

APR 19 1978  
STATE GOVERNMENT

HOUSE FILE 2427  
By BYERLY

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 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:  
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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. Amounts deposited in time  
17 certificates of deposit or in fixed rate-fixed term  
18 certificates shall be disclosed in each annual financial  
19 report prepared by the treasurer of state, each county, city,  
20 county public hospital, merged area hospital, memorial hospital  
21 and school corporation, and each township clerk, county  
22 recorder, county auditor, sheriff, clerk of the district  
23 court, and each secretary of a school board. The disclosure  
24 shall include the legal name of each depository institution,  
25 the county and city where the institution is located, the  
26 term of the deposit, the rate of interest, the maturity date  
27 of the account, and the amount on deposit. The treasurer  
28 of state shall prepare and distribute the form for disclosures  
29 under this section to all persons responsible for submitting  
30 the disclosures. A copy of the disclosure shall be submitted  
31 by each public officer or body referred to herein to the  
32 auditor of state under section four hundred fifty-three point  
33 thirteen (453.13) of the Code. The term "bank" means a bank  
34 or a private bank, as defined in section 524.103. The term  
35 "savings and loan association" means a savings and loan

1 association that is federally or state chartered, is insured  
2 by the federal savings and loan insurance corporation, and  
3 is a mutual deposit institution. The term "depository" means  
4 a bank or savings and loan association as defined in this  
5 section.

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

8 453.2 APPROVAL--REQUIREMENTS. The approval of a bank  
9 or savings and loan association as a depository shall be by  
10 written resolution or order which shall be entered of record  
11 in the minutes of the approving board, and which shall dis-  
12 tinctly name each bank and savings and loan association ap-  
13 proved, and specify the maximum amount which may be kept on  
14 deposit in each such bank depository.

15 Sec. 4. Section four hundred fifty-three point three  
16 (453.3), Code 1975, is amended to read as follows:

17 453.3 INCREASE CONDITIONALLY PROHIBITED. The maximum  
18 amount so permitted to be deposited in a named bank depository  
19 shall not be increased except with the approval of the trea-  
20 surer of state.

21 Sec. 5. Section four hundred fifty-three point four  
22 (453.4), Code 1975, is amended by striking the section and  
23 inserting in lieu thereof the following:

24 453.4 LOCATION OF DEPOSITORIES. Deposits by the treasurer  
25 of state shall be in depositories located in this state.

26 Deposits of public funds other than state public funds  
27 shall be in depositories located in the county where the  
28 entity whose public funds are being deposited is located or  
29 in an adjoining county within this state to be selected by  
30 the appropriate governing body. If none of the duly approved  
31 depositories will accept said deposits under the conditions  
32 herein prescribed or authorized, said funds may be deposited  
33 in any approved depository or depositories located within  
34 the state. However deposits may be made in depositories  
35 outside of Iowa for the purpose of paying principals and in-

1 terest on bonded indebtedness of any municipality when such  
 2 deposit is made not more than ten days before the date such  
 3 principal or interest becomes due. before the date such  
 4 principal or interest becomes due.

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

7 453.5 ~~REFUSAL-OF-DEPOSITS--PROCEDURE~~ INVESTMENT OF PUBLIC  
 8 FUNDS. ~~If none of the duly approved banks will accept said~~  
 9 ~~deposits under the conditions herein prescribed or authorized,~~  
 10 ~~said funds may be deposited in any approved bank or banks~~  
 11 ~~conveniently located within the state.~~

12 ~~If a governmental unit makes in writing to all qualified,~~  
 13 ~~approved depositories a bona fide proffer to deposit public~~  
 14 ~~funds either in a savings account, or in a time certificate~~  
 15 ~~of deposit, and such proffer is not then accepted, then and~~  
 16 ~~only then may such governmental unit invest such funds so~~  
 17 ~~declined in bonds or other evidences of indebtedness issued,~~  
 18 ~~assumed, or guaranteed by the United States of America or~~  
 19 ~~by any agency or instrumentality thereof, but these provisions~~  
 20 ~~shall not affect the investment of funds as provided in~~  
 21 ~~sections 453.9 and 453.10.~~

22 Public funds which ~~cannot be~~ are not deposited for periods  
 23 ~~of at least ninety days~~ in depositories may be invested in  
 24 notes, certificates, bonds, or other evidences of indebted-  
 25 ness which are obligations of or guaranteed by the United  
 26 States or any of its agencies, as provided in section 452.10.  
 27 In addition to the investments herein authorized, the trea-  
 28 surer of state may invest in any of the investments authorized  
 29 for the Iowa public employees' retirement system in section  
 30 97B.7, subsection 2, paragraph "b" except that investment  
 31 in common stocks shall not be permitted.

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

34 453.6 INTEREST RATE. ~~Henceforth public deposits~~ Public  
 35 funds shall be deposited with reasonable promptness and shall

1 except for time certificates of deposit and fixed rate-fixed  
2 term certificates shall be evidenced by passbook entry by  
3 the depository legally designated as depository for such  
4 funds. A committee composed of the superintendent of banking,  
5 the supervisor of savings and loan associations, the  
6 commissioner of insurance, and the treasurer of state shall  
7 meet on or about the first of each month and by majority  
8 action shall establish the rate to be earned on state funds  
9 placed in time deposits during the period until the next  
10 meeting of the committee. State funds invested by the trea-  
11 surer of state in ~~bank~~ time certificates of deposit and fixed  
12 rate-fixed term certificates shall draw interest at the rate  
13 so determined, effective on the date of investment.

14 Public funds invested in ~~bank~~ time certificates of deposit  
15 and fixed rate-fixed term certificates by a public body or  
16 officer other than the treasurer of state shall draw interest  
17 at rates to be determined ~~by the public body or officer and~~  
18 ~~the bank, which rates shall not be greater than the rate set~~  
19 ~~under this section for state funds nor more than one percent~~  
20 ~~of interest below that rate.~~ on a competitive basis. Approved  
21 depositories wishing to compete for the investment of public  
22 funds shall submit sealed bids to the appropriate approving  
23 board indicating the maximum amount of funds which will be  
24 accepted and the interest rate which will be paid on those  
25 funds. Selection of depositories shall be based upon the  
26 highest interest rate offered less any service charges imposed  
27 upon such funds to be invested and on the degree of safety  
28 and convenience of the investment. The approving board shall  
29 establish guidelines governing this bid procedure. The  
30 interest rate paid upon these public funds may be greater  
31 than the rate set for state funds under this section, but  
32 such interest rate shall not be more than one percent below  
33 the rate set for state funds.

34 Sec. 8. Section four hundred fifty-three point seven  
35 (453.7), Code 1975, is amended to read as follows:

1 453.7 INTEREST--WHERE CREDITED.

2 ~~1--No bank or trust company shall, directly or indirectly,~~  
 3 ~~by any device whatsoever, pay any interest to any public offi-~~  
 4 ~~cer on any demand deposit of public funds, and no public offi-~~  
 5 ~~cer shall take or receive any interest whatsoever on demand~~  
 6 ~~deposits of public funds.--This provision shall not apply~~  
 7 ~~to interest on time certificates of deposit for public funds.~~

8 2. Interest or earnings on investments and time deposits  
 9 made in accordance with the provisions of sections 12.8,  
 10 452.10, 453.1 and 453.6 shall be credited to the general fund  
 11 of the governmental body making the investment or deposit,  
 12 with the exception of specific funds for which investments  
 13 are otherwise provided by law, constitutional funds, or when  
 14 legally diverted to the state sinking fund for public deposits.  
 15 Funds so excepted shall receive credit for interest or earnings  
 16 derived from such investments or time deposits made from such  
 17 funds. Such interest or earnings on any fund created by  
 18 direct vote of the people shall be credited to the fund to  
 19 retire any such indebtedness after which the fund itself shall  
 20 be credited.

21 Sec. 9. Section four hundred fifty-three point nine  
 22 (453.9), unnumbered paragraph one (1), Code 1975, is amended  
 23 to read as follows:

24 The governing council or board who by law ~~are~~ is authorized  
 25 to direct the depositing of funds shall be authorized to  
 26 direct the treasurer or other designated financial officer  
 27 to invest any fund not an active fund needed for current use  
 28 and which is being accumulated as a sinking fund for a definite  
 29 purpose, the interest on which is used for the same purpose,  
 30 in savings accounts ~~in banks~~, in the certificates or warrants  
 31 provided by section 454.19, or make time deposits of such  
 32 funds as provided in this chapter and receive time certificates  
 33 of deposit or fixed rate-fixed term certificates therefor,  
 34 or in bonds or other evidences of indebtedness issued, assumed,  
 35 or guaranteed by the United States of America, or by any

1 agency or instrumentality thereof, or in local certificates  
2 or warrants issued by any municipality or school district  
3 within the county, or in municipal or school district bonds  
4 which constitute a general liability, and the treasurer or  
5 other officer when so directed shall so invest such fund.

6 Sec. 10. Section four hundred fifty-three point twelve  
7 (453.12), Code 1975, is amended to read as follows:

8 453.12 SERVICE CHARGE BY-BANK. A bank depository may  
9 make reasonable service charges with respect to the handling  
10 of any public funds, but such service charges shall not be  
11 greater than said bank depository customarily requires from  
12 other patrons for similar services.

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

15 454.2 PURPOSE OF FUND. The purpose of said fund shall  
16 be to secure the payment of their deposits to state, county,  
17 township, municipal, and school corporations having public  
18 funds deposited in demand, savings, or time deposits in any  
19 bank depository in this state, when such deposits have been  
20 made by authority of and in conformity with the direction  
21 of the local governing council or board which is by law charged  
22 with the duty of selecting ~~depository-banks~~ depositories for  
23 said funds.

24 Sec. 12. Section four hundred fifty-four point seven  
25 (454.7), Code 1975, is amended to read as follows:

26 454.7 CERTIFICATION OF DEPOSITS. Whenever any such deposi-  
27 tory bank is hereafter closed and placed in the hands of a  
28 receiver or a trustee in bankruptcy or has been heretofore  
29 or is hereafter reorganized, either by reopening, sale to  
30 another bank depository of all or part of its assets with  
31 assumption of all or part of deposit liability, consolidation  
32 with another bank depository, purchase of part or all of  
33 assets of another bank depository, or merger with ~~another~~  
34 ~~bank-or-banks~~ one or more depositories, or in any manner  
35 authorized by the National Bank Conservation Act, and

1 especially section 207 of Title II thereof or the Home Owner's  
2 Loan Act of 1933, Title twelve (XII), United States Code,  
3 or the laws of this state, or whenever any bank depository  
4 that has assumed all or part of the deposit liability of a  
5 depository-bank another depository, has heretofore or is here-  
6 after reorganized in any manner authorized by the National  
7 Bank Conservation Act, and especially section 207 of Title  
8 II thereof, or the Home Owner's Loan Act of 1933, Title twelve  
9 (XII), United States Code, or the laws of this state, and  
10 the amount of the several deposits of public funds deposited  
11 therein by authority of and in conformity with the direction  
12 of the legal governing council or board which is by law charged  
13 with the duty of selecting depository-banks depositories for  
14 said funds and fixing the amount thereof has been ascertained  
15 and fixed by an order of court or by the treasurer of state  
16 if the matter is not pending in court, the superintendent  
17 of banking with respect to a bank or the supervisor of savings  
18 and loan associations with respect to a savings and loan  
19 association shall then certify such list of public deposits  
20 so approved by the court to the treasurer of state and the  
21 state comptroller.

22 Sec. 13. Section four hundred fifty-four point eleven  
23 (454.11), Code 1975, is amended to read as follows:

24 454.11 ACCEPTANCE BY DEPOSITORIES. Any bank or trust  
25 company which does not desire to serve as a depository under  
26 this Act for public funds of any public body may decline to  
27 do so by giving written notice to such public body prior to  
28 June 15, 1937. Failure to give such written notice shall  
29 constitute an acceptance of the obligations imposed by this  
30 Act with regard to all public funds on deposit July 1, 1937.  
31 The acceptance by any bank or trust company or by a savings  
32 and loan association as defined in section four hundred fifty-  
33 three point one (453.1) of the Code of any public funds for  
34 deposit on or after July 1, 1937, shall constitute an ac-  
35 ceptance of the obligations imposed by this Act with regard

1 to, all such funds so accepted.

2 Sec. 14. Section four hundred fifty-four point twelve  
3 (454.12), Code 1975, is amended to read as follows:

4 454.12 LIABILITY OF DEPOSITORY. The failure on the part  
5 of any depository ~~bank~~ to pay to the county treasurer or the  
6 state treasurer any such assessments on or before the tenth  
7 day of the month same becomes due, shall render such ~~bank~~  
8 depository liable for a ten percent penalty on the amount  
9 of assessments due and the same may be recovered by the state  
10 treasurer or the county treasurer.

11 Sec. 15. Section four hundred fifty-four point fourteen  
12 (454.14), unnumbered paragraphs one (1), two (2) and three  
13 (3), Code 1975, are amended to read as follows:

14 Whenever or wherever any a depository ~~bank-or-any-bank,~~  
15 including a depository which has assumed the whole or any  
16 part of the deposit liability of a another depository ~~bank,~~  
17 has been heretofore or is hereafter closed and placed in the  
18 hands of a receiver or trustee in bankruptcy, or has been  
19 heretofore or is hereafter reorganized, either by reopening,  
20 sale to another ~~bank~~ depository of a part or all of its assets  
21 with the assumption of all or part of deposit liability,  
22 consolidation with another ~~bank~~ depository, purchase of part  
23 or all of the assets of another ~~bank~~ depository, or merger  
24 with ~~another-bank-or-banks~~ one or more depositories, or in  
25 any manner authorized by the National Bank Conservation Act  
26 and especially section 207 of Title II thereof, or the Home  
27 Owner's Loan Act of 1933, Title twelve (XII), United States  
28 Code, or the laws of this state, the state of Iowa or any  
29 county, city, school district or township, having public funds  
30 on deposit therein, may by its governing board at such board's  
31 discretion, by written resolution or order, entered of record  
32 in the minutes of such board, or executive council, as the  
33 case may be, order and direct its treasurer or other officer  
34 to file with and furnish to the treasurer of state a statement  
35 of the amount of the deposit, a certified copy of the

1 resolution under which the deposit was made, and any other  
2 information demanded by ~~him~~ the treasurer of state. Unless  
3 either the bank depository liable therefor, or claimant has  
4 paid all assessments due the state sinking fund for public  
5 deposits to the date of its reorganization, on that part of  
6 claimant's deposit left in the bank depository the treasurer  
7 of state may refuse to file the claim of such claimant.

8 But where deposits of state funds in national banks only  
9 or federally chartered savings and loan associations for which  
10 claims are on file, the payment of interest or assessments  
11 on said deposits, as provided in this chapter, from the time  
12 of the closing of said bank depository to the date of its  
13 reorganization, shall not be required, and the claim may be  
14 paid without interest or assessment for that period; and all  
15 claims heretofore filed, payment of which has been denied  
16 because of failure to pay the interest or assessments for  
17 the time between the date of the closing of said bank  
18 depository and its reopening, as in this chapter provided,  
19 shall be reconsidered and, if approved, shall be paid without  
20 the payment of such interest or assessments.

21 With the advice of the attorney general, the treasurer  
22 of state shall determine the amount thereof deposited by  
23 authority of and in conformity with the direction of the legal  
24 governing council or board and send a copy of his decision  
25 by certified mail to the claimant and to the bank depository  
26 and deliver a copy to the superintendent of banking or to  
27 the supervisor of savings and loan associations, whichever  
28 is affected, which decision shall be final except as to such  
29 depositors as within ten days after the mailing of such  
30 decision make objections to such decision in writing to the  
31 treasurer of state, and shall have the same force and effect  
32 as the court order and certificate of the superintendent of  
33 banking or the supervisor of savings and loan associations,  
34 as provided in this chapter.

35 Sec. 16. Section four hundred fifty-four point fifteen

1 (454.15), Code 1975, is amended to read as follows:

2 454.15 ORDER OF PAYMENT. It shall be the duty of the  
3 superintendent of banking or the supervisor of savings and  
4 loan associations, whichever is appropriate, to direct the  
5 order in which such deposits shall be paid.

6 Sec. 17. Section four hundred fifty-four point sixteen  
7 (454.16), Code 1975, is amended to read as follows:

8 454.16 CERTIFICATION OF CLAIMS. As soon as the money  
9 is available in such sinking fund the superintendent of banking  
10 or supervisor of savings and loan associations, whichever  
11 is appropriate, shall certify to the state comptroller the  
12 amount due the several depositors of public funds as shown  
13 by such certified list and showing the order in which they  
14 shall be paid.

15 Sec. 18. Section four hundred fifty-four point seventeen  
16 (454.17), Code 1975, is amended to read as follows:

17 454.17 WARRANT--PAYMENT--SUBROGATION. Upon such certifica-  
18 tion the state comptroller shall issue his warrant upon such  
19 sinking fund in the hands of the treasurer of state payable  
20 to such depositor of public funds in the order certified by  
21 the superintendent of banking or supervisor of savings and  
22 loan associations, and the same shall be paid to such depositor  
23 of public funds, and the treasurer of state shall thereupon  
24 be subrogated to all of the title, interest, and rights of  
25 the depositor in such deposit of public funds or segregated  
26 trust fund and shall share in the distribution of the assets  
27 of such ~~bank-or-trust-fund~~ depository ratably with the other  
28 depositors and the sum received from such distribution shall  
29 be paid by the receiver or trustees to the treasurer of state  
30 and deposited in said sinking fund. Until the depositor  
31 has been paid in full from the sinking fund, it may share  
32 in the distribution of the assets of the ~~bank-or-trust-fund~~  
33 depository.

34 Sec. 19. This Act shall take effect January 1, 1979.

35

EXPLANATION

1 This bill specifically authorizes the deposit and investment  
2 of public funds in certain approved savings and loan  
3 associations as well as in approved banks in the state.  
4 Public funds can be deposited or invested in savings and loan  
5 associations as long as the associations are federally or  
6 state chartered, are insured by the Federal Savings and Loan  
7 Insurance Corporation, and are mutual deposit institutions.  
8 It gives officials more flexibility to decide whether to  
9 deposit public funds in a depository or invest such funds  
10 in notes, certificates, bonds, or other evidences of  
11 indebtedness which are obligations of or guaranteed by the  
12 United States or any of its agencies. It removes the ceiling  
13 on the rate of interest that public funds invested by a public  
14 body or officer other than the treasurer of state can draw,  
15 and it provides for such interest rate to be determined on  
16 a competitive basis by means of sealed bids. The bill also  
17 requires certain savings and loan associations to contribute  
18 to the state sinking fund to provide insurance for public  
19 funds in depositories. Annual disclosure of the deposit of  
20 public funds is required, including the names of actual  
21 depository institutions and the interest rate paid.

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