

*Special Code
Reassigned to State Court.*

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SENATE FILE 2093
BY SZYMONIAK and VANDE HOEF

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the administration of public funds, providing
2 penalties, and repealing certain sections.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 21.5, subsection 1, Code 1991, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. k. To carry out functions performed by the
4 Iowa local public funds investment advisory board and the Iowa
5 public funds and finance commission as provided in section
6 77.10.

7 Sec. 2. Section 22.7, Code 1991, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 29. Records relating to functions
10 performed by the Iowa local public funds investment advisory
11 board and the Iowa public funds and finance commission as
12 provided in section 77.10.

13 SUBCHAPTER I

14 GENERAL PROVISIONS

15 Sec. 3. NEW SECTION. 77.1 SHORT TITLE.

16 This chapter shall be known and may be cited as the "Iowa
17 Local Public Funds and Finance Act".

18 Sec. 4. NEW SECTION. 77.2 PURPOSES AND PRIMARY
19 REQUIREMENTS OF THE CHAPTER.

20 1. This chapter shall serve all the following purposes:

21 a. To protect the investment of local public funds, by
22 establishing a local public funds and finance commission to
23 regulate the investment of local public funds of governmental
24 entities, and a local public funds investment advisory board
25 to provide advice regarding investment and regulatory policy.

26 b. To provide statutory authorizations and prohibitions
27 relating to the purchase and sale of investments and the
28 settlement of investment transactions for local public funds,
29 and the deposit and the custody of local public funds in
30 financial institutions.

31 c. To establish qualifications for persons doing business
32 with local public funds.

33 d. To impose sanctions for investment and custodial
34 activity in violation of this chapter or rules adopted by the
35 commission.

1 e. To place the regulation of investment, deposit, and
2 custody of local public funds in one professional state
3 agency.

4 2. The two primary requirements for the investment of
5 local public funds under this chapter are the safety of
6 principal and liquidity. To carry out these primary
7 requirements, this chapter establishes specific restrictions
8 for the investment of operating funds, reserve funds, and
9 funds which are the proceeds from the issuance of securities
10 by a governmental entity.

11 Sec. 5. NEW SECTION. 77.3 DEFINITIONS.

12 As used in this chapter, unless the context otherwise
13 requires:

14 1. "Authorized collateral" means collateral for a
15 repurchase agreement which is either authorized by this
16 chapter or rules of the commission.

17 2. "Authorized investment" means an investment or deposit
18 authorized under this chapter or by rules adopted by the
19 commission.

20 3. "Bond funds" means money, funds, or accounts which are
21 proceeds from the issuance of securities which are either
22 publicly or privately sold by a local governmental entity.

23 4. "Broker-dealer" means the same as defined in section
24 502.102.

25 5. "Cash assets" means moneys, cash, or short term
26 investments in one of the following:

27 a. An authorized repurchase agreement.

28 b. An Iowa-recognized trust or investment company.

29 c. A deposit in an Iowa-recognized depository.

30 6. "Commission" means the Iowa public funds and finance
31 commission established pursuant to section 77.5.

32 7. "Commissioner" means the commissioner of the Iowa
33 public funds and finance commission appointed pursuant to
34 section 77.6.

35 8. "Council" means the Iowa local public funds investment

1 advisory council established pursuant to section 77.8.

2 9. "Custody" means the commitment of local public funds
3 for purposes of preservation and safe-keeping.

4 10. "Deposit" means the commitment of local public funds
5 for the purpose of receiving interest or income earned on
6 principal.

7 11. "Depository" means a financial institution in which
8 funds are deposited for investment.

9 12. "Depository capital" means a level of a financial
10 institution's capitalization.

11 13. "District custodial bank" means a financial
12 institution with whom a local public funds custodial district
13 maintains custody of local public funds pursuant to this
14 chapter.

15 14. "Financial institution" means one of the following:

16 a. A bank or any office of a bank whose accounts are
17 insured by the federal deposit insurance corporation.

18 b. A credit union insured by the national credit union
19 administration.

20 c. A savings and loan association or a savings bank or a
21 branch of a savings and loan association or savings bank whose
22 accounts are insured in part by the savings association
23 insurance fund of the federal deposit insurance corporation or
24 another insurance plan approved by the superintendent of
25 savings and loan associations.

26 15. "Iowa-managed" means managed and advised by an
27 individual and entity which are both residents of the state.

28 16. "Iowa-recognized dealer" means any one of the
29 following:

30 a. A primary reporting dealer who is recognized by the
31 federal reserve bank of New York or by its successor as
32 designated by the United States department of the treasury,
33 and which satisfies criteria established by rules adopted by
34 the commission.

35 b. A broker dealer who is all of the following:

1 (1) Registered as a broker-dealer with the United States
2 securities and exchange commission.

3 (2) Maintains an office and is a resident registered
4 principal in this state or a bordering state. However, the
5 commission may by rule waive this requirement pursuant to
6 criteria established by rules adopted by the commission.

7 (3) Satisfies the capital requirements and other criteria
8 established by rules adopted by the commission.

9 17. "Iowa-recognized depository" means a financial
10 institution which is a qualified financial institution, and
11 which is recognized by the commission as authorized to receive
12 the deposit of local public funds in accordance with criteria
13 established by rules adopted by the commission.

14 18. "Iowa-recognized investment advisor" means an
15 investment advisor registered with the United States
16 securities and exchange commission, who is recognized by the
17 commission as authorized to advise public treasurers and
18 representatives of local governmental entities in accordance
19 with rules adopted by the commission.

20 19. "Iowa-recognized investment company" means a fund
21 consisting of moneys pooled for the purpose of investment and
22 reinvestment, which meets all the following criteria:

23 a. Is one of the following:

24 (1) Registered and is in good standing with the United
25 States securities and exchange commission as an investment
26 company.

27 (2) Rated within the two highest classifications of prime
28 as established by at least one of the standard rating services
29 recognized by the commission pursuant to rules adopted by the
30 commission.

31 b. Its portfolio is limited to a dollar-weighted average
32 maturity of ninety days or less.

33 c. Its portfolio is limited to a maximum final maturity of
34 one year on any investment acquired by the fund.

35 d. Its stated net asset value is one dollar per share at

1 the time of investment.

2 e. Its portfolio is limited by the prospectus, agreement,
3 or indenture, to investments authorized by this chapter.

4 f. It does not assess a front-end sales load or commission
5 on the purchase of shares, or assess a contingent deferred
6 sales charge or commission on the sale of shares.

7 g. It has at least three years of audited comprehensive
8 financial statements produced by a nationally recognized
9 public accounting firm. However, the commission may waive
10 this requirement by adopting rules establishing alternative
11 criteria.

12 h. It meets all criteria established by rules adopted by
13 the commission and is recognized by the commission as
14 authorized to hold local public funds in accordance with
15 commission rules.

16 20. "Iowa-recognized investment trust" means a fund
17 consisting of moneys pooled for the purpose of investment and
18 reinvestment, which meets all of the following criteria:

19 a. It is a bank trust which is one of the following:

20 (1) Registered and in good standing with the United States
21 securities and exchange commission as an investment company.

22 (2) Rated within the two highest classifications of prime
23 as established by at least one of the standard rating services
24 recognized by rules adopted by the commission.

25 b. Its portfolio is limited to a dollar-weighted average
26 maturity of ninety days or less.

27 c. Its portfolio is limited to a maximum final maturity of
28 one year on any investment acquired by the trust.

29 d. Its stated net asset value is one dollar per share at
30 the time of investment.

31 e. Its portfolio is limited by the prospectus, agreement,
32 or indenture, to investments authorized by this chapter.

33 f. It does not assess a front-end sales load or commission
34 on the purchase of shares.

35 g. It does not assess a contingent deferred sales charge

1 or commission on the sale of shares.

2 h. It has at least three years of audited comprehensive
3 financial statements produced by a nationally recognized
4 public accounting firm. However, the commission may waive
5 this requirement by adopting rules establishing alternative
6 criteria.

7 i. It meets all criteria established by rules adopted by
8 the commission and is recognized by the commission as
9 authorized to hold local public funds in accordance with rules
10 adopted by the commission.

11 21. "Iowa-recognized rating service" means a national
12 service which provides ratings for investment companies and
13 investment trusts and is recognized by the commission in
14 accordance with rules adopted by the commission.

15 22. "Liquidity" means the ability of an investment to be
16 converted easily and rapidly into cash without a substantial
17 loss of value.

18 23. a. "Local governmental entity" means a political
19 subdivision, including but not limited to the following:

- 20 (1) A county.
- 21 (2) A city.
- 22 (3) A school corporation.
- 23 (4) A special district.
- 24 (5) A drainage district.
- 25 (6) A township.
- 26 (7) A judicial district.
- 27 (8) A county public hospital or merged area hospital.
- 28 (9) A city utility or combined utility system established
29 under chapter 388.
- 30 (10) A regional library established under chapter 303B.
- 31 (11) An electrical power agency as defined in section
32 28F.2.

33 b. A local governmental entity does not include the
34 following:

- 35 (1) A state department or agency.

1 (2) A regents institution, including the university of
2 Iowa, Iowa state university of science and technology, and the
3 university of northern Iowa.

4 (3) The Iowa department of public safety peace officers
5 retirement, accident, and disability system.

6 (4) The Iowa public employees retirement system as
7 provided in chapter 97B.

8 (5) The judicial retirement system as provided in chapter
9 602, Article 9, Part I.

10 (6) Retirement systems for police officers and fire
11 fighters as provided in chapters 410 and 411.

12 (7) A municipal utility retirement system established
13 under chapter 412.

14 24. "Local public funds" mean moneys, funds, securities,
15 and accounts regardless of the source from which the moneys,
16 funds, securities, or accounts are derived, and which are
17 owned, held, or administered by a local governmental entity.

18 25. "Local public funds custodial district" or "district"
19 means a geographic area in which all governmental bodies are
20 required to obtain joint custodial services according to rules
21 adopted by the commission.

22 26. "Local public treasurer" means a financial officer of
23 a local governmental entity who has the responsibility for the
24 safekeeping and investment of local public funds.

25 27. "Market value" means market value as defined in the
26 master repurchase agreement.

27 28. "Master repurchase agreement" means the current
28 standard master repurchase agreement published by the public
29 securities association and modified by rules adopted by the
30 commission.

31 29. "Operating funds" means funds held by a local
32 governmental entity which are to be disbursed for meeting
33 operational expenses during a fiscal year.

34 30. "Qualified financial institution" means a financial
35 institution which meets all of the following criteria:

1 a. Is chartered pursuant to one of the following:

2 (1) By a superintendent to do business in this state.

3 (2) In another state and authorized to conduct business in
4 this state by a superintendent.

5 (3) As a federal bank or credit union.

6 b. Is qualified to hold deposits of local public funds
7 based upon either of the following:

8 (1) A finding of eligibility by a superintendent as
9 established by rules adopted pursuant to chapter 524, 533, or
10 534.

11 (2) An increase and maintenance of collateral at a minimum
12 of one hundred and two percent of the value of all local
13 public funds deposited with the financial institution.

14 (3) Meets alternative requirements established by rules
15 adopted by the commission.

16 31. "Registered principal" means a natural person who does
17 both of the following:

18 a. Meets the qualifications of a general securities
19 principal as established by the national association of
20 securities dealers.

21 b. Acts as a general securities principal in the broker-
22 dealer firm which employs the person.

23 32. "Reserve funds" means local public funds which are not
24 required for operational expenses during a local governmental
25 entity's fiscal year.

26 33. "Security" means the same as defined in section
27 502.102.

28 34. "Sinking fund" or "reserve fund" means a fund or
29 account in which all the following apply:

30 a. It is used for the deposit of reserve funds.

31 b. It is created and used for a definite purpose which
32 does not include supporting current expenses.

33 c. The interest or income earned is to be used for the
34 same purpose as the principal.

35 35. "Superintendent" means one of the following:

1 a. The superintendent of banking as provided under chapter
2 524.

3 b. The superintendent of credit unions as provided in
4 chapter 533.

5 c. The superintendent of savings and loan associations as
6 provided in chapter 534.

7 36. "Triparty repurchase agreement" means a repurchase
8 agreement which provides that collateral is not held in a
9 district custodial bank.

10 Sec. 6. NEW SECTION. 77.4 APPLICATION OF THE CHAPTER.

11 Ambiguities in the application of this chapter shall be
12 resolved in favor of preventing the loss of local public
13 funds.

14 SUBCHAPTER II

15 ADMINISTRATION

16 Sec. 7. NEW SECTION. 77.5 COMMISSION ESTABLISHED.

17 1. The Iowa public funds and finance commission is
18 established to administer this chapter and to establish
19 policies for the investment, deposit, transactional
20 settlement, and custody of local public funds.

21 2. The commission shall be composed of the following
22 members:

23 a. A commissioner appointed by the governor and confirmed
24 by the senate pursuant to section 2.32.

25 b. The superintendent of banking.

26 c. The superintendent of credit unions.

27 d. The administrator of the securities bureau.

28 e. Two county treasurers appointed by the board of the
29 Iowa association of counties.

30 f. Two school board financial officers appointed by the
31 Iowa state education association.

32 g. Two city treasurers appointed by the Iowa league of
33 municipalities.

34 h. A treasurer appointed by the Iowa association of
35 municipal utilities.

1 i. A corporate finance executive appointed by the governor
2 and confirmed by the senate, pursuant to section 2.32.

3 j. An officer of a broker-dealer who is a member of the
4 national association of securities dealers and whose office is
5 in the state. This person shall be appointed by the governor
6 and confirmed by the senate, pursuant to section 2.32.

7 3. The commission members, except for the commissioner,
8 the superintendents, and the administrator of the securities
9 bureau shall be appointed to serve four-year terms. However,
10 the commissioner shall nominate and the board shall approve
11 initially appointed members to serve more than four but less
12 than seven years to ensure that members serve staggered terms.
13 A member is eligible for reappointment. A vacancy on the
14 commission shall be filled for the unexpired portion of the
15 regular term in the same manner as regular appointments are
16 made.

17 4. The commissioner shall serve as chairperson of the
18 commission. The commission shall elect a vice-chairperson and
19 an executive secretary from among its members who shall serve
20 two-year terms. The commission shall meet at least once each
21 three months at a regular date to be fixed by the commission
22 and at other times at the call of the chairperson or any six
23 members of the commission. Seven members constitute a quorum
24 and the affirmative vote of a majority of the members present
25 is necessary for any substantive action to be taken by the
26 commission. The majority shall not include any member who has
27 a conflict of interest and a statement by a member that the
28 member has a conflict of interest is conclusive for this
29 purpose. A vacancy in the membership does not impair the
30 duties of the commission.

31 5. Each member shall file with the commission a sworn
32 written statement disclosing any position, employment, or
33 ownership interest which the member has in a financial
34 institution or investment organization. The statement shall
35 be filed when the person begins service on the commission and

1 amended when a material change in the member's position,
2 employment, or ownership interest occurs, as prescribed by
3 rules adopted by the commission.

4 6. The appointed members are entitled to receive
5 compensation as provided in section 7E.6.

6 Sec. 8. NEW SECTION. 77.6 COMMISSION PERSONNEL.

7 1. The commissioner must be a natural person licensed in
8 this state as an attorney, certified as a certified public
9 accountant pursuant to section 116.5, or certified as a
10 certified financial analyst. The person must have at least
11 ten years experience in the field of investment regulation or
12 finance. The commissioner shall manage the day-to-day affairs
13 of the commission.

14 2. The commission shall employ qualified staff, including
15 the following:

16 a. A deputy commissioner who must be a natural person
17 licensed in this state as an attorney, certified as a
18 certified public accountant pursuant to section 116.5, or
19 certified as a certified financial analyst. The person must
20 have at least five years experience in the field of investment
21 regulation or finance. The deputy commissioner shall manage
22 financial affairs of the commission.

23 b. A general counsel who is an attorney licensed in this
24 state and experienced in the area of investment regulation or
25 finance.

26 3. The commission may obtain the services of independent
27 professional consultants to assist in establishing or
28 administering the commission.

29 Sec. 9. NEW SECTION. 77.7 DUTIES AND POWERS OF THE
30 COMMISSION TO ADMINISTER THIS CHAPTER.

31 1. The commission shall establish qualifications for
32 persons dealing with local public funds and shall recognize
33 eligible persons to deal with such funds.

34 2. The commission shall regulate the investment, deposit,
35 collateralization, and custody of local public funds.

1 3. The commission shall determine the maximum amount of
2 public deposits for an Iowa-recognized depository. The
3 commission shall require that Iowa-recognized depositories
4 submit reports to the commission regarding the local public
5 funds held. A superintendent shall promptly report to the
6 commission a financial institution which no longer meets
7 eligibility requirements of a qualified financial institution.

8 4. The commission shall establish the jurisdiction of
9 local public funds custodial districts.

10 5. The commission shall adopt rules relating to the
11 following:

12 a. The investment in securities and the purchase, sale,
13 and settlement of securities transactions, the deposit of
14 local public funds in financial institutions, and the custody
15 of local public funds.

16 b. The procedures and practices by which public treasurers
17 may maintain custody of, deposit, or invest local public
18 funds.

19 c. The standards and procedures for obtaining and
20 maintaining a financial institution's designation as an Iowa-
21 recognized depository.

22 d. Financial reporting requirements of Iowa-recognized
23 depositories.

24 e. The standards and procedures for revocation of a
25 financial institution's designation as an Iowa-recognized
26 depository.

27 f. The standards and procedures for obtaining and
28 maintaining a designation as an Iowa-recognized dealer.

29 g. The standards and procedures for revocation of the
30 designation as an Iowa-recognized dealer.

31 h. The standards and procedures for appointment as an
32 authorized Iowa-recognized district custodial bank and the
33 terms of custody and transactional settlement authorized.

34 i. Ethical standards required of the commission, its
35 members and staff, in the exercise of duties under this

1 chapter and rules adopted by the commission.

2 j. Other rules necessary to carry out the commission's
3 powers and duties under this chapter.

4 6. The commission shall distribute to public treasurers
5 the following:

6 a. At least annually, a copy of proposed and adopted rules
7 relating to the custody, deposit, or investment of local
8 public funds.

9 b. At least semiannually, a list of Iowa-recognized
10 depositories that meet the criteria for investment established
11 by this chapter and rules adopted by the commission.

12 c. At least semiannually, a list of Iowa-recognized
13 dealers that meet criteria established by this chapter and
14 rules adopted by the commission.

15 d. At least annually, a copy of a report regarding the
16 investments and investment performance of local governmental
17 entities.

18 7. The commission may do any of the following:

19 a. Recommend to the general assembly provisions and
20 amendments to statutory law relating to the investment,
21 deposit, transaction settlement, and custody of local public
22 funds.

23 b. Establish rules for fees required by persons authorized
24 to transact business with public treasurers.

25 c. Provide advice, counsel, and assistance to public
26 treasurers relating to the investment, deposit, settlement of
27 transactions, or custody of moneys or securities.

28 d. Require that a district custodian permit the inspection
29 of records maintained by the district custodian.

30 e. Require that a nationally recognized accounting firm
31 permit the inspection of records relating to transactions
32 regulated pursuant to this chapter.

33 Sec. 10. NEW SECTION. 77.8 COUNCIL.

34 1. The Iowa local public funds and finance advisory
35 council is established to advise the commission regarding

1 policy for the custody, deposit, and investment of local
2 public funds.

3 2. The council shall be composed of the members of the
4 commission and the following natural persons:

5 a. Three persons who are corporate finance executives of
6 Iowa corporations appointed by the governor.

7 b. One person appointed by the Iowa banker's association.

8 c. One person appointed by the independent banker's
9 association.

10 d. One person appointed by the credit union league.

11 e. Three persons of the securities brokerage industry
12 appointed by the governor.

13 f. One person who is a university economist, who shall be
14 appointed by the state board of regents.

15 3. The commissioner shall serve as chairperson. The board
16 members, except for the commissioner, and the superintendents,
17 and the administrator of the securities bureau, shall be
18 appointed to serve four-year terms. However, the commissioner
19 shall select initially appointed members to serve less than
20 four years to ensure that members serve staggered terms. A
21 member is eligible for reappointment. A vacancy on the
22 council shall be filled for the unexpired portion of the
23 regular term by the governor in the same manner as regular
24 appointments are made.

25 4. The council shall meet at least once each year on a
26 date established by the council and at other times at the call
27 of the chairperson. Ten members constitute a quorum and the
28 affirmative vote of a majority of the members present is
29 necessary for any substantive action to be taken by the
30 council. A vacancy in the membership does not impair the
31 authority and duties of the council.

32 5. The appointed members are entitled to receive
33 compensation as provided in section 7E.6.

34 Sec. 11. NEW SECTION. 77.9 DUTIES OF THE COUNCIL.

35 The council shall:

1 1. Advise and make recommendations to the commission
2 regarding the investment of local public funds.

3 2. Cooperate with each superintendent by providing advice
4 regarding measures and rules which strengthen the banking and
5 credit structure of the state.

6 3. Review the annual report of the commission regarding
7 investment and investment performance by governmental
8 entities.

9 4. At least annually, review the rules adopted by the
10 commission relating to the custody, deposit, investment, and
11 transaction settlement of local public funds.

12 Sec. 12. NEW SECTION. 77.10 PUBLIC AND CONFIDENTIAL
13 MEETINGS AND RECORDS.

14 1. Meetings of the commission and council shall be open to
15 the public as provided in chapter 21, and records of the
16 commission and council shall be made available for public
17 examination as provided in chapter 22. However, the
18 commission by rule may provide closed sessions as provided in
19 section 21.5 and provide confidentiality for records as
20 provided in section 22.7. The meeting or record to be
21 confidential must directly concern one of the following:

22 a. Plans, discussions, or receipt of evidence relating to
23 an investigation.

24 b. Discussions regarding, or the imposition of,
25 conditions, restrictions, or qualifications on a person who
26 has violated this chapter or rules adopted by the commission.

27 c. The withdrawal of Iowa recognition for a dealer,
28 depository, district custodial bank, investment trust, or
29 investment company as provided by rules adopted by the
30 commission.

31 d. The liquidity or financial condition of a qualified
32 depository, including the amount of local public funds which a
33 depository is eligible to hold as reported by a
34 superintendent.

35 e. The liquidity or financial condition of an Iowa-

1 recognized dealer as reported by the commissioner.

2 f. Another matter described by rules adopted by the
3 commission as confidential.

4 2. The commission and the council may exchange information
5 which is confidential. However, the meetings shall be held in
6 closed session and the records shall be confidential.

7 3. The commission may disclose necessary information about
8 the condition of an Iowa-recognized depository to another
9 state or federal regulatory body. The commission may publicly
10 remove the depository from its records recognizing
11 authorization.

12 4. The commission may disclose to public treasurers the
13 removal of recognition of a depository, but shall not disclose
14 the reasons for the removal unless allowed by commission rule.

15 5. Except as provided by rules adopted by the commission,
16 a member of the commission staff disclosing confidential
17 information obtained from a superintendent is guilty of a
18 simple misdemeanor.

19 6. Records of a local public treasurer shall be open for
20 inspection by the public in the office of the local public
21 treasurer as provided by rules adopted by the commission.

22 SUBCHAPTER III

23 PROCEDURES FOR ADMINISTRATION OF FINANCES

24 BY LOCAL GOVERNMENTAL ENTITIES

25 Sec. 13. NEW SECTION. 77.11 POWERS AND DUTIES OF LOCAL
26 GOVERNMENTAL ENTITIES.

27 A local public treasurer shall maintain all funds under the
28 possession or control of the local public treasurer as local
29 public funds. The governing body of the local governmental
30 entity shall direct the deposit or investment of local public
31 funds held by the local public treasurer. Except as otherwise
32 provided, a local governmental entity shall invest local
33 public funds not currently required for operating expenses. A
34 local governmental entity may delegate its investment
35 authority to the entity's local public treasurer, under

1 conditions established by the entity. The local governmental
2 entity may revoke its delegation at any time.

3 Sec. 14. NEW SECTION. 77.12 BONDS OF LOCAL PUBLIC
4 TREASURERS -- REPORTS TO COMMISSION.

5 1. A local public treasurer shall be bonded in at least an
6 amount established by rules adopted by the commission.

7 2. When a local public treasurer deposits or invests local
8 public funds as authorized by this chapter, the local public
9 treasurer and the treasurer's surety are not liable for any
10 loss of local public funds invested or deposited.

11 3. A local public treasurer shall file a written report
12 with the commission by January 31 and July 31 of each year, as
13 provided by rules adopted by the commission. The report shall
14 contain the information about the deposits and investments of
15 that treasurer during the preceding six months. The local
16 public treasurer shall make copies of the report available to
17 the public at the treasurer's offices during the normal
18 business hours within seven days of filing the report with the
19 commission.

20 Sec. 15. NEW SECTION. 77.13 AUDITING REQUIREMENTS.

21 A local governmental entity shall provide for an annual
22 audit of investments made by the entity's local public
23 treasurer in a manner and according to procedures prescribed
24 by rules adopted by the commission. The audit shall be
25 performed by the auditor of state or a nationally recognized
26 public accounting firm employed by the local governmental
27 entity. If the local governmental entity does not provide for
28 an audit performed by a firm, the auditor of state shall
29 perform the audit. The person performing the audit shall
30 immediately report a violation of this chapter or a rule
31 adopted pursuant to this chapter to the commission.

32 SUBCHAPTER IV

33 CUSTODY OF LOCAL PUBLIC FUNDS

34 Sec. 16. NEW SECTION. 77.14 LOCAL PUBLIC FUNDS CUSTODIAL
35 DISTRICTS ESTABLISHED.

1 The commission shall establish not more than six local
2 public funds custodial districts in the state to provide
3 expert master custodial services for all local public
4 treasurers. The jurisdiction of local public funds custodial
5 districts shall be established by rules adopted by the
6 commission.

7 Sec. 17. NEW SECTION. 77.15 CUSTODY REQUIREMENTS.

8 1. A local public treasurer shall maintain in a district
9 custodial bank the custody of local public funds which are
10 deposited or invested pursuant to this chapter. The
11 commission may establish an alternative requirement pursuant
12 to rules adopted by the commission. A district custodial bank
13 must be an Iowa-recognized depository.

14 2. A local public treasurer may maintain custody of
15 securities by book-entry-only form, the ownership records of
16 which are maintained with a securities depository, in the
17 federal book entry system authorized by the United States
18 department of the treasury, or in the book-entry records of
19 the issuer, which shall be maintained as follows:

20 a. The direct ownership of the security by a local public
21 treasurer shall be reflected in the book-entry records and
22 represented by a receipt, confirmation, or statement issued to
23 the local public treasurer by the custodian of the book-entry
24 system.

25 b. The ownership of the security by a local public
26 treasurer's district custodial bank shall be reflected in the
27 book-entry records and the local public treasurer's ownership
28 shall be represented by a receipt, confirmation, or statement
29 issued by the district custodial bank.

30 3. Shares of an Iowa-recognized investment trust or an
31 Iowa-recognized investment company owned by a local
32 governmental entity may be held by a district custodial bank
33 without a certificate, but statements of share ownership shall
34 be maintained in the name of the local governmental entity.

35 4. The ownership of assets by a local governmental entity

1 which are held in a district custodial bank shall be reflected
2 on the books and records of the district custodial bank as
3 provided by rules adopted by the commission.

4 5. Records of a district custodial bank shall be open for
5 inspection by the auditor of state or the securities bureau of
6 the department of commerce, upon request of the commission.

7 6. The commission shall adopt rules regarding the custody
8 of certificates of deposit in Iowa-recognized depositories.

9 7. The commission shall by rule provide procedures for the
10 withdrawal of local public funds which remain in a depository
11 or district custodial bank after withdrawal of Iowa
12 recognition.

13 Sec. 18. NEW SECTION. 77.16 SERVICE CHARGES.

14 A district custodial bank may charge a local governmental
15 entity for services related to holding or managing local
16 public funds of the entity. However, the charge shall not be
17 greater than the custodian customarily requires from other
18 customers for performing similar services.

19

SUBCHAPTER V

20

DEPOSIT AND INVESTMENT OF LOCAL PUBLIC FUNDS

21

PART 1

22

DEPOSITS

23

Sec. 19. NEW SECTION. 77.17 IOWA-RECOGNIZED

24

DEPOSITORIES.

25

All local public funds invested in deposit instruments
26 shall be deposited with Iowa-recognized depositories within
27 the state. If a deposit is with the public treasurer's
28 district custodial bank, a copy of each certificate of deposit
29 representing an investment by the local governmental entity
30 with the district custodial bank shall be maintained by the
31 local public treasurer of that local governmental entity.

32

Sec. 20. NEW SECTION. 77.18 PROCEDURES FOR DEPOSIT.

33

1. The approval of a financial institution as depository
34 shall be by written resolution or order which shall be entered
35 of record in the minutes of the local governmental entity.

1 The list of financial institutions holding local public funds
2 and the amount deposited in each financial institution shall
3 be a matter of public record.

4 2. Local public funds shall be deposited only in financial
5 institutions which are Iowa-recognized depositories.

6 3. a. Local public funds shall be deposited pursuant to
7 this chapter as follows:

8 (1) The local public funds of a county, county public
9 hospital, or merged area hospital shall be deposited in the
10 county or an adjoining county within the state. However, if
11 an Iowa-recognized depository is not located in the county or
12 an adjoining county, the local public funds shall be deposited
13 in any Iowa-recognized depository.

14 (2) The local public funds of a city shall be deposited in
15 the county where the city is located or in an adjoining county
16 within the state. However, if an Iowa-recognized depository
17 is not located in the county, the city shall deposit the funds
18 in an Iowa-recognized depository located in an adjoining
19 county. If an Iowa-recognized depository is not located in an
20 adjoining county, the local public funds shall be deposited in
21 any Iowa-recognized depository.

22 (3) The local public funds of other local governmental
23 entities shall be located in an Iowa-recognized depository.

24 b. A county, county public hospital, merged area hospital,
25 or a city may deposit local public funds in the state as
26 provided in this chapter if an Iowa-recognized depository
27 described in subsection 2 refuses to accept the deposit as
28 prescribed by this chapter or rules adopted by the commission.

29 c. A local governmental entity may deposit local public
30 funds in an Iowa-recognized depository outside the state
31 pursuant to this chapter for the purpose of paying principal
32 and interest on bonded indebtedness of a local governmental
33 entity when the deposit is made not more than ten days before
34 the date that the principal or interest becomes due.

35 Sec. 21. NEW SECTION. 77.19 DEPOSIT DOES NOT PURCHASE

1 EQUITY IN A FINANCIAL INSTITUTION.

2 Notwithstanding chapter 533 or 534, the deposit of local
3 public funds in an association defined in section 533.1 or
4 534.102 does not constitute being a shareholder, stockholder,
5 or owner of a corporation in violation of Article VII of the
6 Constitution of the state of Iowa, or any other provision of
7 law.

8 Sec. 22. NEW SECTION. 77.20 INTEREST AND INCOME.

9 1. Local public funds deposited as provided in this
10 chapter in time certificates of deposit shall draw a rate of
11 interest determined by the local governmental entity.

12 However, the rate shall not be less than the minimum rate
13 established pursuant to section 453.6.

14 2. a. A depository shall not directly or indirectly pay
15 interest to an official of a local governmental entity on a
16 demand deposit of local public funds. The official shall not
17 take or receive interest on demand deposits of local public
18 funds. This paragraph does not apply to interest on time
19 certificate of deposit or savings accounts for local public
20 funds.

21 b. Interest or earnings on investments and time deposits
22 shall be credited to the general fund of the local
23 governmental entity making the investment or deposit, with the
24 exception of specific funds for which investments are
25 otherwise provided by law, constitutional funds, or when
26 diverted to a sinking fund. Local public funds which are
27 excepted shall receive credit for interest or earnings derived
28 from the investments or time deposits made from such funds.
29 The interest or earnings on a fund created by the direct vote
30 of the people shall be credited to the fund to retire
31 indebtedness after which the fund itself shall be credited.

32 Sec. 23. NEW SECTION. 77.21 SERVICE CHARGES.

33 An Iowa-recognized depository may charge a local
34 governmental entity for performing services relating to the
35 deposit of local public funds of the entity. However, the

1 service charges shall not be greater than the depository
2 customarily requires from other depositors for performing
3 similar services.

4 Sec. 24. NEW SECTION. 77.22 LOCAL COMMUNITY COMMITMENT
5 BY IOWA-RECOGNIZED DEPOSITORIES.

6 1. A financial institution shall not be qualified as an
7 Iowa-recognized depository unless the institution demonstrates
8 a commitment to serve the needs of the local community in
9 which it is chartered to do business, including the needs of
10 neighborhoods, rural areas, and small businesses in
11 communities served by the financial institution. The needs
12 include credit services as well as deposit services.

13 2. The commission shall develop a list of financial
14 institutions eligible to accept local public funds. The
15 commission shall cooperate with the committee established
16 pursuant to section 453.6 to establish a common list of
17 financial institutions eligible to receive funds pursuant to
18 this chapter and chapter 453. In order to qualify under this
19 chapter, a financial institution must annually provide the
20 commission with a written statement that the financial
21 institution has a commitment to community reinvestment
22 consistent with the safe and sound operation of a financial
23 institution. The commission shall accept a certified copy of
24 the annual community reinvestment report filed by the
25 financial institution pursuant to the federal Community
26 Reinvestment Act, 12 U.S.C. § 2901 et seq., in satisfaction of
27 the written statement requirement. In order to qualify, the
28 financial institution must demonstrate a continuing commitment
29 to meet the credit needs of the local community in which it is
30 chartered.

31 3. The commission shall develop procedures to ensure that
32 the financial institution's statement is available for public
33 examination. The commission may require that the financial
34 institution provide public notice inviting the public to
35 submit comments to the financial institution regarding its

1 community lending activities. Each financial institution
2 qualified as an Iowa-recognized depository shall maintain a
3 file open to public examination which contains the most recent
4 annual community reinvestment disclosure statements, public
5 comments received on its community investment activities, and
6 the financial institution's response to those comments. The
7 financial institution may discard materials which are six or
8 more years old.

9 4. a. The commission shall adopt rules establishing
10 procedures for both of the following:

11 (1) To receive information relating to a financial
12 institution's commitment to community reinvestment.

13 (2) To receive challenges from a person to a financial
14 institution's continued eligibility to receive local public
15 funds under this section.

16 At least once each year the commission shall review
17 challenges which have been filed pursuant to this subsection.
18 The commission may hold a public hearing to consider a
19 challenge. In considering a challenge, the commission shall
20 review documents filed with federal regulatory authorities
21 pursuant to the federal Community Reinvestment Act, 12 U.S.C.
22 § 2901 et seq., and regulations adopted pursuant to the Act.

23 b. Consistent with the confidentiality of financial
24 institution records the commission shall consider other
25 factors, including but not limited to the following:

26 (1) Activities conducted to determine the credit needs of
27 the community.

28 (2) Marketing and special credit-related programs to make
29 citizens in the community aware of the credit services
30 offered.

31 (3) A description of how services actually satisfy the
32 needs described in this section.

33 (4) Practices intended to discourage applications for
34 types of credit set forth in the federal Community
35 Reinvestment Act statement.

1 (5) Evidence of prohibited discriminatory or other illegal
2 credit practices.

3 (6) Participation in local community and rural development
4 and redevelopment projects, and in-state and federal business
5 and economic development programs. The commission may specify
6 by rule which programs must be included in the annual
7 statement.

8 (7) Origination or purchase of residential mortgage loans,
9 housing rehabilitation loans, home improvement loans, business
10 loans or farm loans within the community.

11 (8) Ability to meet various community credit needs based
12 on financial condition, size, legal impediments, and local
13 economic conditions.

14 5. A person who believes that an Iowa-recognized
15 depository has failed to meet its community reinvestment
16 responsibility may file a complaint with the commission
17 detailing the basis for that belief. If one-third of the
18 commission members find that the complaint has merit, the
19 commission shall order the financial institution to attend and
20 participate in a meeting with the complainant. The commission
21 members may specify who, at minimum, shall represent the
22 financial institution at the meeting. The financial
23 institution may enter into an agreement with a complainant at
24 any time to correct alleged failings.

25 The commission may order a financial institution against
26 which a complaint has been filed pursuant to this subsection,
27 to disclose additional information relating to community
28 reinvestment as required by the commission.

29 6. The commission shall cooperate with the committee
30 established pursuant to section 453.6 in administering this
31 section and section 453.6A.

32 Sec. 25. NEW SECTION. 77.23 COLLATERALIZATION OF
33 DEPOSITS -- SINKING FUNDS.

34 1. The following shall apply to Iowa-recognized
35 depositories located in the state:

1 a. Deposits of local public funds in Iowa-recognized
2 depositories shall be protected by sinking funds for
3 depositories which are maintained in the state treasury and
4 held as security for public deposits. Minimum amounts of
5 sinking fund totals shall be established by rules adopted by
6 the commission.

7 b. If a depository fails upon request of a local public
8 treasurer to produce principal or interest of a deposit by a
9 local governmental entity, the treasurer of state shall assess
10 all depositories in a manner provided by section 453.23 and
11 rules adopted by the treasurer of state.

12 2. A local governmental entity shall not require a pledge
13 of collateral for local public funds in a depository to the
14 extent the funds are insured by a federal agency or
15 instrumentality of the federal government, including the
16 federal deposit insurance corporation, the savings association
17 insurance fund of the federal deposit insurance corporation or
18 another insurance plan approved by the superintendent of
19 savings and loan associations, or the national credit union
20 administration.

21 3. If a financial institution holds more than five million
22 dollars in public fund deposits, the financial institution
23 shall collateralize at a rate of at least one hundred five
24 percent of the value of all deposits over five million
25 dollars. Collateralization procedures and reporting shall be
26 established according to rules adopted by the commission.

27 4. All deposits of local public funds in excess of
28 insurance by the United States government which are made
29 outside of the state in Iowa-recognized depositories, shall be
30 collateralized at a rate of at least one hundred five percent.
31 Collateralization procedures and reporting shall be
32 established according to rules adopted by the commission.

33 Sec. 26. NEW SECTION. 77.24 COLLATERALIZATION REQUIRED
34 BY THE LOCAL GOVERNMENTAL ENTITY.

35 A depository which receives local public funds shall

1 collateralize securities owned by the depository as required
2 by section 77.23 and by rules which may be adopted by the
3 commission. The commission may regulate collateralization by
4 local governmental entities. The following requirements shall
5 apply to collateralization required by the local governmental
6 entity in the absence of rules adopted by the commission:

7 1. A deposit of securities shall not be made with a
8 depository owned or controlled directly or indirectly by the
9 person which deposits the securities.

10 2. A deposit of securities shall be made with a joint
11 custody receipt. One copy shall be delivered to the local
12 public treasurer and one copy shall be delivered to the
13 depository. A depository institution pledging securities with
14 a local public treasurer may examine the securities in the
15 office of the local public treasurer.

16 3. The local public treasurer may demand that the
17 depository report the par value and the market value of
18 pledged collateral. The collateral report must be in writing.
19 The reports shall be delivered to the local public treasurer
20 on at least a quarterly basis.

21 4. A condition of the deposit of securities or a joint
22 custody receipt must be that the depository shall promptly pay
23 the local public funds, including interest, to a person
24 entitled to the local public funds.

25 5. The pledged securities may be withdrawn upon the
26 application of the depository and upon approval by the local
27 public treasurer, if one of the following applies:

28 a. The local governmental entity determines that the
29 securities are not necessary collateral.

30 b. The securities have matured or the depository demands
31 that the securities be sold, redeemed, or exchanged. The
32 depository shall replace the withdrawn securities with
33 securities of equal or greater value. On the same day that
34 the securities are substituted, the custodian of the
35 securities shall forward to the local public treasurer and the

1 depository, a receipt describing the substituted securities
2 and those released and returned to the depository. The
3 receipt shall be delivered by certified mail.

4 6. If the market value of securities declines below one
5 hundred five percent of the deposit liability of the local
6 governmental entity, the local public treasurer shall require
7 that the depository pledge additional security to increase the
8 total market value of the securities to one hundred five
9 percent of the amount of local public funds held by the
10 depository.

11 7. Collateral for deposits in district custodial banks
12 shall be in accounts in the name of the treasurer of state.

13 PART 2

14 INVESTMENTS

15 Sec. 27. NEW SECTION. 77.25 INVESTMENT OBJECTIVES FOR
16 LOCAL PUBLIC FUNDS.

17 1. A local public treasurer shall consider and satisfy the
18 following objectives when depositing and investing local
19 public funds:

20 a. The safety of the principal.

21 b. The need for liquidity.

22 c. The yield on the investment.

23 d. A recognition of the different investment objectives of
24 operating, reserve, and bond funds.

25 e. The maturity date of the investment shall not exceed
26 the anticipated date of the expenditure of funds.

27 2. The selection of authorized investments shall be made
28 with the exercise of that degree of judgment and care, under
29 circumstances then prevailing, which persons of prudence,
30 discretion, and intelligence exercise in the management of
31 their own affairs, not for speculation but for investment,
32 considering the probable safety of their capital, as well as
33 the probable benefits to be derived and the probable duration
34 for which such investment may be made, and considering the
35 investment objectives specified in this chapter.

1 Sec. 28. NEW SECTION. 77.26 AUTHORIZED INVESTMENT
2 TRANSACTIONS.

3 1. A local public treasurer may only conduct investment
4 transactions through one of the following:

- 5 a. The United States treasury.
- 6 b. An Iowa-recognized depository.
- 7 c. An Iowa-recognized dealer.
- 8 d. An Iowa-recognized investment trust.
- 9 e. An Iowa-recognized investment company.

10 f. Directly with issuers of authorized investment
11 securities as provided by rules adopted by the commission.

12 2. A local public treasurer shall do all of the following:

13 a. Obtain at least two bids for purchases and sales of
14 securities for deposits in Iowa-recognized depositories and
15 for purchases of shares in Iowa-recognized investment trusts
16 or investment companies.

17 b. Obtain information regarding investments in investment
18 trusts and investment companies, including investment
19 policies, past investment performance, fees, and the
20 regulatory history of the trusts or companies.

21 c. Require that records of bids contain information
22 required by rules adopted by the commission.

23 Sec. 29. NEW SECTION. 77.27 MATURITY RESTRICTIONS.

24 The following requirements shall apply to the maturity of
25 an investment:

26 1. The remaining term to maturity of an investment by a
27 local governmental entity shall not exceed the date of
28 anticipated expenditure of the funds being invested.

29 2. Operating funds shall be invested only in investments
30 and deposits which have a final maturity of not more than
31 three hundred sixty-five days.

32 3. Reserve funds shall be invested only in investments
33 which have a maximum final maturity of five years.

34 Sec. 30. NEW SECTION. 77.28 INVESTMENT TRANSACTIONS
35 SETTLEMENT.

1 The following requirements shall apply to the settlement of
2 investment transactions:

3 1. A local public treasurer shall ensure that all
4 purchases and sales of securities are settled within the time
5 period required by industry standards. However, the
6 commission may by rule establish a shorter period of time.

7 2. A settlement of purchases and sales of securities shall
8 be conducted on a delivery-versus-payment basis. A transfer
9 of assets and securities out of a district custodial bank
10 shall be for the sole purpose of making an investment, or
11 disbursing funds for the operations or other duly-authorized
12 expenditures of a local governmental entity.

13 3. A local public treasurer shall provide internal
14 controls for the purchase, sale, transactional settlement, and
15 custody of cash and securities consistent with rules adopted
16 by the commission.

17 Sec. 31. NEW SECTION. 77.29 SALES OF INVESTMENTS.

18 1. A local public treasurer may sell or redeem investment
19 instruments consistent with this chapter, rules adopted by the
20 commission, and expenditure requirements of the local public
21 treasurer's local governmental entity.

22 2. A local public treasurer may dispose of a security or
23 investment, including by sale, at less than cost. However,
24 the disposition must tend to maximize the benefits that may be
25 derived from the disposition or be necessary to meet immediate
26 liquidity needs of the local governmental entity.

27 3. A local public treasurer shall sell fixed-rate
28 corporate obligations or mortgage obligations when the
29 obligations are rated below the two highest classifications of
30 prime as established by at least one of the Iowa-recognized
31 rating services.

32 Sec. 32. NEW SECTION. 77.30 INVESTMENT ADVISORS.

33 A local public treasurer or local governmental entity may
34 employ independent professional investment advice. Fees
35 obtained directly from the local governmental entity or

1 indirectly from other sources, and possible conflicts of
2 interests in connection with providing investment advice,
3 shall be disclosed to the local governmental entity employing
4 an investment advisor. The local governmental entity shall
5 report fees and possible conflicts each year to the commission
6 as provided in rules adopted by the commission.

7 Sec. 33. NEW SECTION. 77.31 INVESTMENT OF BOND FUNDS.

8 1. A local public treasurer shall invest the proceeds of
9 bond or note issues, the proceeds of any sale of securities
10 issued by the local governmental entity, or funds pledged or
11 otherwise dedicated to the payment of interest and principal
12 on bonds, notes, or other securities issued in accordance with
13 subsection 3 and rules adopted by the commission. However,
14 the local public treasurer may make an investment having a
15 maturity consistent with the needs for fund proceeds,
16 expenditures, and the terms of a borrowing instrument
17 applicable to the securities.

18 2. a. The board of directors of a school corporation may
19 invest the proceeds of bonds issued and not currently required
20 as provided in any investment authorized pursuant to this
21 chapter. Earnings and interest from the investments shall be
22 used either to retire the bonded indebtedness or be credited
23 to the schoolhouse fund for purposes of financing the
24 construction or equipping the school building for which the
25 bonds were sold.

26 b. This subsection applies to the use and crediting of
27 earnings and investments of the proceeds from bonds issued
28 prior to July 1, 1971.

29 3. A local governmental entity controlling a fund created
30 by direct vote of the people, may invest any part of the fund
31 which is not currently needed.

32 Sec. 34. NEW SECTION. 77.32 INVESTMENTS OF OPERATING
33 FUNDS.

34 Operating funds of a government entity may be deposited or
35 invested only in the following assets:

- 1 1. a. United States treasury bills.
- 2 b. Obligations in which a market is made by a primary
- 3 reporting government securities dealer, which are fully
- 4 guaranteed by the full faith and credit of the United States
- 5 as to principal and interest, and which are issued by the
- 6 following agencies or instrumentalities of the United States:
- 7 (1) A federal farm credit bank.
- 8 (2) A federal home loan bank.
- 9 (3) The federal national mortgage association.
- 10 (4) The student loan marketing association.
- 11 (5) Another governmental agency or instrumentality of the
- 12 United States as provided by rules adopted by the commission.
- 13 c. The governmental securities described in this
- 14 subsection which have been stripped of interest or principal
- 15 payments and have a final maturity not to exceed one year.
- 16 2. A negotiable or nonnegotiable deposit in an Iowa-
- 17 recognized depository.
- 18 3. Shares or certificates in an Iowa-recognized investment
- 19 trust or an Iowa-recognized investment company, pursuant to
- 20 all of the following requirements:
- 21 a. There shall be no restriction placed on the amount of
- 22 funds invested with an Iowa-recognized investment trust or an
- 23 Iowa-recognized investment company if the entity and personnel
- 24 managing the funds for the trust or company resides in Iowa.
- 25 b. At the time of investment, not more than ten percent of
- 26 a local governmental entity's total funds shall be invested in
- 27 investment companies and investment trusts which are not Iowa-
- 28 managed.
- 29 c. At the time of investment, not more than five percent
- 30 of a local governmental entity's funds shall be invested in
- 31 any one investment company or investment trust which is not
- 32 Iowa-managed.
- 33 4. Repurchase agreements, if all of the following apply:
- 34 a. The local governmental entity is the buyer of the
- 35 collateral and an Iowa-recognized depository or Iowa-

1 recognized dealer is the seller.

2 b. The collateral consists of investments authorized by
3 this section or a government national mortgage association,
4 federal home loan, or federal national mortgage corporation
5 mortgage pool.

6 c. The collateral is valued and maintained at a minimum of
7 one hundred two percent of market value.

8 d. The depository or dealer acts as a principal.

9 e. The depository or dealer delivers the collateral
10 securities to the local public treasurer's district custodial
11 bank.

12 5. Repurchase agreements, if all of the following apply:

13 a. An Iowa-recognized investment trust or investment
14 company is the buyer of collateral.

15 b. The collateral consists of investments authorized by
16 this section or a government national mortgage association,
17 federal home loan, or federal national mortgage corporation
18 mortgage pool.

19 c. The collateral is valued and maintained at a minimum of
20 one hundred two percent of market value.

21 d. The depository or dealer with whom the investment trust
22 or investment company deals, acts as a principal.

23 e. The depository or dealer delivers the collateral
24 securities to the custodial bank of the investment trust or
25 investment company.

26 Sec. 35. NEW SECTION. 77.33 INVESTMENT OF RESERVE FUNDS.

27 Reserve funds may be invested in any of the following:

28 1. An investment authorized for investment by operating
29 funds.

30 2. United States treasury notes with a final maturity of
31 not more than five years from date of purchase.

32 3. Fixed-rate corporate obligations which are all of the
33 following:

34 a. At the time of purchase, rated within the two highest
35 classifications of prime, as established by at least two of

1 the Iowa-recognized rating services.

2 b. Publicly traded and not a private placement.

3 c. Repriced at least semiannually.

4 d. Have a remaining term to final maturity which does not
5 exceed two years.

6 e. Meet other qualifying criteria established by
7 commission rule.

8 4. Collateralized mortgage obligations and interests in
9 mortgage pools or other mortgage-derivative products as
10 permitted by rules adopted by the commission.

11 5. Options on United States treasury obligations if the
12 local governmental entity does either of the following:

13 a. Owns the specific securities to cover call options.

14 b. Maintains sufficient segregated cash assets to cover
15 put options.

16 6. Local certificates or warrants issued by a municipality
17 or school district within a county.

18 7. Municipal or school district bonds which constitute a
19 general liability.

20 Sec. 36. NEW SECTION. 77.34 INVESTMENTS IN SECURITIES OF
21 GOVERNMENTAL ENTITIES AUTHORIZED BY RULE.

22 The commission may by rule authorize investments in
23 securities of governmental entities, including drainage
24 certificates, city special assessment certificates, and
25 collateralized mortgage obligations.

26 Sec. 37. NEW SECTION. 77.35 INVESTMENTS PREVIOUSLY
27 AUTHORIZED ALLOWED UNTIL LIQUIDATED.

28 An investment held by a local governmental entity that was
29 authorized as of July 1, 1992, but no longer qualifies under
30 this chapter, is considered an authorized investment until it
31 matures or is sold. However, this section does not authorize
32 the extension of maturities on unauthorized investments held
33 by governmental entities.

34 Sec. 38. NEW SECTION. 77.36 PROHIBITED INVESTMENTS.

35 An investment not authorized by this chapter is prohibited.

1 Prohibited investments include but are not limited to the
2 following:

- 3 1. Uncovered options.
- 4 2. Commodities futures.
- 5 3. Commodities options.
- 6 4. Reverse repurchase agreements.
- 7 5. Investment contracts except as allowed for investment
8 by bond funds according to rules adopted by the commission.
- 9 6. Securities stripped of interest or principal payments
10 when the final maturity exceeds one year.
- 11 7. Undivided interests in oil, gas, or other mineral
12 rights.
- 13 8. Equity securities.
- 14 9. Triparty repurchase agreements, except if a custodian
15 of an Iowa-recognized investment trust or Iowa-recognized
16 investment company holds repurchase collateral.

17 Sec. 39. NEW SECTION. 77.37 PROHIBITED INVESTMENT
18 PRACTICES.

19 Prohibited investment practices shall include, but are not
20 limited to the following:

- 21 1. Selling short.
- 22 2. The purchase of securities through margin or any loan
23 of funds.
- 24 3. Speculation of any type, including but not limited to
25 speculation on interest rates.
- 26 4. Unauthorized transactions.
- 27 5. Churning.
- 28 6. Adjusted trading.
- 29 7. Market manipulation.
- 30 8. A practice prohibited by rules adopted by the
31 commission.
- 32 9. Misrepresenting a material fact to a local public
33 treasurer or representative of a local governmental entity.
- 34 10. Omitting to state a material fact to a local public
35 treasurer or representative of a local governmental entity,

1 which is necessary in order to make the statements made, in
2 light of the circumstances under which they were made, not
3 misleading.

4 11. Employing a device, scheme, or artifice to defraud.

5 12. Any act, practice, or course of business which
6 operates or would operate as a fraud or deceit, in connection
7 with the purchase and sale of securities by governmental
8 entities or in connection with the deposit of local public
9 funds.

10 SUBCHAPTER VI

11 ENFORCEMENT

12 Sec. 40. NEW SECTION. 77.38 REGULATION AND INVESTIGATION
13 OF THE CUSTODY, DEPOSIT, INVESTMENT, AND TRANSACTIONAL
14 SETTLEMENT OF LOCAL PUBLIC FUNDS.

15 The commission may do any of the following relating to the
16 enforcement of this chapter:

17 1. Conduct a confidential investigation, based upon
18 reasonable belief, concerning the possible violation of this
19 chapter or rules adopted under this chapter.

20 2. Issue administrative subpoenas for documents and sworn
21 testimony, and seek enforcement of the subpoenas for documents
22 and sworn testimony in court.

23 3. Conduct hearings pursuant to chapter 17A and based on
24 findings, and act to restrain or discipline a person or the
25 person's representative who violates a provision of this
26 chapter or a rule adopted by the commission. The commission
27 may do any of the following:

28 a. Impose conditions, restrictions, or qualifications on a
29 person.

30 b. Impose and assess civil penalties.

31 c. Obtain injunctive relief, by petitioning a district
32 court.

33 4. Withdraw an Iowa recognition for a dealer, depository,
34 district custodial bank, investment trust, or investment
35 company.

1 5. Cooperate with, refer matters to, or recommend criminal
2 or civil action by other state or by federal authorities. The
3 attorney general shall cooperate with the commission in
4 enforcing this chapter.

5 Sec. 41. NEW SECTION. 77.39 WITHDRAWAL OF RECOGNITION
6 FOR DEPOSITORIES OR DISTRICT CUSTODIAL BANKS.

7 The commission shall withdraw recognition of a depository
8 or a local public funds district custodial bank, for either
9 the receipt or custody of local public funds if any of the
10 following occurs:

11 1. A superintendent withdraws the qualified status of the
12 financial institution.

13 2. The federal charter of a bank has been withdrawn.

14 3. The commission finds that the depository has engaged in
15 unsafe or unsound practices.

16 4. The depository violates a provision of this chapter or
17 a rule adopted by the commission under this chapter.

18 5. The depository fails to meet the criteria for an Iowa-
19 recognized depository established by this chapter or a rule
20 adopted by the commission.

21 Sec. 42. NEW SECTION. 77.40 CIVIL LIABILITY.

22 1. The following persons or their representatives who
23 negligently perform duties under this chapter or fail to
24 exercise due care in exercising responsibilities of their
25 office shall be liable for damages caused by the person which
26 result from a violation of this chapter:

27 a. A broker.

28 b. A dealer.

29 c. An investment advisor.

30 d. An investment company.

31 e. An investment trust.

32 f. A depository.

33 g. A custodian.

34 2. A local public treasurer is not liable for a loss of
35 local public funds caused by the insolvency of the depository

1 when the local public funds have been deposited or invested as
2 provided in this chapter.

3 Sec. 43. NEW SECTION. 77.41 PENALTIES.

4 1. A local public treasurer who willfully violates the
5 deposit, investment, or custodial provisions of this chapter
6 is guilty of a serious misdemeanor.

7 2. A local public treasurer who knowingly makes or causes
8 to be made a false statement or report to the commission or to
9 an auditor pursuant to section 77.13 regarding the investment,
10 settlement, deposit, or custody of local public funds is
11 guilty of a serious misdemeanor.

12 3. An Iowa-recognized depository or officer or director of
13 an Iowa-recognized depository who knowingly makes or causes to
14 be made a false statement or report to the commission or the
15 auditor pursuant to section 77.13 or a false entry in the
16 books or accounts of the depository is guilty of a serious
17 misdemeanor.

18 4. An Iowa-recognized dealer or representative of an Iowa-
19 recognized dealer who negligently or knowingly offers to sell
20 or sells securities or offers to engage or engages in
21 activities in connection with an offer, purchase, or sale
22 transaction which violates this chapter, is guilty of a
23 serious misdemeanor.

24 5. An investment advisor who fails to inform a local
25 public treasurer or local governmental entity of direct or
26 indirect fees received in connection with advice given by such
27 advisor, or fails to notify of a possible conflict of
28 interest, is guilty of a serious misdemeanor.

29 6. An Iowa-recognized investment trust or Iowa-recognized
30 investment company or its officers or agents who negligently
31 or knowingly violates the terms of the indenture of trust or
32 fund prospectus is guilty of a serious misdemeanor.

33 Sec. 44. Section 111A.6, unnumbered paragraph 1, Code
34 1991, is amended to read as follows:

35 Upon request of the county conservation board, the board of

1 supervisors shall establish a reserve for county conservation
2 land acquisition and capital improvement projects. The board
3 of supervisors may periodically credit an amount of money to
4 the reserve. Moneys credited to the reserve shall remain in
5 the reserve until expended for the projects upon warrants
6 requisitioned by the county conservation board. The interest
7 earned on moneys received from bequests and donations in the
8 reserve account which are invested pursuant to ~~section-453-1~~
9 chapter 77 shall be credited to the reserve account.

10 Sec. 45. Section 176A.8, subsection 15, Code Supplement
11 1991, is amended to read as follows:

12 15. To carry over unexpended county agricultural extension
13 education funds into the next year so that funds will be
14 available to carry on the program until such time as moneys
15 received from taxes are collected by the county treasurer.
16 However, the unencumbered funds in the county agricultural
17 extension education fund in excess of one-half the amount
18 expended from the fund in the previous year shall be paid over
19 to the county treasurer. The treasurer of the extension
20 council with the approval of the council may invest
21 agricultural extension education funds retained by the council
22 and not needed for current expenses in the manner authorized
23 for treasurers of political subdivisions under ~~section-453-1~~
24 chapter 77.

25 Sec. 46. Section 331.555, subsection 5, Code 1991, is
26 amended to read as follows:

27 5. The treasurer shall ~~maintain~~ provide for the custody,
28 ~~of-all-public-moneys-in-the-treasurer's-possession-and~~ deposit
29 ~~or-invest-the-moneys,~~ and investment of public funds as
30 provided in ~~section-452-10-and~~ chapter ~~453~~ 77.

31 Sec. 47. Section 357B.3, subsection 3, Code 1991, is
32 amended to read as follows:

33 3. Of the levies authorized under subsections 1 and 2, the
34 trustees may credit to a reserve account annually an amount
35 not to exceed ten cents per thousand dollars of the assessed

1 value of the taxable property in the township for the purchase
2 or replacement of supplies and equipment required to carry out
3 the services specified under this section. Notwithstanding
4 section 453-7 77.20, interest earned on moneys credited to the
5 reserve account shall be credited to the reserve account.

6 Sec. 48. Section 359.43, subsection 4, Code 1991, is
7 amended to read as follows:

8 4. Of the levies authorized under subsections 1 and 2, the
9 township trustees may credit to a reserve account annually an
10 amount not to exceed ten cents per thousand dollars of the
11 assessed value of the taxable property in the township for the
12 purchase or replacement of supplies and equipment required to
13 carry out the services specified under section 359.42.

14 Notwithstanding section 453-7 77.20, interest earned on moneys
15 credited to the reserve account shall be credited to the
16 reserve account.

17 Sec. 49. Section 384.58, subsection 4, Code 1991, is
18 amended to read as follows:

19 4. Upon accepting the work, the council shall order
20 payment of any amount due the contractor, to be made by
21 warrants issued in the manner provided by section 384.57 or by
22 other means. The city shall order payment of any amount due
23 the contractor to be made in accordance with the terms of the
24 contract. Failure to make payment within seventy days after
25 the work under the contract has been completed and if the work
26 has been accepted and all required materials, certifications,
27 and other documentations required to be submitted by the
28 contractor and specified by the contract have been furnished
29 the awarding city by the contractor, shall cause interest to
30 accrue on the amount unpaid to the benefit of the unpaid
31 party. Interest shall not accrue on funds retained by a city
32 to satisfy the provisions of section 573.14 regarding claims
33 on file. Interest shall accrue during the period commencing
34 the thirty-first day following the completion of work and
35 satisfaction of the other requirements of this subsection and

1 ending on the date of payment. The rate of interest shall be
2 determined, by the period of time during which interest
3 accrues, and shall be the same as the rate of interest that is
4 in effect under section 453-6 77.20, as of the day interest
5 begins to accrue, for a deposit of public funds for a
6 comparable period of time. ~~Nothing-contained-in-this~~ This
7 ~~subsection shall~~ does not abridge any of the rights set forth
8 in section 573.16.

9 Sec. 50. Section 452.10, Code Supplement 1991, is amended
10 to read as follows:

11 452.10 CUSTODY OF ~~PUBBLI~~ STATE FUNDS -- INVESTMENT OR
12 DEPOSIT.

13 The treasurer of state ~~and-the-treasurer-of-each-political~~
14 ~~subdivision shall at-all-times-keep~~ provide for the custody,
15 deposit, or investment of all funds coming-into-their
16 possession controlled by the treasurer of state as public
17 money, state funds. The treasurer of state may maintain state
18 funds in a vault or safe, to be provided for that purpose, or
19 in one or more depositories. However, the treasurer of state
20 ~~and-the-treasurer-of-each-political-subdivision~~ shall invest,
21 unless otherwise provided, ~~any-of-the-public~~ state funds not
22 currently needed for operating expenses in notes,
23 certificates, bonds, prime eligible bankers acceptances,
24 commercial paper rated within the two highest classifications
25 of prime as established by at least one of the standard rating
26 services approved by the superintendent of banking pursuant to
27 chapter 17A, perfected repurchase agreements, or other
28 evidences of indebtedness which are obligations of or
29 guaranteed by the United States of America or any of its
30 agencies; or in time deposits in depositories as provided in
31 chapter 453 and receive time certificates of deposit for the
32 funds; or in savings accounts in depositories; or in warrants
33 or improvement certificates of a drainage district. The total
34 investment in commercial paper of any one corporation is
35 limited to an amount not more than twenty percent of the total

1 stockholders' equity of that corporation. The treasurer of
2 state may invest ~~any-of-the~~ funds in the treasurer's custody
3 in any of the investments authorized for the Iowa public
4 employees' retirement system in section 97B.7, subsection 2,
5 paragraph "b", except that investment in common stocks is not
6 permitted. As used in this section, "depository" means a
7 ~~financial-institution-designated-as-a-legal-depository-under~~
8 ~~chapter-453~~ the same as provided in section 453.1.

9 For the purpose of avoiding the complexity and
10 administrative burdens associated with the required rebate of
11 arbitrage profits to the United States treasury pursuant to
12 section § 148 of the Internal Revenue Code, as defined in
13 section 422.3, the treasurer of state ~~and-the-treasurer-or~~
14 ~~other-designated-financial-officer-of-each-political~~
15 ~~subdivision~~ may invest the proceeds of public bonds or
16 obligations and funds being accumulated for the payment of
17 principal and interest or reserves in tax-exempt bonds, as
18 defined and permitted by section § 148 of the Internal Revenue
19 Code and applicable federal regulations under that section,
20 and in tax-exempt money market funds, including but not
21 limited to funds issued by an unincorporated investment
22 company or investment trust registered under the federal
23 Investment Company Act of 1940, having assets in excess of
24 five hundred million dollars and having an average maturity in
25 compliance with the federal securities exchange commission
26 regulations for registered money market funds.

27 Evidences of indebtedness which are obligations of or
28 guaranteed by the United States of America or any of its
29 agencies include investments in an unincorporated investment
30 company or investment trust registered under the federal
31 Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio
32 of which is limited to such United States government
33 obligations and to repurchase agreements fully collateralized
34 by the United States government obligations if the investment
35 company or investment trust takes delivery of the collateral

1 either directly or through an authorized custodian.

2 ~~Notwithstanding any provision of the Code to the contrary,~~
3 ~~a treasurer of a city as defined in section 411.17, subsection~~
4 ~~18, may invest any public funds of the city not currently~~
5 ~~needed for operating expenses in investments authorized in~~
6 ~~section 411.77, subsection 2, and pursuant to section 97B.77,~~
7 ~~subsection 2, paragraph "b", and section 511.8, except common,~~
8 ~~preferred, or guaranteed stock and may hold, purchase, sell,~~
9 ~~assign, transfer or dispose of any of these investments as~~
10 ~~well as the proceeds of these investments. The city council~~
11 ~~shall implement appropriate investment policies to be followed~~
12 ~~by the city treasurer and shall periodically review the~~
13 ~~performance of the investments made by the city treasurer~~
14 ~~pursuant to such policies under this paragraph.~~

15 Sec. 51. Section 453.1, Code 1991, is amended by striking
16 the section and inserting in lieu thereof the following:

17 453.1 DEFINITIONS.

18 As used in this chapter unless the context otherwise
19 requires:

20 1. "Depository" means one of the following:

21 a. A bank or an office of a bank whose accounts are
22 insured by the federal deposit insurance corporation.

23 b. A savings and loan association or a savings bank or any
24 branch of a savings and loan insurance corporation insured in
25 part by the savings association insurance fund of the deposit
26 insurance corporation or another plan approved by the
27 superintendent of savings and loan associations.

28 c. A credit union insured by the national credit union
29 administration.

30 2. "Local governmental entity" means the same as defined
31 in section 77.3.

32 3. "Local public funds" mean the same as defined in
33 section 77.3.

34 4. "Public funds" mean state funds and local public funds.

35 5. "Sinking fund" or "reserve fund" means a fund or

1 account in which all of the following apply:

2 a. It is used for the deposit of reserve funds.

3 b. It is created and used for a definite purpose which
4 does not include supporting current expenses.

5 c. The interest or income earned is to be used for the
6 same purpose as the principal.

7 6. "State funds" and "state deposits" mean the moneys of
8 the state, and federal and state grant moneys of a quasi-
9 public state entity, that are placed in a depository pursuant
10 to this chapter.

11 7. "Treasurer" means the treasurer of state.

12 Sec. 52. Section 453.2, Code 1991, is amended by striking
13 the section and inserting in lieu thereof the following:

14 453.2 DEPOSITORIES.

15 1. Funds controlled by the treasurer shall be deposited in
16 one or more depositories approved by the executive council.

17 The approval of a depository shall be by written resolution or
18 order which shall be entered on record in the minutes of the
19 executive council. The minutes shall name each depository
20 approved and specify the maximum amount which may be deposited
21 in each depository. The executive council may delegate its
22 investment authority under this chapter to the treasurer who
23 shall be responsible for controlling investment transactions
24 until the delegation is revoked.

25 2. The treasurer shall invest all state funds not needed
26 for current operating expenses in time certificates of deposit
27 in an approved depository pursuant to this chapter or in an
28 investment permitted by section 452.10. The treasurer may
29 invest in any investment authorized for the Iowa public
30 employee's retirement system provided in section 97B.7,
31 subsection 2, paragraph "b", except that the treasurer shall
32 not invest in common stocks.

33 3. Deposits by the treasurer shall be in depositories
34 located in this state. However, the treasurer may maintain an
35 account or accounts outside the state for the purpose of

1 providing custodial services for the state and state
2 retirement fund accounts.

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

5 a. If a depository is a savings and loan association, a
6 savings bank, or an office of a savings and loan association
7 or savings bank, state funds in those depositories shall be
8 secured pursuant to sections 453.16 through 453.19, and
9 sections 453.23 and 453.24.

10 b. If a depository is a bank, credit union, or an office
11 of a bank or credit union, state funds in those depositories
12 shall be secured pursuant to sections 453.22 through 453.24.

13 Sec. 53. Section 453.6, Code 1991, is amended to read as
14 follows:

15 453.6 INTEREST RATE -- COMMITTEE -- NOTICE.

16 Public-deposits State funds shall be deposited with
17 reasonable promptness in a depository legally designated as
18 depository for the funds. A committee composed of the
19 superintendent of banking, the auditor of state or a designee,
20 and the treasurer of state shall meet on or about the first of
21 each month or at other times as the committee may prescribe
22 and by majority action shall establish a minimum rate to be
23 earned on state funds placed in time deposits. State funds
24 invested in depository time certificates of deposit shall draw
25 interest at not less than the rate established, effective on
26 the date of investment. An interest rate established by the
27 committee under this section shall be in effect commencing on
28 the eighth calendar day following the day the rate is
29 established and until a different rate is established and
30 takes effect. The committee shall give advisory notice of an
31 interest rate established under this section. This notice may
32 be given by publication in one or more newspapers, by
33 publication in the Iowa administrative bulletin, by ordinary
34 mail to persons directly affected, by any other method
35 determined by the committee, or by a combination of these. In

1 all cases, the notice shall be published in the Iowa
2 administrative bulletin. The notice shall contain the
3 following words:

4 "The rate of interest has been determined by a committee of
5 the state of Iowa to be the minimum interest rate that shall
6 be paid on public funds deposited in approved financial
7 institutions. To be eligible to accept deposits of public
8 funds ~~of-the-state-of-Iowa~~, a financial institution shall
9 demonstrate a commitment to serve the needs of the local
10 community in which it is chartered to do business. These
11 needs include credit services as well as deposit services.
12 All such financial institutions ~~are-required-to~~ shall provide
13 the committee with a written description of their commitment
14 to provide credit services in the community. This statement
15 is available for examination by citizens."

16 PARAGRAPH DIVIDED. The notice shall also provide the name
17 and address of a state official to whom inquiries can be sent.
18 Actions of the committee under this section and section 453.6A
19 are exempt from chapter 17A.

20 Public funds invested in depositories time certificates of
21 deposit by a ~~public-body-or-officer~~ governmental entity other
22 than the treasurer of state shall draw interest at rates to be
23 determined by the ~~public-body-or-officer~~ governmental entity
24 and the depository, ~~which~~. However, rates shall not be less
25 than the minimum rate set under this section for state funds.

26 Sec. 54. Section 453.6A, subsections 1 and 2, Code 1991,
27 are amended to read as follows:

28 1. ~~Public-funds-of-the-state~~ State funds shall not be
29 deposited in a financial institution which does not
30 demonstrate a commitment to serve the needs of the local
31 community in which it is chartered to do business, including
32 the needs of neighborhoods, rural areas, and small businesses
33 in communities served by the financial institution. These
34 needs include credit services as well as deposit services.

35 2. In addition to establishing a minimum interest rate for

1 public funds pursuant to section 453.6, the committee composed
2 of the superintendent of banking, the auditor of state or a
3 designee, and the treasurer of state shall develop a list of
4 financial institutions eligible to accept state public funds.
5 The committee shall require that a financial institution
6 seeking to qualify for the list shall annually provide the
7 committee a written statement that the financial institution
8 has a commitment to community reinvestment consistent with the
9 safe and sound operation of a financial institution. The
10 committee shall accept a certified copy of the annual
11 community reinvestment report filed by the financial
12 institution pursuant to the federal Community Reinvestment
13 Act, 12 U.S.C. § 2901 et seq., in satisfaction of the written
14 statement requirement under this subsection. To qualify for
15 the list, a financial institution must demonstrate a
16 continuing commitment to meet the credit needs of the local
17 community in which it is chartered.

18 Sec. 55. Section 453.6A, subsection 3, paragraph b, Code
19 1991, is amended to read as follows:

20 b. To receive challenges from any person to a financial
21 institution's continued eligibility to receive state public
22 funds.

23 Sec. 56. Section 453.6A, Code 1991, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 6. The committee shall cooperate with the
26 Iowa public funds and finance commission established in
27 section 77.5, to administer this chapter and chapter 77.

28 Sec. 57. Section 453.7, Code 1991, is amended to read as
29 follows:

30 453.7 INTEREST -- WHERE CREDITED.

31 1. A depository shall not directly or indirectly pay
32 interest to a public officer on a demand deposit of public
33 state funds, and a public officer shall not take or receive
34 interest on demand deposits of public state funds. This
35 provision does not apply to interest on time certificates of

1 deposit or savings accounts for public state funds.
2 2. Interest or earnings on investments and time deposits
3 made in accordance with the ~~provisions of~~ sections 12.8,
4 452.10, ~~453.1~~ 453.2, and 453.6 shall be credited to the
5 general fund of the ~~governmental body making the investment or~~
6 ~~deposit, with the exception of state.~~ However, this shall not
7 apply to specific funds for which investments are otherwise
8 provided by law, constitutional funds, or when funds legally
9 diverted to the state sinking fund for ~~public deposits~~
10 deposit. ~~Funds so~~ The excepted funds shall receive credit for
11 interest or earnings derived from such investments or time
12 deposits made from such funds. ~~Such~~ The interest or earnings
13 on ~~any a~~ fund created by direct vote of the people shall be
14 credited to the fund first to retire ~~any such~~ its indebtedness
15 ~~after which the fund itself shall be credited~~ related to the
16 establishment of the fund and then for the purpose of the
17 fund.

18 Sec. 58. Section 453.8, Code 1991, is amended to read as
19 follows:

20 453.8 LIABILITY OF ~~PUBLIC OFFICERS~~ TREASURER OF STATE.

21 ~~An officer who is referred to in section 453.1~~ The
22 treasurer is not liable for loss of state funds ~~by reason of~~
23 resulting from the insolvency of the depository institution
24 when, if the state funds have been deposited or invested as
25 provided in this chapter.

26 Sec. 59. Section 453.9, Code Supplement 1991, is amended
27 to read as follows:

28 453.9 INVESTMENT OF SINKING FUNDS.

29 The governing executive council or ~~board~~ which by law is
30 ~~authorized to direct the depositing of funds~~ may direct the
31 treasurer or ~~other designated financial officer~~ to invest any
32 ~~fund not an active fund needed for current use and which is~~
33 being state funds accumulated as in a sinking fund for a
34 ~~definite purpose, the interest on which is used for the same~~
35 ~~purpose, in local.~~ The state funds may be invested in any of

1 the following:

2 1. Local certificates or warrants issued by any a
3 municipality or school district within the county, ~~in~~
4 municipal.

5 2. Municipal or school district bonds which constitute a
6 general liability, ~~and in investments.~~

7 3. Investments authorized ~~in~~ pursuant to section 452.10.

8 For the purpose of avoiding the complexity and
9 administrative burdens associated with the required rebate of
10 arbitrage profits to the United States treasury pursuant to
11 section § 148 of the Internal Revenue Code, as defined in
12 section 422.3, the treasurer ~~of state and the treasurer or~~
13 ~~other designated financial officer of each political~~
14 ~~subdivision~~ may invest the proceeds of public bonds or
15 obligations and funds being accumulated for the payment of
16 principal and interest or reserves in tax-exempt bonds, as
17 defined and permitted by section § 148 of the Internal Revenue
18 Code and applicable federal regulations under that section,
19 and in tax-exempt money market funds, including but not
20 limited to funds issued by an unincorporated investment
21 company or investment trust registered under the federal
22 Investment Company Act of 1940, having assets in excess of
23 five hundred million dollars and having an average maturity in
24 compliance with the federal securities exchange commission
25 regulations for registered money market funds.

26 ~~The treasurer of state may invest in any of the investments~~
27 ~~authorized for the Iowa public employees' retirement system in~~
28 ~~section 97B.7, subsection 2, paragraph "b" except that~~
29 ~~investment in common stocks shall not be permitted.~~

30 Sec. 60. Section 453.10, Code 1991, is amended to read as
31 follows:

32 453.10 INVESTMENT OF FUNDS CREATED BY ELECTION.

33 The ~~governing council or board, who by law have control of~~
34 ~~any fund created by direct vote of the people,~~ executive
35 council may invest any portion of the a fund created by direct

1 vote of the people, which is not currently needed, in
2 investments authorized in section 452.10. ~~The treasurer of~~
3 ~~state may invest in any of the investments authorized for the~~
4 ~~Iowa public employees' retirement system in section 97B.77~~
5 ~~subsection 27 paragraph "b" except that investment in common~~
6 ~~stocks shall not be permitted.~~ Interest or earnings on such
7 funds the fund shall be credited as provided in section 453.7,
8 subsection 2.

9 Sec. 61. Section 453.12, Code 1991, is amended to read as
10 follows:

11 453.12 SERVICE CHARGE BY DEPOSITORY.

12 A depository may make reasonable service charges with
13 respect to the handling of public state funds, but the service
14 charges shall not be greater than the depository customarily
15 requires from other depositors for similar services.

16 Sec. 62. Section 453.13, Code 1991, is amended to read as
17 follows:

18 453.13 DEPOSIT NOT MEMBERSHIP.

19 Notwithstanding chapter 534, the deposit of public state
20 funds in an association defined in section 533.1 or 534.102
21 does not constitute being a shareholder, stockholder, or owner
22 of a corporation in violation of Article VIII of the
23 Constitution of the State of Iowa or any other provision of
24 law.

25 Sec. 63. Section 453.16, Code 1991, is amended to read as
26 follows:

27 453.16 SECURITY FOR DEPOSIT OF PUBLIC STATE FUNDS.

28 1. Before a deposit of public state funds is made by a
29 ~~public officer~~ with a depository institution in excess of the
30 amount insured by federal deposit insurance or federal savings
31 and loan insurance, and or before the investment of public
32 funds in investments authorized in section 452.10 which either
33 are not obligations of or guaranteed by the United States
34 government or any of its agencies, are in excess of the amount
35 insured by federal deposit insurance or federal savings and

1 loan insurance, or are investments by the treasurer of state
2 specifically authorized by section 452.10 to be made as
3 additional investments under section 97B.7, subsection 2,
4 paragraph "b", the public officer shall obtain security for
5 the deposit or investment by one or more of the following:

6 a. The depository ~~institution~~ may ~~give-to-the-public~~
7 ~~officer~~ provide to the treasurer a corporate surety bond of a
8 surety corporation approved by the treasury department of the
9 United States and authorized to do business in this state,
10 which. The bond shall be in an amount equal to the ~~public~~
11 state funds on deposit at any time. The bond shall be
12 conditioned that the deposit shall be paid promptly on the
13 order of the ~~public-officer-making-the-deposit~~ treasurer and
14 the bond shall be approved by the ~~officer-making-the-deposit~~
15 treasurer.

16 b. The depository ~~institution~~ may deposit, maintain,
17 pledge and, or assign for the benefit of the ~~public-officer~~
18 treasurer in the manner provided in this chapter, securities
19 approved by the ~~public-officer~~ treasurer, the market value of
20 which is not less than one hundred ten percent of the total
21 deposits of ~~public~~ state funds placed ~~by-that-public-officer~~
22 in the depository ~~institution~~. The securities shall consist
23 of any of the following:

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

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

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

35 (4) To the extent of the guarantee, loans, obligations, or

1 nontransferable letters of credit upon which the payment of
2 principal and interest is fully secured or guaranteed by the
3 United States ~~of-America~~ or an agency or instrumentality of
4 the United States ~~of-America~~.

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

7 Direct obligations of, or obligations that are insured or
8 fully guaranteed as to principal and interest by, the United
9 States ~~of-America~~, which may be used to secure the deposit of
10 public funds under subparagraph (1), include investments in an
11 investment company or investment trust registered under the
12 federal Investment Company Act of 1940, 15 U.S.C. § 80a, the
13 portfolio of which is limited to the United States government
14 obligations described in subparagraph (1) and to repurchase
15 agreements fully collateralized by the United States
16 government obligations described in subparagraph (1), if the
17 investment company or investment trust takes delivery of the
18 collateral either directly or through an authorized custodian.

19 2. If public state funds are secured by both the assets of
20 a depository ~~institution~~ and a bond of a surety company, the
21 assets and bond shall be held as security for a rateable
22 proportion of the deposit on the basis of the market value of
23 the assets and of the total amount of the surety bonds.

24 Sec. 64. Section 453.17, Code 1991, is amended to read as
25 follows:

26 453.17 DEPOSIT OF SECURITIES.

27 1. A depository ~~institution~~ which receives public state
28 funds shall pledge securities owned by it as required by this
29 chapter in one of the following methods:

30 a. The securities shall be deposited with the ~~county~~
31 ~~city, -or- other- public-officers~~ treasurer at the option of the
32 ~~officers~~ treasurer.

33 b. The securities shall be deposited pursuant to a
34 bailment agreement with a financial institution having
35 facilities for the safekeeping of securities and doing

1 business in the state. A financial institution which receives
2 securities for safekeeping is liable to the ~~public-officer-to~~
3 ~~whom-the-securities-are-pledged~~ treasurer for any loss
4 suffered by the ~~public-officer~~ state if the financial
5 institution relinquishes custody of the securities contrary to
6 the provisions of this chapter or the instrument governing the
7 pledge of the securities.

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

12 d. The securities may be deposited by any combination of
13 methods specified in paragraphs "a", "b", and "c".

14 2. A deposit of securities shall not be made ~~in-a-facility~~
15 with a person owned or controlled directly or indirectly by
16 the financial institution which deposits the securities.

17 3. All deposits of securities, other than deposits of
18 securities with the ~~appropriate-public-officer~~ treasurer,
19 shall have a joint custody receipt taken for the securities
20 with one copy delivered to the ~~public-officer~~ treasurer and
21 one copy delivered to the depository institution. A
22 depository institution pledging securities with a ~~public~~
23 ~~officer~~ the treasurer may cause examine the securities to-be
24 examined in the ~~officer's~~ treasurer's office to show the
25 securities are placed with the ~~officer~~ treasurer as collateral
26 security and-are. The securities shall not be transferable
27 except upon-the-conditions as provided in this chapter.

28 4. Upon written ~~request-from~~ demand by the appropriate
29 ~~public-officer-but-not-less-than-quarterly~~ treasurer, a
30 depository institution shall report on at least a quarterly
31 basis the par value and the market value of any pledged
32 collateral and the total deposits of ~~public~~ state funds of
33 ~~that-officer~~ in the depository institution.

34 Sec. 65. Section 453.18, Code 1991, is amended to read as
35 follows:

1 453.18 CONDITION OF SECURITY.

2 The condition of the surety bond or the deposit of
3 securities, instruments, or a joint custody receipt, must be
4 that the depository institution will promptly pay to the
5 ~~parties-entitled-public~~ state funds to the treasurer,
6 including any interest on the funds, in its custody upon
7 lawful demand ~~and when required by law, pay the funds to the~~
8 ~~public-officer-who-made-the-deposit.~~

9 Sec. 65. Section 453.19, Code 1991, is amended to read as
10 follows:

11 453.19 WITHDRAWALS, EXCHANGES OF SECURITY.

12 1. Securities pledged pursuant to this chapter may be
13 withdrawn on application of the pledging depository
14 institution and upon approval of the ~~public-officer-to-whom~~
15 ~~the-securities-are-pledged~~ treasurer if the deposit of
16 securities is no longer necessary to comply with this chapter,
17 or is required for collection ~~by virtue~~ because of its
18 maturity or for exchange. The depository institution shall
19 replace securities so withdrawn for collection or exchange.

20 2. In an exchange of deposited securities for new
21 securities, the amount of security on deposit at any time
22 shall not be decreased below that otherwise required by this
23 chapter.

24 3. In the event of substitution or exchange of securities,
25 the holder or custodian of the securities shall, on the same
26 day, forward a receipt by certified mail, return receipt
27 requested, to the ~~public-officer~~ treasurer and the depository
28 institution, ~~a.~~ The receipt shall specifically describing
29 describe and identifying-both identify the substituted
30 securities and those released and returned to the depository
31 institution.

32 4. ~~The-public-officer-which-deposits-public-funds-with-a~~
33 ~~depository-institution~~ If the market value of securities
34 deposited with or for the benefit of the treasurer falls below
35 one hundred ten percent of the deposit liability, the

1 ~~treasurer~~ shall require, ~~if the market value of the securities~~
2 ~~deposited with or for the benefit of the officer falls below~~
3 ~~one hundred ten percent of the deposit liability to the public~~
4 ~~officer~~, the deposit of additional security to bring the total
5 market value of the security to one hundred ten percent of the
6 amount of public funds held by the depository.

7 Sec. 67. Section 453.22, subsection 1, Code 1991, is
8 amended to read as follows:

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

25 Sec. 68. Section 453.22, subsection 3, unnumbered
26 paragraph 1, Code 1991, is amended to read as follows:

27 The securities used to secure ~~public~~ deposits of state
28 funds shall be acceptable to the treasurer ~~of state~~ and shall
29 be one or more of the following:

30 Sec. 69. Section 453.23, subsections 1 and 2, Code 1991,
31 are amended to read as follows:

32 1. The pledging of securities by a depository pursuant to
33 this chapter or chapter 77 constitutes consent by the
34 depository to the disposition of the securities in accordance
35 with this section.

1 2. The depository and the security given for the public
2 funds in its hands are liable for payment if the depository
3 fails to pay a check, draft, or warrant drawn by ~~the~~ a public
4 officer including the treasurer or a local public treasurer,
5 or to account for a check, draft, warrant, order or
6 certificates of deposit, or any public funds entrusted to it
7 if in failing to pay the depository acts contrary to the terms
8 of an agreement between the depository and the ~~public-body~~
9 treasurer state or a local governmental entity.

10 Sec. 70. Section 453.23, subsection 3, unnumbered
11 paragraph 1, Code 1991, is amended to read as follows:

12 If a depository is closed by its primary regulatory
13 officials, ~~the-public-body~~ a local governmental entity with
14 deposits in the depository shall notify the treasurer ~~of-state~~
15 of the amount of any claim within thirty days of the closing.
16 The treasurer ~~of-state~~ shall notify the Iowa public funds and
17 finance commission established pursuant to section 77.5. The
18 treasurer shall implement the following procedures:

19 Sec. 71. Section 453.24, Code 1991, is amended to read as
20 follows:

21 453.24 LIABILITY.

22 ~~When-public-deposits-are-made~~ A person depositing state
23 funds in accordance with this chapter, ~~a-public-body~~
24 ~~depositing-public-funds-or-its-agents,-employees,-officers,~~
25 ~~and-board-members-are~~ is exempt from liability for any loss
26 resulting from the loss of a depository in the absence of
27 negligence, malfeasance, misfeasance, or nonfeasance on the
28 part of the official person. If the treasurer ~~of-state~~ sells
29 a depository's collateral securities, the depository shall
30 deposit additional collateral to meet required collateral
31 levels.

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

1 Sec. 72. Section 453.25, Code 1991, is amended to read as
2 follows:

3 453.25 STATE SINKING FUNDS CREATED.

4 There are created in the ~~treasurer-of-state's~~ treasurer's
5 office the following funds:

6 1. A state sinking fund ~~for-public-deposits to secure the~~
7 deposit of state funds and local public funds in banks.

8 2. A state sinking fund ~~for-public-deposits to secure the~~
9 deposit of state funds and local public funds in credit
10 unions.

11 3. A state sinking fund ~~for-public-deposits to secure the~~
12 deposit of state funds and local public funds in savings and
13 loan associations and savings banks.

14 The funds shall be used to receive and disburse moneys
15 pursuant to section 453.23, subsection 3, paragraph "d".

16 Sec. 73. NEW SECTION. 453.26 APPLICATION OF THE CHAPTER
17 -- AMBIGUITIES.

18 Ambiguities in the application of this chapter shall be
19 resolved in favor of preventing the loss of state funds on
20 deposit in a depository.

21 Sec. 74. Section 573.14, unnumbered paragraph 2, Code
22 Supplement 1991, is amended to read as follows:

23 The public corporation shall order payment of any amount
24 due the contractor to be made in accordance with the terms of
25 the contract. Except as provided in section 573.12 for
26 progress payments, failure to make payment pursuant to this
27 section, of any amount due the contractor, within forty days,
28 unless a greater time period not to exceed fifty days is
29 specified in the contract documents, after the work under the
30 contract has been completed and if the work has been accepted
31 and all required materials, certifications, and other
32 documentations required to be submitted by the contractor and
33 specified by the contract have been furnished the awarding
34 public corporation by the contractor, shall cause interest to
35 accrue on the amount unpaid to the benefit of the unpaid

1 party. Interest shall accrue during the period commencing the
2 thirty-first day following the completion of work and
3 satisfaction of the other requirements of this paragraph and
4 ending on the date of payment. The rate of interest shall be
5 determined by the period of time during which interest
6 accrues, and shall be the same as the rate of interest that is
7 in effect under section 453.6 or 77.20, as of the day interest
8 begins to accrue, for a deposit of public funds for a
9 comparable period of time. This paragraph does not abridge
10 any of the rights set forth in section 573.16. Except as
11 provided in sections 573.12 and 573.16, interest shall not
12 accrue on funds retained by the public corporation to satisfy
13 the provisions of this section regarding claims on file. This
14 chapter does not apply if the public corporation has entered
15 into a contract with the federal government or accepted a
16 federal grant which is governed by federal law or rules that
17 are contrary to the provisions of this chapter.

18 Sec. 75. Section 602.8102, subsection 64, Code Supplement
19 1991, is amended to read as follows:

20 64. Deposit funds held by the clerk in an approved
21 depository as provided in ~~section 453.2~~ chapter 77.

22 Sec. 76. Section 602.8109, subsection 7, Code 1991, is
23 amended to read as follows:

24 7. Amounts not paid as required under subsection 3, 4, 5,
25 or 6 shall bear interest for each day of delinquency at the
26 rate in effect as of the day of delinquency for time deposits
27 of public funds for eighty-nine days, as established under
28 section ~~453.6~~ 77.20.

29 Sec. 77. REPEALS. Sections 453.4, 453.5, 453.11, 453.14,
30 and 453.15, Code 1991, are repealed.

31 EXPLANATION

32 This bill represents a comprehensive revision of laws
33 relating to the custody, deposit, and investment of funds
34 controlled by Iowa governmental bodies. Section 452.10 and
35 chapter 453 presently govern this area and apply to actions by

1 the treasurer of state and local political subdivisions. This
2 bill provides for the separate regulation of funds controlled
3 by local governmental entities. Chapter 453 as amended by the
4 bill still governs the custody, deposit, and investment of
5 funds by the treasurer of state.

6 The bill creates a new chapter entitled the "Iowa Public
7 Funds and Finance Act" which regulates the custody, deposit,
8 and investment of local governmental funds. The bill
9 establishes a public funds and finance commission to
10 administer the chapter. The commission is composed of state
11 and local officials, and persons representing interested
12 organizations. The commission is required to appoint
13 qualified staff including a commissioner. The bill also
14 establishes an Iowa public funds and finance advisory council
15 to advise the commission regarding policy. The bill provides
16 for confidential meetings and records by the commission and
17 council.

18 The bill provides for the powers and duties of local
19 governmental entities and the control of local public funds.
20 It provides for the bonding of public treasurers and the
21 filing of reports to the commission. The bill also provides
22 for an annual audit of investments made by a local public
23 treasurer.

24 The bill creates several provisions relating to the custody
25 of local public funds. It provides for the establishment of
26 local public funds custodial districts by the commission, and
27 requirements for the custody of such funds.

28 The bill also provides restrictions and procedures for the
29 deposit and investment of local public funds. Public funds
30 must be invested with a financial institution recognized by
31 the commission. It provides for interest and income on
32 deposited funds and allowable charges by recognized
33 depositories. The bill provides that depositories must
34 demonstrate a commitment to local communities, similar to
35 requirements imposed under chapter 453. The bill also

1 requires that a depository receiving public funds must
2 collateralize securities owned by the depository for deposits
3 over \$5 million dollars of local public funds. The bill
4 includes substitute requirements if rules are not adopted.

5 The bill also provides for the investment of funds by local
6 entities, by establishing investment objectives, authorized
7 investment transactions, maturity restrictions, settlement
8 procedures, and requirements relating to the sales of
9 investments. The bill regulates the employment of independent
10 professional advisors. It provides for investments of a
11 number of specific funds, including bond funds, funds created
12 by election, operating funds, and reserve funds. The bill
13 prohibits certain investments and practices.

14 The bill provides for the enforcement of the chapter,
15 including the regulation and investigation of persons involved
16 in the custody, deposit, and investment of local public funds.

17 The bill imposes civil and criminal penalties for
18 violations of the chapter.

19 The bill may impose a state mandate as provided in chapter
20 25B.

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