

FILED FEB 26 1976

SENATE FILE 1216

By COMMITTEE ON CITIES

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the deposit of public funds, authorizing  
2 the deposit or investment of public funds in certain  
3 approved savings and loan associations and in approved  
4 banks in the state, authorizing investment of public  
5 funds in certain notes, certificates, bonds, or other  
6 evidences of indebtedness, relating to the interest  
7 rates public funds can draw, and requiring certain savings  
8 and loan associations to contribute to the state sinking  
9 fund or be subject to a ten percent penalty on the amount  
10 of assessments due.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
12

S-5345

1 Amend the amendment, S-5311, to Senate File 1216,  
2 by striking line 5 and inserting in lieu thereof the  
3 following:  
4 "3. Page 5, by striking lines 1 through 7.  
5 4. Page 5, line 8, by striking the words  
6 "bid procedure."

S-5345 FILED  
MARCH 16, 1976

BY ROBERT M. CARR  
JAMES E. BRILES

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SENATE FILE

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1 Section 1. Section four hundred fifty-two point ten  
2 (452.10), Code 1975, is amended to read as follows:

3 452.10 CUSTODY OF PUBLIC FUNDS--INVESTMENT OR DEPOSIT.  
4 The treasurer of state and the treasurer of each political  
5 subdivision shall at all times keep all funds coming into  
6 their possession as public money, in a vault or safe, to be  
7 provided for that purpose, or in ~~some-bank-legally-designated~~  
8 as a depository for such funds approved pursuant to section  
9 four hundred fifty-three point two (453.2) of the Code.

10 However, the treasurer of state and the treasurer of each  
11 political subdivision shall invest, unless otherwise provided,  
12 any of the public funds not currently needed for operating  
13 expenses in notes, certificates, bonds, or other evidences  
14 of indebtedness which are obligations of or guaranteed by  
15 the United States of America or any of its agencies; or make  
16 time deposits of such funds in ~~banks~~ depositories as provided  
17 in chapter 453 and receive time certificates of deposit or  
18 fixed rate-fixed term certificates therefor; or in savings  
19 accounts in ~~banks~~ depositories. The treasurer of state may  
20 invest any of the funds in his custody in any of the  
21 investments authorized for the Iowa public employees'  
22 retirement system in section 97B.7, subsection 2, paragraph  
23 "b" except that investment in common stocks shall not be  
24 permitted. For purposes of this chapter, a depository is  
25 a bank or private bank as defined in section five hundred  
26 twenty-four point one hundred three (524.103) of the Code.  
27 A depository also is a savings and loan association as defined  
28 in section four hundred fifty-three point one (453.1) of the  
29 Code.

30 Sec. 2. Section four hundred fifty-three point one (453.1),  
31 Code 1975, is amended to read as follows:

32 453.1 DEPOSITS IN GENERAL. All funds held in the hands  
33 of the following officers or institutions shall be deposited  
34 in ~~banks~~ depositories as are first approved by the appropriate  
35 governing body as indicated: For the treasurer of state,

1 by the executive council; for the county treasurer, recorder,  
2 auditor, sheriff, township clerk, clerk of the district court,  
3 and judicial magistrate, by the board of supervisors; for  
4 the city treasurer, by the city council; for the county public  
5 hospital or merged area hospital, by the board of hospital  
6 trustees; for a memorial hospital, by the memorial hospital  
7 commission; for a school corporation, by the board of school  
8 directors; provided, however, that the treasurer of state  
9 and the treasurer of each political subdivision shall invest  
10 all funds not needed for current operating expenses in time  
11 certificates of deposit in banks or in fixed rate-fixed term  
12 certificates in savings and loan associations listed as  
13 approved depositories pursuant to this chapter or in  
14 investments permitted by section 452.10. The list of public  
15 depositories and the amounts severally deposited therein shall  
16 be a matter of public record. The term "bank" means a bank  
17 or a private bank, as defined in section 524.103. The term  
18 "savings and loan association" means a savings and loan  
19 association that is federally or state chartered, is insured  
20 by the federal savings and loan insurance corporation, and  
21 is a mutual deposit institution. The term "depository" means  
22 a bank or savings and loan association as defined in this  
23 section.

24 Sec. 3. Section four hundred fifty-three point two (453.2),  
25 Code 1975, is amended to read as follows:

26 453.2 APPROVAL--REQUIREMENTS. The approval of a bank  
27 or savings and loan association as a depository shall be by  
28 written resolution or order which shall be entered of record  
29 in the minutes of the approving board, and which shall dis-  
30 tinctly name each bank and savings and loan association ap-  
31 proved, and specify the maximum amount which may be kept on  
32 deposit in each such bank depository.

33 Sec. 4. Section four hundred fifty-three point three  
34 (453.3), Code 1975, is amended to read as follows:

35 453.3 INCREASE CONDITIONALLY PROHIBITED. The maximum

1 amount so permitted to be deposited in a named bank depository  
2 shall not be increased except with the approval of the trea-  
3 surer of state.

4 Sec. 5. Section four hundred fifty-three point four  
5 (453.4), Code 1975, is amended by striking the section and  
6 inserting in lieu thereof the following:

7 453.4 LOCATION OF DEPOSITORIES. Deposits by the treasurer  
8 of state shall be in depositories located in this state.

9 Deposits of public funds other than state public funds  
10 shall be in depositories located in the county where the  
11 entity whose public funds are being deposited is located or  
12 in an adjoining county within this state to be selected by  
13 the appropriate governing body. However, deposits may be  
14 made in depositories outside of Iowa for the purpose of paying  
15 principal and interest on bonded indebtedness of any  
16 municipality when such deposit is made not more than ten  
17 days before the date such principal or interest becomes  
18 due.

19 Sec. 6. Section four hundred fifty-three point five  
20 (453.5), Code 1975, is amended to read as follows:

21 453.5 ~~REFUSAL-OF-DEPOSITS--PROCEDURE~~ INVESTMENT OF PUBLIC  
22 FUNDS. ~~If-none-of-the-duly-approved-banks-will-accept-said~~  
23 ~~deposits-under-the-conditions-herein-prescribed-or-authorized,~~  
24 ~~said-funds-may-be-deposited-in-any-approved-bank-or-banks~~  
25 ~~conveniently-located-within-the-state.~~

26 ~~If-a-governmental-unit-makes-in-writing-to-all-qualified,~~  
27 ~~approved-depositories-a-bona-fide-proffer-to-deposit-public~~  
28 ~~funds-either-in-a-savings-account,-or-in-a-time-certificate~~  
29 ~~of-deposit,-and-such-proffer-is-not-then-accepted,-then-and~~  
30 ~~only-then-may-such-governmental-unit-invest-such-funds-so~~  
31 ~~declined-in-bonds-or-other-evidences-of-indebtedness-issued,~~  
32 ~~assumed,-or-guaranteed-by-the-United-States-of-America-or~~  
33 ~~by-any-agency-or-instrumentality-thereof,-but-these-provisions~~  
34 ~~shall-not-affect-the-investment-of-funds-as-provided-in~~  
35 ~~sections-453.9-and-453.10.~~

1 Public funds which ~~cannot be~~ are not deposited ~~for periods~~  
2 ~~of at least ninety days~~ in depositories may be invested in  
3 notes, certificates, bonds, or other evidences of indebted-  
4 ness which are obligations of or guaranteed by the United  
5 States or any of its agencies, as provided in section 452.10.  
6 In addition to the investments herein authorized, the trea-  
7 surer of state may invest in any of the investments authorized  
8 for the Iowa public employees' retirement system in section  
9 97B.7, subsection 2, paragraph "b" except that investment  
10 in common stocks shall not be permitted.

11 Sec. 7. Section four hundred fifty-three point six (453.6),  
12 Code 1975, is amended to read as follows:

13 453.6 INTEREST RATE. ~~Henceforth-public-deposits~~ Public  
14 funds shall be deposited with reasonable promptness and shall  
15 except for time certificates of deposit and fixed rate-fixed  
16 term certificates shall be evidenced by passbook entry by  
17 the depository legally designated as depository for such  
18 funds. A committee composed of the superintendent of banking,  
19 the supervisor of savings and loan associations, the  
20 commissioner of insurance, and the treasurer of state shall  
21 meet on or about the first of each month and by majority  
22 action shall establish the rate to be earned on state funds  
23 placed in time deposits during the period until the next  
24 meeting of the committee. State funds invested by the trea-  
25 surer of state in ~~bank~~ time certificates of deposit and fixed  
26 rate-fixed term certificates shall draw interest at the rate  
27 so determined, effective on the date of investment.

28 Public funds invested in ~~bank~~ time certificates of deposit  
29 and fixed rate-fixed term certificates by a public body or  
30 officer other than the treasurer of state shall draw interest  
31 at rates to be determined ~~by the public body or officer and~~  
32 ~~the bank, which rates shall not be greater than the rate set~~  
33 ~~under this section for state funds nor more than one percent~~  
34 ~~of interest below that rate.~~ on a competitive basis. Approved  
35 depositories wishing to compete for the investment of public

1 funds shall submit sealed bids to the appropriate approving  
2 board indicating the maximum amount of funds which will be  
3 accepted and the interest rate which will be paid on those  
4 funds. Selection of depositories shall be based upon the  
5 highest interest rate offered less any service charges imposed  
6 and on the degree of safety and convenience of the investment.  
7 The approving board shall establish guidelines governing this  
8 bid procedure. The interest rate paid upon these public funds  
9 may be greater than the rate set for state funds under this  
10 section, but such interest rate shall not be more than one  
11 percent below the rate set for state funds.

12 Sec. 8. Section four hundred fifty-three point seven  
13 (453.7), Code 1975, is amended to read as follows:

14 453.7 INTEREST--WHERE CREDITED.

15 ~~1. --No bank or trust company shall, directly or indirectly,~~  
16 ~~by any device whatsoever, pay any interest to any public offi-~~  
17 ~~cer on any demand deposit of public funds, and no public offi-~~  
18 ~~cer shall take or receive any interest whatsoever on demand~~  
19 ~~deposits of public funds. --This provision shall not apply~~  
20 ~~to interest on time certificates of deposit for public funds.~~

21 2. Interest or earnings on investments and ~~time~~ deposits  
22 made in accordance with the provisions of sections 12.8,  
23 452.10, 453.1 and 453.6 shall be credited to the general fund  
24 of the governmental body making the investment or deposit,  
25 with the exception of specific funds for which investments  
26 are otherwise provided by law, constitutional funds, or when  
27 legally diverted to the state sinking fund for public deposits.  
28 Funds so excepted shall receive credit for interest or earnings  
29 derived from such investments or ~~time~~ deposits made from such  
30 funds. Such interest or earnings on any fund created by  
31 direct vote of the people shall be credited to the fund to  
32 retire any such indebtedness after which the fund itself shall  
33 be credited.

34 Sec. 9. Section four hundred fifty-three point nine  
35 (453.9), unnumbered paragraph one (1), Code 1975, is amended

1 to read as follows:

2 The governing council or board who by law ~~are~~ is authorized  
3 to direct the depositing of funds shall be authorized to  
4 direct the treasurer or other designated financial officer  
5 to invest any fund not an active fund needed for current use  
6 and which is being accumulated as a, sinking fund for a definite  
7 purpose, the interest on which is used for the same purpose,  
8 in savings accounts ~~in-banks~~, in the certificates or warrants  
9 provided by section 454.19, or make time deposits of such  
10 funds as provided in this chapter and receive time certificates  
11 of deposit or fixed rate-fixed term certificates therefor,  
12 or in bonds or other evidences of indebtedness issued, assumed,  
13 or guaranteed by the United States of America, or by any  
14 agency or instrumentality thereof, or in local certificates  
15 or warrants issued by any municipality or school district  
16 within the county, or in municipal or school district bonds  
17 which constitute a general liability, and the treasurer or  
18 other officer when so directed shall so invest such fund.

19 Sec. 10. Section four hundred fifty-three point twelve  
20 (453.12), Code 1975, is amended to read as follows:

21 453.12 SERVICE CHARGE BY-BANK. A ~~bank~~ depository may  
22 make reasonable service charges with respect to the handling  
23 of any public funds, but such service charges shall not be  
24 greater than said ~~bank~~ depository customarily requires from  
25 other patrons for similar services.

26 Sec. 11. Section four hundred fifty-four point two (454.2),  
27 Code 1975, is amended to read as follows:

28 454.2 PURPOSE OF FUND. The purpose of said fund shall  
29 be to secure the payment of their deposits to state, county,  
30 township, municipal, and school corporations having public  
31 funds deposited in demand, savings, or time deposits in any  
32 ~~bank~~ depository in this state, when such deposits have been  
33 made by authority of and in conformity with the direction  
34 of the local governing council or board which is by law charged  
35 with the duty of selecting ~~depository-banks~~ depositories for

1 said funds.

2 Sec. 12. Section four hundred fifty-four point seven  
3 (454.7), Code 1975, is amended to read as follows:

4 454.7 CERTIFICATION OF DEPOSITS. Whenever any such deposi-  
5 tory ~~bank~~ is hereafter closed and placed in the hands of a  
6 receiver or a trustee in bankruptcy or has been heretofore  
7 or is hereafter reorganized, either by reopening, sale to  
8 another ~~bank~~ depository of all or part of its assets with  
9 assumption of all or part of deposit liability, consolidation  
10 with another ~~bank~~ depository, purchase of part or all of  
11 assets of another ~~bank~~ depository, or merger with another  
12 ~~bank-or-banks~~ one or more depositories, or in any manner  
13 authorized by the National Bank Conservation Act, and  
14 especially section 207 of Title II thereof or the Home Owner's  
15 Loan Act of 1933, Title twelve (XII), United States Code,  
16 or the laws of this state, or whenever any ~~bank~~ depository  
17 that has assumed all or part of the deposit liability of a  
18 ~~depository-bank~~ another depository, has heretofore or is here-  
19 after reorganized in any manner authorized by the National  
20 Bank Conservation Act, and especially section 207 of Title  
21 II thereof, or the Home Owner's Loan Act of 1933, Title twelve  
22 (XII), United States Code, or the laws of this state, and  
23 the amount of the several deposits of public funds deposited  
24 therein by authority of and in conformity with the direction  
25 of the legal governing council or board which is by law charged  
26 with the duty of selecting ~~depository-banks~~ depositories for  
27 said funds and fixing the amount thereof has been ascertained  
28 and fixed by an order of court or by the treasurer of state  
29 if the matter is not pending in court, the superintendent  
30 of banking with respect to a bank or the supervisor of savings  
31 and loan associations with respect to a savings and loan  
32 association shall then certify such list of public deposits  
33 so approved by the court to the treasurer of state and the  
34 state comptroller.

35 Sec. 13. Section four hundred fifty-four point eleven

1 (454.11), Code 1975, is amended to read as follows:

2 454.11 ACCEPTANCE BY DEPOSITORIES. Any bank or trust  
3 company which does not desire to serve as a depository under  
4 this Act for public funds of any public body may decline to  
5 do so by giving written notice to such public body prior to  
6 June 15, 1937. Failure to give such written notice shall  
7 constitute an acceptance of the obligations imposed by this  
8 Act with regard to all public funds on deposit July 1, 1937.  
9 The acceptance by any bank or trust company or by a savings  
10 and loan association as defined in section four hundred fifty-  
11 three point one (453.1) of the Code of any public funds for  
12 deposit on or after July 1, 1937, shall constitute an ac-  
13 ceptance of the obligations imposed by this Act with regard  
14 to all such funds so accepted.

15 Sec. 14. Section four hundred fifty-four point twelve  
16 (454.12), Code 1975, is amended to read as follows:

17 454.12 LIABILITY OF DEPOSITORY. The failure on the part  
18 of any depository ~~bank~~ to pay to the county treasurer or the  
19 state treasurer any such assessments on or before the tenth  
20 day of the month same becomes due, shall render such ~~bank~~  
21 depository liable for a ten percent penalty on the amount  
22 of assessments due and the same may be recovered by the state  
23 treasurer or the county treasurer.

24 Sec. 15. Section four hundred fifty-four point fourteen  
25 (454.14), unnumbered paragraphs one (1), two (2) and three  
26 (3), Code 1975, are amended to read as follows:

27 Whenever or wherever ~~any a depository bank-or-any-bank,~~  
28 including a depository which has assumed the whole or any  
29 part of the deposit liability of ~~a~~ another depository bank,  
30 has been heretofore or is hereafter closed and placed in the  
31 hands of a receiver or trustee in bankruptcy, or has been  
32 heretofore or is hereafter reorganized, either by reopening,  
33 sale to another ~~bank~~ depository of a part or all of its assets  
34 with the assumption of all or part of deposit liability,  
35 consolidation with another ~~bank~~ depository, purchase of part

1 or all of the assets of another bank depository, or merger  
2 with ~~another-bank-or-banks~~ one or more depositories, or in  
3 any manner authorized by the National Bank Conservation Act  
4 and especially section 207 of Title II thereof, or the Home  
5 Owner's Loan Act of 1933, Title twelve (XII), United States  
6 Code, or the laws of this state, the state of Iowa or any  
7 county, city, school district or township, having public funds  
8 on deposit therein, may by its governing board at such board's  
9 discretion, by written resolution or order, entered of record  
10 in the minutes of such board, or executive council, as the  
11 case may be, order and direct its treasurer or other officer  
12 to file with and furnish to the treasurer of state a statement  
13 of the amount of the deposit, a certified copy of the  
14 resolution under which the deposit was made, and any other  
15 information demanded by ~~him~~ the treasurer of state. Unless  
16 either the bank depository liable therefor, or claimant has  
17 paid all assessments due the state sinking fund for public  
18 deposits to the date of its reorganization, on that part of  
19 claimant's deposit left in the bank depository the treasurer  
20 of state may refuse to file the claim of such claimant.

21 But where deposits of state funds in national banks ~~only~~  
22 or federally chartered savings and loan associations for which  
23 claims are on file, the payment of interest or assessments  
24 on said deposits, as provided in this chapter, from the time  
25 of the closing of said bank depository to the date of its  
26 reorganization, shall not be required, and the claim may be  
27 paid without interest or assessment for that period; and all  
28 claims heretofore filed, payment of which has been denied  
29 because of failure to pay the interest or assessments for  
30 the time between the date of the closing of said bank  
31 depository and its reopening, as in this chapter provided,  
32 shall be reconsidered and, if approved, shall be paid without  
33 the payment of such interest or assessments.

34 With the advice of the attorney general, the treasurer  
35 of state shall determine the amount thereof deposited by

1 authority of and in conformity with the direction of the legal  
2 governing council or board and send a copy of his decision  
3 by certified mail to the claimant and to the bank depository  
4 and deliver a copy to the superintendent of banking or to  
5 the supervisor of savings and loan associations, whichever  
6 is affected, which decision shall be final except as to such  
7 depositors as within ten days after the mailing of such  
8 decision make objections to such decision in writing to the  
9 treasurer of state, and shall have the same force and effect  
10 as the court order and certificate of the superintendent of  
11 banking or the supervisor of savings and loan associations,  
12 as provided in this chapter.

13 Sec. 16. Section four hundred fifty-four point fifteen  
14 (454.15), Code 1975, is amended to read as follows:

15 454.15 ORDER OF PAYMENT. It shall be the duty of the  
16 superintendent of banking or the supervisor of savings and  
17 loan associations, whichever is appropriate, to direct the  
18 order in which such deposits shall be paid.

19 Sec. 17. Section four hundred fifty-four point sixteen  
20 (454.16), Code 1975, is amended to read as follows:

21 454.16 CERTIFICATION OF CLAIMS. As soon as the money  
22 is available in such sinking fund the superintendent of banking  
23 or supervisor of savings and loan associations, whichever  
24 is appropriate, shall certify to the state comptroller the  
25 amount due the several depositors of public funds as shown  
26 by such certified list and showing the order in which they  
27 shall be paid.

28 Sec. 18. Section four hundred fifty-four point seventeen  
29 (454.17), Code 1975, is amended to read as follows:

30 454.17 WARRANT--PAYMENT--SUBROGATION. Upon such certifica-  
31 tion the state comptroller shall issue his warrant upon such  
32 sinking fund in the hands of the treasurer of state payable  
33 to such depositor of public funds in the order certified by  
34 the superintendent of banking or supervisor of savings and  
35 loan associations, and the same shall be paid to such depositor

1 of public funds, and the treasurer of state shall thereupon  
2 be subrogated to all of the title, interest, and rights of  
3 the depositor in such deposit of public funds or segregated  
4 trust fund and shall share in the distribution of the assets  
5 of such ~~bank-or-trust-fund~~ depository ratably with the other  
6 depositors and the sum received from such distribution shall  
7 be paid by the receiver or trustees to the treasurer of state  
8 and deposited in said sinking fund. Until the depositor  
9 has been paid in full from the sinking fund, it may share  
10 in the distribution of the assets of the ~~bank-or-trust-fund~~  
11 depository.

12 EXPLANATION

13 This bill specifically authorizes the deposit and investment  
14 of public funds in certain approved savings and loan  
15 associations as well as in approved banks in the state.  
16 Public funds can be deposited or invested in savings and loan  
17 associations as long as the associations are federally or  
18 state chartered, are insured by the Federal Savings and Loan  
19 Insurance Corporation, and are mutual deposit institutions.  
20 It gives officials more flexibility to decide whether to  
21 deposit public funds in a depository or invest such funds  
22 in notes, certificates, bonds, or other evidences of  
23 indebtedness which are obligations of or guaranteed by the  
24 United States or any of its agencies. It removes the ceiling  
25 on the rate of interest that public funds invested by a public  
26 body or officer other than the treasurer of state can draw,  
27 and it provides for such interest rate to be determined on  
28 a competitive basis by means of sealed bids. The bill also  
29 requires certain savings and loan associations to contribute  
30 to the state sinking fund to provide insurance for public  
31 funds in depositories.

32 The purpose of the bill is to allow the greatest leeway  
33 possible for public funds to safely earn the highest rate  
34 of interest available.

35

S-5282

1 Amend Senate File 1216 as follows:

- 2 1. Page 3, line 13, by inserting after the word  
3 "body." the words "If none of the duly approved  
4 depositories will accept said deposits under the  
5 conditions herein prescribed or authorized, said funds  
6 may be deposited in any approved depository or  
7 depositories located within the state."  
8 2. Page 5, line 5, by inserting after the word  
9 "imposed" the words "on such funds to be invested".

S-5282 FILED - *Adopted 3/4 (p. 144)*  
MARCH 3, 1976

BY EARL M. WILLITS, Chairperson  
COMMITTEE ON CITIES

S-5287

1 Amend Senate File 1216, page 5, lines 8 through  
2 11, by striking the words "The interest rate paid  
3 upon these public funds may be greater than the rate  
4 set for state funds under this section, but such  
5 interest rate shall not be more than one percent be-  
6 low the rate set for state funds." and inserting in  
7 lieu thereof the words "The interest rate paid upon  
8 these public funds may be higher than the rate set  
9 for state funds under this section, but such interest  
10 rate shall not be higher than the maximum interest  
11 rate that banks are allowed by the federal reserve  
12 board to pay on time deposits. Such interest rate  
13 shall not be lower than one percentage point below  
14 the interest rate set for state funds under this sec-  
15 tion.

16 The interest rate paid upon all public funds de-  
17 posited in savings accounts shall not be higher than  
18 the maximum interest rate that banks are allowed by  
19 the federal reserve board to pay on deposits in savings  
20 accounts."

S-5287 FILED & ADOPTED (144)  
MARCH 4, 1976

BY ROBERT M. CARR  
EARL M. WILLITS  
LEONARD C. ANDERSEN

S-5311

1 Amend Senate File 1216 as follows:

- 2 1. Page 4, line 34 by striking the word  
3 "Approved".  
4 2. Page 4, by striking line 35.  
5 3. Page 5, by striking lines 1 through 11.

S-5311  
FILED  
MARCH 10, 1976

BY JAMES E. BRILES

