

1918
H. R. 2418

HOUSE FILE 2418

By COMMITTEE ON STATE GOVERNMENT

(Formerly Study Bill 205)

Passed House, Date _____ Passed Senate, 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
8 savings and loan associations to contribute to the
9 state sinking fund or be subject to a ten percent
10 penalty on the amount of assessments due.

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

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1 Section 1. Section four hundred fifty-two point ten
2 (452.10), Code 1977, 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 1977, 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 1977, 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 1977, 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 1977, 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. If these depositories will
14 not accept deposit of public funds under applicable conditions,
15 the funds may be deposited in any depository in the state.
16 However, deposits may be made in depositories outside of Iowa
17 for the purpose of paying principal and interest on bonded
18 indebtedness of any municipality when such deposit is made
19 not more than ten days before the date such principal or
20 interest becomes due.

21 Sec. 6. Section four hundred fifty-three point five
22 (453.5), Code 1977, is amended to read as follows:

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

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

1 ~~shall not affect the investment of funds as provided in~~
2 ~~sections 453.9 and 453.10.~~

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

14 Sec. 7. Section four hundred fifty-three point six (453.6),
15 Code 1977, is amended to read as follows:

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

31 Public funds invested in ~~bank~~ time certificates of deposit
32 and fixed rate-fixed term certificates by a public body or
33 officer other than the treasurer of state shall draw interest
34 at rates to be determined ~~by the public body or officer and~~
35 ~~the bank, which rates shall not be greater than the rate set~~

1 ~~under this section for state funds nor more than one percent~~
2 ~~of interest below that rate~~ on a competitive basis. The
3 interest rate paid upon these public funds may be higher than
4 the rate set for state funds under this section, but the
5 interest rate shall not be higher than the maximum interest
6 rate that banks are allowed by the federal reserve board to
7 pay on time deposits. The interest rate shall not be lower
8 than one percentage point below the interest rate set for
9 state funds under this section.

10 The interest rate paid upon all public funds deposited
11 in savings accounts shall not be higher than the maximum in-
12 terest rate that banks are allowed by the federal reserve
13 board to pay on deposits in savings accounts.

14 Sec. 8. Section four hundred fifty-three point seven
15 (453.7), Code 1977, is amended to read as follows:

16 453.7 INTEREST--WHERE CREDITED.

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

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

1 Sec. 9. Section four hundred fifty-three point nine
2 (453.9), unnumbered paragraph one (1), Code 1977, is amended
3 to read as follows:

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

21 Sec. 10. Section four hundred fifty-three point twelve
22 (453.12), Code 1977, is amended to read as follows:

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

28 Sec. 11. Section four hundred fifty-four point two (454.2),
29 Code 1977, is amended to read as follows:

30 454.2 PURPOSE OF FUND. The purpose of ~~said~~ the fund shall
31 be to secure the payment of their deposits to state, county,
32 township, municipal, and school corporations having public
33 funds deposited in demand, savings, or time deposits in any
34 ~~bank~~ depository in this state, when such deposits have been
35 made by authority of and in conformity with the direction

1 of the local governing council or board which is by law charged
2 with the duty of selecting ~~depository-banks~~ depositories for
3 ~~said~~ public funds.

4 Sec. 12. Section four hundred fifty-four point seven
5 (454.7), Code 1977, is amended to read as follows:

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

1 state comptroller.

2 Sec. 13. Section four hundred fifty-four point eleven
3 (454.11), Code 1977, is amended to read as follows:

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

17 Sec. 14. Section four hundred fifty-four point twelve
18 (454.12), Code 1977, is amended to read as follows:

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

26 Sec. 15. Section four hundred fifty-four point fourteen
27 (454.14), unnumbered paragraphs one (1), two (2) and three
28 (3), Code 1977, are amended to read as follows:

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

1 with the assumption of all or part of deposit liability,
2 consolidation with another bank depository, purchase of part
3 or all of the assets of another bank depository, or merger
4 with ~~another-bank-or-banks~~ one or more depositories, or in
5 any manner authorized by the National Bank Conservation Act
6 and especially section 207 of Title II thereof, or the Home
7 Owner's Loan Act of 1933, Title twelve (XII), United States
8 Code, or the laws of this state, the state of Iowa or any
9 county, city, school district, or township, having public
10 funds on deposit therein, may by its governing board at such
11 board's discretion, by written resolution or order, entered
12 of record in the minutes of such board, or executive council,
13 as the case may be, order and direct its treasurer or other
14 officer to file with and furnish to the treasurer of state
15 a statement of the amount of the deposit, a certified copy
16 of the resolution under which the deposit was made, and any
17 other information demanded by ~~him~~ the treasurer of state.
18 Unless either the bank depository liable therefor, or claimant
19 has paid all assessments due the state sinking fund for public
20 deposits to the date of its reorganization, on that part of
21 claimant's deposit left in the bank depository the treasurer
22 of state may refuse to file the claim of such claimant.
23 But where deposits of state funds in national banks ~~only~~
24 or federally chartered savings and loan associations for which
25 claims are on file, the payment of interest or assessments
26 on said deposits, as provided in this chapter, from the time
27 of the closing of said bank depository to the date of its
28 reorganization, shall not be required, and the claim may be
29 paid without interest or assessment for that period; and all
30 claims heretofore filed, payment of which has been denied
31 because of failure to pay the interest or assessments for
32 the time between the date of the closing of said bank
33 depository and its reopening, as in this chapter provided,
34 shall be reconsidered and, if approved, shall be paid without
35 the payment of such interest or assessments.

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

15 Sec. 16. Section four hundred fifty-four point fifteen
16 (454.15), Code 1977, is amended to read as follows:

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

21 Sec. 17. Section four hundred fifty-four point sixteen
22 (454.16), Code 1977, is amended to read as follows:

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

30 Sec. 18. Section four hundred fifty-four point seventeen
31 (454.17), Code 1977, is amended to read as follows:

32 454.17 WARRANT--PAYMENT--SUBROGATION. Upon such certifica-
33 tion the state comptroller shall issue his warrant upon such
34 sinking fund in the hands of the treasurer of state payable
35 to such depositor of public funds in the order certified by

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

14 EXPLANATION

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

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