

Commerce  
Kinley, Chair  
Palmer  
Holden

MAR 10 1983

SENATE FILE 396

BY VANDE HOEF, ANDERSON, HOLT,  
GALLAGHER, DOYLE, GETTINGS,  
HALL, MANN, GENTLEMAN, CARR,  
COLTON, BROWN, MILLER of  
Des Moines, WELLS, NYSTROM,  
SCHWENGELS and BRUNER

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the deposit and investment of public funds  
2 in insured depository financial institutions.

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

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S.F. 396

1 Section 1. Section 452.10, Code 1983, is amended to read  
2 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~~ one or more depositories.

9 However, the treasurer of state and the treasurer of each  
10 political subdivision shall invest, unless otherwise provided,  
11 any of the public funds not currently needed for operating  
12 expenses in notes, certificates, bonds, or other evidences  
13 of indebtedness which are obligations of or guaranteed by  
14 the United States of America or any of its agencies; or make  
15 in time deposits of-such-funds in banks depositories as  
16 provided in chapter 453 and receive time certificates of  
17 deposit therefor; or in savings accounts in ~~banks~~ depositories.

18 The treasurer of state may invest any of the funds in ~~his~~  
19 the treasurer's custody in any of the investments authorized  
20 for the Iowa public employees' retirement system in section  
21 97B.7, subsection 2, paragraph "b" except that investment  
22 in common stocks ~~shall~~ is not be permitted. As used in this  
23 section, "depository" means a financial institution desig-  
24 nated as a legal depository under chapter 453.

25 Sec. 2. Section 453.1, Code 1983, is amended to read as  
26 follows:

27 453.1 DEPOSITS IN GENERAL. All funds held in the hands  
28 of the following officers or institutions shall be deposited  
29 in ~~banks~~ one or more depositories first approved by the  
30 appropriate governing body as indicated: For the treasurer  
31 of state, by the executive council; for the county treasurer,  
32 recorder, auditor, sheriff, clerk of the district court, and  
33 judicial magistrate, by the board of supervisors; for the  
34 city treasurer, by the city council; for the county public  
35 hospital or merged area hospital, by the board of hospital

1 trustees; for a memorial hospital, by the memorial hospital  
 2 commission; for a school corporation, by the board of school  
 3 directors; and for an electric power agency as defined in  
 4 section 28F.2, by the governing body of the electric power  
 5 agency. However, the treasurer of state and the treasurer  
 6 of each political subdivision shall invest all funds not  
 7 needed for current operating expenses in time certificates  
 8 of deposit in ~~banks-listed-as~~ approved depositories pursuant  
 9 to this chapter or in investments permitted by section 452.10.  
 10 The list of public depositories and the amounts severally  
 11 deposited in the depositories ~~shall-be-a-matter~~ are matters  
 12 of public record. ~~The-term-"bank"-means-a-bank-or-a-private~~  
 13 ~~bank,-as-defined-in-section-524-103-~~ As used in this chapter,  
 14 "depository" means a bank whose accounts are insured by the  
 15 federal deposit insurance corporation, or a savings and loan  
 16 association whose accounts are insured by the federal savings  
 17 and loan insurance corporation, or a credit union insured  
 18 by the national credit union administration.

19 Sec. 3. Section 453.2, Code 1983, is amended to read as  
 20 follows:

21 453.2 APPROVAL--REQUIREMENTS. The approval of a bank  
 22 financial institution as a depository shall be by written  
 23 resolution or order which shall be entered of record in the  
 24 minutes of the approving board, and which shall distinctly  
 25 name each bank depository approved, and specify the maximum  
 26 amount which may be kept on deposit in each ~~such-bank~~  
 27 depository.

28 Sec. 4. Section 453.3, Code 1983, is amended to read as  
 29 follows:

30 453.3 INCREASE CONDITIONALLY PROHIBITED. The maximum  
 31 amount ~~se-permitted~~ approved under section 453.2 to be  
 32 deposited in a named bank depository shall not be increased  
 33 except with the approval of the treasurer of state.

34 Sec. 5. Section 453.4, Code 1983, is amended to read as  
 35 follows:

1 453.4 LOCATION OF DEPOSITORIES. Deposits by the treasurer  
2 of state shall be in ~~banks~~ depositories located in this state;  
3 by a county officer or county public hospital officer or  
4 merged area hospital officer, in ~~banks~~ depositories located  
5 in ~~his~~ the county or in an adjoining county within this state;  
6 by a memorial hospital treasurer, in a bank located within  
7 this state which shall be selected by ~~such~~ the memorial  
8 hospital treasurer and approved by the memorial hospital  
9 commission; by a city treasurer or other city financial  
10 officer, in ~~banks-ex-bank~~ depositories or depository offices  
11 located in the city, but ~~in-the-event~~ if there is no bank  
12 ~~ex-bank~~ depository or depository office in ~~such~~ the city then  
13 in any other ~~bank-ex-bank~~ depository or depository office  
14 located in this state which shall be selected as ~~such~~ a  
15 depository by the city council; by a school treasurer or by  
16 a school secretary in a bank depository within this state  
17 which shall be selected by the board of directors or the  
18 trustees of ~~such~~ the school district; by a township clerk  
19 in a bank depository located within this state which shall  
20 be selected by ~~such~~ the township clerk and approved by the  
21 trustees of ~~such~~ the township. ~~Provided, that~~ However,  
22 deposits may be made in ~~banks~~ depositories outside of Iowa  
23 for the purpose of paying principal and interest on bonded  
24 indebtedness of any municipality when ~~such~~ the deposit is  
25 made not more than ten days before the date ~~such~~ the principal  
26 or interest becomes due.

27 Sec. 6. Section 453.5, unnumbered paragraph 1, Code 1983,  
28 is amended to read as follows:

29 If the ~~duly~~ approved ~~banks~~ depositories will not accept  
30 the deposits under the conditions prescribed or authorized  
31 in this chapter, the funds may be deposited, on the same or  
32 better terms as were offered to the depositories, in any one  
33 or more approved ~~bank-ex-banks~~ depositories conveniently  
34 located within the state.

35 Sec. 7. Section 453.6, Code 1983, is amended to read as

1 follows:

2 453.6 INTEREST RATE. Public deposits shall be deposited  
3 with reasonable promptness in a depository legally designated  
4 as depository for the funds. A committee composed of the  
5 superintendent of banking, the auditor of state or a designee,  
6 and the treasurer of state shall meet on or about the first  
7 of each month or at other times as the committee may prescribe  
8 and by majority action shall establish a minimum rate to be  
9 earned on state funds placed in time deposits. State funds  
10 invested in ~~bank~~ time certificates of deposit shall draw  
11 interest at not less than the rate established, effective  
12 on the date of investment. An interest rate established by  
13 the committee under this section shall be in effect commencing  
14 on the eighth calendar day following the day the rate is  
15 established and until a different rate is established and  
16 takes effect. The committee shall give advisory notice of  
17 an interest rate established under this section. This notice  
18 may be given by publication in one or more newspapers, by  
19 publication in the Iowa administrative bulletin, by ordinary  
20 mail to persons directly affected, by any other method  
21 determined by the committee, or by a combination of these.  
22 Actions of the committee under this section are exempt from  
23 chapter 17A.

24 Public funds invested in ~~bank~~ time certificates of deposit  
25 by a public body or officer other than the treasurer of state  
26 shall draw interest at rates to be determined by the public  
27 body or officer and the ~~bank~~ depository, which rates shall  
28 not be less than the minimum rate set under this section for  
29 state funds.

30 Sec. 8. Section 453.7, subsection 1, Code 1983, is amended  
31 to read as follows:

32 1. ~~No-bank-or-trust-company~~ A depository shall, not  
33 directly or indirectly, ~~by any device whatsoever,~~ pay any  
34 interest to ~~any~~ a public officer on ~~any~~ a demand deposit of  
35 public funds, and ~~no~~ a public officer shall not take or receive

1 any interest ~~whatsoever~~ on demand deposits of public funds.  
2 This provision ~~shall~~ does not apply to interest on time  
3 certificates of deposit or savings accounts for public funds.

4 Sec. 9. Section 453.8, Code 1983, is amended to read as  
5 follows:

6 453.8 LIABILITY OF PUBLIC OFFICERS. ~~No~~ An officer who  
7 is referred to in section 453.1 ~~shall-be~~ is not liable for  
8 loss of funds by reason of the insolvency of the depository  
9 ~~bank~~ institution when ~~said~~ the funds have been deposited or  
10 invested as ~~herein~~ provided in this chapter. Any A deposit  
11 or investment in a lawful depository upon which interest is  
12 paid to a governmental unit under ~~the provisions of~~ this  
13 chapter ~~shall-be-considered~~ is a legal deposits deposit for  
14 the purposes of chapter 454.

15 Sec. 10. Section 453.9, unnumbered paragraph 1, Code 1983,  
16 is amended to read as follows:

17 The governing council or board ~~who~~ which by law ~~are~~ is  
18 authorized to direct the depositing of funds ~~shall-be~~  
19 ~~authorized-to~~ may direct the treasurer or other designated  
20 financial officer to invest any fund not an active fund needed  
21 for current use and which is being accumulated as a sinking  
22 fund for a definite purpose, the interest on which is used  
23 for the same purpose, in savings accounts in ~~banks~~  
24 depositories, in the certificates or warrants provided by  
25 section 454.19, ~~or make in~~ time deposits of such funds as  
26 provided in this chapter ~~and receive time certificates of~~  
27 ~~deposit therefor~~, or in bonds or other evidences of  
28 indebtedness issued, assumed, or guaranteed by the United  
29 States of America, or by any an agency or instrumentality  
30 ~~thereof~~ of the United States, or in local certificates or  
31 warrants issued by any a municipality or school district  
32 within the county, or in municipal or school district bonds  
33 which constitute a general liability, and the treasurer or  
34 other officer when so directed shall so invest ~~such~~ the fund.

35 Sec. 11. Section 453.12, Code 1983, is amended to read

1 as follows:

2 453.12 SERVICE CHARGE BY BANK DEPOSITORY. A bank  
3 depository may make reasonable service charges with respect  
4 to the handling of any public funds, but ~~such~~ the service  
5 charges shall not be greater than ~~said-bank~~ the depository  
6 customarily requires from other ~~patrons~~ depositors for similar  
7 services.

8 Sec. 12. Chapter 453, Code 1983, is amended by adding  
9 the following new section:

10 NEW SECTION. 453.13 DEPOSIT NOT MEMBERSHIP. Notwith-  
11 standing chapter 534, the deposit of public funds in an  
12 association defined in section 533.1 or 534.2 does not  
13 constitute being a shareholder, stockholder, or owner of a  
14 corporation in violation of Article VIII of the Constitution  
15 of the State of Iowa or any other provision of law.

16 Sec. 13. Section 454.2, Code 1983, is amended to read  
17 as follows:

18 454.2 PURPOSE OF FUND. The purpose of the sinking fund  
19 is to secure the payment of their deposits to state, county,  
20 township, municipal, and school corporations, and electric  
21 power agencies as defined in section 28F.2, having public  
22 funds deposited in demand or time deposits in ~~any-bank~~ a  
23 depository in this state, when those deposits have been made  
24 by authority of and in conformity with the direction of the  
25 local governing council or board which is by law charged with  
26 the duty of selecting ~~depository-banks~~ depositories for the  
27 funds. As used in this chapter, "depository" means a  
28 depository as defined in section 453.1 that has been approved  
29 under chapter 453 for the deposit of public funds.

30 Sec. 14. Section 454.7, Code 1983, is amended to read  
31 as follows:

32 454.7 CERTIFICATION OF DEPOSITS. ~~Whenever-any-such~~ If  
33 a depository bank is ~~hereafter~~ closed and placed in the hands  
34 of a receiver or a trustee in bankruptcy or ~~has-been-heretofore~~  
35 ~~or~~ is ~~hereafter~~ reorganized, either by reopening, sale to

1 another bank depository of all or part of its assets with  
2 assumption of all or part of deposit liability, consolidation  
3 with another bank depository, purchase of part or all of the  
4 assets of another bank depository, or merger with another  
5 ~~bank-or-banks~~ depository, or in any manner authorized by the  
6 National Bank Conservation Act, and especially section 207  
7 of Title II ~~thereof~~ of that Act, or ~~whenever-any-bank~~ if a  
8 depository that has assumed all or part of the deposit  
9 liability of a depository ~~bank~~, ~~has-heretofore-or~~ is hereafter  
10 reorganized in any manner authorized by the National Bank  
11 Conservation Act, and especially section 207 of Title II  
12 ~~thereof~~ of that Act, and the amount of the ~~several~~ deposits  
13 of public funds deposited ~~therein~~ in the depository by  
14 authority of and in conformity with the direction of the legal  
15 governing council or board which is by law charged with the  
16 duty of selecting ~~depository-banks~~ depositories for ~~said the~~  
17 funds and fixing the amount ~~thereof~~ of the deposits has been  
18 ascertained and fixed by an order of court or by the treasurer  
19 of state if the matter is not pending in court, the  
20 ~~superintendent-of-banking~~ treasurer of state shall then certify  
21 ~~such~~ the list of public deposits so approved by the court  
22 to the ~~treasurer-of-state-and-the~~ state comptroller.

23 Sec. 15. Section 454.11, Code 1983, is amended to read  
24 as follows:

25 454.11 ACCEPTANCE BY DEPOSITORIES. ~~Any-bank-or-trust~~  
26 ~~company-which-does-not-desire-to-serve-as-a-depository-under~~  
27 ~~this-Act-for-public-funds-of-any-public-body-may-decline-to~~  
28 ~~do-so-by-giving-written-notice-to-such-public-body-prior-to~~  
29 ~~June-15,-1937.--Failure-to-give-such-written-notice-shall~~  
30 ~~constitute-an-acceptance-of-the-obligations-imposed-by-this~~  
31 ~~Act-with-regard-to-all-public-funds-on-deposit-July-1,-1937.~~  
32 The acceptance by ~~any-bank-or-trust-company~~ a depository of  
33 any public funds for deposit on or after July 1, 1937, shall  
34 ~~constitute~~ constitutes an acceptance of the obligations imposed  
35 by this Act chapter with regard to all ~~such~~ funds so accepted.

1 Sec. 16. Section 454.12, Code 1983, is amended to read  
2 as follows:

3 454.12 LIABILITY OF DEPOSITORY. The failure on the part  
4 of ~~any a~~ depository bank to pay to the county treasurer or  
5 the state treasurer any such assessments on or before the  
6 tenth day of the month ~~same-becomes~~ they become due, shall  
7 ~~render-such-bank~~ renders the depository liable for a ten  
8 percent penalty on the amount of assessments due and the same  
9 penalty may be recovered by the state treasurer or the county  
10 treasurer.

11 Sec. 17. Section 454.14, unnumbered paragraph 1, Code  
12 1983, is amended to read as follows:

13 ~~Whenever-or-whenever-any~~ If a depository bank ~~or-any-bank~~  
14 which has assumed the whole or any part of the deposit  
15 liability of a depository bank, ~~has-been-heretofore-or~~ is  
16 ~~hereafter~~ closed and placed in the hands of a receiver or  
17 trustee in bankruptcy, or ~~has-been-heretofore-or~~ is ~~hereafter~~  
18 reorganized, either by reopening, sale to another bank  
19 depository of a part or all of its assets with the assumption  
20 of all or part of deposit liability, consolidation with another  
21 bank depository, purchase of part or all of the assets of  
22 another bank depository, or merger with another bank ~~or-banks~~  
23 depository, or in any manner authorized by the National Bank  
24 Conservation Act and especially section 207 of Title II ~~thereof~~  
25 of that Act, the state of Iowa or any county, city, school  
26 district or township, having public funds on deposit ~~therein~~  
27 in the depository, may by its governing board at ~~such~~ the  
28 board's discretion, by written resolution or order, entered  
29 of record in the minutes of ~~such~~ the board, or executive  
30 council, as the case may be, order and direct its treasurer  
31 or other officer to file with and furnish to the treasurer  
32 of state a statement of the amount of the deposit, a certified  
33 copy of the resolution under which the deposit was made, and  
34 any other information demanded by ~~him~~ the treasurer of state.  
35 Unless either the bank depository liable ~~therefor~~ for the

1 deposit, or the claimant has paid all assessments due the  
2 state sinking fund for public deposits to the date of its  
3 reorganization, on that part of claimant's deposit left in  
4 the bank depository the treasurer of state may refuse to file  
5 the claim of ~~such~~ the claimant.

6 Sec. 18. Section 454.14, unnumbered paragraph 3, Code  
7 1983, is amended to read as follows:

8 With the advice of the attorney general, the treasurer  
9 of state shall determine the amount ~~thereof~~ deposited by  
10 authority of and in conformity with the direction of the legal  
11 governing council or board and send a copy of ~~his~~ the decision  
12 by certified mail to the claimant and to the bank depository  
13 and deliver a copy to the ~~superintendent-of-banking~~ state  
14 regulatory authority having jurisdiction over the depository  
15 or over similar depositories, which decision ~~shall-be~~ is final  
16 except as to ~~such~~ depositors as who within ten days after  
17 the mailing of ~~such~~ the decision make objections to ~~such~~ the  
18 decision in writing to the treasurer of state, and ~~shall-have~~  
19 the decision has the same force and effect as the court order  
20 and certificate of the ~~superintendent-of-banking~~ treasurer  
21 of state, as provided in this chapter.

22 Sec. 19. Section 454.15, Code 1983, is amended to read  
23 as follows:

24 454.15 ORDER OF PAYMENT. ~~it-shall-be-the-duty-of-the~~  
25 ~~superintendent-of-banking-to~~ The treasurer of state shall  
26 direct the order in which ~~such~~ deposits ~~shall-be~~ are paid.

27 Sec. 20. Section 454.16, Code 1983, is amended to read  
28 as follows:

29 454.16 CERTIFICATION OF CLAIMS. As soon as the money  
30 is available in ~~such~~ the sinking fund the ~~superintendent-of~~  
31 ~~banking~~ treasurer of state shall certify to the state  
32 comptroller the amount due the several depositors of public  
33 funds as shown by ~~such~~ the certified list and ~~showing~~ show  
34 the order in which they shall be paid.

35 Sec. 21. Section 454.17, Code 1983, is amended to read

1 as follows:

2 454.17 WARRANT--PAYMENT--SUBROGATION. Upon ~~such~~  
3 certification by the treasurer of state the state comptroller  
4 shall issue ~~his-warrant~~ warrants upon ~~such~~ the sinking fund  
5 in the hands of the treasurer of state payable to ~~such~~  
6 ~~depositer~~ depositors of public funds in the order certified  
7 by the ~~superintendent-of-banking~~ treasurer of state, and the  
8 ~~same~~ warrants shall be paid to ~~such-depositer~~ the depositories  
9 of public funds, and the treasurer of state ~~shall-thereupon~~  
10 be is then subrogated to all of the title, interest, and  
11 rights of the ~~depositer~~ depositories in ~~such-deposit~~ the deposits  
12 of public funds or segregated trust fund and shall share in  
13 the distribution of the assets of ~~such-bank~~ the depository  
14 or trust fund ratably with the other depositories and the sum  
15 received from ~~such~~ the distribution shall be paid by the  
16 receiver or trustees to the treasurer of state and deposited  
17 in ~~said~~ the sinking fund. Until the depositor has been paid  
18 in full from the sinking fund, it may share in the distribution  
19 of the assets of the ~~bank~~ depository or trust fund.

20 EXPLANATION

21 This bill would authorize the state and its governmental  
22 subdivisions to deposit and invest public funds in federally  
23 insured savings and loan associations. Present law limits  
24 the deposit of public funds to banks. Other laws regulating  
25 the terms and conditions of the deposit of public funds would  
26 continue to apply.

27 The bill would take effect July 1 following enactment.

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