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Holden, Chair
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SENATE FILE 512

BY COMMITTEE ON COMMERCE

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Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to financial institutions by allowing savings
2 and loan associations and credit unions to accept public
3 funds and expanding the deposit and geographic limits for
4 bank holding companies.

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

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S.F. 512

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 ~~so-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-or-bank~~ depositories or depository offices
11 located in the city, but ~~in-the-event~~ if there is no ~~bank~~
12 ~~or-bank~~ depository or depository office in ~~such~~ the city then
13 in any other ~~bank-or-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 ~~only~~ 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-or-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 deposite 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 ~~deposits-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~~ depositories 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 depositors
 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~~ depositors 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 depositors 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 Sec. 22. Section 524.1802, Code 1983, is amended to read
 21 as follows:

22 524.1802 LIMITATION. ~~No~~ A bank holding company shall
 23 not directly or indirectly acquire ownership or control of
 24 more than twenty-five percent of the voting shares of ~~any~~
 25 a bank, or the power to control in any manner the election
 26 of a majority of the directors of ~~any~~ a bank, if upon ~~such~~
 27 the acquisition the banks so owned or controlled by the bank
 28 holding company would have, in the aggregate, more than eight
 29 percent of the total of savings, time, and demand deposits,
 30 ~~both-time-and-demand~~, of all banks and savings and loan
 31 associations in this state, as determined by the superintendent
 32 on the basis of the most recent reports of the banks and
 33 savings and loan associations in the state to their supervisory
 34 authorities which are available at the time of the acquisition.

35 ~~No~~ A bank holding company shall not directly or indirectly

1 acquire ownership or control of more than twenty-five percent
2 of the voting shares of any a savings and loan association,
3 or the power to control in any manner the election of a
4 majority of the directors of any a savings and loan
5 association, if upon ~~such~~ the acquisition the associations
6 so owned or controlled by the bank holding company would have,
7 in the aggregate, more than eight percent of the total of
8 savings, time, and demand deposits, -both-time-and-demand,
9 of all banks and associations in this state, as determined
10 by the superintendent on the basis of the most recent reports
11 of the banks and associations in the state to their supervisory
12 authorities which are available at the time of the acquisition.

13 Sec. 23. Section 524.1805, Code 1983, is amended to read
14 as follows:

15 524.1805 OUT-OF-STATE HOLDING COMPANIES. ~~Nothing-in-this~~

16 1. This division ~~shall-be-construed-to~~ does not authorize
17 a bank holding company which is with respect to the state
18 of Iowa an "out-of-state bank holding company", as defined
19 or referred to in 12 U.S.C. sec. 1842(d), as amended to January
20 1, 1971, to acquire any of the voting shares of, any interest
21 in, all or substantially all of the assets of, or power to
22 control in any manner the election of any of the directors
23 of any a bank in this state, unless ~~such~~ the bank holding
24 company was on January 1, 1971 registered with the federal
25 reserve board as a bank holding company, and on that date
26 owned at least two banks in this state.

27 2. However, an out-of-state bank holding company located
28 in a state which is in the north central region of the United
29 States may acquire, directly or indirectly, voting shares,
30 an interest in, or control of banks located in Iowa if the
31 state in which it is located permits bank holding companies
32 located in Iowa to acquire voting shares, an interest in,
33 or control of banks located within that state.

34 3. If it is ultimately determined that the limitation
35 in subsection 2 restricting reciprocity to states in the north

1 central region of the United States is invalid, then all of
2 subsection 2 is void and no reciprocity is allowed. However,
3 if subsection 2 becomes void an out-of-state bank holding
4 company owning, directly or indirectly, voting shares, an
5 interest in, or control of a bank located in Iowa may maintain
6 the interest and may expand holdings not to exceed the
7 limitations contained in section 524.1802.

8 4. For the purposes of this section, a bank holding company
9 is deemed to be located in the state in which the operations
10 of its banking subsidiaries are "principally conducted" as
11 defined in 12 U.S.C. sec. 1842(d), as amended to January 1,
12 1981. For the purposes of this section, "north central region
13 of the United States" includes the states of Iowa, Missouri,
14 Nebraska, South Dakota, North Dakota, Minnesota, and Wisconsin.

15 EXPLANATION

16 This bill relates to financial institutions by allowing
17 savings and loan associations and credit unions to become
18 depositories of public funds and expands the deposit and
19 geographic bases on acquisitions by a bank holding company.

20 Sections 1 through 21 authorize the state and its
21 governmental subdivisions to deposit and invest public funds
22 in federally insured savings and loan associations. Present
23 law limits the deposit of public funds to banks. Other laws
24 regulating the terms and conditions of the deposit of public
25 funds would continue to apply.

26 Section 22 changes the deposit base upon which a bank
27 holding company's growth is limited. Presently only bank
28 time and demand deposits or savings and loan time and demand
29 deposits, as applicable, are considered in allowing for the
30 acquisition of additional banks by a bank holding company.
31 The bill adds savings deposits and includes banks and savings
32 and loan associations in determining the limitation in either
33 case.

34 Section 23 establishes a region banking area for the north
35 central region of the United States and provides that an out-

1 of-state bank holding company may acquire voting shares, an
2 interest in, or control of banks located in Iowa if the state
3 in which the bank holding company is located will allow an
4 Iowa bank holding company reciprocal acquisition rights in
5 banks located in that state. This reciprocity is limited
6 to the states of Iowa, Missouri, Nebraska, South Dakota, North
7 Dakota, Minnesota, and Wisconsin.

8 This bill becomes effective July 1 following enactment.

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