

Re Bill for 3148 2/20/85

SENATE FILE

296

FILED FEB 19 1985

BY DELUHERY, HOLDEN, JENSEN,
MILLER of Cerro Gordo,
and WELLS

Passed Senate, Date 2-6-85 (p 639) Passed House, Date 4-16-85 (p 1621)

Vote: Ayes 48 Nays 1 Vote: Ayes 95 Nays 0

Approved May 24, 1985

A BILL FOR

1 An Act relating to the deposit and investment of public funds.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 296

1 Section 1. Section 452.10, unnumbered paragraph 1, Code
2 1985, is amended to read as follows:

3 The treasurer of state and the treasurer of each political
4 subdivision shall at all times keep all funds coming into
5 their possession as public money, in a vault or safe, to be
6 provided for that purpose, or in one or more depositories.
7 However, the treasurer of state and the treasurer of each
8 political subdivision shall invest, unless otherwise provided,
9 any of the public funds not currently needed for operating
10 expenses in notes, certificates, bonds, prime eligible bankers
11 acceptances, commercial paper rated within the two highest
12 classifications of prime as established by at least one of the
13 standard rating services approved by the superintendent of
14 banking pursuant to chapter 17A, perfected repurchase
15 agreements, or other evidences of indebtedness which are
16 obligations of or guaranteed by the United States of America
17 or any of its agencies; or in time deposits in depositories as
18 provided in chapter 453 and receive time certificates of
19 deposit therefor; ~~or~~ in savings accounts in depositories or in
20 one or more local government investment funds approved
21 pursuant to section 453.21. The total investment in
22 commercial paper of any one corporation is limited to an
23 amount not more than twenty percent of the total stockholders'
24 equity of that corporation. The treasurer of state may invest
25 any of the funds in the treasurer's custody in any of the
26 investments authorized for the Iowa public employees'
27 retirement system in section 97B.7, subsection 2, paragraph
28 "b" except that investment in common stocks is not permitted.
29 As used in this section, "depository" means a financial
30 institution designated as a legal depository under chapter
31 453.

32 Sec. 2. Section 453.1, Code 1985, is amended to read as
33 follows:

34 453.1 DEPOSITS IN GENERAL.

35 1. all funds held in the hands of the following officers

1 or institutions shall be deposited in one or more local
2 government investment funds approved pursuant to section
3 453.21 or one or more depositories first approved by the
4 appropriate governing body as indicated: For the treasurer of
5 state, by the executive council; for judicial officers and
6 court employees, by the supreme court; for the county
7 treasurer, recorder, auditor, sheriff, by the board of
8 supervisors; for the city treasurer, by the city council; for
9 the county public hospital or merged area hospital, by the
10 board of hospital trustees; for a memorial hospital, by the
11 memorial hospital commission; for a school corporation, by the
12 board of school directors; for a city utility or combined
13 utility system established under chapter 388, by the utility
14 board; for a regional library established under chapter 303B,
15 by the regional board of library trustees; and for an electric
16 power agency as defined in section 28F.2, by the governing
17 body of the electric power agency. However, the treasurer of
18 state and the treasurer of each political subdivision shall
19 invest all funds not needed for current operating expenses in
20 time certificates of deposit in approved depositories pursuant
21 to this chapter or in investments permitted by section 452.10.
22 The list of public depositories and the amounts severally
23 deposited in the depositories are matters of public record.
24 ~~As used in this chapter, "depository" means a bank or any~~
25 ~~office thereof whose accounts are insured by the federal~~
26 ~~deposit insurance corporation, or a savings and loan~~
27 ~~association or any branch thereof or a savings bank or any~~
28 ~~branch thereof whose accounts are insured by the federal~~
29 ~~savings and loan insurance corporation, or a credit union~~
30 ~~insured by the national credit union administration. This~~
31 subsection does not limit the definition of "public funds"
32 contained in subsection 2.

33 2. As used in this chapter unless the context otherwise
34 requires:

35 a. "Depository" means a bank or any office of a bank whose

1 accounts are insured by the federal deposit insurance
2 corporation, or a savings and loan association or a savings
3 bank or any branch of a savings and loan association or
4 savings bank whose accounts are insured by the federal savings
5 and loan insurance corporation, or a credit union insured by
6 the national credit union administration.

7 b. "Public funds" and "public deposits" means the moneys
8 of the state or a political subdivision of the state including
9 a county, school corporation, special district, drainage
10 district, unincorporated town or township, municipality, or
11 municipal corporation or any agency, board, or commission of
12 the state or a political subdivision; any court or public body
13 noted in subsection 1; a legal or administrative entity
14 created pursuant to chapter 28E; and federal and state grant
15 moneys of a quasi-public state entity that are placed in a
16 depository pursuant to this chapter.

17 3. A deposit of public funds in a depository pursuant to
18 this chapter shall be secured as follows:

19 a. If a depository is a savings and loan association, a
20 savings bank, or an office of a savings and loan association
21 or savings bank, then the public deposits in those
22 depositories shall be secured pursuant to sections 453.16
23 through 453.19 and sections 453.23 and 453.24.

24 b. If a depository is a bank, credit union, or an office
25 of a bank or credit union, then the public deposits in those
26 depositories shall be secured pursuant to sections 453.22
27 through 453.24.

28 4. Ambiguities in the application of this section shall be
29 resolved in favor of preventing the loss of public funds on
30 deposit in a depository.

31 Sec. 3. Section 453.4, Code 1985, is amended by striking
32 the section and inserting the following:

33 453.4 LOCATION OF DEPOSITORIES.

34 1. Public funds deposited pursuant to section 453.1 may
35 only be deposited in a depository located in the state.

1 2. Deposits may be made in depositories outside of the
2 state for the purpose of paying principal and interest on
3 bonded indebtedness of any municipality when the deposit is
4 made not more than ten days before the date the principal or
5 interest becomes due. In addition, the treasurer of state may
6 maintain an account outside the state of Iowa for the purpose
7 of providing custodial services for the state and state
8 retirement fund accounts.

9 Sec. 4. Section 453.16, subsection 1, paragraph b, Code
10 1985, is amended by adding the following new subparagraph:

11 NEW SUBPARAGRAPH. (4) First lien mortgages which are
12 valued according to practices acceptable to the treasurer of
13 state.

14 Sec. 5. NEW SECTION. 453.21 VOLUNTARY LOCAL GOVERNMENT
15 INVESTMENT FUND.

16 1. A local government investment board is created within
17 the office of the treasurer of state. The board shall consist
18 of five members. One member shall be the treasurer of state.
19 The other four members shall be appointed by the governor
20 subject to section 69.16 and confirmation by the senate and
21 shall serve four-year terms at the pleasure of the governor.
22 The term of each member shall begin and end as provided in
23 section 69.19. A vacancy shall be filled as provided in
24 section 2.32. Not more than two members appointed by the
25 governor shall belong to the same political party. Board
26 members shall receive reimbursement for the actual and
27 necessary expenses incurred in the performance of their
28 duties.

29 2. The board shall select and designate through open
30 competition up to five separate firms or organizations for
31 management and investment of the approved local government
32 investment funds. The funds eligible for selection are those
33 which are regulated by the federal securities exchange
34 commission under the Investment Company Act of 1940 and which
35 have offices located in Iowa. The investment managers shall

1 invest moneys in the fund administered by them with the degree
2 of judgment and care which persons of prudence, discretion,
3 and intelligence exercise in the management of their own
4 affairs, not for speculation but for investment, considering
5 the probable safety of their capital and the probable income
6 to be derived. Assets of the funds may be invested only in
7 any of the following:

8 a. Obligations of the United States government and its
9 agencies and instrumentalities.

10 b. Deposits and certificates of deposit of banks, savings
11 banks, savings and loan associations, and credit unions
12 located in Iowa.

13 c. Prime bankers acceptances.

14 d. Commercial paper rated within the two highest
15 classifications of prime as established by at least one of the
16 standard rating services approved by the superintendent of
17 banking pursuant to chapter 17A.

18 e. Perfected repurchase agreements.

19 3. The board through the office of the treasurer of state
20 shall adopt rules pursuant to chapter 17A as necessary for the
21 implementation of the board's policies and the efficient
22 administration of the investment funds including, but not
23 limited to, the following:

24 a. Specification of minimum amounts which may be deposited
25 in an investment fund and minimum periods of time for which
26 deposits shall be retained in a fund.

27 b. Creation of a reserve for losses.

28 c. Payment of administrative expenses from the earnings of
29 a fund.

30 d. Distribution of the earnings in excess of expenses or
31 allocation of losses to the participants in proportion to the
32 differing amounts of their respective investments and the
33 differing periods of time for which the amounts were in the
34 custody of a fund.

35 e. Procedures for the deposit and withdrawal of moneys

1 from a fund.

2 f. Procedures for receiving comment from organizations
3 representing local political subdivisions including, but not
4 limited to, the city finance committee created in section
5 384.13 and the county finance committee created in chapter
6 333A.

7 4. The governing body of a public depositor listed in
8 section 453.1 having funds which are available for investment
9 and which are not required by law or by covenant or agreement
10 with bondholders or others to be segregated and invested in a
11 different manner, may direct its treasurer to remit a portion
12 of its idle funds to one or more of the approved investment
13 funds. Participation in an approved local government
14 investment fund is voluntary.

15 5. A separate account designated by name and number for
16 each participant in a fund shall be kept to record individual
17 transactions and totals of all investments belonging to each
18 participant. A report showing the changes in investments made
19 during the preceding month shall be furnished at least monthly
20 to each participant having an interest in an approved fund.
21 Details of investment transactions shall be furnished to any
22 participant upon request.

23 6. The principal and accrued income, or any part of the
24 principal and accrued income, of each account maintained for a
25 participant in an investment fund are payable at any time upon
26 request, subject to the minimum investment period established
27 under subsection 3, paragraph "a".

28 7. The instruments of title of all investments of a fund
29 shall remain in the custody of the approved fund manager.

30 Sec. 6. NEW SECTION. 453.22 REQUIRED COLLATERAL.

31 1. The depository shall pledge the required collateral
32 securities to the treasurer of state by depositing the
33 collateral securities in a restricted account of the treasurer
34 of state at a federal reserve bank, the United States central
35 credit union, a trust department of another commercial bank or

1 with another financial institution which has been designated
2 by the treasurer of state that is not owned or controlled
3 directly or indirectly by the same depository or holding
4 company. The depository shall deliver to the treasurer of
5 state a security agreement which provides the treasurer of
6 state with a valid and perfected security interest in the
7 required collateral. The market value of the required
8 collateral shall not be less than one hundred ten percent of
9 the total public funds placed on deposit in the depository.

10 2. The treasurer of state shall adopt the following rules:

11 a. Providing for valuation of collateral if the market
12 value of a security is not readily determinable.

13 b. Establishing reporting requirements.

14 c. Establishing procedures for substituting different
15 securities consistent with subsection 3.

16 d. Establishing administrative procedures necessary to
17 implement this chapter.

18 e. Designating financial institutions eligible to be
19 custodian of pledged collateral.

20 f. Establishing fee schedules to cover costs incurred for
21 opening and closing accounts and substitution of collateral.

22 3. The securities used to secure public deposits shall be
23 acceptable to the treasurer of state and shall be one or more
24 of the following:

25 a. Direct obligations of, or obligations that are insured
26 as to principal and interest by, the United States of America
27 or an agency or instrumentality of the United States of
28 America.

29 b. Public bonds or obligations of a state or a political
30 subdivision whose bonds are rated in the top two grades by a
31 rating service approved by the treasurer of state.

32 c. To the extent of the guarantee, loans, obligations, or
33 nontransferable letters of credit upon which the payment of
34 principal and interest is fully secured or guaranteed by the
35 United States of America or an agency or instrumentality of

1 the United States of America.

2 d. First lien mortgages which are valued according to
3 practices acceptable to the treasurer of state.

4 e. Corporate bonds rated within the two highest
5 classifications of prime as established by at least one of the
6 standard rating services approved by the superintendent of
7 banking pursuant to chapter 17A.

8 f. A bond of a surety company approved by the United
9 States treasury department.

10 4. A depository may borrow collateral used for a pledge if
11 the collateral is free of any liens, security interests,
12 claims, or encumbrances.

13 Sec. 7. NEW SECTION. 453.23 PAYMENT OF LOSSES.

14 1. The pledging of securities by a depository pursuant to
15 this chapter constitutes consent by the depository to the
16 disposition of the securities in accordance with this section.

17 2. The depository and the security given for the public
18 funds in its hands are liable for payment if the depository
19 fails to pay a check, draft, or warrant drawn by the public
20 officer or to account for a check, draft, warrant, order or
21 certificates of deposit, or any public funds entrusted to it
22 if in failing to pay the depository acts contrary to the terms
23 of an agreement between the depository and the public body
24 treasurer.

25 3. If a depository is closed by its primary regulatory
26 officials, the public body with deposits in the depository
27 shall notify the treasurer of state of the amount of any claim
28 within thirty days of the closing. The treasurer of state
29 shall implement the following procedures:

30 a. In cooperation with the responsible regulatory
31 officials for the depository, the treasurer shall validate the
32 amount of public funds on deposit at the defaulting depository
33 and the amount of deposit insurance applicable to the
34 deposits.

35 b. The loss to public depositors shall be satisfied, first

1 through any applicable deposit insurance and then through the
2 sale of securities pledged by the defaulting depository, and
3 then the assets of the defaulting depository. The priority of
4 claims are those established pursuant to section 524.1312,
5 subsection 2, section 533.22, subsection 1, paragraph "b", or
6 section 534.516. To the extent permitted by federal law, in
7 the distribution of an insolvent federally chartered
8 depository's assets, the order of payment of liabilities if
9 its assets are insufficient to pay in full all its liabilities
10 for which claims are made shall be in the same order as for
11 the equivalent type of state chartered depository as provided
12 in section 524.1312, subsection 2, section 533.22, subsection
13 1, paragraph "b", or section 534.516.

14 c. If the loss to public funds is not covered by insurance
15 and the proceeds of the failed depository's assets which are
16 liquidated within thirty days of the closing of the depository
17 and pledged collateral, the treasurer shall provide coverage
18 of the remaining loss as follows:

19 (1) If the loss was incurred in a bank, then any further
20 payments to cover the loss will come from the state sinking
21 fund for public deposits in banks. If the funds are
22 inadequate to cover the entire loss, then the treasurer shall
23 make an assessment against other banks who hold public funds.
24 The assessment shall be determined by multiplying the total
25 amount of the remaining loss to all public depositors by a
26 percentage that represents the average of public funds
27 deposits held by all banks during the preceding twelve month
28 period ending on the last day of the month immediately
29 preceding the month the depository was closed. Each bank
30 shall pay its assessment to the treasurer within three
31 business days after it receives notice of assessment. If a
32 bank fails to pay its assessment when due, the treasurer shall
33 satisfy the assessment by selling securities pledged by that
34 bank. Idle balances in the fund are to be invested by the
35 treasurer with earnings credited to the fund. Fees paid by

1 banks for administration of this chapter will be credited to
2 the fund and the treasurer may deduct actual costs of
3 administration from the fund.

4 (2) If the loss was incurred in a credit union, then any
5 further payments to cover the loss will come from the state
6 sinking fund for public deposits in credit unions. If the
7 funds are inadequate to cover the entire loss, then the
8 treasurer shall make an assessment against other credit unions
9 who hold public funds. The assessment shall be determined by
10 multiplying the total amount of the remaining loss to public
11 depositors by a percentage that represents the average of
12 public funds deposits held by all credit unions during the
13 preceding twelve month period ending on the last day of the
14 month immediately preceding the month the depository was
15 closed. Each credit union shall pay its assessment to the
16 treasurer within three business days after it receives notice
17 of assessment. If a credit union fails to pay its assessment
18 when due, the treasurer shall satisfy the assessment by
19 selling securities pledged by that credit union. Idle
20 balances in the fund are to be invested by the treasurer with
21 earnings credited to the fund. Fees paid by credit unions for
22 administration of this chapter will be credited to the fund
23 and the treasurer may deduct actual costs of administration
24 from the fund.

25 (3) If the loss was incurred in a savings and loan or a
26 savings bank, then any further payments to cover the loss will
27 come from the state sinking fund for public deposits in
28 savings and loan associations and savings banks. If the funds
29 are inadequate to cover the entire loss, then the treasurer
30 shall make an assessment against other savings and loans and
31 savings banks who hold public funds. The assessment shall be
32 determined by multiplying the total amount of the remaining
33 loss to public depositors by a percentage that represents the
34 average of public funds deposits held by all savings and loans
35 and savings banks during the preceding twelve month period

1 ending on the last day of the month immediately preceding the
2 month the depository was closed. Each savings and loan and
3 savings bank shall pay its assessment to the treasurer within
4 three business days after it receives notice of assessment.
5 If a savings and loan or savings bank fails to pay its
6 assessment when due, the treasurer shall initiate a lawsuit to
7 collect the assessment. If a savings and loan association or
8 a savings bank is found to have failed to pay the assessment
9 as required by this subparagraph, the court shall order it to
10 pay the assessment, court costs of the action, reasonable
11 attorney's fees based upon the amount of time the attorney
12 general's office spent preparing and bringing the action, and
13 reasonable expenses incurred by the treasurer of state's
14 office. In addition, a state chartered savings and loan
15 association or savings bank shall have its charter revoked. A
16 federally chartered savings and loan association or savings
17 bank shall be permanently barred from being a depository under
18 this chapter. Public funds on deposit in such a savings and
19 loan association or savings bank shall be promptly removed by
20 any public body with public funds in the institution.

21 d. Any amount realized from the sale of collateral
22 pursuant to paragraphs "c", subparagraphs (1) and (2) in
23 excess of the amount of a depository's assessment, shall
24 continue to be held by the treasurer, in the same interest
25 bearing investments available for public funds, as collateral
26 until that depository provides substitute collateral or is
27 otherwise entitled to its release.

28 e. Following collection of the assessments, the state
29 treasurer shall distribute funds to the public depositors of
30 the failed depository according to their validated claims. If
31 the assets available are less than the total deposits, the
32 treasurer shall prorate the claims. A public depositor
33 receiving payment under this section shall assign to the
34 treasurer any interest the public depositor may have in funds
35 that subsequently become available to depositors of the

1 defaulting depository.

2 Sec. 8. NEW SECTION. 453.24 LIABILITY.

3 When public deposits are made in accordance with this
4 chapter, a public body depositing public funds or its agents,
5 employees, officers, and board members are exempt from
6 liability for any loss resulting from the loss of a depository
7 in the absence of negligence, malfeasance, misfeasance or
8 nonfeasance on the part of the official. The financial
9 liability of all depositories for the failure of a depository
10 shall not exceed the total amount of collateral required at
11 the time of the default. If the state treasurer sells a
12 depository's collateral securities, the depository shall
13 deposit additional collateral to meet required collateral
14 levels.

15 In making an assessment against depositories holding public
16 funds as a result of a failure, the treasurer of state is
17 exempt from any liability for loss, damage or expense to a
18 depository which has accepted public funds.

19 Sec. 9. NEW SECTION. 453.25 STATE SINKING FUNDS CREATED.

20 There are created in the treasurer of state's office the
21 following funds:

22 1. A state sinking fund for public deposits in banks.

23 2. A state sinking fund for public deposits in credit
24 unions.

25 3. A state sinking fund for public deposits in savings and
26 loan associations and savings banks.

27 The funds shall be used to receive and disperse moneys
28 pursuant to section 453.23, subsection 3, paragraph "c".

29 Sec. 10. Section 524.1312, subsection 2, Code 1985, is
30 amended by striking the subsection and inserting in lieu
31 thereof the following:

32 2. The payment of claims for public funds deposited
33 pursuant to chapter 453 and the payment of claims which are
34 given priority by applicable statutes. If the assets are in-
35 sufficient for payment of the claims in full, then priority

1 shall be determined as specified by the statutes or, in the
2 absence of conflicting provisions, on a pro rata basis.

3 Sec. 11. Section 533.22, subsection 1, paragraph b, Code
4 1985, is amended by striking the paragraph and inserting in
5 lieu thereof the following:

6 b. The payment of claims for public funds deposited
7 pursuant to chapter 453 and the payment of claims which are
8 given priority by applicable statutes. If the assets are in-
9 sufficient for payment of the claims in full, then priority
10 shall be determined by the statutes or, in the absence of con-
11 flicting provisions, on a pro rata basis.

12 Sec. 12. Section 534.308, Code 1985, is amended to read as
13 follows:

14 534.308 SAVINGS LIABILITY -- CLASSES OF ACCOUNTS.

15 The savings liability of an association is not limited, but
16 consists only of the aggregate amount of share accounts of its
17 members, plus dividends credited to the accounts, less
18 redemption and withdrawal payments. Except as limited by the
19 board of directors, a member may make additions to the
20 member's share account in the amounts and at the times the
21 member elects. Share accounts shall be opened for cash. The
22 members of an association are not responsible for losses which
23 its savings liability is not sufficient to satisfy, and share
24 accounts are not subject to assessment, nor are the holders of
25 share accounts liable for unpaid installments on their
26 accounts. Dividends shall be declared in accordance with this
27 chapter.

28 PARAGRAPH DIVIDED. An association shall not prefer one of
29 its share accounts over any other share account as to the
30 right to participate in dividends as to time or amount, except
31 that an association may classify its savings accounts
32 according to the location of the offices at which the accounts
33 are opened, the character, amount or duration of the accounts,
34 or the regularity of additions to the accounts, and may agree
35 in advance to pay an additional rate of earnings for

1 particular classes of accounts such as a variable rate or
2 bonus for saving larger amounts, or for maintaining savings
3 over a longer period of time or with regularity, as determined
4 by the board of directors. However, all classes of accounts
5 shall be available to all qualifying members. The board of
6 directors may also determine that earnings shall not be paid
7 on an account which has a withdrawable value in an amount less
8 than fifty dollars. Preference Except as provided in section
9 534.516, preference between share account members shall not be
10 created with respect to the distribution of assets upon
11 voluntary or involuntary liquidation, dissolution, or winding
12 up of an association. An association shall not contract with
13 respect to the savings liability in a manner inconsistent with
14 this chapter.

15 Sec. 13. NEW SECTION. 534.516 PRIORITY OF PUBLIC FUNDS
16 UPON DISSOLUTION.

17 After payment of the costs and expenses of dissolution, the
18 first claim upon the assets of an association shall be the
19 claims for public funds deposited pursuant to chapter 453 and
20 claims which are given priority by applicable statute. If the
21 assets are insufficient for payment of the claims in full,
22 then priority shall be determined as specified by the statutes
23 or, in the absence of conflicting provisions, on a pro rata
24 basis.

25 Sec. 14. Notwithstanding section 4 of this Act, the
26 governor shall appoint initial members to the local government
27 investment board established under that section to staggered
28 terms, two to end two years following appointment and two to
29 end four years following appointment.

30 Sec. 15. 1984 Iowa Acts, chapter 1230, section 28, is
31 amended by striking the section and inserting the following:
32 SEC. 28. The treasurer of state shall transfer the state
33 sinking fund and the moneys contained in it upon the repeal of
34 chapter 454 to the state sinking fund for public deposits in
35 banks.

1 Sec. 16. Section 453.20, Code 1985, is repealed.

2 EXPLANATION

3 This bill provides for several methods of depositing and
4 investing public funds.

5 Sections 1, 2, and 5 provide for the authorization of up to
6 five privately managed local government investment funds to be
7 approved by a board operating through the treasurer of state's
8 office.

9 Sections 2, 4, 6, 7, 8, 9, 14, 15, and 16 establish two
10 systems of pledging of collateral to secure the deposit of
11 public funds. A new system is created for banks and credit
12 unions. The existing pledging system is retained for savings
13 and loan associations and savings banks. Both systems are
14 backed by three state sinking funds.

15 Section 3 removes in-state geographic limitations on the
16 deposit of public funds.

17 Sections 10, 11, 12, and 13 provide for priority of payment
18 of claims for public funds deposited under chapter 453 of the
19 closing of a bank, savings and loan association, savings bank
20 or credit union which has public deposits. The claims will
21 have priority over other claims except for statutory
22 priorities.

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1 Amend Senate File 296 as follows:

2 1. Page 3, line 14, by inserting after the figure
3 "28E;" the following: "an electric power agency as
4 defined in section 28F.2;".

S-3148 Filed

February 20, 1985

By COMMITTEE ON COMMERCE

Adopted 3/6/85 (p. 639)

1 Amend Senate File 296 as follows:

- 2 1. Page 1, by striking lines 1 through 31.
- 3 2. Page 2, lines 1 through 3, by striking the
4 words "local government investment funds approved
5 pursuant to section 453.21 or one or more".
- 6 3. Page 3, line 8, by inserting after the word
7 "subdivision" the following: "or instrumentality".
- 8 4. By striking page 4, line 14 through page 6,
9 line 29.
- 10 5. Page 6, by striking lines 33 and 34 and
11 inserting the following: "collateral securities in
12 restricted accounts of the treasurer of state,
13 including but not limited to pledge-custody accounts,
14 at a federal reserve bank, the United States central".
- 15 6. Page 7, line 17, by inserting after the word
16 "chapter" the following: "and other rules as may be
17 necessary to accomplish the purposes of this chapter".
- 18 7. Page 7, line 25, by inserting after the word
19 "insured" the following: "or fully guaranteed".
- 20 8. Page 7, by striking lines 29 through 31 and
21 inserting the following:
22 "b. Public bonds or obligations of this state or a
23 political subdivision of this state.
24 c. Public bonds or obligations of another state or
25 a political subdivision of another state whose bonds
26 are rated within the two highest classifications of
27 prime as established by at least one of the standard
28 rating services approved by the superintendent of
29 banking pursuant to chapter 17A."
- 30 9. Page 8, by inserting after line 12 the
31 following:
32 "5. The superintendent of banking shall adopt
33 rules for uniform methods, documentation and forms for
34 pledging required collateral securities by banks under
35 this chapter.
36 6. The treasurer of state shall adopt rules to
37 insure the security of public funds invested pursuant
38 to section 452.10 that are not deposited in a
39 depository or invested in obligations of or guaranteed
40 by the United States or any of its agencies or
41 instrumentalities. The methods of protection adopted
42 by the treasurer may include, but are not limited to,
43 sinking or reserve funds, collateralization and other
44 forms of security. However, the methods of protection
45 chosen by the treasurer shall provide the same amount
46 of protection from loss of the public funds and
47 interest on the public funds, as the methods of
48 protection provided for deposits in depositories under
49 this chapter."
- 50 10. Page 14, by striking lines 25 through 29.

page 2

1 11. Renumber as necessary.

S-3208 Filed & Adopted
March 6, 1985 (p. 639)

By DELUHERY & HOLDEN

SENATE FILE 296

BY DELUHERY, HOLDEN, JENSEN
MILLER of Cerro Gordo,
and WELLS

(AS AMENDED AND PASSED BY THE SENATE MARCH 6, 1985)

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Vote: Ayes 43 Nays 0 Vote: Ayes 95 Nays 0

Approved May 24, 1985
Passed House 4-26-85 (p. 1988)
92-0

A BILL FOR

1 An Act relating to the deposit and investment of public funds.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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_____ = New Language
by the Senate

* = Language Stricken
by the Senate

1 requires:

2 a. "Depository" means a bank or any office of a bank whose
3 accounts are insured by the federal deposit insurance
4 corporation, or a savings and loan association or a savings
5 bank or any branch of a savings and loan association or
6 savings bank whose accounts are insured by the federal savings
7 and loan insurance corporation, or a credit union insured by
8 the national credit union administration.

9 b. "Public funds" and "public deposits" means the moneys
10 of the state or a political subdivision or instrumentality of
11 the state including a county, school corporation, special
12 district, drainage district, unincorporated town or township,
13 municipality, or municipal corporation or any agency, board,
14 or commission of the state or a political subdivision; any
15 court or public body noted in subsection 1; a legal or
16 administrative entity created pursuant to chapter 28E; an
17 electric power agency as defined in section 28F.2; and federal
18 and state grant moneys of a quasi-public state entity that are
19 placed in a depository pursuant to this chapter.

20 3. A deposit of public funds in a depository pursuant to
21 this chapter shall be secured as follows:

22 a. If a depository is a savings and loan association, a
23 savings bank, or an office of a savings and loan association
24 or savings bank, then the public deposits in those
25 depositories shall be secured pursuant to sections 453.16
26 through 453.19 and sections 453.23 and 453.24.

27 b. If a depository is a bank, credit union, or an office
28 of a bank or credit union, then the public deposits in those
29 depositories shall be secured pursuant to sections 453.22
30 through 453.24.

31 4. Ambiguities in the application of this section shall be
32 resolved in favor of preventing the loss of public funds on
33 deposit in a depository.

34 Sec. 2. Section 453.4, Code 1985, is amended by striking
35 the section and inserting the following:

1 453.4 LOCATION OF DEPOSITORIES.

2 1. Public funds deposited pursuant to section 453.1 may
3 only be deposited in a depository located in the state.

4 2. Deposits may be made in depositories outside of the
5 state for the purpose of paying principal and interest on
6 bonded indebtedness of any municipality when the deposit is
7 made not more than ten days before the date the principal or
8 interest becomes due. In addition, the treasurer of state may
9 maintain an account outside the state of Iowa for the purpose
10 of providing custodial services for the state and state
11 retirement fund accounts.

12 Sec. 3. Section 453.16, subsection 1, paragraph b, Code
13 1985, is amended by adding the following new subparagraph:

14 NEW SUBPARAGRAPH. (4) First lien mortgages which are
15 valued according to practices acceptable to the treasurer of
16 state.

* 17 Sec. 4. NEW SECTION. 453.22 REQUIRED COLLATERAL.

18 1. The depository shall pledge the required collateral
19 securities to the treasurer of state by depositing the
20 collateral securities in restricted accounts of the treasurer
21 of state, including but not limited to pledge-custody
22 accounts, at a federal reserve bank, the United States central
23 credit union, a trust department of another commercial bank or
24 with another financial institution which has been designated
25 by the treasurer of state that is not owned or controlled
26 directly or indirectly by the same depository or holding
27 company. The depository shall deliver to the treasurer of
28 state a security agreement which provides the treasurer of
29 state with a valid and perfected security interest in the
30 required collateral. The market value of the required
31 collateral shall not be less than one hundred ten percent of
32 the total public funds placed on deposit in the depository.

33 2. The treasurer of state shall adopt the following rules:

34 a. Providing for valuation of collateral if the market
35 value of a security is not readily determinable.

1 b. Establishing reporting requirements.

2 c. Establishing procedures for substituting different
3 securities consistent with subsection 3.

4 d. Establishing administrative procedures necessary to
5 implement this chapter and other rules as may be necessary to
6 accomplish the purposes of this chapter.

7 e. Designating financial institutions eligible to be
8 custodian of pledged collateral.

9 f. Establishing fee schedules to cover costs incurred for
10 opening and closing accounts and substitution of collateral.

11 3. The securities used to secure public deposits shall be
12 acceptable to the treasurer of state and shall be one or more
13 of the following:

14 a. Direct obligations of, or obligations that are insured
15 or fully guaranteed as to principal and interest by, the
16 United States of America or an agency or instrumentality of
17 the United States of America.

18 b. Public bonds or obligations of this state or a
19 political subdivision of this state.

20 c. Public bonds or obligations of another state or a
21 political subdivision of another state whose bonds are rated
22 within the two highest classifications of prime as established
23 by at least one of the standard rating services approved by
24 the superintendent of banking pursuant to chapter 17A.

25 d. To the extent of the guarantee, loans, obligations, or
26 nontransferable letters of credit upon which the payment of
27 principal and interest is fully secured or guaranteed by the
28 United States of America or an agency or instrumentality of
29 the United States of America.

30 e. First lien mortgages which are valued according to
31 practices acceptable to the treasurer of state.

32 f. Corporate bonds rated within the two highest
33 classifications of prime as established by at least one of the
34 standard rating services approved by the superintendent of
35 banking pursuant to chapter 17A.

1 g. A bond of a surety company approved by the United
2 States treasury department.

3 4. A depository may borrow collateral used for a pledge if
4 the collateral is free of any liens, security interests,
5 claims, or encumbrances.

6 5. The superintendent of banking shall adopt rules for
7 uniform methods, documentation and forms for pledging required
8 collateral securities by banks under this chapter.

9 6. The treasurer of state shall adopt rules to insure the
10 security of public funds invested pursuant to section 452.10
11 that are not deposited in a depository or invested in
12 obligations of or guaranteed by the United States or any of
13 its agencies or instrumentalities. The methods of protection
14 adopted by the treasurer may include, but are not limited to,
15 sinking or reserve funds, collateralization and other forms of
16 security. However, the methods of protection chosen by the
17 treasurer shall provide the same amount of protection from
18 loss of the public funds and interest on the public funds, as
19 the methods of protection provided for deposits in
20 depositories under this chapter.

21 Sec. 5. NEW SECTION. 453.23 PAYMENT OF LOSSES.

22 1. The pledging of securities by a depository pursuant to
23 this chapter constitutes consent by the depository to the
24 disposition of the securities in accordance with this section.

25 2. The depository and the security given for the public
26 funds in its hands are liable for payment if the depository
27 fails to pay a check, draft, or warrant drawn by the public
28 officer or to account for a check, draft, warrant, order or
29 certificates of deposit, or any public funds entrusted to it
30 if in failing to pay the depository acts contrary to the terms
31 of an agreement between the depository and the public body
32 treasurer.

33 3. If a depository is closed by its primary regulatory
34 officials, the public body with deposits in the depository
35 shall notify the treasurer of state of the amount of any claim

1 within thirty days of the closing. The treasurer of state
2 shall implement the following procedures:

3 a. In cooperation with the responsible regulatory
4 officials for the depository, the treasurer shall validate the
5 amount of public funds on deposit at the defaulting depository
6 and the amount of deposit insurance applicable to the
7 deposits.

8 b. The loss to public depositors shall be satisfied, first
9 through any applicable deposit insurance and then through the
10 sale of securities pledged by the defaulting depository, and
11 then the assets of the defaulting depository. The priority of
12 claims are those established pursuant to section 524.1312,
13 subsection 2, section 533.22, subsection 1, paragraph "b", or
14 section 534.516. To the extent permitted by federal law, in
15 the distribution of an insolvent federally chartered
16 depository's assets, the order of payment of liabilities if
17 its assets are insufficient to pay in full all its liabilities
18 for which claims are made shall be in the same order as for
19 the equivalent type of state chartered depository as provided
20 in section 524.1312, subsection 2, section 533.22, subsection
21 1, paragraph "b", or section 534.516.

22 c. If the loss to public funds is not covered by insurance
23 and the proceeds of the failed depository's assets which are
24 liquidated within thirty days of the closing of the depository
25 and pledged collateral, the treasurer shall provide coverage
26 of the remaining loss as follows:

27 (1) If the loss was incurred in a bank, then any further
28 payments to cover the loss will come from the state sinking
29 fund for public deposits in banks. If the funds are
30 inadequate to cover the entire loss, then the treasurer shall
31 make an assessment against other banks who hold public funds.
32 The assessment shall be determined by multiplying the total
33 amount of the remaining loss to all public depositors by a
34 percentage that represents the average of public funds
35 deposits held by all banks during the preceding twelve month

1 period ending on the last day of the month immediately
2 preceding the month the depository was closed. Each bank
3 shall pay its assessment to the treasurer within three
4 business days after it receives notice of assessment. If a
5 bank fails to pay its assessment when due, the treasurer shall
6 satisfy the assessment by selling securities pledged by that
7 bank. Idle balances in the fund are to be invested by the
8 treasurer with earnings credited to the fund. Fees paid by
9 banks for administration of this chapter will be credited to
10 the fund and the treasurer may deduct actual costs of
11 administration from the fund.

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12 (2) If the loss was incurred in a credit union, then any
13 further payments to cover the loss will come from the state
14 sinking fund for public deposits in credit unions. If the
15 funds are inadequate to cover the entire loss, then the
16 treasurer shall make an assessment against other credit unions
17 who hold public funds. The assessment shall be determined by
18 multiplying the total amount of the remaining loss to public
19 depositors by a percentage that represents the average of
20 public funds deposits held by all credit unions during the
21 preceding twelve month period ending on the last day of the
22 month immediately preceding the month the depository was
23 closed. Each credit union shall pay its assessment to the
24 treasurer within three business days after it receives notice
25 of assessment. If a credit union fails to pay its assessment
26 when due, the treasurer shall satisfy the assessment by
27 selling securities pledged by that credit union. Idle
28 balances in the fund are to be invested by the treasurer with
29 earnings credited to the fund. Fees paid by credit unions for
30 administration of this chapter will be credited to the fund
31 and the treasurer may deduct actual costs of administration
32 from the fund.

33 (3) If the loss was incurred in a savings and loan or a
34 savings bank, then any further payments to cover the loss will
35 come from the state sinking fund for public deposits in

1 savings and loan associations and savings banks. If the funds
2 are inadequate to cover the entire loss, then the treasurer
3 shall make an assessment against other savings and loans and
4 savings banks who hold public funds. The assessment shall be
5 determined by multiplying the total amount of the remaining
6 loss to public depositors by a percentage that represents the
7 average of public funds deposits held by all savings and loans
8 and savings banks during the preceding twelve month period
9 ending on the last day of the month immediately preceding the
10 month the depository was closed. Each savings and loan and
11 savings bank shall pay its assessment to the treasurer within
12 three business days after it receives notice of assesement.
13 If a savings and loan or savings bank fails to pay its
14 assessment when due, the treasurer shall initiate a lawsuit to
15 collect the assessment. If a savings and loan association or
16 a savings bank is found to have failed to pay the assessment
17 as required by this subparagraph, the court shall order it to
18 pay the assessment, court costs of the action, reasonable
19 attorney's fees based upon the amount of time the attorney
20 general's office spent preparing and bringing the action, and
21 reasonable expenses incurred by the treasurer of state's
22 office. In addition, a state chartered savings and loan
23 association or savings bank shall have its charter revoked. A
24 federally chartered savings and loan association or savings
25 bank shall be permanently barred from being a depository under
26 this chapter. Public funds on deposit in such a savings and
27 loan association or savings bank shall be promptly removed by
28 any public body with public funds in the institution.

29 d. Any amount realized from the sale of collateral
30 pursuant to paragraphs "c", subparagraphs (1) and (2) in
31 excess of the amount of a depository's assessment, shall
32 continue to be held by the treasurer, in the same interest
33 bearing investments available for public funds, as collateral
34 until that depository provides substitute collateral or is
35 otherwise entitled to its release.

1 e. Following collection of the assessments, the state
2 treasurer shall distribute funds to the public depositors of
3 the failed depository according to their validated claims. If
4 the assets available are less than the total deposits, the
5 treasurer shall prorate the claims. A public depositor
6 receiving payment under this section shall assign to the
7 treasurer any interest the public depositor may have in funds
8 that subsequently become available to depositors of the
9 defaulting depository.

10 Sec. 6. NEW SECTION. 453.24 LIABILITY.

11 When public deposits are made in accordance with this
12 chapter, a public body depositing public funds or its agents,
13 employees, officers, and board members are exempt from
14 liability for any loss resulting from the loss of a depository
15 in the absence of negligence, malfeasance, misfeasance or
16 nonfeasance on the part of the official. The financial
17 liability of all depositories for the failure of a depository
18 shall not exceed the total amount of collateral required at
19 the time of the default. If the state treasurer sells a
20 depository's collateral securities, the depository shall
21 deposit additional collateral to meet required collateral
22 levels.

23 In making an assessment against depositories holding public
24 funds as a result of a failure, the treasurer of state is
25 exempt from any liability for loss, damage or expense to a
26 depository which has accepted public funds.

27 Sec. 7. NEW SECTION. 453.25 STATE SINKING FUNDS CREATED.

28 There are created in the treasurer of state's office the
29 following funds:

- 30 1. A state sinking fund for public deposits in banks.
- 31 2. A state sinking fund for public deposits in credit
32 unions.
- 33 3. A state sinking fund for public deposits in savings and
34 loan associations and savings banks.

35 The funds shall be used to receive and disperse moneys

1 pursuant to section 453.23, subsection 3, paragraph "c".

2 Sec. 8. Section 524.1312, subsection 2, Code 1985, is
3 amended by striking the subsection and inserting in lieu
4 thereof the following:

5 2. The payment of claims for public funds deposited
6 pursuant to chapter 453 and the payment of claims which are
7 given priority by applicable statutes. If the assets are in-
8 sufficient for payment of the claims in full, then priority
9 shall be determined as specified by the statutes or, in the
10 absence of conflicting provisions, on a pro rata basis.

11 Sec. 9. Section 533.22, subsection 1, paragraph b, Code
12 1985, is amended by striking the paragraph and inserting in
13 lieu thereof the following:

14 b. The payment of claims for public funds deposited
15 pursuant to chapter 453 and the payment of claims which are
16 given priority by applicable statutes. If the assets are in-
17 sufficient for payment of the claims in full, then priority
18 shall be determined by the statutes or, in the absence of con-
19 flicting provisions, on a pro rata basis.

20 Sec. 10. Section 534.308, Code 1985, is amended to read as
21 follows:

22 534.308 SAVINGS LIABILITY -- CLASSES OF ACCOUNTS.

23 The savings liability of an association is not limited, but
24 consists only of the aggregate amount of share accounts of its
25 members, plus dividends credited to the accounts, less
26 redemption and withdrawal payments. Except as limited by the
27 board of directors, a member may make additions to the
28 member's share account in the amounts and at the times the
29 member elects. Share accounts shall be opened for cash. The
30 members of an association are not responsible for losses which
31 its savings liability is not sufficient to satisfy, and share
32 accounts are not subject to assessment, nor are the holders of
33 share accounts liable for unpaid installments on their
34 accounts. Dividends shall be declared in accordance with this
35 chapter.

1 PARAGRAPH DIVIDED. An association shall not prefer one of
2 its share accounts over any other share account as to the
3 right to participate in dividends as to time or amount, except
4 that an association may classify its savings accounts
5 according to the location of the offices at which the accounts
6 are opened, the character, amount or duration of the accounts,
7 or the regularity of additions to the accounts, and may agree
8 in advance to pay an additional rate of earnings for
9 particular classes of accounts such as a variable rate or
10 bonus for saving larger amounts, or for maintaining savings
11 over a longer period of time or with regularity, as determined
12 by the board of directors. However, all classes of accounts
13 shall be available to all qualifying members. The board of
14 directors may also determine that earnings shall not be paid
15 on an account which has a withdrawable value in an amount less
16 than fifty dollars. Preference Except as provided in section
17 534.516, preference between share account members shall not be
18 created with respect to the distribution of assets upon
19 voluntary or involuntary liquidation, dissolution, or winding
20 up of an association. An association shall not contract with
21 respect to the savings liability in a manner inconsistent with
22 this chapter.

23 Sec. 11. NEW SECTION. 534.516 PRIORITY OF PUBLIC FUNDS
24 UPON DISSOLUTION.

25 After payment of the costs and expenses of dissolution, the
26 first claim upon the assets of an association shall be the
27 claims for public funds deposited pursuant to chapter 453 and
28 claims which are given priority by applicable statute. If the
29 assets are insufficient for payment of the claims in full,
30 then priority shall be determined as specified by the statutes
31 or, in the absence of conflicting provisions, on a pro rata
32 basis.

* 33 Sec. 12. 1984 Iowa Acts, chapter 1230, section 28, is
34 amended by striking the section and inserting the following:
35 SEC. 28. The treasurer of state shall transfer the state

1 sinking fund and the moneys contained in it upon the repeal of
2 chapter 454 to the state sinking fund for public deposits in
3 banks.

4 Sec. 13. Section 453.20, Code 1985, is repealed.

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SENATE FILE 296

H-3432

1 Amend Senate File 296 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 2, by striking lines 27 through 30 and
4 inserting the following:

5 "b. If a depository is a credit union or an office
6 of a credit union, then the public deposits in those
7 depositories shall be secured pursuant to sections
8 453.22 through 453.24.

9 c. If a depository is a bank or an office of a
10 bank, then the depository shall secure the public
11 deposits in the depository pursuant to either of the
12 following:

13 (1) Sections 453.16 through 453.19 and sections
14 453.23 and 453.24.

15 (2) Sections 453.22 through 453.24."

16 2. Page 3, by inserting after line 16 the
17 following:

18 "Sec. _____. Section 453.17, subsection 1, paragraph
19 c, Code 1985, is amended to read as follows:

20 c. The securities shall be deposited with the
21 federal reserve bank of Chicago, Illinois or the
22 federal home loan bank of Des Moines, Iowa pursuant to
23 a bailment agreement or a pledge custody agreement."

24 3. Page 6, line 27, by inserting after the word
25 "bank" the following: "and was a public deposit
26 secured pursuant to sections 453.22 through 453.24,".

27 4. Page 6, line 31, by inserting after the word
28 "funds" the following: "pursuant to sections 453.22
29 through 453.24".

30 5. Page 6, line 35, by inserting after the word
31 "banks" the following: "pursuant to sections 453.22
32 through 453.24".

33 6. Page 7, by inserting after line 11 the
34 following:

35 "(____). If the loss was incurred in a bank and was
36 a public deposit secured pursuant to sections 453.16
37 through 453.19, then any further payments to cover the
38 loss will come from the alternative state sinking fund
39 for public deposits in banks. If the funds are
40 inadequate to cover the entire loss, then the
41 treasurer shall make an assessment against other banks
42 who hold public funds pursuant to sections 453.16
43 through 453.19. The assessment shall be determined by
44 multiplying the total amount of the remaining loss to
45 public depositors by a percentage that represents the
46 average of public funds deposits held by banks
47 pursuant to sections 453.16 through 453.19 during the
48 preceding twelve month period ending on the last day
49 of the month immediately preceding the month the
50 depository was closed. Each bank shall pay its

1 assessment to the treasurer within three business days
2 after it receives notice of assessment. If a bank
3 fails to pay its assessment when due, the treasurer
4 shall initiate a lawsuit to collect the assessment.
5 If a bank is found to have failed to pay the
6 assessment as required by this subparagraph, the court
7 shall order it to pay the assessment, court costs of
8 the action, reasonable attorney's fees based upon the
9 amount of time the attorney general's office spent
10 preparing and bringing the action, and reasonable
11 expenses incurred by the treasurer of state's office.
12 In addition, a state chartered bank shall have its
13 charter revoked. A federally chartered bank shall be
14 permanently barred from being a depository under this
15 chapter. Public funds on deposit in such a bank shall
16 be promptly removed by any public body with public
17 funds in the institution."

18 7. Page 9, by inserting after line 30 the
19 following:

20 "_____. An alternative state sinking fund for public
21 deposits in banks."

22 8. Renumber as necessary.

SENATE FILE 296

H-3662

1 Amend Senate File 296 as amended, passed and
2 reprinted by the senate, as follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. Notwithstanding section 453.1,
6 sections 453.16 through 453.20 do not apply to banks
7 until July 1, 1987. However, any action by a bank to
8 comply with those sections prior to the effective date
9 of this Act is valid. Compliance with those sections
10 does not relieve a bank from complying with chapter
11 454.

12 Sec. 2. 1984 Acts, chapter 1230, section 28, is
13 amended to read as follows:

14 SEC. 28. The treasurer of state shall close the
15 sinking fund created by section 454.1 within one
16 hundred twenty days after the closing of any
17 receiverships relating to any bank failures prior to
18 ~~the effective date of this Act~~ July 1, 1987 and shall
19 pay all sums remaining in the sinking fund on that
20 date to depository institutions in Iowa within ninety
21 days after the sinking fund is closed in proportion to
22 the amounts which were assessed against the depository
23 institutions during 1983 or any subsequent assessment
24 for the benefit of the sinking fund pursuant to
25 chapter 454.

26 Sec. 3. 1984 Acts, chapter 1230, section 29, is
27 amended to read as follows:

28 SEC. 29. Chapter 454, Code 1983, and Code
29 Supplement 1983, is repealed effective July 1, 1987.
30 ~~However, if pledging to secure the deposit of public~~
31 ~~funds has not been properly completed by July 17, 1984,~~
32 ~~then chapter 454 is not repealed until July 17, 1985.~~
33 The general assembly finds that pledging to secure the
34 deposit of public funds was not properly completed by
35 July 1, 1984.

36 Sec. 4. Section 175.6, subsection 9, Code 1985, is
37 amended to read as follows:

38 9. Subject to an agreement with bondholders or
39 noteholders, invest or deposit moneys of the authority
40 in a manner determined by the authority,
41 notwithstanding chapter 452, or 453, or 454.

42 Sec. 5. Section 220.5, subsection 9, Code 1985, is
43 amended to read as follows:

44 9. Subject to an agreement with bondholders or
45 noteholders, invest or deposit moneys of the authority
46 in a manner determined by the authority,
47 notwithstanding chapter 452, or 453, or 454.

48 Sec. 6. Section 307B.7, subsection 11, Code 1985,
49 is amended to read as follows:

50 11. Invest or deposit moneys of the authority,

1 subject to an agreement with bondholders or
2 noteholders, in a manner determined by the authority,
3 notwithstanding chapter 452, or 453, or 454.

4 Sec. 7. It is the intent of the general assembly
5 that sections 4, 5, and 6 of this Act shall have
6 temporary effect only and that the amendments to
7 section 175.6, subsection 9, section 220.5, subsection
8 9, and section 307B.7, subsection 11, made in this Act
9 shall be stricken on July 1, 1987, and on that date
10 those sections shall take the form they would have
11 without the amendments in this Act.

12 Sec. 8. This Act, being deemed of immediate
13 importance, takes effect from and after its
14 publication in The Sioux City Journal, a newspaper
15 published in Sioux City, Iowa, and in The Grundy
16 Register, a newspaper published in Grundy Center,
17 Iowa."

18 2. Title page, by striking line 1 and inserting
19 the following: "An Act extending the sinking fund as
20 it applies to bonds until July 1, 1987."

H-3662 FILED APRIL 4, 1985 BY O'KANE of Woodbury

w/d 4/16 (p.1621)

SENATE FILE 296

H-3763

1 Amend Senate File 296 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 452.10, unnumbered paragraph
6 1, Code 1985, is amended to read as follows:

7 The treasurer of state ~~and the treasurer of each~~
8 ~~political subdivision~~ shall at all times keep all
9 funds coming into ~~their~~ the treasurer's possession as
10 public money, in a vault or safe, to be provided for
11 that purpose, or in one or more depositories.
12 However, the treasurer of state ~~and the treasurer of~~
13 ~~each political subdivision~~ shall invest, unless
14 otherwise provided, any of the public funds not
15 currently needed for operating expenses in notes,
16 certificates, bonds, prime eligible bankers
17 acceptances, commercial paper rated within the two
18 highest classifications of prime as established by at
19 least one of the standard rating services approved by
20 the superintendent of banking pursuant to chapter 17A,
21 perfected repurchase agreements, or other evidences of
22 indebtedness which are obligations of or guaranteed by
23 the United States of America or any of its agencies;
24 or in time deposits in depositories as provided in
25 chapter 453 and receive time certificates of deposit
26 therefor; or in savings accounts in depositories. The
27 total investment in commercial paper of any one
28 corporation is limited to an amount not more than
29 twenty percent of the total stockholders' equity of
30 that corporation. The treasurer of state may invest
31 any of the funds in the treasurer's custody in any of
32 the investments authorized for the Iowa public
33 employees' retirement system in section 97B.7,
34 subsection 2, paragraph "b" except that investment in
35 common stocks is not permitted. As used in this
36 section, "depository" means a financial institution
37 designated as a legal depository under chapter 453.

38 Sec. 2. Section 452.10, is amended by adding the
39 following new unnumbered paragraphs following
40 unnumbered paragraph 1:

41 NEW UNNUMBERED PARAGRAPH. The treasurer of each
42 political subdivision shall at all times keep all
43 funds coming into the treasurer's possession as public
44 money, in a vault or safe, to be provided for that
45 purpose, or in some depository legally designated as a
46 depository for such funds. However, the treasurer of
47 each political subdivision shall invest, unless
48 otherwise provided, any of the public funds not
49 currently needed for operating expenses in notes,
50 certificates, bonds, or other evidences of

H-3763

Page Two

1 indebtedness which are obligations of or guaranteed by
2 the United States of America or any of its agencies;
3 or make time deposits of such funds in depositories as
4 provided in chapter 453 and receive time certificates
5 of deposit therefor; or in savings accounts in
6 depositories.

7 NEW UNNUMBERED PARAGRAPH. Notwithstanding any
8 provision of the Code to the contrary, a treasurer of
9 a city as defined in section 411.1, subsection 18, may
10 invest any public funds of the city not currently
11 needed for operating expenses in investments
12 authorized in section 411.7, subsection 2, and may
13 hold, purchase, sell, assign, transfer or dispose of
14 any of these investments as well as the proceeds of
15 these investments. The city council shall implement
16 appropriate investment policies to be followed by the
17 city treasurer and shall periodically review the
18 performance of the investments made by the city
19 treasurer pursuant to such policies under this
20 paragraph."

21 2. By striking page 2, line 34 through page 3,
22 line 11.

23 3. Page 3, by striking lines 12 through 16 and
24 inserting the following:

25 "Sec. ____ . Section 453.16, subsection 1, paragraph
26 b, Code 1985, is amended to read as follows:

27 b. The depository institution may deposit,
28 maintain, pledge and assign for the benefit of the
29 public officer in the manner provided in this chapter,
30 securities approved by the public officer, the market
31 value of which is not less than one hundred ten
32 percent of the total deposits of public funds placed
33 by that public officer in the depository institution.
34 The securities shall consist of any of the following:

35 (1) Direct obligations of, or obligations that are
36 insured or fully guaranteed as to principal and
37 interest by, the United States of America or an agency
38 or instrumentality of the United States of America.

39 (2) Public bonds or obligations of this state or a
40 political subdivision of this state.

41 (3) Public bonds or obligations of another state
42 or a political subdivision of another state whose
43 bonds are rated within the two highest classifications
44 of prime as established by at least one of the
45 standard rating services approved by the
46 superintendent of banking pursuant to chapter 17A.

47 (3 4) To the extent of the guarantee, loans,
48 obligations, or nontransferable letters of credit upon
49 which the payment of principal and interest is fully
50 secured or guaranteed by the United States of America

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Page Three

1 or an agency or instrumentality of the United States
2 of America.

3 (5) First lien mortgages which are valued
4 according to practices acceptable to the treasurer of
5 state."

6 4. Page 3, by inserting before line 17 the
7 following:

8 "Sec. _____. Section 453.17, subsection 1, paragraph
9 c, Code 1985, is amended to read as follows:

10 c. The securities shall be deposited with the
11 federal reserve bank of Chicago, Illinois or the
12 federal home loan bank of Des Moines, Iowa pursuant to
13 a bailment agreement or a pledge custody agreement."

14 5. Page 5, by striking lines 9 through 20.

15 6. Page 6, by inserting after line 21 the
16 following:

17 "_____. The claim of a public depositor for purposes
18 of this section shall be the amount of the depositor's
19 deposits plus interest to the date the funds are
20 distributed to the public depositor at the rate the
21 depository institution agreed to pay on the funds
22 reduced by the portion of the funds which is insured
23 by federal deposit insurance."

24 7. Page 8, by striking lines 22 through 28 and
25 inserting the following: "office."

26 8. Page 9, by striking lines 16 through 19 and
27 inserting the following: "nonfeasance on the part of
28 the official. If the treasurer of state sells a".

29 9. Page 12, by inserting after line 3 the
30 following:

31 "Sec. _____. It is the policy of the general
32 assembly that in implementing chapter 452 local public
33 body treasurers shall be granted, commensurate with
34 their experience or training, the authority to
35 prudently invest public funds to maximize return on
36 investments. To this end, it is the intent of the
37 general assembly that only certain cities which
38 currently have specific statutory authority for the
39 investment of pension funds shall be granted
40 equivalent authority for the investment of general
41 funds."

42 10. Renumber as necessary.

H-3763 FILED APRIL 11, 1985 BY COMMITTEE ON LOCAL GOVERNMENT

Adopted 4/16/85 (p. 1621)

S-3824

SENATE FILE 296
HOUSE AMENDMENT

1 Amend Senate File 296 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

3750 5 "Section 1. Section 452.10, unnumbered paragraph
6 1, Code 1985, is amended to read as follows:

7 The treasurer of state ~~and the treasurer of each~~
8 ~~political subdivision~~ shall at all times keep all
9 funds coming into ~~their~~ the treasurer's possession as
10 public money, in a vault or safe, to be provided for
11 that purpose, or in one or more depositories.
12 However, the treasurer of state ~~and the treasurer of~~
13 ~~each political subdivision~~ shall invest, unless
14 otherwise provided, any of the public funds not
15 currently needed for operating expenses in notes,
16 certificates, bonds, prime eligible bankers
17 acceptances, commercial paper rated within the two
18 highest classifications of prime as established by at
19 least one of the standard rating services approved by
20 the superintendent of banking pursuant to chapter 17A,
21 perfected repurchase agreements, or other evidences of
22 indebtedness which are obligations of or guaranteed by
23 the United States of America or any of its agencies;
24 or in time deposits in depositories as provided in
25 chapter 453 and receive time certificates of deposit
26 therefor; or in savings accounts in depositories. The
27 total investment in commercial paper of any one
28 corporation is limited to an amount not more than
29 twenty percent of the total stockholders' equity of
30 that corporation. The treasurer of state may invest
31 any of the funds in the treasurer's custody in any of
32 the investments authorized for the Iowa public
33 employees' retirement system in section 97B.7,
34 subsection 2, paragraph "b" except that investment in
35 common stocks is not permitted. As used in this
36 section, "depository" means a financial institution
37 designated as a legal depository under chapter 453.

38 Sec. 2. Section 452.10, is amended by adding the
39 following new unnumbered paragraphs following
40 unnumbered paragraph 1:

41 NEW UNNUMBERED PARAGRAPH. The treasurer of each
42 political subdivision shall at all times keep all
43 funds coming into the treasurer's possession as public
44 money, in a vault or safe, to be provided for that
45 purpose, or in some depository legally designated as a
46 depository for such funds. However, the treasurer of
47 each political subdivision shall invest, unless
48 otherwise provided, any of the public funds not
49 currently needed for operating expenses in notes,
50 certificates, bonds, or other evidences of

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1 indebtedness which are obligations of or guaranteed by
2 the United States of America or any of its agencies;
3 or make time deposits of such funds in depositories as
4 provided in chapter 453 and receive time certificates
5 of deposit therefor; or in savings accounts in
6 depositories.

7 NEW UNNUMBERED PARAGRAPH. Notwithstanding any
8 provision of the Code to the contrary, a treasurer of
9 a city as defined in section 411.1, subsection 18, may
10 invest any public funds of the city not currently
11 needed for operating expenses in investments
12 authorized in section 411.7, subsection 2, and may
13 hold, purchase, sell, assign, transfer or dispose of
14 any of these investments as well as the proceeds of
15 these investments. The city council shall implement
16 appropriate investment policies to be followed by the
17 city treasurer and shall periodically review the
18 performance of the investments made by the city
19 treasurer pursuant to such policies under this
20 paragraph."

21 2. By striking page 2, line 34 through page 3,
22 line 11.

23 3. Page 3, by striking lines 12 through 16 and
24 inserting the following:

25 "Sec. ____ . Section 453.16, subsection 1, paragraph
26 b, Code 1985, is amended to read as follows:

27 b. The depository institution may deposit,
28 maintain, pledge and assign for the benefit of the
29 public officer in the manner provided in this chapter,
30 securities approved by the public officer, the market
31 value of which is not less than one hundred ten
32 percent of the total deposits of public funds placed
33 by that public officer in the depository institution.
34 The securities shall consist of any of the following:

35 (1) Direct obligations of, or obligations that are
36 insured or fully guaranteed as to principal and
37 interest by, the United States of America or an agency
38 or instrumentality of the United States of America.

39 (2) Public bonds or obligations of this state or a
40 political subdivision of this state.

41 (3) Public bonds or obligations of another state
42 or a political subdivision of another state whose
43 bonds are rated within the two highest classifications
44 of prime as established by at least one of the
45 standard rating services approved by the
46 superintendent of banking pursuant to chapter 17A.

47 (3 4) To the extent of the guarantee, loans,
48 obligations, or nontransferable letters of credit upon
49 which the payment of principal and interest is fully
50 secured or guaranteed by the United States of America

1 or an agency or instrumentality of the United States
2 of America.

3 (5) First lien mortgages which are valued
4 according to practices acceptable to the treasurer of
5 state."

6 4. Page 3, by inserting before line 17 the
7 following:

8 "Sec. ____ . Section 453.17, subsection 1, paragraph
9 c, Code 1985, is amended to read as follows:

10 c. The securities shall be deposited with the
11 federal reserve bank of Chicago, Illinois or the
12 federal home loan bank of Des Moines, Iowa pursuant to
13 a bailment agreement or a pledge custody agreement."

14 5. Page 5, by striking lines 9 through 20.

15 6. Page 6, by inserting after line 21 the
16 following:

17 " ____ . The claim of a public depositor for purposes
18 of this section shall be the amount of the depositor's
19 deposits plus interest to the date the funds are
20 distributed to the public depositor at the rate the
21 depository institution agreed to pay on the funds
22 reduced by the portion of the funds which is insured
23 by federal deposit insurance."

24 7. Page 8, by striking lines 22 through 28 and
25 inserting the following: "office."

26 8. Page 9, by striking lines 16 through 19 and
27 inserting the following: "nonfeasance on the part of
28 the official. If the treasurer of state sells a".

29 9. Page 12, by inserting after line 3 the
30 following:

31 "Sec. ____ . It is the policy of the general
32 assembly that in implementing chapter 452 local public
33 body treasurers shall be granted, commensurate with
34 their experience or training, the authority to
35 prudently invest public funds to maximize return on
36 investments. To this end, it is the intent of the
37 general assembly that only certain cities which
38 currently have specific statutory authority for the
39 investment of pension funds shall be granted
40 equivalent authority for the investment of general
41 funds."

42 10. Renumber as necessary.

SENATE AMENDMENT TO
HOUSE AMENDMENT TO
SENATE FILE 296

H-4081

1 Amend amendment S-3824 to Senate File 296 as
2 amended, passed, and reprinted by the Senate as
3 follows:

4 1. By striking page 1, line 5 through page 2,
5 line 6 and inserting the following:

6 "Section 1. Section 452.10, Code 1985, is amended
7 by adding the following new unnumbered paragraph
8 following unnumbered paragraph 1:".

9 2. Page 2, by striking line 12 and inserting the
10 following: "authorized in section 411.7, subsection
11 2, and pursuant to section 97B.7, subsection 2,
12 paragraph "b", and section 511.8, except common,
13 preferred, or guaranteed stock and may".

14 3. Page 3, by striking lines 29 through 41.

15 4. Renumber as necessary.

H-4081 FILED APRIL 26, 1985
ADOPTED

CEIVED FROM THE SENATE

Have concurred 4/26/85 (J. 1988)

1 Amend amendment S-3824 to Senate File 296 as
 2 amended, passed, and reprinted by the Senate as
 3 follows:

4 1. By striking page 1, line 5 through page 2,
 5 line 6 and inserting the following:

6 "Section 1. Section 452.10, Code 1985, is amended
 7 by adding the following new unnumbered paragraph
 8 following unnumbered paragraph 1:".

9 2. Page 2, by striking line 12 and inserting the
 10 following: "authorized in section 411.7, subsection
 11 2, and pursuant to section 97B.7, subsection 2,
 12 paragraph "b", and section 511.8, except common,
 13 preferred, or guaranteed stock and may".

14 3. Page 2, by striking lines 21 through 22.

15 4. Page 3, by striking lines 29 through 41.

16 5. Renumber as necessary.

S-3980 Filed April 24, 1985

By HOLDEN & DELUHERY

Adopted 4/24/85 (p. 1648)
Discussed - Resol 4/26 (p. 1687)

SENATE 47
APRIL 25, 1985

S-3987

SENATE FILE 296

1 Amend amendment S-3824 to Senate File 296 as
2 amended, passed and reprinted by the Senate as
3 follows:
4 1. Page 3, by inserting after line 28 the
5 following:
6 "____. Page 10, by inserting after line 19 the
7 following:
8 "Sec. ____ Section 511.8, subsection 4, Code 1985,
9 is amended to read as follows:
10 4. INTERNATIONAL BANK BONDS. Bonds or other
11 evidence of indebtedness issued, assumed or guaranteed
12 by the International Bank for reconstruction and
13 development, in an amount not to exceed two percent of
14 its total assets as shown by the last annual report,
15 or by the Inter-American Development Bank in an amount
16 not to exceed two percent of its total assets as shown
17 by the last annual report, or by the Asian Development
18 Bank in an amount not to exceed two percent of its
19 total assets as shown by the last annual report or by
20 the African Development Bank in an amount not to
21 exceed two percent of its total assets as shown by the
22 last annual report. However, the combined investment
23 in bonds or evidences of indebtedness permitted by
24 this subsection shall not exceed four percent of its
25 total assets as shown by the last annual report.""
26 2. Page 3, by inserting after line 41, the
27 following:
28 "____. Title, line 1, by inserting after the word
29 "funds" the following: ", by permitting life
30 insurance companies organized under chapter 508 to
31 invest in bonds or other evidence of indebtedness of
32 the African Development Bank, "".
33 3. Renumber as necessary.

S-3987 Filed April 24, 1985

By MANN

Not germane 4/24/85 (f. 1649)

SENATE FILE 296

AN ACT

RELATING TO THE DEPOSIT AND INVESTMENT OF PUBLIC FUNDS.

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

Section 1. Section 452.10, Code 1985, is amended by adding the following new unnumbered paragraph following unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of the Code to the contrary, a treasurer of a city as defined in section 411.1, subsection 18, may invest any public funds of the city not currently needed for operating expenses in investments authorized in section 411.7, subsection 2, and pursuant to section 97B.7, subsection 2, paragraph "b", and section 511.8, except common, preferred, or guaranteed stock and may hold, purchase, sell, assign, transfer or dispose of any of these investments as well as the proceeds of these investments. The city council shall implement appropriate investment policies to be followed by the city treasurer and shall periodically review the performance of the investments made by the city treasurer pursuant to such policies under this paragraph.

Sec. 2. Section 453.1, Code 1985, is amended to read as follows:

453.1 DEPOSITS IN GENERAL.

1. All funds held in the hands of the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, sheriff, by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 303B, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. ~~As used in this chapter, "depository" means a bank or any office thereof whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or any branch thereof or a savings bank or any branch thereof whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration. This subsection does not limit the definition of "public funds" contained in subsection 2.~~

2. As used in this chapter unless the context otherwise requires:

a. "Depository" means a bank or any office of a bank whose accounts are insured by the federal deposit insurance corporation, or a savings and loan association or a savings bank or any branch of a savings and loan association or savings bank whose accounts are insured by the federal savings and loan insurance corporation, or a credit union insured by the national credit union administration.

b. "Public funds" and "public deposits" means the moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision; any court or public body noted in subsection 1; a legal or administrative entity created pursuant to chapter 28E; an electric power agency as defined in section 28F.2; and federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter.

3. A deposit of public funds in a depository pursuant to this chapter shall be secured as follows:

a. If a depository is a savings and loan association, a savings bank, or an office of a savings and loan association or savings bank, then the public deposits in those depositories shall be secured pursuant to sections 453.16 through 453.19 and sections 453.23 and 453.24.

b. If a depository is a bank, credit union, or an office of a bank or credit union, then the public deposits in those depositories shall be secured pursuant to sections 453.22 through 453.24.

4. Ambiguities in the application of this section shall be resolved in favor of preventing the loss of public funds on deposit in a depository.

Sec. 3. Section 453.16, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. The depository institution may deposit, maintain, pledge and assign for the benefit of the public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the depository institution. The securities shall consist of any of the following:

(1) Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

(2) Public bonds or obligations of this state or a political subdivision of this state.

(3) Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

(3 4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

(5) First lien mortgages which are valued according to practices acceptable to the treasurer of state.

Sec. 4. Section 453.17, subsection 1, paragraph c, Code 1985, is amended to read as follows:

c. The securities shall be deposited with the federal reserve bank of Chicago, Illinois or the federal home loan bank of Des Moines, Iowa pursuant to a bailment agreement or a pledge custody agreement.

Sec. 5. NEW SECTION. 453.22 REQUIRED COLLATERAL.

1. The depository shall pledge the required collateral securities to the treasurer of state by depositing the collateral securities in restricted accounts of the treasurer of state, including but not limited to pledge-custody accounts, at a federal reserve bank, the United States central credit union, a trust department of another commercial bank or with another financial institution which has been designated by the treasurer of state that is not owned or controlled directly or indirectly by the same depository or holding company. The depository shall deliver to the treasurer of state a security agreement which provides the treasurer of state with a valid and perfected security interest in the required collateral. The market value of the required collateral shall not be less than one hundred ten percent of the total public funds placed on deposit in the depository.

2. The treasurer of state shall adopt the following rules:

- a. Providing for valuation of collateral if the market value of a security is not readily determinable.
- b. Establishing reporting requirements.
- c. Establishing procedures for substituting different securities consistent with subsection 3.
- d. Establishing administrative procedures necessary to implement this chapter and other rules as may be necessary to accomplish the purposes of this chapter.
- e. Designating financial institutions eligible to be custodian of pledged collateral.
- f. Establishing fee schedules to cover costs incurred for opening and closing accounts and substitution of collateral.

3. The securities used to secure public deposits shall be acceptable to the treasurer of state and shall be one or more of the following:

- a. Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

b. Public bonds or obligations of this state or a political subdivision of this state.

c. Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

d. To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America.

e. First lien mortgages which are valued according to practices acceptable to the treasurer of state.

f. Corporate bonds rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

g. A bond of a surety company approved by the United States treasury department.

4. A depository may borrow collateral used for a pledge if the collateral is free of any liens, security interests, claims, or encumbrances.

5. The superintendent of banking shall adopt rules for uniform methods, documentation and forms for pledging required collateral securities by banks under this chapter.

Sec. 6. NEW SECTION. 453.23 PAYMENT OF LOSSES.

1. The pledging of securities by a depository pursuant to this chapter constitutes consent by the depository to the disposition of the securities in accordance with this section.

2. The depository and the security given for the public funds in its hands are liable for payment if the depository fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order or certificates of deposit, or any public funds entrusted to it.

if in failing to pay the depository acts contrary to the terms of an agreement between the depository and the public body treasurer.

3. If a depository is closed by its primary regulatory officials, the public body with deposits in the depository shall notify the treasurer of state of the amount of any claim within thirty days of the closing. The treasurer of state shall implement the following procedures:

a. In cooperation with the responsible regulatory officials for the depository, the treasurer shall validate the amount of public funds on deposit at the defaulting depository and the amount of deposit insurance applicable to the deposits.

b. The loss to public depositors shall be satisfied, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting depository, and then the assets of the defaulting depository. The priority of claims are those established pursuant to section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.516. To the extent permitted by federal law, in the distribution of an insolvent federally chartered depository's assets, the order of payment of liabilities if its assets are insufficient to pay in full all its liabilities for which claims are made shall be in the same order as for the equivalent type of state chartered depository as provided in section 524.1312, subsection 2, section 533.22, subsection 1, paragraph "b", or section 534.516.

c. The claim of a public depositor for purposes of this section shall be the amount of the depositor's deposits plus interest to the date the funds are distributed to the public depositor at the rate the depository institution agreed to pay on the funds reduced by the portion of the funds which is insured by federal deposit insurance.

d. If the loss to public funds is not covered by insurance and the proceeds of the failed depository's assets which are

liquidated within thirty days of the closing of the depository and pledged collateral, the treasurer shall provide coverage of the remaining loss as follows:

(1) If the loss was incurred in a bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents the average of public funds deposits held by all banks during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that bank. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(2) If the loss was incurred in a credit union, then any further payments to cover the loss will come from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each credit union shall pay its assessment to the

treasurer within three business days after it receives notice of assessment. If a credit union fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that credit union. Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

(3) If the loss was incurred in a savings and loan or a savings bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in savings and loan associations and savings banks. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other savings and loans and savings banks who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all savings and loans and savings banks during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each savings and loan and savings bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a savings and loan or savings bank fails to pay its assessment when due, the treasurer shall initiate a lawsuit to collect the assessment. If a savings and loan association or a savings bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs of the action, reasonable attorney's fees based upon the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office.

e. Any amount realized from the sale of collateral pursuant to paragraphs "c", subparagraphs (1) and (2) in excess of the amount of a depository's assessment, shall continue to be held by the treasurer, in the same interest bearing investments available for public funds, as collateral until that depository provides substitute collateral or is otherwise entitled to its release.

f. Following collection of the assessments, the state treasurer shall distribute funds to the public depositors of the failed depository according to their validated claims. If the assets available are less than the total deposits, the treasurer shall prorate the claims. A public depositor receiving payment under this section shall assign to the treasurer any interest the public depositor may have in funds that subsequently become available to depositors of the defaulting depository.

Sec. 7. NEW SECTION. 453.24 LIABILITY.

When public deposits are made in accordance with this chapter, a public body depositing public funds or its agents, employees, officers, and board members are exempt from liability for any loss resulting from the loss of a depository in the absence of negligence, malfeasance, misfeasance or nonfeasance on the part of the official. If the treasurer of state sells a depository's collateral securities, the depository shall deposit additional collateral to meet required collateral levels.

In making an assessment against depositories holding public funds as a result of a failure, the treasurer of state is exempt from any liability for loss, damage or expense to a depository which has accepted public funds.

Sec. 8. NEW SECTION. 453.25 STATE SINKING FUNDS CREATED.

There are created in the treasurer of state's office the following funds:

1. A state sinking fund for public deposits in banks.

2. A state sinking fund for public deposits in credit unions.

3. A state sinking fund for public deposits in savings and loan associations and savings banks.

The funds shall be used to receive and disperse moneys pursuant to section 453.23, subsection 3, paragraph "c".

Sec. 9. Section 524.1312, subsection 2, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

2. The payment of claims for public funds deposited pursuant to chapter 453 and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined as specified by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

Sec. 10. Section 533.22, subsection 1, paragraph b, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The payment of claims for public funds deposited pursuant to chapter 453 and the payment of claims which are given priority by applicable statutes. If the assets are insufficient for payment of the claims in full, then priority shall be determined by the statutes or, in the absence of conflicting provisions, on a pro rata basis.

Sec. 11. Section 534.308, Code 1985, is amended to read as follows:

534.308 SAVINGS LIABILITY -- CLASSES OF ACCOUNTS.

The savings liability of an association is not limited, but consists only of the aggregate amount of share accounts of its members, plus dividends credited to the accounts, less redemption and withdrawal payments. Except as limited by the board of directors, a member may make additions to the member's share account in the amounts and at the times the member elects. Share accounts shall be opened for cash. The members of an association are not responsible for losses which

its savings liability is not sufficient to satisfy, and share accounts are not subject to assessment, nor are the holders of share accounts liable for unpaid installments on their accounts. Dividends shall be declared in accordance with this chapter.

~~PARAGRAPH DIVIDED.~~ An association shall not prefer one of its share accounts over any other share account as to the right to participate in dividends as to time or amount, except that an association may classify its savings accounts according to the location of the offices at which the accounts are opened, the character, amount or duration of the accounts, or the regularity of additions to the accounts, and may agree in advance to pay an additional rate of earnings for particular classes of accounts such as a variable rate or bonus for saving larger amounts, or for maintaining savings over a longer period of time or with regularity, as determined by the board of directors. However, all classes of accounts shall be available to all qualifying members. The board of directors may also determine that earnings shall not be paid on an account which has a withdrawable value in an amount less than fifty dollars. Preference except as provided in section 534.516, preference between share account members shall not be created with respect to the distribution of assets upon voluntary or involuntary liquidation, dissolution, or winding up of an association. An association shall not contract with respect to the savings liability in a manner inconsistent with this chapter.

Sec. 12. NEW SECTION. 534.516 PRIORITY OF PUBLIC FUNDS UPON DISSOLUTION.

After payment of the costs and expenses of dissolution, the first claim upon the assets of an association shall be the claims for public funds deposited pursuant to chapter 453 and claims which are given priority by applicable statute. If the assets are insufficient for payment of the claims in full, then priority shall be determined as specified by the statutes

or, in the absence of conflicting provisions, on a pro rata basis.

Sec. 13. 1984 Iowa Acts, chapter 1230, section 28, is amended by striking the section and inserting the following:

SEC. 28. The treasurer of state shall transfer the state sinking fund and the moneys contained in it upon the repeal of chapter 454 to the state sinking fund for public deposits in banks.

Sec. 14. Section 453.20, Code 1985, is repealed.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 296, Seventy-first General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 24, 1985

TERRY E. BRANSTAD
Governor

S.F. 296