

SENATE FILE 478
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 360)
(COMPANION TO HF 557)

Passed Senate, Date 5/1/95 (p.1547) Passed House, ^(p.2212) Date 5/3/95
Vote: Ayes 29 Nays 20 Vote: Ayes 96 Nays 0
Approved May 26, 1995 5/3/95 vote 96-0 (P2252)

A BILL FOR

1 An Act relating to the state franchise tax imposed on financial
2 institutions by disallowing the deduction for expenses related
3 to a financial institution's investment in investment
4 subsidiaries and providing effective and applicability dates.

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

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S.F. 478

1 Section 1. Section 422.61, subsection 2, Code 1995, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. A deduction shall not be allowed for
4 that portion of the taxpayer's expenses computed under this
5 paragraph which is allocable to an investment in an investment
6 subsidiary. The portion of the taxpayer's expenses which is
7 allocable to an investment in an investment subsidiary is an
8 amount which bears the same ratio to the taxpayer's expenses
9 as the taxpayer's average adjusted basis, as computed pursuant
10 to section 1016 of the Internal Revenue Code, of investment in
11 that investment subsidiary bears to the average adjusted basis
12 for all assets of the taxpayer. The portion of the taxpayer's
13 expenses that is computed and disallowed under this paragraph
14 shall be added.

15 Sec. 2. Section 422.61, Code 1995, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 1A. "Investment subsidiary" means an
18 entity that is owned, capitalized, and utilized by a financial
19 institution with one of its purposes being to make, hold, and
20 manage, for and on behalf of the financial institution,
21 investments in securities which the financial institution
22 would be permitted by applicable law to make for its own
23 account.

24 Sec. 3. This Act, being deemed of immediate importance,
25 takes effect upon enactment and applies retroactively to
26 January 1, 1995, for tax years beginning on or after that
27 date.

28 EXPLANATION

29 The bill amends the franchise tax to disallow the expenses
30 related to investments in investment subsidiaries of financial
31 institutions. To counteract the loss of franchise tax revenue
32 caused by financial institutions setting up subsidiaries and
33 transferring interest-producing assets to them, the bill
34 disallows the deduction of a pro rata portion of all expenses.
35 The expenses are disallowed in the ratio of the investment in

1 investment subsidiaries to total assets.

2 The bill is retroactive to January 1, 1995, for tax years
3 beginning on or after that date.

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**SENATE FILE 478
FISCAL NOTE**

A fiscal note for Senate File 478 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 478 amends the franchise tax to disallow expenses related to investments in investment subsidiaries of financial institutions. The Bill is retroactive to January 1, 1995.

ASSUMPTIONS

Senate File 478 is expected to increase revenues to the General Fund by:

1. Reducing the incentive to establish and maintain investment subsidiaries.
2. Eliminating the deduction of investment subsidiary expenses incurred by those banks that continue to utilize investment subsidiaries.

The combined impact of these two effects is expected to be an amount between \$0.0 and \$2.0 million in FY 1995, and an amount between \$4.0 million and \$12.0 million in FY 1996. The actual impact will depend on:

1. The extent to which the Bill reduces the attractiveness of the use of investment subsidiaries.
2. The extent to which banks will utilize investment subsidiaries in the event that the law is not changed.

This estimate utilizes the midpoints of the range estimates.

This estimate assumes that financial institutions will not challenge the Bill's constitutional implications. If the Bill is passed and ruled unconstitutional, the fiscal impact of the Bill compared to current law would be zero.

FISCAL IMPACT

~~Senate File 478 is expected to result in an increase in revenues to the General Fund of approximately \$1.0 million in FY 1995 and \$8.0 million in FY 1996.~~

SOURCES

Department of Revenue and Finance
Iowa Independent Bankers Association

(LSB 2628SV, JAM)

FILED APRIL 13, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 478

S-3474

1 Amend Senate File 478 as follows:
 2 1. Page 1, by inserting after line 23 the
 3 following:
 4 "Sec. ____ . Section 524.1802, subsection 1, Code
 5 1995, is amended by adding the following new
 6 unnumbered paragraph:
 7 NEW UNNUMBERED PARAGRAPH. Notwithstanding the ten
 8 percent limitation in this subsection, a bank holding
 9 company which does not have an investment in an
 10 investment subsidiary, as defined in section 422.61,
 11 during its tax year may have through the banks,
 12 savings and loan associations, and savings banks it
 13 owns or controls in the state up to fifteen percent,
 14 in the aggregate, of the total time and demand
 15 deposits of all banks, savings and loan associations,
 16 and savings banks in this state."

By TONY BISIGNANO
 WILLIAM D. PALMER

S-3474 FILED APRIL 18, 1995 *o/s 5/1/95 (p.1546)*

SENATE FILE 478

S-3476

1 Amend Senate File 478 as follows:
 2 1. Page 1, line 18, by striking the word "and"
 3 and inserting the following: "or".
 4 2. Page 1, line 19, by striking the word "and"
 5 and inserting the following: "or".
 6 3. Page 1, by striking lines 24 through 27 and
 7 inserting the following:
 8 "Sec. ____ . This Act applies to tax years beginning
 9 on or after its effective date."
 10 4. Title page, by striking line 4 and inserting
 11 the following: "subsidiaries and providing an
 12 applicability date provision."

By RANDAL J. GIANNETTO

S-3476 FILED APRIL 18, 1995

WITHDRAWN *5/1/95 (p.1545)*

SENATE FILE 478

S-3482

1 Amend Senate File 478 as follows:
 2 1. Page 1, line 18, by striking the word "and"
 3 and inserting the following: "or".
 4 2. Page 1, line 19, by striking the word "and"
 5 and inserting the following: "or".
 6 3. Page 1, by striking lines 24 through 27.
 7 4. Title page, by striking line 4 and inserting
 8 the following: "subsidiaries."

By RANDAL J. GIANNETTO
 RICHARD F. DRAKE

S-3482 FILED APRIL 18, 1995

WITHDRAWN *5/1/95 (p.1545)*

SENATE FILE 478

S-3447

- Amend Senate File 478 as follows:
- 1 1. Page 1, by striking lines 24 through 27 and
 - 2 inserting the following:
 - 3 "Sec. ____ . This Act applies to tax years beginning
 - 4 on or after its effective date."
 - 5 2. Title page, by striking line 4 and inserting
 - 6 the following: "subsidiaries and providing an
 - 7 applicability date provision."

By TOM VILSACK
 RICHARD F. DRAKE
 JOANN DOUGLAS

S-3447 FILED APRIL 17, 1995
 DEFERRED, *lost 5/1/95 (p.1546)*

SENATE FILE 478

S-3537

- Amend Senate File 478 as follows:
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- 1 1. Page 1, line 18, by striking the word "entity"
 - 2 and inserting the following: "affiliate".
 - 3 2. Page 1, line 18, by striking the word "and"
 - 4 and inserting the following: "or". A
 - 5 3. Page 1, line 19, by striking the word "and"
 - 6 and inserting the following: "or".
 - 7 4. Page 1, by striking lines 24 through 27.
 - 8 5. Title page, by striking line 4 and inserting
 - 9 the following: "subsidiaries." B
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By RANDAL J. GIANNETTO
 RICHARD F. DRAKE

S-3537 FILED APRIL 20, 1995

A - adopted 5/1/95 (p.1547)
B - lost " "

SENATE FILE 478

S-3553

- Amend Senate File 478 as follows:
- 1 1. Page 1, by striking lines 25 through 27 and
 - 2 inserting the following: "takes effect upon enactment
 - 3 and applies to expenses incurred on or after the date
 - 4 of enactment."

By MICHAEL GRONSTAL

S-3553 FILED APRIL 24, 1995

WITHDRAWN *4/28/95 (p.1616)*

SENATE FILE 478

S-3630

1 Amend the amendment, S-3605, to Senate File 478 as
2 follows:

3 1. Page 1, by inserting after line 33 the
4 following:

5 "Sec. ____ . Section 524.1802, subsection 1, Code
6 1995, is amended by adding the following new
7 unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. Notwithstanding the ten
9 percent limitation in this subsection, a bank holding
10 company which does not have an investment in an
11 investment subsidiary, as defined in section 422.61,
12 during its tax year may have through the banks,
13 savings and loan associations, and savings banks it
14 owns or controls in the state up to fifteen percent,
15 in the aggregate, of the total time and demand
16 deposits of all banks, savings and loan associations,
17 and savings banks in this state."

By TONY BISIGNANO
WILLIAM D. PALMER

S-3630 FILED APRIL 28, 1995
RULED OUT OF ORDER (p.1516)

SENATE FILE 478

S-3638

1 Amend the amendment, S-3605, to Senate File 478 as
2 follows:

3 1. Page 1, line 21, by striking the word "fifty"
4 and inserting the following: "seventy-five".

5 2. Page 1, line 24, by inserting after the word
6 "added." the following: "However, in addition to the
7 nonapplicability of this paragraph, a bank holding
8 company which does not have an investment in an
9 investment subsidiary during its tax year may have
10 through the banks, savings and loan associations, and
11 savings banks it owns or controls in the state up to
12 twelve and one-half percent, in the aggregate, of the
13 total time and demand deposits of all banks, savings
14 and loan associations, and savings banks in this state
15 notwithstanding the ten percent limitation in section
16 524.1802, subsection 1."

By TONY BISIGNANO
WILLIAM D. PALMER

S-3638 FILED APRIL 28, 1995

WITHDRAWN 5/1/95 (p.1545)

S-3605

1 Amend Senate File 478 as follows:

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

4 "Section 1. Section 422.61, subsection 2, Code
5 1995, is amended by adding the following new
6 paragraph:

7 NEW PARAGRAPH. f. A deduction shall not be
8 allowed for that portion of the taxpayer's expenses
9 computed under this paragraph which is allocable to an
10 investment in an investment subsidiary. The portion
11 of the taxpayer's expenses which is allocable to an
12 investment in an investment subsidiary is an amount
13 which bears the same ratio to the taxpayer's expenses
14 as the taxpayer's average adjusted basis, as computed
15 pursuant to section 1016 of the Internal Revenue Code,
16 of investment in that investment subsidiary bears to
17 the average adjusted basis for all assets of the
18 taxpayer. The portion of the taxpayer's expenses that
19 is computed and disallowed under this paragraph shall
20 be added. However, for a tax year beginning in the
21 1995 calendar year, only fifty percent of the portion
22 of the taxpayer's expenses allocable to an investment
23 in an investment subsidiary shall be disallowed and
24 such amount shall be added.

25 Sec. 2. Section 422.61, Code 1995, is amended by
26 adding the following new subsection:

27 NEW SUBSECTION. 1A. "Investment subsidiary" means
28 an entity that is owned, capitalized, and utilized by
29 a financial institution with one of its purposes being
30 to make, hold, and manage, for and on behalf of the
31 financial institution, investments in securities which
32 the financial institution would be permitted by
33 applicable law to make for its own account.

34 Sec. 3. This Act, being deemed of immediate
35 importance, takes effect upon enactment and applies
36 retroactively to January 1, 1995, for tax years
37 beginning on or after that date."

By WAYNE BENNETT

S-3605 FILED APRIL 27, 1995

WITHDRAWN 5/1/95 (p. 1545)

SENATE FILE 478

S-3651

1 Amend the amendment, S-3605, to Senate File 478 as
2 follows:

3 1. Page 1, line 21, by striking the word "fifty"
4 and inserting the following: "twenty-five". A

5 2. Page 1, line 24, by inserting after the word
6 "added." the following: "However, in addition to the
7 nonapplicability of this paragraph, a bank holding
8 company which does not have an investment in an
9 investment subsidiary during its tax year may have
10 through the banks, savings and loan associations, and B
11 savings banks it owns or controls in the state up to
12 twelve and one-half percent, in the aggregate, of the
13 total time and demand deposits of all banks, savings
14 and loan associations, and savings banks in this state
15 notwithstanding the ten percent limitation in section
16 524.1802, subsection 1."

By TONY BISIGNANO
WILLIAM D. PALMER

S-3651 FILED APRIL 28, 1995

WITHDRAWN 5/1/95 (p. 1545)

SENATE FILE 478

S-3660

1 Amend the amendment, S-3537, to Senate File 478 as
2 follows:

3 1. Page 1, by striking lines 8 through 10 and
4 inserting the following:

5 "____. Page 1, by striking lines 24 through 27 and
6 inserting the following:

7 "Sec. _____. This Act applies retroactively to
8 January 1, 1995, for tax years beginning on or after
9 that date. However, the retroactive application of
10 this Act applies only to financial institutions that
11 have an investment in an investment subsidiary on or
12 after July 1, 1995, for the remainder of the
13 taxpayer's current taxable year."

14 _____. Title page, line 4, by striking the words
15 "effective and"."

By RICHARD F. DRAKE
WAYNE BENNETT
RANDAL J. GIANNETTO

S-3660 FILED MAY 1, 1995
LOST, MOTION TO RECONSIDER LOST (p. 1546)

1 Section 1. Section 422.61, subsection 2, Code 1995, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. A deduction shall not be allowed for
4 that portion of the taxpayer's expenses computed under this
5 paragraph which is allocable to an investment in an investment
6 subsidiary. The portion of the taxpayer's expenses which is
7 allocable to an investment in an investment subsidiary is an
8 amount which bears the same ratio to the taxpayer's expenses
9 as the taxpayer's average adjusted basis, as computed pursuant
10 to section 1016 of the Internal Revenue Code, of investment in
11 that investment subsidiary bears to the average adjusted basis
12 for all assets of the taxpayer. The portion of the taxpayer's
13 expenses that is computed and disallowed under this paragraph
14 shall be added.

15 Sec. 2. Section 422.61, Code 1995, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 1A. "Investment subsidiary" means an
18 affiliate that is owned, capitalized, or utilized by a
19 financial institution with one of its purposes being to make,
20 hold, or manage, for and on behalf of the financial
21 institution, investments in securities which the financial
22 institution would be permitted by applicable law to make for
23 its own account.

24 Sec. 3. This Act, being deemed of immediate importance,
25 takes effect upon enactment and applies retroactively to
26 January 1, 1995, for tax years beginning on or after that
27 date.

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SENATE FILE 478

H-4204

1 Amend Senate File 478, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by striking lines 24 through 27 and
4 inserting the following:
5 "Sec. ____ . This Act applies retroactively to
6 January 1, 1995, for tax years beginning on or after
7 that date. However, the retroactive application of
8 this Act applies only to financial institutions that
9 have an investment in an investment subsidiary on or
10 after July 1, 1995, for the remainder of the
11 taxpayer's current taxable year."
12 2. Title page, line 4, by striking the words
13 "effective and".

By WEIGEL of Chickasaw
KOENIGS of Mitchell

H-4204 FILED MAY 2, 1995

adapted
5/3/95
(p. 2211)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 478

H-4219

1 Amend the House amendment, S-3680, to Senate File
2 478, as amended, passed, and reprinted by the Senate,
3 as follows:
4 1. Page 1, lines 10 and 11, by striking the words
5 ", for the remainder of the taxpayer's current taxable
6 year".

RECEIVED FROM THE SENATE

H-4219 FILED MAY 3, 1995

CONCURRED

(p. 2252)

HOUSE AMENDMENT TO
SENATE FILE 478

S-3680

- 1 Amend Senate File 478, as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 1, by striking lines 24 through 27 and
- 4 inserting the following:
- 5 "Sec. _____. This Act applies retroactively to
- 6 January 1, 1995, for tax years beginning on or after
- 7 that date. However, the retroactive application of
- 8 this Act applies only to financial institutions that
- 9 have an investment in an investment subsidiary on or
- 10 after July 1, 1995, for the remainder of the
- 11 taxpayer's current taxable year."
- 12 2. Title page, line 4, by striking the words
- 13 "effective and".

RECEIVED FROM THE HOUSE

S-3680 FILED MAY 3, 1995
CONCURRED

SENATE FILE 478

S-3682

- 1 Amend the House amendment, S-3680, to Senate File
- 2 478, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 1, lines 10 and 11, by striking the words
- 5 ", for the remainder of the taxpayer's current taxable
- 6 year".

By WILLIAM D. PALMER

S-3682 FILED MAY 3, 1995
ADOPTED

Palmer

LSB

SSB 360

Newhauser
Bennett

Succeeded Ways & Means
SF/HF 478

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON PALMER)

(COMPANION TO HF 557)

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

A BILL FOR

1 An Act relating to the state franchise tax imposed on financial
2 institutions by disallowing the deduction for expenses related
3 to a financial institution's investment in investment
4 subsidiaries and providing effective and applicability dates.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F.

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20020808
SF/HF

1 Section 1. Section 422.61, subsection 2, Code 1995, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. f. A deduction shall not be allowed for
4 that portion of the taxpayer's expenses computed under this
5 paragraph which is allocable to an investment in an investment
6 subsidiary. The portion of the taxpayer's expenses which is
7 allocable to an investment in an investment subsidiary is an
8 amount which bears the same ratio to the taxpayer's expenses
9 as the taxpayer's average adjusted basis, as computed pursuant
10 to section 1016 of the Internal Revenue Code, of investment in
11 that investment subsidiary bears to the average adjusted basis
12 for all assets of the taxpayer. The portion of the taxpayer's
13 expenses that is computed and disallowed under this paragraph
14 shall be added.

15 Sec. 2. Section 422.61, Code 1995, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 1A. "Investment subsidiary" means an
18 entity that is owned, capitalized, and utilized by a financial
19 institution with one of its purposes being to make, hold, and
20 manage, for and on behalf of the financial institution,
21 investments in securities which the financial institution
22 would be permitted by applicable law to make for its own
23 account.

24 Sec. 3. This Act, being deemed of immediate importance,
25 takes effect upon enactment and applies retroactively to
26 January 1, 1995, for tax years beginning on or after that
27 date.

28 EXPLANATION

29 The bill amends the franchise tax to disallow the expenses
30 related to investments in investment subsidiaries of financial
31 institutions. To counteract the loss of franchise tax revenue
32 caused by financial institutions setting up subsidiaries and
33 transferring interest-producing assets to them, the bill
34 disallows the deduction of a pro rata portion of all expenses.
35 The expenses are disallowed in the ratio of the investment in

1 investment subsidiaries to total assets.

2 The bill is retroactive to January 1, 1995, for tax years
3 beginning on or after that date.

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SENATE FILE 478

AN ACT
RELATING TO THE STATE FRANCHISE TAX IMPOSED ON FINANCIAL
INSTITUTIONS BY DISALLOWING THE DEDUCTION FOR EXPENSES
RELATED TO A FINANCIAL INSTITUTION'S INVESTMENT IN INVEST-
MENT SUBSIDIARIES AND PROVIDING APPLICABILITY DATES.

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

Section 1. Section 422.61, subsection 2, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A deduction shall not be allowed for that portion of the taxpayer's expenses computed under this paragraph which is allocable to an investment in an investment subsidiary. The portion of the taxpayer's expenses which is allocable to an investment in an investment subsidiary is an amount which bears the same ratio to the taxpayer's expenses as the taxpayer's average adjusted basis, as computed pursuant to section 1016 of the Internal Revenue Code, of investment in that investment subsidiary bears to the average adjusted basis for all assets of the taxpayer. The portion of the taxpayer's expenses that is computed and disallowed under this paragraph shall be added.

Sec. 2. Section 422.61, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Investment subsidiary" means an affiliate that is owned, capitalized, or utilized by a financial institution with one of its purposes being to make, hold, or manage, for and on behalf of the financial institution, investments in securities which the financial institution would be permitted by applicable law to make for its own account.

Sec. 3. This Act applies retroactively to January 1, 1995, for tax years beginning on or after that date. However, the

retroactive application of this Act applies only to financial institutions that have an investment in an investment subsidiary on or after July 1, 1995.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 478, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *May 26*, 1995

TERRY E. BRANSTAD
Governor