

CHAPTER 240

S.B. No. 366

An Act relating to the State Depository Board, the State Treasurer, and management of state funds; to certain obligations and funds of municipalities, districts, and political subdivisions; and to trust funds inside and outside of the treasury; providing penalties; repealing Chapter 1, Title 47, Revised Statutes, except Chapter 726, Acts of the 67th Legislature, Regular Session, 1981, and Chapter 179, Acts of the 60th Legislature, Regular Session, 1967 (Articles 2529b-1 and 2529c, Vernon's Texas Civil Statutes), and repealing Chapter 3, Title 70, Revised Statutes, and preserving certain enactments of the 69th Legislature.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The Treasury Act is adopted to read as follows:

“CHAPTER 1. GENERAL PROVISIONS

“Section 1.001. DEFINITIONS. In this Act:

- “(1) ‘Board’ means the State Depository Board.
- “(2) ‘Demand deposit’ means a deposit that is payable on demand.
- “(3) ‘Market value’ means the fair and reasonable prevailing price at which a security is being sold on the open market at the time of the appraisal of the security by the treasurer.
- “(4) ‘Security repurchase agreement’ means an agreement to buy, hold for a specified time, and then sell back any of the following securities, obligations, or participation certificates:
 - “(A) United States government securities;
 - “(B) direct obligations of or obligations the principal and interest of which are guaranteed by the United States; and
 - “(C) direct obligations of or participation certificates guaranteed by the Federal Intermediate Credit Bank, a Federal Land Bank, the Federal National Mortgage Association, a Federal Home Loan Bank, or a Bank for Cooperatives.
- “(5) ‘Time deposit’ means a deposit for which there is in force a contract providing that neither the whole nor a part of the deposit may be withdrawn before the expiration of the period of notice that must be given in writing in advance of a withdrawal.
- “(6) ‘Treasurer’ means the State Treasurer.
- “(7) ‘Treasury’ means state funds subject to the custody and control of the State Treasurer and available for appropriation by the legislature.

“CHAPTER 2. STATE DEPOSITORY BOARD**“SUBCHAPTER A. STATE DEPOSITORY BOARD**

“Section 2.001. BOARD MEMBERSHIP. (a) The State Depository Board is composed of the treasurer, one citizen of the state who is appointed by the governor with the advice and consent of the senate for a two-year term, the banking commissioner, and the comptroller of public accounts.

“(b) Appointment to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

“(c) The citizen member or an employee of the board may not be an officer, employee, or paid consultant of a trade association in the banking industry.

“(d) The citizen member or an employee of the board may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the banking industry.

“(e) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon’s Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board may not serve as a citizen member of the board or act as the general counsel to the board.

“(f) It is a ground for removal from the board that the citizen member violates a prohibition established by this section. The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of the citizen member of the board existed.

“Section 2.002. RULEMAKING. The board may make and enforce rules governing the establishment and conduct of state depositories, the handling of funds in the depositories, and the investment of state funds that the public interest requires and that are not inconsistent with the law governing the depositories and investments. The rules must be entered in the minutes of the board.

“Section 2.003. APPLICATIONS OF OTHER LAWS. (a) The board is subject to the Texas Sunset Act (Article 5429k, Vernon’s Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished effective September 1, 1995.

“(b) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon’s Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes).

“[Sections 2.004-2.010 reserved for expansion]

“SUBCHAPTER B. STATE DEPOSITORIES AND INVESTMENT OF STATE FUNDS

“Section 2.011. ELIGIBLE INSTITUTIONS. (a) Any private, state, or national bank doing business in the state may be designated by the board as a state depository. A private bank organized according to state banking law that seeks to become a state depository shall agree in writing to submit itself to examination to determine its solvency.

“(b) Any savings and loan association domiciled in the state may be designated by the board as a state depository.

“(c) Any institution in the state whose accounts or deposits are insured according to the laws of the United States may be designated by the board as a state depository and may accept state funds to the extent of that insurance, regardless of the amount of its paid up capital stock and permanent surplus.

“Section 2.012. APPLICATIONS. (a) The treasurer is the secretary of the board.

“(b) The board, through its secretary, on the second Tuesday in June of each odd-numbered year shall mail to each eligible institution a letter stating the conditions with which applicants for designation as a state depository must comply. The treasurer shall keep on file in the treasurer's office and make available for inspection by any person a list of institutions to which letters have been sent.

“(c) The application for designation as a state depository must include a statement:

“(1) of the amount of the applicant's paid capital stock and permanent surplus, if any, or if the applicant is a private bank, the amount of net proprietorship;

“(2) of the maximum amount of state funds the applicant will accept;

“(3) of the applicant's condition on the date the application is submitted; and

“(4) that the books and accounts of the institution, if it is designated as a state depository, will be open at all times for inspection by the board or a member or accredited representative of the board.

“(d) An application shall be mailed to the treasurer at Austin and must be received before noon of the first day of August of the year in which the letter is sent. An application received after that time may be considered at the option of the board.

“(e) On receipt of an application under this section, the treasurer shall endorse on the application the date of its receipt. The treasurer shall prepare a list of the names of the applicants and the amount for which each has applied and shall furnish a copy of the list to each board member.

“(f) The board shall meet on the first Monday in August of each odd-numbered year and at other appropriate times to consider applications. The board may approve those applicants who are acceptable and may reject those whose management or condition, in the opinion of the board, does not warrant the placing of state funds in their possession. An application for state funds may not be granted if the applicant's liabilities for borrowed money are in excess of its capital stock, but the board may in its discretion waive this provision.

“(g) The board may designate an applicant as a state depository if the applicant has complied with all of the conditions set by the board. The designation as a state depository is effective for a period of not more than two years.

“(h) As soon as practicable after the board has made its designations, the treasurer shall inform all applicants whether they have been designated as state depositories.

“(i) If more depositories are required at any time, the treasurer may send to all eligible institutions notice that further applications for designation as a state depository for the unexpired term will be accepted.

“Section 2.013. DESIGNATION. The board shall designate one or more state depository banks in centrally located cities to be used for clearing checks and other obligations due the state.

“Section 2.014. AUTHORIZED INVESTMENTS. (a) The board may determine and designate the amount of state funds to be deposited in state depositories, the amount of those deposits that shall be demand deposits and the amount that shall be time deposits, and the amount of state funds that shall be invested by the treasurer in security repurchase agreements and United States Treasury bills.

“(b) The amount invested in United States Treasury bills at any one time may not exceed 10 percent of the average daily balance of all state funds eligible for deposit or investment under this Act. Investments in security repurchase agreements may be made only with state or national banks domiciled in this state.

“(c) The board may contract with a depository for the payment of interest on time or demand deposits at a rate not to exceed a rate that is lawful under an Act of Congress and rules and regulations of the board of governors of the Federal Reserve System, the board of directors of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Home Loan Banking Board.

“(d) Not more than 20 percent of the aggregate funds on deposit at any time may be in depository institutions other than banks.

“Section 2.015. ELIGIBLE SECURITY. (a) A state depository may accept deposits of state funds only if it has:

“(1) deposited a depository bond that is:

“(A) signed by a surety company authorized to do business in Texas;

“(B) in an amount equal to not less than double the amount of state funds allotted;

“(C) payable to the treasurer;

“(D) in the form prescribed by the board; and

“(E) approved by the board; or

“(2) pledged with the treasurer eligible investment securities accepted by the board in an amount of not less than 20 percent more than the amount of deposits to be secured.

“(b) Eligible investment securities include a direct obligation of the United States; an obligation that, in the opinion of the Attorney General of the United States, is a general obligation of the United States and backed by its full faith and credit; an obligation guaranteed by the United States; an evidence of indebtedness of or a participation certificate guaranteed by a Federal Intermediate Credit Bank, a Federal Land Bank, a Bank for Cooperatives, the Federal Farm Credit System, a Federal Home Loan Bank, or the Federal National Mortgage Association; a Federal Financing Bank Participation Certificate in the Federal Asset Financing Trust; New Housing Authority Bonds and Project notes fully secured by contracts with the United States, but not including an obligation with a declining principal balance; or a general or special obligation issued by a public agency and approved by the Attorney General of Texas that is payable from taxes, revenues, or both. For the purposes of this subsection, ‘public agency’ means a board, authority, agency, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, instrumentality of this state, or any other type of political or governmental entity of this state.

“(c) A bond accepted as collateral security shall be registered under the same rules and regulations as a bond in which permanent school funds are invested.

“(d) Subject to the approval of the board, a state depository may secure its deposits of state funds in part by an acceptable surety bond and in part by acceptable collateral. A loss sustained by a depository that has secured its deposits in part by a surety bond and in part by collateral may be enforced against the surety bond or the collateral.

“(e) A warrant drawn on the treasury may not be accepted as collateral unless the warrant is accompanied by an affidavit, sworn to by an officer of the bank offering the warrant, stating that the warrant was not transferred or assigned by the original payee of the warrant for a consideration less than 98 percent of the face value of the warrant, and that the warrant was not obtained from the original payee by loaning money at a rate of interest greater than eight percent a year.

“(f) The board may reject collateral or a surety bond tendered by a state depository without assigning a reason for the rejection, and its action is final and not subject to review.

“(g) Security is not required for deposits to the extent that the deposits are insured by the Federal Deposit Insurance Corporation under Section 12b, Federal Reserve Act, or by the Federal Savings and Loan Insurance Corporation.

“Section 2.016. **ELEEMOSYNARY FUNDS.** The board may invest the permanent funds of the Texas School for the Blind, Texas School for the Deaf, Austin State Hospital, and State Orphans’ Home and may invest other permanent funds, the investment of which is not otherwise provided for, that have \$1,000 or more on deposit with the treasurer that are not invested. The board shall invest the funds in the same class of bonds as are authorized for investment of the permanent school fund.

“CHAPTER 3. STATE TREASURER

“SUBCHAPTER A. SECRETARY OF THE STATE DEPOSITORY BOARD

“Section 3.001. **COLLATERAL.** (a) The treasurer shall determine the market value of securities pledged to secure state funds for the purpose of determining the adequacy of the amount of collateral. The treasurer’s valuation of the securities is final and not subject to review.

“(b) If the market value of the securities pledged by a depository becomes less than the amount of funds on deposit in the depository, the treasurer shall require additional security. If the collateral pledged by a state depository is in excess of the amount required by this Act, the treasurer may permit the release of the excess security. If the balance of state funds in a state depository is increased, the depository shall increase the security for the deposits to the amount required by this Act.

“(c) A state depository may substitute one group of eligible securities for another group of securities pledged with the treasurer.

“(d) Except as provided by Subsections (e) and (f) of this section, a state depository shall deposit any pledged securities with the treasurer. The treasurer shall give the depository a receipt for the securities and place them in the vaults of the treasury.

“(e) Instead of depositing pledged securities with the treasurer, a depository may deposit them with a state or national bank that has been designated a state depository. The securities shall be held in trust by the custodian bank to secure funds deposited by the treasurer in the state depository pledging the securities. On receipt of the securities, the custodian bank shall immediately issue and deliver to the treasurer controlled trust receipts for the securities pledged. The security evidenced by the trust receipts is subject to inspection by the board or its agents at any time. The custodian bank must have a capital stock and permanent surplus of not less than \$500,000. The depository pledging the securities shall pay the charges, if any, of the custodian bank for accepting and holding the securities.

“(f) Instead of depositing pledged securities with the treasurer, a state depository may deposit pledged securities with the Federal Reserve Bank of Dallas. The securities shall be held by the bank to secure funds deposited by the treasurer in the state depository pledging the securities. When the pledged securities are deposited, the Federal Reserve Bank of Dallas may apply book entry to the securities. The records of the Federal Reserve Bank of Dallas shall at all times reflect the name of the state depository depositing the pledged securities, and the bank shall issue an advice of transaction to the treasurer and the state depository pledging the securities.

“(g) A custodian bank holding in trust securities of a state depository under Subsection (e) of this section may deposit the pledged securities with the Federal Reserve Bank of Dallas if the Federal Reserve Bank of Dallas is the third party to the transaction. The securities shall be held by the Federal Reserve Bank to secure funds deposited by the treasurer in the state depository pledging the securities. When the pledged securities held by a custodian bank are deposited, the Federal Reserve Bank of Dallas may apply book entry procedures to the securities. The records of the Federal Reserve Bank of Dallas shall at all times reflect the name of the custodian bank depositing the pledged securities, and the bank shall issue an advice of transaction or other document evidencing each deposit of securities to the custodian bank. The custodian bank shall immediately issue and deliver to the treasurer controlled trust receipts for the pledged securities. The trust receipts shall indicate that the custodian bank has deposited with the Federal Reserve Bank of Dallas the pledged securities held in trust for the state depository pledging the securities.

“(h) On request of the owner or owners, the treasurer or custodian bank may surrender interest coupons or other evidence of interest on securities deposited by state depositories, when the interest is due, if the securities are sufficient to meet the collateral requirements of the state.

“(i) A state depository making deposits of securities with the treasurer may cause the securities to be endorsed or stamped, as it considers proper, to show that they are deposited as collateral and not transferable except as provided by this Act.

“(j) If a state depository fails to pay a deposit or part of a deposit on the check of the treasurer, the treasurer may immediately sell or otherwise convert the securities to money and disburse the money, according to law, on warrants drawn by the comptroller of public accounts on the funds which the securities secured.

“(k) The treasurer regularly shall provide the board with a status report relating to the collateral position of the treasury.

“Section 3.002. DEPOSITS AND INVESTMENTS. (a) The treasurer shall deposit state funds in depositories that satisfy the security requirements of this Act or invest the funds in investments authorized by the board. The treasurer may deposit funds designated as demand deposits only in banks designated as centrally located depositories and in other depositories authorized by the board.

“(b) A depository may not keep on deposit state funds in an amount in excess of its paid up capital stock and permanent surplus. A reduction in the capital stock and permanent surplus of a depository reduces correspondingly the amount of state funds that it may retain as a depository, and the treasurer may withdraw from the depository funds in excess of its capital stock and permanent surplus. However, this limitation does not apply if the depository pledges as security for the state funds warrants drawn on the treasury against the General Revenue Fund. In this case the amount of state funds to be deposited in the depository shall be determined by the board. This subsection does not affect arrangements for clearing checks made by the board with state depositories.

“(c) If a surplus of state funds remains after all depositories are designated, the surplus shall be prorated among the designated banks after collateral and stock and surplus requirements have been met.

“(d) A state depository shall collect all checks, drafts, and demands for money deposited with it by the treasurer. If the depository uses due diligence, it is not liable for the collections until the proceeds of the collections are duly received by the depository bank. An expense incurred in collection that the depository is not permitted to pay by reason of an Act of Congress or a rule or

regulation adopted under such an Act by the board of governors of the Federal Reserve System or the board of directors of the Federal Deposit Insurance Corporation shall be charged to and paid by the treasurer out of money appropriated by the legislature for that purpose.

“(e) The treasurer shall keep sufficient money on deposit in demand deposit accounts in depositories designated by the board as clearing institutions to meet all current claims on the state. Items received by the treasurer for collection shall be deposited with a clearing institution to be credited to the demand deposit account in the depository. Checks, drafts, or warrants drawn by the treasurer for the payment of obligations due by the state may be drawn on such an account in such a depository or on the demand deposit account in another state depository so that the checks, drafts, or warrants of the state may at all times pass current as cash.

“Section 3.003. **WITHDRAWALS AND REMITTANCES.** (a) Funds on deposit with a depository are subject to withdrawal at any time by the treasurer, except funds designated as time deposits, which may be withdrawn in the manner agreed on in the contract under which the funds were deposited. The depository shall remit the withdrawal on demand and free of charge, except charges that the depository is not permitted to pay by reason of an Act of Congress or a rule or regulation promulgated under such an Act by the board of governors of the Federal Reserve System or the board of directors of the Federal Deposit Insurance Corporation.

“(b) A remittance to the treasurer by a state depository or another person may be made by any method authorized by the treasurer, including cash, money order, or bank draft. The liability of the depository or other person making the remittance continues until the money is received by the treasurer. A depository that refuses to make a remittance required by this Act forfeits its right to receive further deposits, on order of the board. The board may withdraw all funds from the depository, which after the withdrawal ceases to be a state depository.

“[Sections 3.004-3.010 reserved for expansion]

“SUBCHAPTER B. TRUSTEE OF FUNDS INSIDE TREASURY

“Section 3.011. **TRUSTEE.** The treasurer is the trustee of funds in the treasury.

“Section 3.012. **BONDS AND EMPLOYEES.** (a) Not later than the 20th day after the day on which notice of election is received and before entering the duties of office, the treasurer shall give a bond with a good and solvent surety company authorized to do business in this state, in the sum of \$70,000, payable to and approved by the governor and conditioned that the treasurer shall faithfully execute the duties of that office. Expenses necessary and incident to the execution of the bond shall be paid by the state by appropriation.

“(b) The treasurer shall also give any special bond required by an Act of Congress or by a federal department or official to protect federal funds deposited with the treasurer. Expenses necessary and incident to the execution of the bond shall be paid by the state by appropriation.

“(c) The treasurer shall appoint a first assistant who shall give bond with a good and solvent surety company authorized to do business in this state, in the sum of \$70,000, payable to and approved by the governor, and conditioned that the first assistant shall faithfully execute the duties of that office. If the treasurer is not able to act, the first assistant shall sign, except as provided by Article 4359a, Revised Statutes, the first assistant's own name as acting treasurer and perform the duties of the treasurer. The legal acts and signatures of the first assistant as acting treasurer are valid as the acts and signatures of the treasurer.

“(d) The treasurer shall appoint other employees that are authorized by law. Employees who as part of their duties handle money, or drafts, checks, bills of exchange, warrants, securities, or other evidences of debt that are or may be convertible into money, or other valuable property shall give bond with a good and solvent surety company authorized to do business in this state, payable to the treasurer in the sum that the treasurer requires, conditioned that the employee shall faithfully execute and perform the duties of that employee's position. The treasurer may also require an employee to be insured in the manner and in the sum that the treasurer requires.

“(e) The expense incident to the execution of the bonds and any insurance of the first assistant and other employees shall be paid by the state by appropriation.

“Section 3.013. **SECURITY OFFICERS.** The treasurer shall employ security officers to provide needed security services for the treasury and may commission the officers as peace officers. The security officers shall give bond in the same manner required by this Act for employees who handle money or other valuable property as part of their duties.

“Section 3.014. **REVIEW OF BONDS.** The attorney general, with the comptroller, shall on the first day of the fiscal year examine the bonds and insurance of the treasurer, first assistant, and other employees and make diligent inquiry into the condition of the sureties on the bonds and policies. If the attorney general finds that a bond or insurance policy is not sufficient to protect and secure the state, the attorney general shall notify the treasurer in writing of the insufficiency of the bond or policy, and the treasurer shall secure a sufficient bond or insurance.

“Section 3.015. **RECEIPT OF MONEY FROM COMPTROLLER.** The treasurer shall receive, on the warrants of the comptroller, all money paid into the treasury and shall give a receipt for the money to the comptroller and to the person depositing the money.

“Section 3.016. **PAYMENT FROM TREASURY.** The treasurer shall countersign and pay warrants drawn by the comptroller on the treasury that are authorized by law. Money may not be paid out of the treasury except on the warrants of the comptroller, and a warrant may not be paid by the treasurer unless presented for payment before two years after the close of the fiscal year in which the warrant was issued. Claims for the payment of warrants presented after that time may be presented to the legislature for appropriations from which the claims may be paid.

“Section 3.017. **ACCOUNTS.** The treasurer shall keep accounts of the receipt and expenditure of the money in the treasury and close the accounts on August 31 of each year. The treasurer shall keep proper legal vouchers, distinguishing between the receipts and disbursements of each fiscal year.

“Section 3.018. **REPORT.** In addition to the reports required by the constitution, the treasurer shall submit to the governor on the first Monday in November of each year, and at other times the governor requires, an exact statement of the condition and situation of the treasury, a statement of the balance of money remaining in the treasury to the credit of the state, and a summary of the receipts and disbursements of the treasury during the preceding year or for another period of time that may be specially required. The treasurer shall exhibit all books, papers, vouchers, and other matters pertaining to the office for examination on request by the legislature or a branch or committee of the legislature.

“Section 3.019. **MONEY IN TREASURY.** Money received by the treasurer as trustee of funds in the treasury shall be kept in the treasury. The treasurer may not keep or receive into the treasury money, or the representative of money, belonging to an individual except as provided by law. The treasurer may not appropriate to the treasurer’s own use or lend, sell, or exchange money, or the representative of money, in the treasurer’s custody or control.

“Section 3.020. **DELIVERY TO SUCCESSOR.** The treasurer shall, at the close of the term of office, deliver into the possession of the successor treasurer the money, securities, and all other property of the state in the treasurer’s possession and the books, vouchers, papers, evidences of property, and all other matters and things pertaining to the office.

“Section 3.021. **MONEY RETURNED TO A COUNTY, CITY, OR TOWN.** If money is in the treasury for the purpose of paying an obligation due from a county, city, or town and the comptroller finds from certified copies of the records of the commissioners court or by other satisfactory evidence that the obligation is no longer outstanding against the county, city, or town, the comptroller shall draw a warrant on the treasury in favor of the county, city, or town for that amount of money. The treasurer shall pay the money on the warrant of the comptroller to the treasurer of the county, city, or town for the benefit of its general fund.

“Section 3.022. **OBLIGATIONS OF MUNICIPALITIES, DISTRICTS, AND POLITICAL SUBDIVISIONS.** (a) A bond, warrant, or other evidence of indebtedness issued by a municipality, district, or political subdivision of this state and any interest, at the discretion of the municipality, district, or political subdivision may be payable at the office of the State Treasurer in Austin. The treasurer serves as ex officio treasurer and fiscal agent of the municipality, district, or political subdivision for the purposes of receiving funds for the payment of the obligation and interest, making payment of the obligation and interest, and for all other purposes designated by this Act or necessary or incidental to the service.

“(b) The State Treasurer shall deposit money received by the treasurer under this section and shall keep a separate account for each municipality, district, or political subdivision. As payment of interest and principal becomes due on an obligation, the treasurer of the municipality, district, or political subdivision shall remit to the State Treasurer, not later than the 15th day before the date of maturity, the amounts due or to become due on maturity. On receipt of those amounts by the State Treasurer, the treasurer of the municipality, district, or political subdivision shall request the comptroller to issue a warrant to the State Treasurer for the payment, and the State Treasurer shall pay the same at the treasury office in Austin. The warrant shall state on its face:

“(1) that the proceeds of the warrant are to be applied by the State Treasurer to the payment of certain specified bonds or interest coupons described in the warrant;

“(2) the name of the municipality, district, or political subdivision that issued the obligations;

“(3) the numbers, amounts, and dates of maturity of the obligations and interest to be paid; and

“(4) instructions to the State Treasurer to return the obligation to the treasurer of the municipality, district, or political subdivision on receipt.

“(c) On return of the obligation, the treasurer of the municipality, district, or political subdivision shall record the payment and cancellation.

“(d) The State Treasurer shall collect for the use of the state from the municipality, district, or political subdivision a commission of one-eighth of one percent on interest and one-twentieth of one percent on principal for receiving and disbursing the funds. However, the commission on an interest payment must be at least \$2.50. The treasurer of the municipality, district, or political subdivision, at the time of the remittance for the payment of the maturing obligation or interest, shall remit the commission to the State Treasurer as ex officio treasurer of the municipality, district, or political subdivision. On receipt of the commission, the State Treasurer shall credit it to the commissions earned. The amount of the commissions earned, or as much as necessary, is reserved to the State Treasurer to be used in the administration of this Act. Any balance remaining at the end of a fiscal year is available for use in the next fiscal year.

“(e) It is the general intent of this section to provide an inexpensive and feasible means for the payment of bonds and interest coupons issued by municipalities, districts, and political subdivisions in the state at the office of the State Treasurer, and this section shall be broadly construed to carry out that intent. An official or a municipality, district, or political subdivision concerned with the administration of this section shall perform the acts and duties necessary or appropriate to facilitate and expedite the operation of this section to the end that bonds and interest may be promptly paid and the payment clearly evidenced and accounted for.

“(f) The State Treasurer shall cancel and return to the municipality, district, or political subdivision depositing funds for the payment of interest coupons or the retirement of bonds the coupons and bonds that have matured or been retired by purchase, together with a statement of the account of the municipality, district, or subdivision showing the amounts received and placed to its credit, service charges, and amount of coupons or bonds retired. At the request of the municipality, district, or political subdivision, the State Treasurer shall remit to the municipality, district, or subdivision any balance remaining in custody of the treasurer for more than two years for which bonds or coupons have not been presented for payment. The municipality, district, or political subdivision shall pay these coupons or bonds when presented. A municipality, district, or political subdivision is entitled at any reasonable time to a statement of its account with the State Treasurer.

“Section 3.023. **DEPOSIT WARRANT REGISTER.** The treasurer shall keep on file a deposit warrant register prepared by the comptroller and designed with columns for state revenue, available school funds, miscellaneous, and other necessary items. Warrants shall be entered consecutively and distributed to the proper columns. The treasurer's deposit warrant register shall be a carbon copy of the deposit warrant register kept by the comptroller and shall be furnished to the treasurer together with the deposit warrants for money deposited each day.

“Section 3.024. **DAILY TOTALS.** The treasurer shall post the daily totals of deposit warrants to the proper fund and control accounts in the general ledger. The treasurer shall keep a transit record, in which the treasurer shall record the essential details of cash, checks, money orders, drafts, or other items deposited or cashed each day, showing the items deposited in each depository bank or otherwise disposed of. The totals of deposits shall be charged to the accounts of the respective depositories on the books of the treasury. The treasurer shall keep a journal of all journal vouchers or other memoranda of transfers between funds or accounts. Postings shall be made from this journal to the proper accounts on the books of the treasury.

“Section 3.025. **TIME AND DEMAND DEPOSITS; RECORDS AND ANNUAL REPORT.** (a) The treasurer shall maintain records of the daily balances of and the interest income from funds deposited by the treasurer or the State Depository Board in time and demand deposit accounts in each bank acting as a state depository. The treasurer shall maintain and preserve these records according to the provisions of the Preservation of Essential Records Act (Article 5441d, Vernon's Texas Civil Statutes) and of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

“(b) The treasurer annually shall make a complete report to the legislature and to the governor of the amounts of interest income earned on funds deposited by the treasurer or the State Depository Board in each state depository. The report shall contain the following:

“(1) the name of each institution serving as a state depository during the fiscal year;

“(2) for each institution, the balance at the beginning of the fiscal year, the balance at the end of the fiscal year, and the average daily balance in demand deposit accounts placed by the treasurer or the State Depository Board;

“(3) for each institution, the balance at the beginning of the fiscal year, the balance at the end of the fiscal year, and the average daily balance in time deposit accounts placed by the treasurer or the State Depository Board, and the amount of interest income earned on these accounts; and

“(4) the totals of these amounts aggregated for all state depositories.

“Section 3.026. **REGISTRATION OF WARRANTS.** The treasurer shall keep on file one register for each class of warrant issued. The comptroller shall furnish the registers. The treasurer shall keep a warrants paid register in which the number and amount of each warrant

paid shall be entered. Warrants may be grouped by classes, and separate totals of warrants paid from each class may be shown, as well as the total of all warrants paid each day. The treasurer, on request of the comptroller, shall furnish to the comptroller each day a copy of the warrants paid register. The treasurer shall keep a register of warrants canceled in which the details of all warrants canceled shall be entered. The treasurer may, with the consent of the comptroller, substitute a recapitulation of the totals of warrants paid each day for the copy of the warrants paid register.

"Section 3.027. **OTHER ACCOUNTS.** The treasurer shall keep accounts called warrants payable, general; warrants payable, special; and warrants payable, pensions; to which shall be credited the daily totals of the registers of warrants issued and charged and the daily total of warrants paid of each class, so that the balance of these accounts represents the aggregate amount of outstanding warrants.

"Section 3.028. **OUTSTANDING WARRANTS.** Outstanding warrants shall be listed each month from the registers of warrants issued, and the list shall be sent to the comptroller for his record. The treasurer shall furnish with this list a statement showing the aggregate amount of general, special, and pension warrants paid during the month.

"Section 3.029. **GENERAL LEDGER ACCOUNTS.** The treasurer shall charge the daily totals of the general warrants, pension warrants, special warrants, and all other classes of warrants to the respective funds and control accounts in the general ledger to which they apply.

"Section 3.030. **CERTAIN SPECIAL FUNDS ABOLISHED.** Warrants on the treasury shall be general warrants and shall be on an equal basis with each other, except that if a question arises concerning the priority of payment of the warrants and necessity requires, they shall be paid in order of their serial number. Warrants shall be numbered in the order the accounts are received in the comptroller's office. This Act does not apply to warrants drawn on the special game fund or on funds collected for and appropriated to the State Department of Highways and Public Transportation, to a special fund created or provided for in the constitution, or to a special fund consisting of taxes set aside and remitted or donated by the legislature to a county, city, or locality.

"Section 3.031. **STATE WARRANTS PAYABLE TO UNITED STATES POST OFFICE.** A warrant for the purchase of United States postage stamps or for the payment of post office box rental by a board or department of the state shall be drawn on the treasury by the comptroller in favor of the United States Post Office. The treasurer shall pay the warrant out of funds appropriated for that purpose, regardless of the serial number of the warrant and the priority of the issuance of the warrant. The warrant shall be endorsed by the postmaster of the post office to which it is made payable.

"Section 3.032. **YOUTH DEVELOPMENT COUNCIL FUND.** There is created in the treasury a special fund to be known as the Youth Development Council fund for the purposes provided by law.

"Section 3.033. **DAILY STATEMENT.** The head of each department shall send to the treasurer daily a detailed list of persons remitting money the status of which is undetermined or that is awaiting the time when it can be taken into the treasury and the departments' remittances to the treasury. The treasurer shall cash the remittances and place them in the treasury vaults or in legally authorized depository banks if the necessity arises. The report from the General Land Office shall include all money for interest, principal, and leases of school, university, asylum, and other lands. A deposit receipt shall be issued by the comptroller for the daily total of these remittances. The cashier of the treasury department shall keep a cash book, to be called the suspense cash book, in which are entered these deposit receipts and other receipts issued for cash received for which a deposit warrant may not be issued or for which issuance of a deposit warrant is delayed. When the status of money placed with the treasurer on a deposit receipt is determined, the money shall be transferred from the suspense account by placing the portion of it belonging to the state in the treasury by the issuance of a deposit warrant, and the part not belonging to the state shall be refunded. When a deposit warrant is issued, it and any refunds shall be entered in the suspense cash book, and the balance shall represent the aggregate of the items still in suspense. Separate series of warrants shall be used for making refunds. These warrants shall be called refund warrants and shall be written and signed, except as provided by Article 4359a, Revised Statutes, by the comptroller and countersigned, except as provided by that article, by the treasurer. The warrants shall be charged against the suspense funds to which they apply and then returned to the comptroller and delivered by the comptroller to the person entitled to receive them.

"Section 3.034. **VIOLATION.** A person who knowingly or wilfully violates this Act commits an offense. An offense under this Act is punishable by a fine of not less than \$50 nor more than \$500, by confinement in the county jail for not less than 30 days nor more than six months, or by both a fine and confinement.

"Section 3.035. OFFICE FEE BOOK. The treasurer shall keep an office fee book in which the treasurer shall enter in detail the fees earned by the treasury department. These fees shall be deposited in the treasury at the end of each month, to the credit of the General Revenue Fund, on a deposit warrant issued by the comptroller.

"Section 3.036. CASH BALANCING BOOK. The treasurer shall keep a book, to be called the cash balancing book, for the purpose of arriving at the daily cash balance. The daily totals of receipts and disbursements and the amount of cash on hand and in depository banks shall be entered in the book. A copy of the book entry for each day shall be furnished daily to the comptroller.

"Section 3.037. LEDGER. The general ledger kept by the treasurer shall contain accounts for each fund. These accounts shall be credited with the existing balances and the daily totals of deposit warrants. Pay warrants issued shall be charged to the fund accounts from the warrants issued registers in daily totals. The ledger shall contain control accounts for cash, depository banks, bonds, interest, securities, warrants payable, and other necessary accounts. Postings shall be made to the ledger daily from the deposit warrant register, warrants issued registers, warrants paid register, and other supporting records. The ledger shall be balanced daily.

"Section 3.038. BOND BOOK. The treasurer shall keep a bond book in which shall be entered warrants or authorizations to receive or relinquish bonds held by the treasurer and belonging to a state fund. The treasurer shall keep appropriate ledger accounts that include a short description of the essential features of each, of each bond or of each purchase of similar bonds or other securities purchased by and belonging to the permanent school fund and other funds of the state. These accounts shall be charged with the principal of the bond or purchase and with each separate item of interest to accrue to the principal and shall be credited with payments as made. The treasurer shall keep controlling or total accounts of bonds or other securities in the general ledger. These accounts shall be kept with respect to the total amount of bonds or other securities belonging to each separate fund. The treasurer shall keep controlling accounts for interest to accrue on the bonds. The accounts shall be set up at the beginning of the fiscal year for bonds or other securities owned at that time and for subsequent purchases when the bonds or securities are purchased. These controlling accounts shall be balanced monthly with the sum of the individual accounts for bonds or securities, which also shall be balanced monthly, and shall correspond to similar accounts kept by the comptroller.

"Section 3.039. SECURITIES REGISTER. The treasurer shall keep a suitable register in which shall be entered all bonds, cash, and other securities deposited with the treasurer by bond investment, surety, and insurance companies, and state depository banks, and all other bonds or securities deposited with the treasurer under a statute if the registration of the bonds or securities is not otherwise provided for by law. The treasurer shall enter in the register the deposit receipts or other authorizations to receive or relinquish the bonds or securities. The receiving and relinquishment of these securities shall be on the authority of the comptroller. The treasurer shall keep a securities ledger in which appropriate accounts for all matters for which those deposit receipts or authorizations are issued shall be kept. This ledger shall be balanced monthly against control accounts kept in the general ledger and against corresponding accounts kept by the comptroller.

"Section 3.040. TRUST FUNDS. All money and securities placed in the hands of the treasurer in trust for any legal purpose may be received by the treasurer on a deposit receipt issued by the comptroller as provided by Article 4354, Revised Statutes. The money or securities shall be held in trust by the treasurer in the same manner as the departmental suspense account is held. Withdrawal shall be by trust and suspense draft in the case of money and withdrawal authorization in the case of securities. These instruments shall be issued serially and signed, except as provided by Article 4359a, Revised Statutes, by the comptroller. Money received in trust or for any legal purpose for which a state deposit warrant has not or may not immediately be issued shall be handled by the treasurer in the same manner as items deposited in the departmental suspense account. Adequate registers, ledgers, and files shall be maintained by the treasurer and by the comptroller to account for the receiving and disposing of trust and suspense money and securities. These registers, ledgers, and files shall be known as the trust and suspense record.

"Section 3.041. VALIDITY OF SUSPENSE AND TRUST REFUND WARRANTS. (a) A warrant issued by the comptroller in payment of refunds from a suspense or trust fund in the treasury, called a suspense and trust fund refund warrant, becomes void unless presented to the treasurer for payment before four years after the end of the fiscal year in which the warrant was issued. The sum of money represented by a warrant voided under this section shall be transferred by the comptroller from the suspense fund from which the warrant was originally issued to the General Revenue Fund. Claims for the payment of a voided warrant may be presented to the legislature for appropriation from which the warrant may be paid. This Act does not affect the laws regulating the payment of other types or classes of warrants issued by the comptroller.

“(b) When a transfer of money under this section is made, the treasurer shall prepare a list of the outstanding warrants representing the transfer. The list must show the name of the payee, the date of the original warrant, the departmental suspense account against which the warrant was originally drawn, the original warrant number, and the amount of the original warrant. The list shall be maintained as a permanent record in the office of the treasurer and proper notation shall be made on each entry on this list when the legislature makes appropriation for the refund of the amount listed.

“Section 3.042. **DISPOSITION OF INTEREST ON TIME DEPOSITS.** (a) Interest received from time deposits of money in funds and accounts in the charge of the treasurer shall be allocated as follows: to each constitutional fund there shall be credited the pro rata portion of the interest received due the fund; the remainder of the interest received, with the exception of that portion required by other statutes to be credited on a pro rata basis to protested tax payments, shall be credited to the General Revenue Fund. The interest received shall be allocated on a monthly basis.

“(b) If a deficit occurs in the General Revenue Fund, the treasurer may place with a designated depository bank an offsetting compensating balance in a special depository account known as special demand account secured by general revenue warrants only.

“(c) The treasurer is entitled to rely on the opinion and advice of the attorney general for the proper interpretation and application of this section.

“[Sections 3.043-3.050 reserved for expansion]

“SUBCHAPTER C. TRUSTEE OF FUNDS OUTSIDE TREASURY

“Section 3.051. **TRUSTEE.** (a) The treasurer may be the trustee of funds or property outside the treasury.

“(b) The treasurer functioning as the trustee of funds or property outside the treasury may contract with the treasury to manage the funds or property in a manner similar to the management of funds in the treasury.

“CHAPTER 4. STATE FUNDS REFORM ACT

“Section 4.001. **SHORT TITLE.** This chapter may be cited as the State Funds Reform Act.

“Section 4.002. **DEFINITION.** In this chapter, ‘state agency’ means a department, commission, board, office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state, but does not include an institution of higher education as defined by Section 61.003, Education Code.

“Section 4.003. **APPLICABILITY OF CHAPTER; EXEMPTIONS.** (a) This chapter applies to a state agency only to the extent that it is not otherwise required to deposit funds in the treasury.

“(b) This chapter does not apply to:

“(1) funds pledged to the payment of bonds, notes, or other debts if the funds are not otherwise required to be deposited in the treasury;

“(2) funds held in trust or escrow for the benefit of a person or entity other than a state agency;

“(3) funds set apart out of earnings derived from investment of funds held in trust for others, as administrative expenses of the trustee agency; or

“(4) funds, grants, donations, and proceeds from funds, grants, and donations, given in trust to the Texas State Library and Archives Commission for the establishment and maintenance of regional historical resource depositories and libraries in accordance with Section 2B, Chapter 503, Acts of the 62nd Legislature, Regular Session, 1971 (Article 5442b, Vernon’s Texas Civil Statutes).

“Section 4.004. **FUNDS TO BE DEPOSITED IN TREASURY.** (a) Fees, fines, penalties, taxes, charges, gifts, grants, donations, and other funds collected or received by a state agency under law shall be deposited in the treasury, credited to a special fund or funds, and subject to appropriation only for the purposes for which they are otherwise authorized to be expended or disbursed. A deposit shall be made at the earliest possible time that the treasury can accept those funds, but not later than the seventh day after the date of receipt.

“(b) Money that is required by this chapter or by another law to be deposited in the treasury shall be deposited to the credit of the General Revenue Fund unless the money is expressly required to be deposited to another fund, trust fund, or special account not in the General Revenue Fund. This subsection does not affect the authority of the comptroller or the treasurer to establish and use accounts necessary to manage and account for state revenues and expenditures.

“(c) Money collected or received by a state agency by mistake of fact or law, including money that is not due the state and money collected and received in excess of the amount required to be collected or received, shall, if not refunded as permitted or required by law, be deposited in the treasury to the credit of the General Revenue Fund. This section does not apply to unrefunded motor fuel taxes or to other unrefunded money that is required by law to be deposited to the credit of another fund, trust fund, or account not in the General Revenue Fund.”

SECTION 2. Chapter 1, Title 47, Revised Statutes, except Chapter 726, Acts of the 67th Legislature, Regular Session, 1981, and Chapter 179, Acts of the 60th Legislature, Regular Session, 1967 (Articles 2529b-1 and 2529c, Vernon's Texas Civil Statutes), and Chapter 3, Title 70, Revised Statutes, are repealed. However, any amendment, revision, or reenactment of any of these statutes by the 69th Legislature is preserved and given effect as a part of this bill.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 25, 1985, by the following vote: Yeas 30, Nays 0;
passed the House on May 15, 1985, by a non-record vote.

Approved: June 4, 1985

Effective: August 26, 1985