipt of the notification from the Department of Revenue of the amount deferred on tax deferred property under ORS 311.740 to 311.780, the [*State Treasurer*] **Oregon Department of Administrative Services** shall pay to the respective county tax collectors an amount equivalent to the full amount of tax listed by the Department of **Revenue** less three percent thereof.

(2) The Department of **Revenue** shall maintain accounts for each deferred property and shall accrue interest **at the rate earned by the Oregon Short Term Fund established under section 19 of this 2009 Act** on the gross amount of taxes advanced.

(3) [*The funds provided for the payment made pursuant to subsection (1) of this section shall be made as investments from the excess funds mentioned in ORS 293.701 (2)(o)*] **The payment described in subsection (1) of this section shall be made only if there are moneys available in the General Fund for the payment because they are not appropriated or otherwise allocated for other purposes. Any moneys paid from the General Fund under this section shall be repaid to the General Fund with interest accrued at the rate described in subsection (2) of this section.**

**SECTION 24.** ORS 291.003 is amended to read:

291.003. [*In all cases where federal granted funds are involved, the federal laws, rules and regulations applicable thereto shall govern*] Notwithstanding any provision [*to the contrary in*] **of ORS 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.261, 291.307 and 291.990, but subject to any applicable judgment or settlement agreement, in all cases where federal funds are involved, the federal laws, rules and regulations applicable to the federal funds shall govern.**

**SECTION 25.** ORS 294.035 is amended to read:

294.035. (1) Subject to ORS 294.040 and 294.135 to 294.155, the custodial officer may invest any sinking fund, bond fund or surplus funds in the custody of the custodial officer in the bank accounts, classes of securities at current market prices, insurance contracts and other investments listed in this section, but only after obtaining from the governing body of the county, municipality, political subdivision or school district a written order that has been entered in the minutes or journal of the governing body.

(2) This section does not:

(a) Limit the authority of the custodial officer to invest surplus funds in other investments when the investment is specifically authorized by another statute.

(b) Apply to a sinking fund or a bond fund established in connection with conduit revenue bonds issued by a county, municipality, political subdivision or school district for private business entities or nonprofit corporations.

(3) Investments authorized by this section are:

(a) Lawfully issued general obligations of the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government **and obligations whose payment is guaranteed by the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government.**

(b) Lawfully issued debt obligations of the agencies and instrumentalities of the State of Oregon and its political subdivisions that have a long-term rating of A or an equivalent rating or better or are rated on the settlement date in the highest category for short-term municipal debt by a nationally recognized statistical rating organization.

(c) Lawfully issued debt obligations of the States of California, Idaho and Washington and political subdivisions of those states if the obligations have a long-term rating of AA or an equivalent rating or better or are rated on the settlement date in the highest category for short-term municipal debt by a nationally recognized statistical rating organization.

(d) Time deposit open accounts, certificates of deposit and savings accounts in insured institutions as defined in ORS 706.008, in credit unions as defined in ORS 723.006 or in federal credit unions, if the institution or credit union maintains a head office or a branch in this state.

(e) Share accounts and savings accounts in credit unions in the name of, or for the benefit of, a member of the credit union pursuant to a plan of deferred compensation.

(f) Fixed or variable life insurance or annuity contracts as defined by ORS 731.170 and guaranteed investment contracts issued by life insurance companies authorized to do business in this state.

(g) Trusts in which deferred compensation funds from other public employers are pooled, if:

(A) The purpose is to establish a deferred compensation plan;

(B) The trust is a public instrumentality of such public employers and described in section (2)(b) of the Investment Company Act of 1940, 15 U.S.C. 80a-2(b), as amended, in effect on September 20, 1985, or the trust is a common trust fund described in ORS 709.170;

(C) Under the terms of the plan the net income from or gain or loss due to fluctuation in value of the underlying assets of the trust, or other change in such assets, is reflected in an equal increase or decrease in the amount distributable to the employee or the beneficiary thereof and, therefore, does not ultimately result in a net increase or decrease in the worth of the public employer or the state; and

(D) The fidelity of the trustees and others with access to such assets, other than a trust company, as defined in ORS 706.008, is insured by a surety bond that is satisfactory to the public employer, issued by a company authorized to do a surety business in this state and in an amount that is not less than 10 percent of the value of such assets.

(h)(A) Banker's acceptances, if the banker's acceptances are:

(i) Guaranteed by, and carried on the books of, a qualified financial institution;

(ii) Eligible for discount by the Federal Reserve System; and

(iii) Issued by a qualified financial institution whose short-term letter of credit rating is rated in the highest category by one or more nationally recognized statistical rating organizations.



(B) For the purposes of this paragraph, “qualified financial institution” means:

(i) A financial institution that is located and licensed to do banking business in the State of Oregon; or

(ii) A financial institution that is wholly owned by a financial holding company or a bank holding company that owns a financial institution that is located and licensed to do banking business in the State of Oregon.

(C) A custodial officer shall not permit more than 25 percent of the moneys of a local government that are available for investment, as determined on the settlement date, to be invested in banker’s acceptances of any qualified financial institution.

(i)(A) Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Corporate indebtedness described in this paragraph does not include banker’s acceptances. The corporate indebtedness must be issued by a commercial, industrial or utility business enterprise, or by or on behalf of a financial institution, including a holding company owning a majority interest in a qualified financial institution.

(B) Corporate indebtedness must be rated on the settlement date P-1 or Aa or better by Moody’s Investors Service or A-1 or AA or better by Standard & Poor’s Corporation or equivalent rating by any nationally recognized statistical rating organization.

(C) Notwithstanding subparagraph (B) of this paragraph, the corporate indebtedness must be rated on the settlement date P-2 or A or better by Moody’s Investors Service or A-2 or A or better by Standard & Poor’s Corporation or equivalent rating by any nationally recognized statistical rating organization when the corporate indebtedness is:

(i) Issued by a business enterprise that has its headquarters in Oregon, employs more than 50 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets in Oregon; or

(ii) Issued by a holding company owning not less than a majority interest in a qualified financial institution, as defined in paragraph (h) of this subsection, located and licensed to do banking business in Oregon or by a holding company owning not less than a majority interest in a business enterprise described in sub-subparagraph (i) of this subparagraph.

(D) A custodial officer may not permit more than 35 percent of the moneys of a local government that are available for investment, as determined on the settlement date, to be invested in corporate indebtedness, and may not permit more than five percent of the moneys of a local government that are available for investment to be invested in corporate indebtedness of any single corporate entity and its affiliates or subsidiaries.

*[(j) Securities of any open-end or closed-end management investment company or investment trust, if the securities are of the types specified in paragraphs (a) to (c), (h) and (i) of this subsection and if the investment does not cause the county, municipality, political subdivision or school district to become a stockholder in a joint company, corporation or association. A trust company or trust department of a national bank while acting as indenture trustee may invest funds held by it as indenture trustee in any open-end or closed-end management investment company or investment trust for which the trust company or trust department of a national bank or an affiliate of the trust company or trust department of a national bank acts as investment adviser or custodian or provides other services. However, the securities of the investment company or investment trust in which the funds are invested must be of the types specified in paragraphs (a) to (c), (h) and (i) of this subsection and the investment must not cause the county, municipality, political subdivision or school district whose funds are invested to become a stockholder in a joint company, corporation or association. For purposes of this paragraph, companies are affiliated if they are members of the same affiliated group under section 1504 of the Internal Revenue Code of 1986 (26 U.S.C. 1504).]*

*[(k)]* (j) Repurchase agreements whereby the custodial officer purchases securities from a financial institution or securities dealer subject to an agreement by the seller to repurchase the securities. The repurchase agreement must be in writing and executed in advance of the initial purchase of the securities that are the subject of the repurchase agreement. Only securities de-

scribed in paragraph (a) of this subsection may be used in conjunction with a repurchase agreement and such securities shall have a maturity of not longer than three years. The price paid by the custodial officer for such securities may not exceed amounts or percentages prescribed by written policy of the Oregon Investment Council or the Oregon Short Term Fund Board created by ORS 294.885.

[(L)] (k) Shares of stock of any company, association or corporation, including but not limited to shares of a mutual fund, but only if the moneys being invested are funds set aside pursuant to a local government deferred compensation plan and are held in trust for the exclusive benefit of participants and their beneficiaries.

**SECTION 26.** ORS 294.810 is amended to read:

294.810. (1) With the consent of the governing body, a local government official may place in the aggregate up to \$30 million of its funds in the investment pool, or, if the assets of the investment pool have been transferred pursuant to ORS 294.882, [in the state investment fund established pursuant to ORS 293.721,] for investment and reinvestment by the investment officer as provided under ORS 293.701 to 293.820 or 294.805 to 294.895, as the case may be. The \$30 million limitation stated in this section [shall] **does** not apply either to funds of a governing body [which] **that** are placed in the investment pool on a pass-through basis or to funds invested on behalf of another government unit. Local governments must remove pass-through funds [which] **that** result in an account balance in the pool in excess of \$30 million within 10 business days. County governments must remove such excess funds within 20 business days. [The investment officer shall promptly report each instance of noncompliance with, or apparent abuse of, the limitations of this section to the Secretary of State and to the governing body of the local government involved.]

(2) The \$30 million limitation contained in subsection (1) of this section shall increase in proportion to the increase occurring after September 9, 1995, in the Consumer Price Index for All Urban Consumers of the Portland, Oregon, [Standard] Metropolitan Statistical Area, as compiled by the United States Department of Labor, Bureau of Labor Statistics.

**SECTION 27.** ORS 294.882 is amended to read:

294.882. (1) It is recognized that a time may come when the interest of local governments diminishes to the extent that participation in the local government investment pool no longer warrants its operation as a separate fund. If the local government investment pool decreases to a level below \$125 million, the State Treasurer may transfer the assets of the pool to the state investment fund established under ORS 293.701 (2)(o). In that event, the local government investment pool participant accounts will be treated as are other state funds and accounts in receiving a proportionate share of the earnings of that investment fund. Notwithstanding ORS [294.860, 294.865, 294.870, 294.875 or 294.880] **294.805 to 294.895, but subject to ORS 294.810**, when the State Treasurer transfers the assets of the local government investment pool to the state investment fund, the distributions of income to local governments, payment of related expenses and the reporting, program examination and audit functions with respect to the investment pool participant accounts shall be administered in accordance with ORS [293.718, 293.751, 293.756, 293.761, 293.766, 293.771, 293.776 and] **293.353 and 293.701 to 293.820**.

(2) The State Treasurer, at the discretion of the treasurer may reestablish the local government investment pool as a separate fund, if the participant accounts increase to over \$125 million and in the State Treasurer's judgment, sufficient interest by local government exists to insure the local government investment pool will remain over \$125 million. Prior to reestablishing the pool as a separate fund, the State Treasurer shall first present a plan for operation, including the reasons for such action, to the Oregon Investment Council at a regularly scheduled meeting for its review and comment. The State Treasurer shall publish notice in the Secretary of State's administrative rules bulletin of the treasurer's intent to reestablish the pool as a separate fund at least 30 days prior to the meeting at which the Oregon Investment Council shall review the proposal, and notice of the meeting time and location of the Oregon Investment Council at which the proposal will be discussed.

**SECTION 28.** ORS 294.895 is amended to read:

294.895. The Oregon Short Term Fund Board shall:

(1) Advise the Oregon Investment Council and the investment officer in the management of the investment pool and in the investment of [*all funds defined in ORS 293.701 (2)(p)*] **moneys deposited in the Oregon Short Term Fund established under section 19 of this 2009 Act** and invested pursuant to ORS [293.721] **293.701 to 293.820**.

(2) Review the rules promulgated by the investment officer as authorized under ORS 294.825 (4).

(3) Consult with the council and the investment officer on any matter relating to the investment and reinvestment of funds in the investment pool and on any matter relating to the investment or reinvestment of [*funds defined in ORS 293.701 (2)(p)*] **moneys deposited in the Oregon Short Term Fund** and invested [*pursuant to ORS 293.721*] **by the State Treasurer**.

**SECTION 29.** ORS 293.701 is amended to read:

293.701. As used in ORS 293.701 to 293.820, 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 346.540 or rules adopted thereunder;

(i) Forest rehabilitation bonds sinking 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) Savings and loan association funds in the hands of the Director of the Department of Consumer and Business Services;

(o) 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 section 19 of this 2009 Act or in another commingled investment vehicle**;

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

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

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

(s) Investment funds of the State Board of Higher Education lawfully available for investment or reinvestment;

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

(u) Elderly and Disabled Special Transportation Fund established by ORS 391.800;

(v) Education Stability Fund established by ORS 348.696;

(w) Deferred Compensation Fund established under ORS 243.411; and

(x) Trust for Cultural Development Account established under ORS 359.405.

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

**SECTION 30.** ORS 294.135 is amended to read:

294.135. (1) An investment made by a custodial officer under ORS 294.035 (3)(a) to (f), **(h) and (i) [and (h) to (j)]** or 294.125 may not exceed a maturity of 18 months or the date of anticipated use of the funds by the county, municipality, school district or other political subdivision to which the funds belong, whichever period is shorter. However:

(a) The custodial officer may make investments having a maturity longer than 18 months when the governing body of the county, municipality, school district or other political subdivision to

which the funds belong has adopted a written investment policy that, prior to adoption, was submitted to the Oregon Short Term Fund Board for review and comment to the governing body, that includes guidelines concerning maximum investment maturity dates and that provides by its terms for readoption not less than annually; or

(b) When the funds in question are being accumulated for an anticipated use that will occur more than 18 months after the funds are invested, then, upon the approval of the governing body of the county, municipality, school district or other political subdivision, the maturity of the investment or investments made with the funds may occur when the funds are expected to be used.

(2) The maximum term of any repurchase agreement transaction may not exceed 90 days.

**SECTION 30a.** ORS 366.505 is amended to read:

366.505. (1) The State Highway Fund shall consist of:

(a) All moneys and revenues derived under and by virtue of the sale of bonds, the sale of which is authorized by law and the proceeds thereof to be dedicated to highway purposes.

(b) All moneys and revenues accruing from the licensing of motor vehicles, operators and chauffeurs.

(c) Moneys and revenues derived from any tax levied upon gasoline, distillate, liberty fuel or other volatile and inflammable liquid fuels, except moneys and revenues described in ORS 184.642 (2)(a) that become part of the Department of Transportation Operating Fund.

(d) Moneys and revenues derived from or made available by the federal government for road construction, maintenance or betterment purposes.

(e) All moneys and revenues received from all other sources which by law are allocated or dedicated for highway purposes.

(2) The highway fund shall be deemed and held as a trust fund, separate and distinct from the General Fund, and may be used only for the purposes authorized by law and is continually appropriated for such purposes.

(3) **Moneys in the State Highway Fund may be invested as provided in ORS 293.701 to 293.820.** All interest earnings on any of the funds designated in subsection (1) of this section shall be placed to the credit of the highway fund.

**SECTION 30b.** ORS 461.510 is amended to read:

461.510. (1) All money payable to the commission shall be deposited in [*an account*] **a fund** known as the State Lottery Fund. The State Lottery Fund shall receive all proceeds from the sale of lottery tickets or shares, the temporary loan for initial start-up costs[, *interest*] and all other moneys credited to the Oregon State Lottery from any other lottery-related source. The State Lottery Fund is continuously appropriated for the purpose of administering and operating the commission and the state lottery.

(2) Disbursements shall be made from the State Lottery Fund for any of the following purposes:

(a) The payment of prizes to the holders of valid winning lottery tickets or shares;

(b) Expenses of the commission and the state lottery;

(c) Repayment of any funds advanced from the temporary loan for initial start-up costs and the interest on any such funds advanced; and

(d) Transfer of funds from the State Lottery Fund to the benefit of the public purpose described in section 4, Article XV of the Constitution of the State of Oregon.

(3) As nearly as practical, at least 50 percent of the total projected revenue, computed on a year-round basis, accruing from the sales of all state lottery tickets or shares shall be apportioned for payment of prizes.

(4) Expenses of the state lottery shall include all costs incurred in the operation and administration of the state lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the commission including, but not limited to, the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, compensation paid to lottery game retailers, bonding for lottery game retailers, printing, distribution of tickets and shares, reimbursing other governmental entities for services provided to the state lottery, transfers to a con-

tingency reserve, and for any other goods and services necessary for effectuating the purposes of this chapter. No more than 16 percent of the total annual revenues accruing from the sale of all lottery tickets and shares from all lottery games shall be allocated for the payment of the expenses of the state lottery. The commission shall determine the amount necessary for a reasonable contingency reserve within the amount allocated for payment of expenses.

(5) The state lottery shall pay all prizes and all of its expenses out of the revenues it receives from the sale of tickets and shares to the public and turn over the net proceeds therefrom to a fund to be established by the Legislative Assembly from which the Legislative Assembly shall make appropriations for the benefit of the public purpose described in section 4, Article XV of the Constitution of the State of Oregon.

**(6) Moneys in the State Lottery Fund may be invested as provided in ORS 293.701 to 293.820. Interest earned by the fund shall be credited to the fund.**

**SECTION 31. ORS 295.087 is repealed.**

**SECTION 32. (1) The amendments to ORS 295.001 by section 1 of this 2009 Act apply to bonds purchased and to activities occurring on or after the effective date of this 2009 Act.**

**(2) The amendments to ORS 295.004 by section 2 of this 2009 Act apply to deposits made on or after the effective date of this 2009 Act and deposits pending placement on the effective date of this 2009 Act.**

**(3) The amendments to ORS 295.006 by section 3 of this 2009 Act apply to changes made on or after the effective date of this 2009 Act.**

**(4) The amendments to ORS 295.013 by section 5 of this 2009 Act apply to insured institutions or trust companies that are custodian banks prior to, on or after the effective date of this 2009 Act.**

**(5) The amendments to ORS 295.015 by section 6 of this 2009 Act apply to activities occurring on or after the effective date of this 2009 Act.**

**(6) The amendments to ORS 295.018 by section 7 of this 2009 Act apply to deposits held on or after the effective date of this 2009 Act.**

**(7) The amendments to ORS 295.031 by section 8 of this 2009 Act apply to notices or information received by the State Treasurer on or after the effective date of this 2009 Act.**

**(8) The amendments to ORS 295.034 by section 9 of this 2009 Act apply to notices received and deposits made by public officials on or after the effective date of this 2009 Act.**

**(9) The amendments to ORS 295.037 by section 10 of this 2009 Act apply to losses occurring on or after the effective date of this 2009 Act.**

**(10) The amendments to ORS 295.048 by section 13 of this 2009 Act apply to deposits held on or after the effective date of this 2009 Act.**

**(11) The amendments to ORS 295.053 by section 14 of this 2009 Act apply to bank depositories that cease holding uninsured public funds deposits on or after the effective date of this 2009 Act.**

**(12) The amendments to ORS 295.061 by section 15 of this 2009 Act apply to reports and notices required to be filed on or after the effective date of this 2009 Act.**

**(13) The repeal of ORS 295.087 by section 31 of this 2009 Act applies to investments or disposals of funds made on or after the effective date of this 2009 Act.**

**(14) The Oregon Short Term Fund established in section 19 of this 2009 Act is intended to be a continuation of any similar funds or accounts established by the State Treasurer prior to the effective date of this 2009 Act and that contain moneys described in ORS 293.701 (2)(o) on the day prior to the effective date of this 2009 Act. Moneys in any similar fund or account are considered to be contained in the Oregon Short Term Fund established in section 19 of this 2009 Act.**

**(15) The amendments to ORS 293.761 by section 21 of this 2009 Act apply to reports issued on or after the effective date of this 2009 Act.**

**(16) The amendments to ORS 294.035 by section 25 of this 2009 Act apply to investments made on or after the effective date of this 2009 Act.**

- (17) The amendments to ORS 311.780 by section 23 of this 2009 Act:
- (a) Are intended to transfer responsibility for making payments of amounts described in ORS 311.780 from the State Treasurer to the Oregon Department of Administrative Services;
  - (b) Are intended to require that the payments be made from the General Fund; and
  - (c) Apply to payments made on or after the effective date of this 2009 Act.

**SECTION 33.** This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate June 11, 2009

Received by Governor:

Repassed by Senate June 25, 2009

.....M.,....., 2009

Approved:

.....  
Secretary of Senate

.....M.,....., 2009

.....  
President of Senate

.....  
Governor

Passed by House June 23, 2009

Filed in Office of Secretary of State:

.....  
Speaker of House

.....M.,....., 2009

.....  
Secretary of State