

Enrolled
House Bill 2390

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

CHAPTER

AN ACT

Relating to administration of public funds; creating new provisions; amending ORS 182.470, 264.470, 284.365, 292.042, 294.035, 295.001, 295.002, 295.004, 295.006, 295.008, 295.012, 295.013, 295.015, 295.018, 295.022, 295.031, 295.034, 295.037, 295.038, 295.039, 295.041, 295.046, 295.048, 295.053, 295.056, 295.061, 295.071, 295.073, 295.084, 295.091, 295.093, 295.097, 295.101, 295.108, 295.205, 352.135, 377.840, 440.400, 450.090, 478.460, 478.560, 523.660, 551.110, 555.521, 565.539, 576.375, 578.155, 711.410 and 757.738; and repealing ORS 295.009.

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 **qualified** depository that is classified as adequately capitalized by the depository's primary federal regulatory authority.

(2) ["*Bank depository*"] "**Bank**" 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 a day other than a federal or State of Oregon legal holiday or a day other than a day on which offices of the State of Oregon are otherwise authorized by law to remain closed.

(4) "Closed depository" means a [*depository*] **qualified depository** that is subject to a loss.

(5) "**Collateral**" means **securities, or a letter of credit or similar instrument intended to ensure payment, that is approved by the State Treasurer to be used as security to ensure the obligations of a qualified depository under this chapter.**

(6) "**Collateral agreement**" means **an agreement entered into between a qualified depository and the State Treasurer under which the qualified depository agrees to provide collateral to secure its deposits of public funds and to comply with the provisions of this chapter and such other provisions as the State Treasurer determines are required to adequately protect public funds from loss.**

[(5)] (7) ["*Credit union depository*"] "**Credit union**" 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 **Administration**. [*Share Insurance Fund;*]

[*(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; and*

[(c) The credit union or federal credit union complies with ORS 295.008.]

[(6)] **(8)** “Custodian” means a **financial institution that meets the requirements of section 8 of this 2019 Act**. *[one of the following institutions that a depository designates for the depository’s own account:]*

[(a) The Federal Home Loan Bank designated to serve this state, or a branch of the Federal Home Loan Bank; or]

[(b) An insured institution, trust company or credit union 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, if the State Treasurer has approved custodians under ORS 295.008.]

[(7)] **(9)** “Custodian’s receipt” or “receipt” means a document issued by a custodian that describes the securities that a **qualified** depository deposited with the custodian to secure public fund deposits.

[(8)] **(10)** “Depository” means a bank *[depository]* or a credit union *[depository]* **that is headquartered or has a branch office located in Oregon**.

[(9)] **(11)** “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.

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

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

(a) Restrains a **qualified** depository from making payments of deposit liabilities; or

(b) Appoints a receiver for a **qualified** depository.

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

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

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

[(13)] **(15)** “Minimum collateral requirement” for a **qualified** depository on any given date means a sum equal to:

(a) For a well capitalized **qualified** depository that the State Treasurer has not required to increase the **qualified** depository’s collateral pursuant to ORS 295.018, 10 percent of the greatest of:

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

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

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

(b) For a well capitalized **qualified** depository that the State Treasurer required to increase the depository’s collateral pursuant to ORS 295.018, the percentage the State Treasurer required pursuant to ORS 295.018 multiplied by the greatest of:

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

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

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

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

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

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

[(14)] (16) “Net worth” means a **qualified** depository’s total risk-based capital, 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.

[(15)] (17) “Pledge agreement” means a written agreement among [an insured institution, trust company or credit union] a **qualified depository**, the State Treasurer and a custodian that pledges the securities the [insured institution, trust company or credit union] **depository** deposits with the custodian [as collateral for] **to secure** deposits of uninsured public funds that the [insured institution, trust company or credit union] **depository** holds. The board of directors or loan committee of the [insured institution, trust company or credit union] **depository** must approve the agreement and must continuously maintain the agreement as a written record of the [insured institution, trust company or credit union] **depository**.

(18) “Public body” has the meaning given that term in ORS 174.109.

[(16)] (19) “Public funds” or “funds” means funds that a public official has custody of or [controls by virtue of office] **has control of by virtue of the exclusive legal right of a public body conferred through contract or by law to direct the collection, use or transfer of moneys payable to, belonging to or collected for the public body, while held by a third party such that the failure of the financial institution in which such moneys are deposited would constitute a loss of the public body’s money.**

[(17)] (20) “Public official” means an officer or employee of [this state or an agency, political subdivision or public or municipal corporation of this state, or a housing authority, that by law is the custodian of or has control of public funds] a **public body**.

(21) “Qualified depository” means a **depository that meets the requirements of ORS 295.008.**

[(18)] (22) “Report of condition and income” means the quarterly report a **qualified** depository submits to the depository’s primary federal regulatory authority.

[(19)] (23) “Security” or “securities” means:

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

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

(c) Bonds of a state of the United States that:

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

(B) Having once been rated in accordance with subparagraph (A) of this paragraph, are ruled to be eligible securities for the purposes of ORS 295.001 to 295.108, notwithstanding the loss of the rating;

(d) Bonds of a county, city, school district, port district or other public body in the United States that are 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 a county, city, school district, port district or other public body that are issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of a county or city within the State of Oregon, if the bonds meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(f) With the permission of the State Treasurer and in accordance with rules the State Treasurer adopts, loans made to a county, city, school district, port district or other public body in the State of Oregon, if the borrower has not defaulted with respect to the payment of principal or interest on any of the borrower’s loans within the preceding 10 years or during the period of the borrower’s existence if the borrower has existed for less than 10 years;

(g) With the permission of the State Treasurer and in accordance with rules the State Treasurer adopts, bond anticipation notes that an authority issues, sells or assumes under ORS 441.560;

(h) Bonds, notes, letters of credit **issued not as assurance of payment or performance but as an investment** 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 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 engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations.

(24) “State agency” means any officer, board, commission, department, division or institution of state government as that term is defined in ORS 174.111.

~~[(20)]~~ **(25) “Treasurer report”** means a written report that an officer of a **qualified** depository that holds uninsured public funds deposits has signed or authenticated and that sets forth as of the close of business on a specified date:

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

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

(c) The net worth of the **qualified** depository;

(d) The amount and nature of ~~[eligible]~~ collateral ~~[then on deposit with the depository’s custodian to collateralize the depository’s public funds deposits]~~ **provided**; and

(e) The identity of the **qualified** depository’s custodian, **if applicable**.

~~[(21)]~~ **(26) “Treasurer report due date”** means a date not less than 10 business days after the date a **qualified** depository’s report of condition and income is due to be submitted.

~~[(22)]~~ **(27) “Trust company”** means a trust company as defined in ORS 706.008.

~~[(23)]~~ **(28) “Undercapitalized”** means a **qualified** depository that ~~[the depository’s primary federal regulatory authority has]~~ **is** classified as undercapitalized, significantly undercapitalized or critically undercapitalized **by the qualified depository’s primary federal regulatory authority**.

~~[(24)(a)]~~ **(29)(a) “Uninsured public funds” or “uninsured public funds deposits”** means public funds deposited in a depository that exceed the amounts insured or guaranteed as described in ORS 295.002 ~~[(1)(a) and (b)]~~ **(1)(b)**.

(b) “Uninsured public funds” or “uninsured public funds deposits” does not include public funds deposited in a certificate of deposit, ~~[or] time deposit [under ORS 295.004 (1) or public funds that an Oregon depository arranges to deposit into an]~~ **or** insured deposit account under ORS 295.004 ~~[(2)]~~.

~~[(25)]~~ **(30) “Value”** means the current market value of securities.

~~[(26)]~~ **(31) “Well capitalized”** means a **qualified** depository that ~~[the depository’s primary federal regulatory authority has]~~ **is** classified as well capitalized **by the qualified depository’s primary federal regulatory authority**.

SECTION 2. ORS 295.002 is amended to read:

295.002. (1) *[A public official may retain undeposited such reasonable cash working fund as is fixed by the governing body of the political subdivision or public corporation for which the public official acts. Except to the extent of the cash working fund,]* A public official shall deposit, **or require the deposit of, all** public funds in the public official’s custody or control in one or more **qualified** depositories, **except as follows:** *[currently qualified pursuant to ORS 295.001 to 295.108. Unless a depository has entered into the agreement described in ORS 295.008 (2)(b) and has deposited securities pursuant to ORS 295.015 (1), the public official may not have on deposit in any one depository and branches of the depository a sum in excess of:]*

[(a) The amount insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund; or]

[(b) For any amount over the amount insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund, the amount insured or guaranteed by private deposit

insurance or a deposit guaranty bond issued by an insurance company rated A- or better by a recognized insurance rating service.]

(a) A public official may retain undeposited such reasonable cash working fund as is fixed by the public body for which the public official acts.

(b) A public official may deposit public funds in a depository that is not a qualified depository if the amount of public funds deposited is fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and, for any amount deposited in excess of the insured amount, the excess amount is insured or guaranteed by private deposit insurance or a deposit guaranty bond issued by an insurance company rated A- or better by a recognized insurance rating service.

(2) Compliance with ORS 295.001 to 295.108 relieves the public official of personal liability for the loss of the public funds in the public official's custody or control.

SECTION 3. ORS 295.004 is amended to read:

295.004. (1) A public official may deposit public funds in a depository **that is not a qualified depository** in an amount in excess of the amount allowed in [ORS 295.002 without requiring the depository to show that the depository entered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1)] **ORS 295.002 (1)(b)** if the [public official deposits the funds into a depository in Oregon and the Oregon] depository participates in a program through which:

(a) The [Oregon] depository arranges to deposit 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 or the National Credit Union [Share Insurance Fund] **Administration**;

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

(d) Other financial institutions that participate in the program place funds into the [Oregon] depository in an amount at least equal to the amount the public official deposited into the [Oregon] depository for purposes of the program.

(2) A public official may deposit public funds in a depository **that is not a qualified depository** in an amount in excess of the amount allowed in ORS 295.002 **(1)(b) if the** [without requiring the depository to show that it has entered into a pledge agreement or deposited securities pursuant to ORS 295.015 (1) if the funds are initially deposited into a depository in Oregon and the Oregon] depository participates in a program that meets the following conditions:

(a) On or after the date that the funds are received, the [Oregon] depository:

(A) Arranges for the redeposit of the funds into one or more insured deposit accounts in other financial institutions in the United States; and

(B) Administers the funds on behalf of the public official;

(b) The full amount of the funds redeposited by the [Oregon] depository into deposit accounts in other financial institutions, together with any interest accrued on deposited funds, is insured by the Federal Deposit Insurance Corporation or the National Credit Union **Administration** [Share Insurance Fund]; and

(c) On the same date that the funds are redeposited under this subsection, the [Oregon] depository receives an amount of deposits from customers of other financial institutions that are at least equal to the amount of the funds redeposited by the [Oregon] depository.

(3) Until the [Oregon] depository places public funds into one or more certificates of deposit or time deposits as provided in subsection (1) of this section or places public funds into insured deposit accounts as provided in subsection (2) of this section, any uninsured public funds that the [Oregon] depository holds pending placement must be collateralized as provided in ORS 295.001 to 295.108 for other uninsured public funds deposits.

(4)(a) The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.037 and 295.038 do not apply to [Oregon] depositories that arrange to deposit public funds in accordance with the programs described in subsections (1) and (2) of this section.

(b) The provisions of ORS 294.035 and 295.001 that require public funds to be deposited into depositories that have offices or branches in Oregon do not apply to public funds that an Oregon depos-

itory arranges to deposit into certificates of deposit or time deposits under the provisions of the program described in subsection (1) of this section or to public funds that an Oregon depository arranges to deposit into insured deposit accounts under subsection (2) of this section.]

(b) The certificate of deposit, time deposit or insured deposit in which a public official placed public funds under this section may be issued by a financial institution outside this state.

SECTION 4. ORS 295.006 is amended to read:

295.006. [(1) A depository shall keep on file with the State Treasurer the name and address of the depository's custodian.]

[(2)] **(1)** A public official shall keep on file with the State Treasurer the name and address of each depository in which the public official deposits public funds, together with any other information the State Treasurer may require by rule.

[(3)] **(2)** If a public official changes a depository in which the public official deposits public funds, the public official shall report the information regarding the change that is required by rule or required under subsection [(2)] **(1)** of this section to the State Treasurer within three business days after the effective date of the change.

SECTION 5. ORS 295.008 is amended to read:

295.008. [(1)(a) An insured institution, trust company or credit union may not be a custodian under ORS 295.001 to 295.108 unless the insured institution, trust company or credit union]

(1) A depository is qualified to hold public funds if the depository:

(a) Certifies in writing to the State Treasurer that the [insured institution, trust company or credit union] **depository** will furnish the reports required under ORS 714.075 to the Director of the Department of Consumer and Business Services[,] **by the time specified by the director and furnish any other information the director considers necessary to determine whether to advise the State Treasurer to order a depository to increase its collateral under ORS 295.018;**

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

(b) Enters into a collateral agreement and, if the depository pledges securities as collateral, a separate pledge agreement that may be drawn upon by the State Treasurer in the event of a loss; and

(c) Files with the State Treasurer an initial written report, signed by an officer of the depository, setting forth, as of the date the depository intends to commence acting as a qualified depository:

[(2) An insured institution, trust company or credit union may not be a depository under ORS 295.001 to 295.108 unless the insured institution, trust company or credit union:]

[(a) Certifies in writing to the State Treasurer that the insured institution, trust company or credit union will furnish to the Director of the Department of Consumer and Business Services by the time the director specifies:]

[(A) The reports required under ORS 714.075; and]

[(B) Any other information the director considers necessary to determine whether to advise the State Treasurer to order a depository to increase the depository's 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) An insured institution, trust company or credit union that intends to become a depository shall file with the State Treasurer an initial written report that an officer of the insured institution, trust company or credit union has signed or authenticated and that sets forth, as of the date the insured institution, trust company or credit union intends to commence acting as a depository:]

[(a)] **(A)** The estimated total amount of public funds that will be on deposit with the [insured institution, trust company or credit union] **depository;**

[(b)] **(B)** The estimated net worth of the [insured institution, trust company or credit union] **depository;**

[c] (C) The amount and nature of the collateral that the [insured institution, trust company or credit union] **depository** will [deposit with a custodian to collateralize] **provide to secure** the public funds deposits; and

[d] *The identity of the custodian.*

(D) Other information requested by the State Treasurer to administer this chapter.

[4] *An insured institution, trust company or credit union may be a 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, trust company or credit union does not hold any uninsured public funds deposits. The provisions of ORS 295.006, 295.013, 295.015, 295.018, 295.037, 295.038 and 295.061 do not apply to an insured institution, trust company or credit union that is a depository under this subsection.*

(2) A qualified depository using collateral that consists of items that are not securities shall provide such evidence as the State Treasurer may require to demonstrate that the collateral is available in the event of a loss for disposition as provided in this chapter.

[5] (3) [An insured institution, trust company or credit union] **A depository** that merges with, acquires all the assets of, acquires ownership of or otherwise becomes a successor entity to a **qualified** depository that has entered into a [pledge] **collateral** agreement must execute a new [pledge] **collateral** agreement or provide evidence satisfactory to the State Treasurer that the successor [insured institution, trust company or credit union] **depository** has assumed all of the **qualified** depository's duties and obligations under the existing [pledge] **collateral** agreement. [An insured institution, trust company or credit union] **A depository** that fails to enter into a [pledge] **collateral** agreement or provide evidence that the [insured institution, trust company or credit union] **depository** has assumed the existing [pledge] **collateral** agreement within the time specified by the State Treasurer shall [be treated as a depository that holds uninsured public funds and that has failed to pledge adequate collateral under ORS 295.031.] **not be qualified to hold uninsured deposits of public funds.**

SECTION 6. ORS 295.009 is repealed.

SECTION 7. ORS 295.012 is amended to read:

295.012. For any period of time during which fewer than 10 credit unions are [subject to pledge agreements with the State Treasurer and a custodian under ORS 295.008,] **qualified depositories**, the State Treasurer, notwithstanding ORS 295.001 [(12)] (14), by rule may set the maximum liability for a credit union [depository] **that holds uninsured public funds** at 20 percent of the greater of:

(1) All uninsured public funds deposits the credit union [depository] holds, as shown on the date of the credit [union depository's] **union's** most recent treasurer's report; or

(2) The average of the balances of all uninsured public funds deposits the credit union [depository] holds, as shown on the credit [union depository's] **union's** last two immediately preceding treasurer reports.

SECTION 8. (1) A financial institution or a Federal Home Loan Bank may be a custodian for securities pledged by a qualified depository if it:

(a) **Is approved by the State Treasurer;**

(b) **Enters into a pledge agreement; and**

(c) **Except as provided in subsection (3) of this section, 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.**

(2) The State Treasurer may adopt rules setting forth additional requirements the State Treasurer determines must be met for a depository to be approved as a custodian under this section.

(3) A Federal Home Loan Bank may serve as a custodian without meeting the requirements of subsection (1)(c) this section.

SECTION 9. ORS 295.013 is amended to read:

295.013. (1) When a custodian receives a pledge or release of securities from a **qualified** depository, and after receiving the approval of the State Treasurer, the custodian shall issue to the State

Treasurer a custodian's receipt that describes the securities. The custodian also shall issue a copy of the receipt to the depository.

(2) A custodian shall:

(a) Maintain an accurate inventory of the securities of each **qualified** depository described in the custodian's receipts that the custodian issues to the State Treasurer and adjust the inventory to reflect pledges or releases of securities that the custodian previously inventoried.

(b) Appraise the value of the securities added to and released from the **qualified** depository's inventory and appraise the value of the depository's entire inventory on the last day of each month and at such other times as the State Treasurer directs.

(c) Provide reports to the State Treasurer that describe the type and value of each security pledged by each **qualified** depository and any additional information required by the State Treasurer.

(3) The State Treasurer, by rule or through individual pledge agreements, may specify:

(a) Additional information that must be reported related to the securities pledged;

(b) The frequency with which reports required under this section must be provided; and

(c) Requirements for distribution of reports to **qualified** depositories or other persons.

SECTION 10. ORS 295.015 is amended to read:

295.015. Except as provided in ORS 295.018:

(1)(a) [A *depository*] Throughout the period [*during which the*] **that a qualified** depository possesses uninsured public funds deposits, **the depository** shall maintain [*on deposit with the depository's custodian,*] **collateral**, at the depository's own expense, [*securities*] that [*have*] **has** a value at least equal to the depository's minimum collateral requirement and as otherwise prescribed in ORS 295.001 to 295.108. [*The*] **If the collateral consists of securities, the** depository shall deposit the [*collateral*] **securities** with the depository's custodian. [*and the depository and the custodian shall clearly mark the collateral*] **The depository and custodian shall identify the securities in their respective records** as security for public funds deposited in accordance with 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 [(19)(f)] **(23)(f)** must be discounted to 75 percent of the unpaid principal balance owing on the loan from time to time, or to a lower value that the State Treasurer determines from time to time.

(c) A bond anticipation note that is pledged as collateral for public funds deposits and for which there is no readily determinable market value must be discounted to 75 percent of the unpaid principal balance owing on the note from time to time, or to a lower value that the State Treasurer determines from time to time.

(2) A **qualified** depository may deposit other eligible securities with the depository's custodian and release from deposit securities that the depository pledged to secure deposits of public funds if the remaining securities have a value not less than the depository's minimum collateral requirement. The State Treasurer shall execute releases and surrender custodian's receipts that are appropriate to effect pledges and releases of matured and excess pledged securities.

(3) If a **qualified** depository's minimum collateral requirement increases because the depository ceases to be a well capitalized depository as reflected in the depository's last treasurer report, call report or other public filing, or if the depository receives notice [*from the depository's custodian or*] from the State Treasurer **that its minimum collateral requirement is increased, the depository shall:**

(a) Within three business days after the date on which the **qualified** depository's minimum collateral requirement increases, the depository shall notify the depository's custodian and the State Treasurer in writing that the depository's minimum collateral requirement has increased, setting forth the depository's new minimum collateral requirement and the depository's plan for increasing the depository's pledged collateral to the minimum collateral requirement; and

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

ordination with the Department of Consumer and Business Services, the depository shall, in accordance with the plan approved by the State Treasurer, [*tender to the depository's custodian additional securities that have a value*] **provide additional collateral** sufficient to increase the total value of the depository's securities pledged as collateral for public funds deposits to the depository's new minimum collateral requirement.

(4) If a **qualified** depository's minimum collateral requirement decreases because the depository becomes [*a*] well capitalized [*depository*], or because the State Treasurer no longer requires the depository to pledge additional collateral under ORS 295.018, the depository may:

(a) Notify the **qualified** depository's custodian, **if any**, and the State Treasurer in writing that the depository's minimum collateral requirement has decreased, setting forth the depository's new minimum collateral requirement; and

(b) With the written approval of the State Treasurer, **reduce the value of the qualified depository's collateral including a** release from the depository's custodian **of those** securities that exceed the depository's new minimum collateral requirement.

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

SECTION 11. ORS 295.018 is amended to read:

295.018. (1)(a) [*The State Treasurer may require a depository, during any period when the depository*] **Throughout the period that a qualified depository** possesses uninsured public funds deposits, **the State Treasurer may require the depository** to maintain **collateral, including securities** on deposit with the depository's custodians, [*securities*] that [*have*] **has** a value not less than 110 percent of the greater of:

(A) All uninsured public funds the **qualified** depository holds; or

(B) The average of the balances of uninsured public funds the **qualified** depository holds, as shown on the last 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 **qualified** depository to increase the depository's collateral as required under paragraph (a) of this subsection over a period of time the State Treasurer specifies or may require a **qualified** depository to increase the depository's collateral to an amount that is less than the amount specified in paragraph (a) of this subsection.

(2) The State Treasurer shall order an increase in collateral under subsection (1) of this section if the director so advises. If the **qualified** depository is a national bank, a federally chartered savings bank, a savings and loan association or a federal credit union, in giving advice to the State Treasurer the director may rely exclusively on information that the federal regulatory agencies and the bank, savings bank, association or federal credit union provide to the director on forms the director prescribes. As a condition of being analyzed and reviewed by the director, a national bank, a federally chartered savings bank, a savings and loan association or a federal credit union shall agree and consent to provide the director with accurate, pertinent and timely information.

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

(4) The director's failure to inform the State Treasurer of the condition of any **qualified** depository does not give a public depositor any right or impose liability on the director. The State Treasurer is not liable to a public depositor or to a **qualified** depository for increasing or not increasing the collateral requirement as authorized in subsection (1) of this section.

(5) A **qualified** depository that the State Treasurer notifies of the increased collateral requirement shall:

(a) Within three business days after receiving the notice, submit to the State Treasurer the **qualified** depository's plan to increase the depository's collateral to the level the State Treasurer requires under subsection (1) of this section; and

(b) Within five business days after receiving approval of the plan the **qualified** depository submitted under paragraph (a) of this subsection, or within a longer period approved by the State Treasurer in coordination with the Department of Consumer and Business Services, increase the depository's collateral to the level the State Treasurer requires under subsection (1) of this section.

(6)(a) If the **qualified** depository does not increase the depository's collateral to the level the State Treasurer requires under subsection (1) of this section within the applicable period under subsection (5)(b) of this section, the State Treasurer shall immediately send, to each public official who has notified the State Treasurer that the public official has public funds on deposit in that depository, notice that the depository has failed to comply.

(b) If, after giving notice as required by paragraph (a) of this subsection, the State Treasurer receives notice that the **qualified** depository has complied with the increased collateral requirements, the State Treasurer shall notify each public official that the State Treasurer notified under paragraph (a) of this subsection that the depository has complied.

(7) A **qualified** depository that does not comply with subsection (5) of this section may not accept additional uninsured public funds deposits.

(8) Records the State Treasurer receives or compiles that contain the collateralization requirement for a depository and the amount of collateral a custodian holds are exempt from public disclosure unless the public interest requires disclosure in the particular instance.

(9) The State Treasurer may require a **qualified** depository that must increase the depository's collateral under subsection (5) of this section to file the reports required under ORS 295.061 (3).

SECTION 12. ORS 295.022 is amended to read:

295.022. Notwithstanding any other provision of this chapter, when a [*bank, mutual savings bank or savings and loan association*] **depository** receives moneys of the Deferred Compensation Fund established under ORS 243.411 from the state for deposit or investment, the [*institution*] **depository** shall not have to maintain the collateral required under this chapter for those deferred compensation moneys.

SECTION 13. ORS 295.031 is amended to read:

295.031. (1) Within three business days after the State Treasurer determines that a **qualified** depository has failed to increase the value of the depository's [*securities*] **collateral** within the time required under ORS 295.015 (3)(b) or 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 that indicates that a **qualified** depository has failed to pledge adequate [*collateral*] **securities** with the depository's custodian **or otherwise provided adequate collateral**, the State Treasurer shall send written notice of the failure to each public official who has uninsured public funds on deposit in the depository.

(2) Within five business days after the State Treasurer receives a receipt from a custodian pursuant to ORS 295.013 (1) that indicates that a **qualified** depository has pledged adequate [*collateral*] **securities** with the depository's custodian **or satisfactory evidence of other adequate collateral**, the State Treasurer shall send written notice to each public official who was notified under subsection (1) of this section stating that the depository has adequate collateral.

SECTION 14. ORS 295.034 is amended to read:

295.034. (1) Within 15 business days after a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a), the public official shall withdraw from the **qualified** depository to which the notice applies all uninsured public funds deposits.

(2) If a public official receives a notice from the State Treasurer pursuant to ORS 295.018 (6)(a), 295.031 (1) or 295.061 (4)(a), beginning 15 business days after the public official receives the notice, the public official may not deposit into the **qualified** depository to which the notice applies any public funds that, as a result of the deposit, would be uninsured public funds deposits. The prohibition on deposits continues until the public official receives notice under ORS 295.018 (6)(b), 295.031 (2) or 295.061 (4)(b) indicating that the depository is in compliance with ORS 295.013, 295.018 or 295.061, as applicable.

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

SECTION 15. ORS 295.037 is amended to read:

295.037. (1) The **provision of collateral, including the** deposit of securities by a [bank] **qualified** 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] **qualified** 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] **exercise all of the State Treasurer's rights in the collateral, including without limitation taking** possession of [the] **any** securities segregated as collateral for uninsured public funds deposits held by the closed depository and [begin to liquidate] **beginning to collect payment from** as much of the collateral, **including without limitation the liquidation of securities,** 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.

(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] **qualified** 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.

(c) Each public official who has uninsured public funds on deposit in the [bank] **qualified** 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] **qualified** 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 amount of uninsured public funds against all bank depositories, as follows:]

[(a) First, against the closed depository, to the extent of the full value of 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 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 all uninsured public funds deposits reported on the bank depository's last two treasurer reports;]

[(b) Averaging the aggregate total amounts of all uninsured public funds deposits reported on the last 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 amount of uninsured public funds deposits of a public official only against the closed depository, and not against other bank depositories, if the public official:]

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

[(b) 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 or so much of the securities as is needed to pay the bank depository's assessment.]

[(8) The State Treasurer shall distribute the amounts received by the State Treasurer from the assessments, to the extent that they do not exceed the total 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 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 for the amount of their uninsured public funds deposits, the public officials may make claims against the closed 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.]

[(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 16. ORS 295.038 is amended to read:

295.038. [(1) A credit union depository's deposit of securities with a custodian under ORS 295.001 to 295.108 constitutes the credit union depository's consent to the disposition of the securities in accordance with this section.]

[(2) If a loss occurs in a credit union depository, the credit union depository shall, as soon as possible, pay to the proper public officials all funds subject to the loss in accordance with the following procedures:]

[(a) Immediately after the loss occurs, the State Treasurer shall take possession of securities that the closed depository's custodian has segregated as collateral for uninsured public funds deposits of the closed depository. The State Treasurer shall immediately liquidate as much of the collateral as the State Treasurer estimates is necessary, based on the most recent information available to the State Treasurer concerning the amount of uninsured public funds the credit union depository holds, and distribute the proceeds among public officials entitled to the proceeds as provided in this section.]

[(b) The Director of the Department of Consumer and Business Services or a receiver shall, within 20 days after issuing a restraining order or taking possession of the credit union depository, ascertain from the credit union depository's records the amount of public funds on deposit in the credit union

depository and the amount of public funds that are covered by deposit insurance or deposit guaranty bonds. The director or the receiver shall certify the amounts to the State Treasurer and to each public official who has public funds on deposit in the credit union depository.]

[(c) Within 10 days after receiving the certification from the director or the receiver, a public official who has public funds on deposit in the credit union depository shall furnish to the State Treasurer verified statements of the public funds that the public official has on deposit in the credit union depository.]

[(3) When the State Treasurer receives the certification from the director or the receiver and the verified statements from the public officials who have public funds on deposit in the credit union depository, the State Treasurer shall ascertain and fix the amount of public funds on deposit in the credit union depository, plus interest to the date the funds are distributed to the public official at the rate the credit union depository agreed to pay on the funds, minus any amount that deposit insurance or deposit guaranty bonds cover.]

[(4)] (1) After making the calculation described in [subsection (3) of this section] **ORS 295.037**, the State Treasurer shall assess the amount of uninsured public funds against [all credit union depositories] **a collateral pool that consists of collateral provided by all other qualified depositories of the same type, either bank or credit union, as the closed depository** as follows:

(a) First, against the [credit union] **closed** depository [that suffered the loss], to the extent of the full value of the proceeds from the State Treasurer's liquidation of the [credit union] **closed** depository's collateral under [subsection (2) of this section] **ORS 295.037**, plus the State Treasurer's estimate of the amount of proceeds the State Treasurer expects to receive from collateral the State Treasurer has not yet liquidated; and

(b) Second, against all other [credit union] **qualified** depositories on a proportionate basis determined as provided in subsection [(5)] (2) of this section. The amount the State Treasurer assesses against another [credit union] **qualified** depository may not exceed the [credit union] depository's maximum liability.

[(5)] (2) For purposes of subsection [(4)] (1) of this section, the State Treasurer shall determine the proportionate share of each of the other [credit union] **qualified** depositories **in the collateral pool** by:

(a) Averaging, for each [credit union] **qualified** depository, the total amounts of all uninsured public funds deposits the [credit union] depository reported on the [credit union] depository's last two treasurer reports;

(b) Averaging the aggregate total amounts of all uninsured public funds deposits all [credit union] **qualified** depositories **in the pool** reported on the [credit union] depositories' last two treasurer reports; and

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

(3) For purposes of the calculations set forth in subsections (1) and (2) of this section, "qualified depository" refers only to qualified depositories that are of the same type as the closed depository.

[(6)] (4) Notwithstanding the assessment provisions of subsection [(4)] (1) of this section, the State Treasurer shall assess the amount of a public official's uninsured public funds deposits only against the closed depository and not against other [credit union] **qualified** depositories, if the public official:

(a) Received appropriate notice about the closed depository from the State Treasurer under ORS 295.018 (6)(a) or 295.031 (1) and did not comply with ORS 295.034; or

(b) Failed to timely comply with the requirements of ORS 295.006 and, as a result of failing 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)] (5) Assessments the State Treasurer makes against the closed depository are payable immediately from the proceeds of the collateral delivered to the State Treasurer. Assessments the State Treasurer makes against other [credit union] **qualified** depositories are payable on the fifth

business day following demand. If a *[credit union]* **qualified** depository fails to pay an assessment, the State Treasurer shall *[take]* **exercise the State Treasurer's legal rights to acquire payment under the collateral, including taking possession of and *[liquidate the]* liquidating any securities the *[credit union]* depository segregated as collateral *[for uninsured public funds deposits that the credit union depository holds, or shall liquidate as much of the securities as is necessary to pay the credit union depository's assessment.]*, **in the amount necessary to satisfy the depository's assessment.****

[(8)] (6) The State Treasurer shall distribute the amounts the State Treasurer receives from the assessments among the public officials entitled to the proceeds in proportion to the public officials' respective claims, to the extent that the proceeds do not exceed the total amount of uninsured public funds deposits that the public officials claim.

[(9)] (7) If, after all other available sources are applied, the amounts the State Treasurer receives from the assessments are inadequate to meet the total claims of the public officials to uninsured public funds deposits, the public officials may make claims against the closed depository as general creditors, but not against a *[credit union]* **qualified** depository other than the closed depository.

[(10)(a)] (8)(a) If the final amount of proceeds the State Treasurer receives from the liquidation of collateral from a closed depository exceeds the amount of the assessment against the closed depository under subsection [(4)(a)] (1)(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 the State Treasurer receives from the liquidation of collateral from other *[credit union]* **qualified** depositories exceeds the amount of the assessment against the other *[credit union]* **qualified** depositories **in the applicable pool** under subsection [(4)(b)] (1)(b) of this section, the State Treasurer shall pay the excess to the other *[credit union]* **qualified** depositories **in the pool** in proportion to the amounts the other *[credit union]* **qualified** depositories **in the pool** paid in assessments to the State Treasurer.

(c) If the final amount of proceeds the State Treasurer receives from the liquidation of collateral from a *[credit union]* **qualified** depository other than the closed depository under subsection [(7)] (5) of this section exceeds the amount of the assessment against the *[credit union]* depository, the State Treasurer shall pay the excess to the *[credit union]* depository.

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

SECTION 17. ORS 295.039 is amended to read:

295.039. (1) The State Treasurer may accept moneys from any public or private source, *including a credit union or an association of credit unions,* for the purpose of paying initial or continuing expenses related to administering the provisions of ORS 295.038.

(2) The State Treasurer shall deposit moneys the State Treasurer receives under this section into the Miscellaneous Receipts Account established for the State Treasurer in the General Fund. Notwithstanding the provisions of ORS 295.106, moneys the State Treasurer receives under this section are continuously appropriated to the State Treasurer for the purpose of paying the State Treasurer's initial or continuing expenses related to administering ORS 295.038. The State Treasurer shall expend the moneys in accordance with the terms and conditions upon which the moneys were made available.

SECTION 18. ORS 295.041 is amended to read:

295.041. When the State Treasurer distributes the proceeds of assessments and liquidated collateral to a public official under ORS *[295.037 or]* 295.038, the State Treasurer is subrogated to all of the public official's right, title and interest against the closed depository, and shares in any distribution of the **closed** depository's assets ratably with other depositors. Sums received from a distribution must be paid to the public official to the extent of any unpaid net deposit liability. The State Treasurer shall pay the remaining balance to the **qualified** depositories **in the pool** against which the assessments were made, pro rata in proportion to the assessments each **qualified** depository paid. However, the closed depository may not share in a distribution of the balance remaining.

The State Treasurer may charge expenses that the State Treasurer incurs in enforcing the State Treasurer's rights under this section as provided in ORS 295.106. The State Treasurer shall submit a claim for expenses to the **closed** depository, and if the charges are thereafter paid to the State Treasurer, they shall be treated as a liquidation expense of the closed depository.

SECTION 19. ORS 295.046 is amended to read:

295.046. (1) A **qualified** depository may not accept a deposit of public funds if the deposit would cause the aggregate of public funds deposits that any one public official makes in the depository to exceed at any time the depository's net worth. If a **qualified** depository's net worth is reduced, the depository may allow public funds on deposit in excess of the reduced net worth to remain if the depository deposits with the depository's custodian eligible securities, **or provides other collateral**, 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, **or other collateral is not provided**, the 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 a qualified depository holds in a certificate of deposit, time deposit or insured deposit account under ORS 295.004.**[.]

[*(a) Public funds deposits a depository holds in a certificate of deposit or time deposit under ORS 295.004 (1); or*]

[*(b) Public funds that an Oregon depository arranges to deposit into an insured deposit account under ORS 295.004 (2).*]

SECTION 20. ORS 295.048 is amended to read:

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

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

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

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

(d) For a **qualified** [*bank*] depository **that is a bank**, 30 percent of the total aggregate uninsured public funds deposits of all public officials in all **qualified** [*bank*] depositories **that are banks** as reported in the most recent notice the [*bank*] depository received from the State Treasurer; or

(e) For a **qualified** [*credit union*] depository **that is a credit union**, 30 percent of the total aggregate uninsured public funds deposits of all public officials in all **qualified** [*credit union*] depositories **that are credit unions** as reported in the most recent notice the [*credit union*] depository received from the State Treasurer.

(2) The State Treasurer shall notify each [*bank depository or credit union*] **qualified** depository, or the depository's custodian if required by an individual pledge agreement or by rule, of the total aggregate uninsured public funds deposits of all public officials in all **qualified** [*bank*] depositories [*or credit union depositories, as appropriate*], based on the most recently submitted treasurer reports. The State Treasurer shall give the notification required by this subsection by the last day of the month in which the depositories are required to submit a treasurer report.

(3) If a **qualified** depository's aggregate of uninsured public funds deposits exceeds the amount set forth in subsection (1) of this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of uninsured public funds.

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

(a) A **qualified** depository may accept and hold uninsured public funds deposits in excess of the limits specified in subsection (1) of this section if the State Treasurer, upon good cause shown, approves the depository's request to hold uninsured public funds in excess of the limits specified in

subsection (1) of this section for a period not exceeding 90 days and eligible [*securities are deposited with the depository's custodian as collateral*] **collateral is provided** in an amount at least equal to the amount [*of*] **by which** the uninsured public funds deposits [*that exceeds*] **exceed** the limits specified in subsection (1) of this section. Upon the expiration of the 90-day period, if the depository does not comply with the limits specified in subsection (1) of this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of public funds.

(b) The limits specified in subsection (1) of this section do not apply to public funds deposits a **qualified** depository holds in a certificate of deposit, [*or*] time deposit [*under ORS 295.004 (1)*] or [*public funds that an Oregon depository arranges to deposit into an*] insured deposit account under ORS 295.004 [(2)].

(c) A well capitalized **qualified** depository or an adequately capitalized **qualified** depository may accept and hold uninsured public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section if eligible [*securities are deposited with the depository's custodian as collateral*] **collateral is provided** in an amount at least equal to the amount [*of*] **by which** the uninsured public funds deposits [*that exceed*] **exceed** the limit specified in subsection (1)(d) or (e) of this section.

(5) If the State Treasurer notifies a **qualified** depository that [*it*] **the depository** must cease accepting deposits of public funds under subsection (3) or (4) of this section, the State Treasurer may also notify public officials who have deposited public funds in the depository that within 15 business days after the public official receives the notice from the State Treasurer, the public official must withdraw from the depository to which the notice applies all public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section. A public official who is notified by the State Treasurer under this subsection must begin to withdraw funds as specified in the notice. Except as required by any applicable law or regulation, a **qualified** depository may not impose an early withdrawal penalty or a forfeiture of interest with respect to a withdrawal made pursuant to this subsection.

SECTION 21. ORS 295.053 is amended to read:

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

(2) If any of a **qualified** depository's pledged securities [*mature*] **matures, expires or otherwise terminates** during the period described in subsection (1) of this section, the depository shall [*pledge*] **provide** substitute securities [*that the depository's custodian shall hold*] **or other collateral** until the period expires.

(3) If a **qualified** depository has not held uninsured public funds deposits during the period described in subsection (1) of this section, at the end of the period the depository's custodian shall [*tender*] **return** the depository's pledged securities to the depository.

SECTION 22. ORS 295.056 is amended to read:

295.056. When public funds deposits are made in accordance with ORS 295.001 to 295.108, a public official may not be held liable for any loss of public funds that results from the failure or default of any **qualified** depository without fault or neglect on the public official's part [*or on the part of the public official's officers or employees*].

SECTION 23. ORS 295.061 is amended to read:

295.061. (1) On or before the date on which each treasurer report is due, each **qualified** depository shall file the depository's treasurer report with the State Treasurer using systems and processes prescribed by the State Treasurer in individual pledge agreements or by rule.

(2) Each **qualified** 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 three business days of:

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

(b) The date on which the **qualified** 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 **qualified** depository or an undercapitalized **qualified** depository shall report to the State Treasurer at least once each week the actual amount of uninsured public funds deposits the depository holds. The depository shall report using systems and processes prescribed by the State Treasurer in individual pledge agreements or by rule.

(4)(a) If a **qualified** depository fails to file the reports or provide the notices required under this section or fails to file 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 depository that the depository failed to comply.

(b) If, after giving notice under paragraph (a) of this subsection, the State Treasurer receives notice that the **qualified** 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 depository has complied.

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

SECTION 24. ORS 295.071 is amended to read:

295.071. (1) The State Treasurer may request that the Director of the Department of Consumer and Business Services or another state or federal agency with primary regulatory authority over a financial institution that is a **qualified** depository or that applies to become a **qualified** depository investigate and report to the State Treasurer concerning the condition of the financial institution.

(2) The financial institution examined under this section shall pay the expenses of the investigation and report.

(3) In lieu of an investigation and report, the State Treasurer may rely upon information that the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Deposit Insurance Corporation, *[the National Credit Union Share Insurance Fund,]* the Board of Governors of the Federal Reserve System or a state bank, thrift or credit union regulatory agency makes available to the State Treasurer or to the Director of the Department of Consumer and Business Services.

SECTION 25. 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 a **qualified** depository to take that will reduce the depository's net worth by more than 10 percent as shown on the most recent treasurer report submitted pursuant to ORS 295.061.

SECTION 26. ORS 295.084 is amended to read:

295.084. **In the exercise of the powers and duties conferred under ORS 293.875,** the State Treasurer *[may]* **shall** designate *[such banks and credit unions within this state as are necessary as depositories]* **those depositories or qualified depositories that may be used by state agencies** for collecting drafts, checks, certificates of deposit and coupons *[the State Treasurer receives on account of any claim due the state]* **in satisfaction of a payment obligation owed to the state agency.**

SECTION 27. ORS 295.091 is amended to read:

295.091. (1) A public official need not deposit public funds in a depository in a particular locality, but the public official shall give preference to a depository *[that is qualified to receive the public funds and]* that is engaged in business at an office within the corporate limits of the public official's *[political subdivision or public corporation]* **public body.** If more than one local *[qualifying]* depository exists, the public official shall apportion the public funds among the local *[qualifying]* deposi-

tories in a manner that is equitable and in the best interests of the [political subdivision or public corporation] **public body**.

(2) The depositories shall pay interest to the [political subdivision or public corporation] **public body** for deposits evidenced by certificates of deposit or deposits that by agreement may not be withdrawn on less than 30 days' notice, at the rate or rates upon which the [governing body of the political subdivision or public corporation] **public body** and the depository agree.

(3) Interest received on deposits of moneys under this section accrues to and becomes a part of the fund the moneys of which were deposited.

(4) This section does not apply to the State Treasurer.

SECTION 28. ORS 295.093 is amended to read:

295.093. Any public official may deposit moneys coming into the hands of the public official in connection with official duties with the treasurer of the [political subdivision or public corporation] **public body** concerned and obtain a receipt therefor.

SECTION 29. ORS 295.097 is amended to read:

295.097. [(1) Notwithstanding any provision of ORS 295.001 to 295.108, and subject to subsection (2) of this section, with the written approval of the State Treasurer, a state agency may enter into agreements with third parties to facilitate through the use of electronic commerce the sale of public property, the collection of amounts owed to a state agency or the transaction of other state agency business.]

[(2) The State Treasurer may approve an agreement under subsection (1) of this section only if the State Treasurer determines that a depository cannot provide, in a cost-effective manner, the service that is the subject of the proposed agreement.]

[(3) The State Treasurer may establish procedures, standards and related requirements under ORS 293.875 that the State Treasurer considers necessary to implement this section.]

[(4) As used in this section, "state agency" means any officer, board, commission, department, division or institution of state government, as that term is defined in ORS 174.111.] **With the written approval of the State Treasurer, a state agency may enter into an agreement with a third party under which the third party facilitates the receipt, collection, transfer, disbursement or payment of public funds and temporarily holds or deposits public funds. A state agency may use alternative methods to those set forth in this chapter to secure public funds that are collected, deposited or transferred by a third party, if the methods collateralize the public funds at 100 percent and the State Treasurer approves the methods by rule or policy that sets forth how the methods are intended to protect public funds from loss by the third party and by any financial institution used by the third party. The State Treasurer may establish rules, procedures, standards and related requirements that the State Treasurer considers necessary to implement this section.**

SECTION 30. (1) A public official who enters into an agreement with a third party, under which the third party facilitates the receipt, collection, transfer, disbursement or payment of public funds and temporarily holds or deposits public funds, may use alternative methods to those set forth in this chapter to secure public funds that are held or deposited by the third party if the methods meet the following requirements:

(a) The alternative methods must be approved by an official action of the governing body or appropriate public official of the public body. The official action must include findings by the governing body or public official describing any financial institution used by the third party and how the alternative methods will protect public funds from loss by the third party; and

(b) The alternative methods must be designed so that the public funds are fully secured while held or deposited by the third party and until the funds are remitted to the public body. A public official shall calculate the minimum amount of collateral required of a third party as follows:

(A) For the initial calendar quarter of the agreement, the public official shall calculate the minimum amount of collateral to equal a reasonable estimate of the highest amount of

public funds that the third party is expected to hold or deposit unremitted at any time within the initial calendar quarter.

(B) Within the first month of each calendar quarter subsequent to the initial calendar quarter of the agreement, the public official shall recalculate the minimum amount of collateral to equal a reasonable estimate of the highest amount of public funds that the third party is expected to hold or deposit unremitted at any time within the current calendar quarter based on factors that must include but are not limited to:

(i) The highest amount of public funds that the third party held or deposited unremitted at any time on any day within the preceding calendar quarter; and

(ii) Any reasonably expected increase or decrease in the amount of public funds the third party is expected to hold or deposit within the current calendar quarter.

(2) If the State Treasurer prepares a model policy related to acceptable alternative methods as described in subsection (1) of this section, a governing body may adopt all or part of the model policy.

(3) This section does not apply to a public body that is a state agency.

(4) As used in this section, "collateral" means cash or a letter of credit or similar instrument intended to ensure payment, approved by a governing body or appropriate public official of a public body, to be used as security to ensure the obligations of a third party.

SECTION 31. ORS 295.101 is amended to read:

295.101. (1) The following public funds are not subject to the provisions of ORS 295.001 to 295.108:

(a) Funds that are deposited for the purpose of paying principal, interest or premium, if any, on bonds, as defined in ORS 286A.001 and 287A.001, and related costs or securing a borrowing related to an agreement for exchange of interest rates entered into under ORS 286A.110 or 287A.335.

(b) Funds that are invested in authorized investments under provisions of law other than ORS 295.001 to 295.108. Funds invested under ORS 293.701 to 293.857 are invested in authorized investments for purposes of this subsection from the time the funds are transferred by the State Treasurer to a third party under the terms of a contract for investment or administration of the funds that requires such a transfer until the time the funds are returned to the treasurer or paid to another party under the terms of the contract.

(c) Negotiable certificates of deposit purchased by the State Treasurer under ORS 293.736 or by an investment manager under ORS 293.741.

[(d) Funds that are held by a public official and are required by federal law or contractual provisions to be collateralized at 100 percent, if the funds are deposited in an account that is separate from other accounts of the public official in a depository, and the public official and the depository have entered into a written agreement that provides a perfected security interest to the public official in collateral valued at an amount at least equal to the amount of funds in the account in a manner substantially similar to a pledge agreement described in ORS 295.001 (15).]

(d) Funds that are held by a public official as required by federal law, a judicial or regulatory order, settlement agreement, consent decree or similar arrangement. To the extent allowed by such federal law, order, agreement, decree or arrangement, the public official shall require the funds to be protected in a manner consistent with the provisions of this chapter.

(e) Funds that are held pursuant to a contract with provisions that require the funds to be collateralized at 100 percent, if the funds are deposited into an account that is separate from other accounts of the holder of the funds and the public official and the financial institution in which the funds are deposited have entered into a written agreement that provides a perfected security interest to the public official in collateral valued at an amount at least equal to the amount of funds in the account, in a manner substantially similar to a pledge agreement described in ORS 295.001 (17).

(f) Funds that are held by a trustee or escrow agent, whether commingled with other moneys or in a segregated account, if the trust or escrow agreement provides for collateral

or other methods that may be used to secure the moneys that comply with rules or policies adopted by the State Treasurer to protect the funds from loss by the financial institution in which they are deposited.

(2) Notwithstanding subsection (1) of this section, funds deposited by a custodial officer under ORS 294.035 (3)(d) are subject to the provisions of ORS 295.001 to 295.108.

SECTION 32. ORS 295.108 is amended to read:

295.108. (1) The State Treasurer shall adopt rules to implement the provisions of ORS 295.001 to 295.108[,], **including without limitation:**

(a) **Rules describing permitted forms of collateral and the valuation of collateral;**

(b) **Requirements that must be met by financial institutions and other third parties outside this state to hold public funds;**

(c) **Fees paid by qualified depositories or custodians; and**

(d) **Reporting by depositories, qualified depositories and custodians.**

(2) The State Treasurer shall design the treasurer report required by ORS 295.061 to minimize the regulatory burden of completing and submitting the report and, to the greatest extent practicable, to make the form of the report and the content required in the report consistent with the information required by the **qualified** depository's report of condition and income.

SECTION 33. ORS 295.205 is amended to read:

295.205. (1) Notwithstanding any other law:

(a) The State Treasurer may establish demand deposit accounts in financial institutions outside this state for the purpose of accepting deposits of funds related to state investments in the geographical areas that the financial institutions serve.

(b) Moneys that a financial institution or other entity receives or collects under an agreement to provide loan servicing for a state agency[, *political subdivision or public corporation*] **or public body** may be deposited in accounts in financial institutions outside this state for the purpose of:

(A) Accepting payments of loan principal and interest;

(B) Accepting and holding escrow funds;

(C) Accepting and holding funds required to be held in reserve with or on behalf of the state agency[, *political subdivision or public corporation*] **or public body**; or

(D) Collecting and holding other moneys the financial institution must collect and hold for loan servicing under the agreement before remitting the moneys to the state agency, [*political subdivision or public corporation*] **public body** or a third party.

(c) [*Moneys*] **Public funds held by** a trustee or escrow agent [*holds*] pursuant to a **trust agreement**, bond indenture, certificate of participation indenture, [*or*] escrow agreement **or similar agreement** with a state agency[, *political subdivision or public corporation in this state that are public funds, as defined in ORS 295.001,*] **or public body** may be deposited in accounts in financial institutions outside this state.

(2) The State Treasurer shall establish the demand deposit accounts described in subsection (1)(a) of this section in accordance with rules adopted pursuant to ORS 183.310 to 183.410 that ensure that reasonable and prudent measures are taken to protect state investment funds from loss.

(3) When accounts are established for a state agency[, *political subdivision or public corporation*] **or public body** under subsection (1)(b) or (c) of this section, the state agency[, *political subdivision or public corporation*] **or public body** [*in the agreement to provide loan servicing or the bond indenture, certificate of participation indenture or escrow agreement shall ensure*] **shall require in the relevant agreement or indenture** that reasonable and prudent measures are taken to protect the moneys in the accounts from loss.

(4) As used in this section, the terms "financial institution outside this state" and [*public official*] "**public body**" have the meanings given those terms in ORS 295.001.

SECTION 34. ORS 182.470 is amended to read:

182.470. (1) Notwithstanding ORS 670.335, except where otherwise specifically provided by statute pursuant to ORS 182.462 (1)(e), all moneys collected or received by a board, placed to the credit of that board and remaining unexpended and unobligated on the date that the board is established

as a semi-independent state agency, and all moneys collected or received by a board after the date that the board is established as a semi-independent state agency, must be deposited into an account established by that board [*in a depository insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson, president or administrator of a board shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.*] **in accordance with ORS 295.001 to 295.108.** All moneys in the account are continuously appropriated to the board making the deposit for the purpose of carrying out the functions of the board.

(2) Subject to the approval of the chairperson, president or administrator, a board may invest moneys collected or received by the board. Investments made by a board are:

- (a) Limited to investments described in ORS 294.035;
- (b) Subject to the investment maturity date limitations described in ORS 294.135; and
- (c) Subject to the conduct prohibitions listed in ORS 294.145.

(3) Interest earned from any accounts invested under subsection (2) of this section shall be made available to a board in a manner consistent with the board's annual budget.

(4) Subject to the approval of the chairperson, president or administrator, all necessary board expenses shall be paid from the moneys collected or earned by a board.

[*(5) As used in this section, "depository" has the meaning given that term in ORS 295.001.*]

SECTION 35. ORS 264.470 is amended to read:

264.470. (1) The money of a district shall be deposited in one or more **qualified** depositories, as defined in ORS 295.001, to be designated by the board of commissioners. The money shall be withdrawn or paid out only when previously ordered by vote of the board, and upon checks signed by the treasurer or such other person as may be authorized by resolution of the board. Receipts or vouchers, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) All the proceedings of the board of commissioners shall be entered at large in a record book. All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the district shall be carefully preserved and shall be open to inspection as public records.

SECTION 36. ORS 284.365 is amended to read:

284.365. (1) All moneys collected, received or appropriated to the Oregon Film and Video Office shall be deposited in an account established in [*a depository insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson of the Film and Video Board shall insure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.*] **in accordance with ORS 295.001 to 295.108.** Subject to approval by the chairperson, the board may invest moneys collected or received by the office. Investments made by the board are limited to the types of investments listed in ORS 294.035 (3)(a) to (i). Interest earned from any amounts invested must be made available to the office in a manner consistent with the biennial budget approved by the board.

(2) Subject to the approval of the director of the office, all necessary expenses of the office and the board must be paid from the moneys collected, appropriated or earned by the office.

(3) The office shall adopt a budget on a biennial basis using the classifications of expenditures and revenues required by ORS 291.206 (1). The budget is not subject to review and approval by the Legislative Assembly or to modification by the Emergency Board or the Legislative Assembly. However, the budget must be included in the biennial report required by ORS 284.335 (5).

(4) The board shall adopt a budget only after holding a public hearing on the proposed budget. At least 15 days prior to any public hearing on the proposed budget, the board shall give notice of the hearing to all persons known to be interested in the proceedings of the board and to any person who requests notice.

(5) All expenditures from the account established for the office under subsection (1) of this section are exempt from any state expenditure limitation. The office shall follow generally accepted accounting principles and keep such financial and statistical information that is necessary to completely and accurately disclose the financial condition and financial operations of the office as may be required by the Secretary of State.

[(6) As used in this section, "depository" has the meaning given that term in ORS 295.001.]

SECTION 37. ORS 292.042 is amended to read:

292.042. (1) Notwithstanding the provisions of ORS 292.039 or any other law, any state official authorized to disburse funds in payment of salaries or wages of state officers or employees is authorized, upon written request of state officers or employees to whom salaries and wages are to be paid, and may pay the same to any financial institution designated by the officers or employees for credit to their accounts. A single payment may be issued in favor of such financial institution, for the total amount due the officers or employees involved, and written directions provided to such financial institution of the amount to be credited to the account of each officer or employee. *[Financial institutions permitted to participate in the payroll program shall be those only which are qualified state depositories as provided by ORS 295.001 to 295.108.]*

(2) The issuance and delivery by the disbursing officer of a payment in accordance with the procedure set forth in subsection (1) of this section and proper acceptance thereof by the financial institution shall constitute full acquittance for the amount due to the officer or employee.

SECTION 38. ORS 352.135 is amended to read:

352.135. (1) All moneys collected or received by a public university listed in ORS 352.002, placed to the credit of the governing board of the public university and remaining unexpended and unobligated on July 1, 2014, or the date that the board is established, whichever is later, and all moneys collected or received by a public university after that date, may be:

(a) Deposited into one or more accounts established by the board in depositories insured by the Federal Deposit Insurance Corporation or the National Credit Union *[Share Insurance Fund]* **Administration**, and the governing board shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union *[Share Insurance Fund]* **Administration**; or

(b) Held, kept, pledged, controlled, conveyed, managed, used, loaned, expended and invested as set forth in ORS 352.087 and 352.102.

(2) Upon a request by the State Treasurer, a public university listed in ORS 352.002 shall enter into a written agreement with the state that provides for the State Treasurer to receive, hold, keep, manage and invest any amounts under the control of the university that the State Treasurer determines should be held by the State Treasurer to provide for payment of state bonds and other state obligations that are to be paid from appropriations described in ORS 352.089 (4), revenues of the university or other moneys under the control of the university. The agreement may, at the request of the State Treasurer, require the university to pay the costs incurred by the State Treasurer in connection with entering into and carrying out the agreement.

(3) Upon a request by a public university listed in ORS 352.002, the State Treasurer may receive, hold, keep, manage and invest any or all moneys, appropriations, gifts, bequests or revenues of the university from any source in accordance with an agreement entered into between the State Treasurer and the university and with the policies and procedures established by the State Treasurer, including the recoupment of costs incurred by the State Treasurer in carrying out these tasks.

(4) As used in this section, "depository" has the meaning given that term in ORS 295.001.

SECTION 39. ORS 377.840 is amended to read:

377.840. (1) All moneys collected, borrowed or received by the Travel Information Council shall be deposited into a Travel Information Council account established *[in a depository insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the council shall insure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.]* **in ac-**

accordance with ORS 295.001 to 295.108. The council may invest moneys collected, borrowed or received by the council. Investments made by the council are limited to the types of investments listed in ORS 294.035. Interest earned from any amounts invested shall be made available to the council in a manner consistent with the council's approved biennial budget.

(2) Subject to the approval of the Travel Information Council or the executive director of the Travel Information Council, all necessary council expenses shall be paid from the moneys collected, borrowed or earned by the council.

(3) Upon approval of a majority of the Travel Information Council, the executive director may borrow money. The council may not borrow an amount that exceeds the estimated revenues from amounts collected, received or earned by the council for the year.

(4) The Travel Information Council may not borrow money under subsection (3) of this section unless the indebtedness or other obligations of the council attributable to the borrowing are payable solely out of the council's own resources. Such indebtedness or other obligations of the council do not constitute a pledge of the full faith and credit of the State of Oregon or any of the revenues of this state.

(5)(a) The Travel Information Council shall adopt a budget on a biennial basis using the classifications of expenditures and revenues required by ORS 291.206 (1). However, the budget shall not be subject to review and approval by the Legislative Assembly or to future modification by the Emergency Board or Legislative Assembly.

(b) The Travel Information Council shall adopt a budget only after a public hearing thereon. At least 15 days prior to any public hearing on the budget, the council shall give notice of the hearing to all persons known to be interested in the proceedings of the council and to any person who requests notice.

(6) All expenditures from the Travel Information Council account are exempt from any state expenditure limitation. The Travel Information Council shall follow generally accepted accounting principles and keep such other financial and statistical information as may be necessary to completely and accurately disclose the financial condition and financial operations of the council as may be required by the Secretary of State.

(7) The Secretary of State shall conduct an annual financial review of the moneys collected, borrowed or received by the Travel Information Council and the expenditure of those moneys. The Secretary of State may:

(a) Contract for the financial review with an independent certified public accountant; or

(b) Accept a financial review conducted by an independent certified public accountant.

[8] *As used in this section, "depository" has the meaning given in ORS 295.001.*

SECTION 40. ORS 440.400 is amended to read:

440.400. (1) Except as otherwise provided by subsections (3) and (4) of this section, all [*money*] **moneys** of a health district shall be deposited in [*one or more depositories, as defined in ORS 295.001,*] **accordance with ORS 295.001 to 295.108**, as designated by the district board. [*It*] **Moneys** shall be withdrawn or paid out only when previously ordered by resolution or vote of the board, and upon checks signed as provided by subsection (2) of this section. Receipts or vouchers, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) Except for checks issued in accordance with subsection (3) of this section, checks of a district shall be signed:

(a) By the treasurer and countersigned by the chairperson, or in the absence or inability of the chairperson to act, by the secretary; or

(b) By an administrative employee of the district designated by the board of directors, and countersigned by a director of the district.

(3) The district board may, by resolution:

(a) Set aside specified amounts from [*money*] **moneys** available for operating the district hospital facility; and

(b) Delegate to an administrative officer of the district in charge of the hospital facility the authority to approve specified claims for expenses previously authorized by the board and to issue and sign checks in payment thereof.

(4) Moneys of a health district may be invested as provided by ORS 294.035 and 294.040.

SECTION 41. ORS 450.090 is amended to read:

450.090. [*Funds*] **Moneys** of the district may be deposited[, *at the discretion of the district board, in one or more depositories, as defined in ORS 295.001,*] **in accordance with ORS 295.001 to 295.108 and as [to be] designated by the district board.** [*Funds deposited in a depository*] **Moneys** shall be withdrawn or paid out only upon proper order and warrant or check signed by the president and countersigned by the secretary. The order shall:

- (1) Specify the name of the person to whom the moneys are paid;
- (2) Specify the fund from which the moneys are paid;
- (3) State generally the purpose for which the moneys are paid; and
- (4) Be entered in the minutes of the board.

SECTION 42. ORS 478.460 is amended to read:

478.460. Funds collected on behalf of the district through the levy of taxes, all donations, contributions, bequests or annuities and all borrowed [*money*] **moneys** received by or on behalf of the district shall be deposited in [*one or more depositories, as defined in ORS 295.001, to be*] **accordance with ORS 295.001 to 295.108 and as** designated by the board. Funds shall be drawn out only upon proper order and warrant or check, bearing the signature of those persons authorized to sign warrants or checks by resolution of the board.

SECTION 43. ORS 478.560 is amended to read:

478.560. Funds accruing to a district, located in two or more counties, from any source shall be deposited in [*one or more depositories, as defined in ORS 295.001, whose deposits are insured pursuant to federal statute*] **accordance with ORS 295.001 to 295.108** and shall be drawn out only upon proper order and warrant or check bearing the signature of those persons authorized to sign warrants or checks by resolution of the board.

SECTION 44. ORS 523.660 is amended to read:

523.660. (1) [*The money*] **Moneys** of a district shall be deposited in [*one or more depositories, as defined in ORS 295.001, to be*] **accordance with ORS 295.001 to 295.108 and as** designated by the board of commissioners. [*The money*] **Moneys** shall be withdrawn or paid out only when previously ordered by vote of the board, and upon checks signed by the treasurer or such other person as may be authorized by resolution of the board. Receipts or vouchers, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) All the proceedings of the board of commissioners shall be entered at large in a record book. All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the district shall be carefully preserved and shall be open to inspection as public records.

SECTION 45. ORS 551.110 is amended to read:

551.110. Moneys of a district may be deposited in [*one or more depositories, as defined in ORS 295.001,*] **accordance with ORS 295.001 to 295.108 and as** designated by the superintendent of the district in consultation with the advisory board. Moneys deposited may be withdrawn or paid out only upon a proper order and warrant or upon a check signed by the superintendent. The order shall:

- (1) Specify the name of the person to whom the moneys are to be paid;
- (2) Specify the fund from which the moneys are to be paid;
- (3) State generally the purpose for which the moneys are to be paid; and
- (4) Be entered in the record of proceedings of landowner meetings.

SECTION 46. ORS 555.521 is amended to read:

555.521. (1) A sand control district shall deposit moneys [*of the district in a depository, as defined in ORS 295.001,*] **in accordance with ORS 295.001 to 295.108 and as** designated by the district board.

(2) The moneys may be withdrawn or paid out pursuant to an order of the board upon a check signed by the treasurer or by a person authorized to serve as custodian of district funds by a resolution of the board.

(3) The district board shall keep on file receipts or vouchers that show the nature and items covered by each check drawn.

(4) The district board shall:

(a) Cause all proceedings of the board to be entered at large in a record book.

(b) Preserve, and make available for inspection, public records pertaining to the authority and duties of the district, as required by ORS 192.311 to 192.478.

SECTION 47. ORS 565.539 is amended to read:

565.539. [(1) As used in this section:]

[(a) "Depository" has the meaning given that term in ORS 295.001.]

[(b) "Financial institution" has the meaning given that term in ORS 706.008.]

[(2) Except as provided in this section,]

(1) Moneys received by the State Fair Council must be promptly deposited **in accordance with ORS 295.001 to 295.108** into an account established by the council. *[in a depository that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson and vice-chairperson of the council shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the coverage provided by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.]*

[(3) The council may deposit moneys into an account established by the council in a financial institution that is not a depository if the amount on deposit is at all times fully insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or another appropriate federal regulatory body responsible for insuring amounts on deposit with the financial institution for the benefit of depositors.]

[(4)] (2) The council may invest any moneys the council receives. Except as provided in subsection [(5)] (3) of this section, investments that the council makes are:

(a) Limited to investments described in ORS 294.035;

(b) Subject to the investment maturity date limitations described in ORS 294.135; and

(c) Subject to the conduct prohibitions listed in ORS 294.145.

[(5)] (3) In addition to or in lieu of investments described in subsection [(4)] (2) of this section, the council may invest in the investment pool described in ORS 294.805. For purposes of ORS 294.805 to 294.895, the state fair director is a local government official.

[(6)] (4) Except as provided in this subsection, the state fair director shall provide to each meeting of the council a financial report that includes, but need not be limited to, a summary of account and investment activity, and copies of any account or investment statements received from a bank, investment firm or other source since the previous report was provided. The council may waive the financial report requirement if the council is meeting less than 30 days after a meeting to which the state fair director provided a financial report.

SECTION 48. ORS 578.155 is amended to read:

578.155. [(1) As used in this section:]

[(a) "Depository" has the meaning given that term in ORS 295.001.]

[(b) "Financial institution" has the meaning given that term in ORS 706.008.]

[(2)] (1) Moneys that a person collects or receives from an assessment levied by the Oregon Wheat Commission and other moneys that the commission receives must be paid to the authorized agent of the commission and, except as provided under subsection (3) of this section, promptly deposited **into an account established in accordance with ORS 295.001 to 295.108**. *[into an account established by the commission in a depository that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson and vice chairperson of the commission shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the*

Federal Deposit Insurance Corporation's or the National Credit Union Share Insurance Fund's coverage.]

[(3) The commission may deposit moneys into an account established by the commission in a financial institution that is not a depository if the amount on deposit is at all times fully insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or another appropriate federal regulatory body responsible for insuring amounts on deposit with the financial institution for the benefit of depositors.]

[(4)] (2) Subject to approval by the Director of Agriculture, the commission may invest moneys the commission collects or receives. Except as provided in subsection [(5)] (3) of this section, investments the commission makes are:

- (a) Limited to investments described in ORS 294.035;
- (b) Subject to the investments maturity date limitations described in ORS 294.135; and
- (c) Subject to the conduct prohibitions listed in ORS 294.145.

[(5)] (3) In addition to or in lieu of investments described in subsection [(4)] (2) of this section, the commission may invest in the investment pool described in ORS 294.805. For purposes of ORS 294.805 to 294.895, the commission is a public corporation and the secretary-treasurer of the commission is a local government official.

[(6)] (4) Interest earned from any moneys a commission deposits or invests under this section is available to the commission in a manner consistent with the commission's annual budget.

[(7)] (5) Moneys may not be withdrawn from or paid out of an account established by the commission except upon order of the commission, and upon checks or other orders on the account that are signed by the secretary-treasurer or by another commission member designated by the commission and countersigned by the chairperson or vice chairperson or by another member designated by the commission. The secretary-treasurer of the commission shall keep a receipt, voucher or other written record, showing clearly the nature and items covered by each check or other order.

SECTION 49. ORS 711.410 is amended to read:

711.410. Except for transfers of public funds or [*securities*] **collateral** that a **qualified** depository, as defined in ORS 295.001, or the State Treasurer must make under ORS 295.001 to 295.108, transfers of assets made after the commission of an act of insolvency or in contemplation of insolvency to prevent the application of the assets in the manner prescribed by the Bank Act or to the preference of one creditor to another are void.

SECTION 50. ORS 757.738 is amended to read:

757.738. (1)(a) The Public Utility Commission shall establish a separate trust account for amounts generated by each of the two surcharges imposed under ORS 757.736. The commission shall establish the trust accounts as interest-bearing accounts:

- (A) With an agency of the United States identified in the final agreement;
- (B) In a **qualified** depository [*that is qualified*] under ORS 295.001 to 295.108 [*to receive public funds*]; or
- (C) With the State Treasurer, to be invested as provided in ORS 293.701 to 293.857.

(b) The commission may establish each of the two trust accounts with a different trustee among those listed in paragraph (a) of this subsection.

(c) The commission may authorize transfer of funds from one trust account to another as necessary to fund removal of the Klamath River dams.

(2) If an agreement is entered into under ORS 757.742 (2), the parties to the agreement may agree that a portion of the amounts collected under one surcharge may be deposited in the trust account established for amounts collected under the other surcharge.

(3) Upon request of an agency of the United States, or upon request of the designee of an agency of the United States, the commission shall require the trustee of the appropriate trust account established under this section to transfer to the agency or designee the amounts that are necessary to pay the costs of removing the Klamath River dams as described in ORS 757.736 (11).

(4) If any amounts remain in a trust account established under this section after the trustee makes all payments necessary for the costs of removing the Klamath River dams as described in

ORS 757.736 (11), the commission shall direct the trustee of the account to refund those amounts to customers or to otherwise use the excess amounts for the benefit of customers.

SECTION 51. ORS 576.375 is amended to read:

576.375. (1) Moneys a person collects or receives from the assessment levied under the authority of ORS 576.325 and other moneys a commodity commission receives must be paid to the authorized agent of the commission and promptly deposited into an account established by the commission **in accordance with ORS 295.001 to 295.108.** *[in a depository, as defined in ORS 295.001, that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund. In a manner consistent with the requirements of ORS 295.001 to 295.108, the chairperson and vice chairperson for a commission shall ensure that sufficient collateral secures any amount of funds on deposit that exceeds the limits of the Federal Deposit Insurance Corporation's or the National Credit Union Share Insurance Fund's coverage.]* All moneys in the account are continuously appropriated to the commission that makes the deposit for the purpose of carrying out the commission's duties, functions and powers.

(2) Moneys may not be withdrawn from or paid out of the account except upon order of the commission, and upon checks or other orders upon such accounts signed by the secretary-treasurer or such other member of the commission as the commission designates and countersigned by such other member, officer or employee of the commission as the commission designates. The commission shall keep a receipt, voucher or other written record, showing clearly the nature and items covered by each check or other order.

(3) Subject to approval by the Director of Agriculture, a commission may invest moneys the commission collects or receives. Investments a commission makes are:

- (a) Limited to investments described in ORS 294.035;
- (b) Subject to the investments maturity date limitations described in ORS 294.135; and
- (c) Subject to the conduct prohibitions listed in ORS 294.145.

(4) Interest earned from any moneys a commission invests under subsection (3) of this section is available to the commission in a manner consistent with the commission's annual budget.

SECTION 52. 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] **A-** or an equivalent rating or better or are rated on the settlement date in the highest category **without any refinement or gradation** 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] **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]* **annuities** as defined *[by]* **in** 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 **without any refinement or gradation** 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]* **Aa3** or better by Moody's Investors Service or A-1 or *[AA]* **AA-** or better by *[Standard & Poor's Corporation]* **S&P Global Ratings and Fitch Ratings** or **an** 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]* **A3** or better by Moody's Investors Service or A-2 or A or better by *[Standard & Poor's Corporation]* **S&P Global Ratings and Fitch Ratings** or **an** 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) 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 described 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.

(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.

(L) The investment pool as defined in ORS 294.805 and, with the approval of the State Treasurer, any other commingled investment pool that may be established in the discretion of the State Treasurer for investment of the funds of local governments. The State Treasurer may require the governing body of a local government to enter into an investment agreement with the State Treasurer as a condition of investing funds in a commingled investment pool under this paragraph.

SECTION 53. Sections 8 and 30 of this 2019 Act are added to and made a part of ORS 295.001 to 295.108.

Passed by House June 5, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 29, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State