

Approved: February 22, 2000
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Senator Don Steffes at 9:00 a.m. on February 16, 2000 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research
Ken Wilke, Office of Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Don Moler, Kansas League of Municipalities
Diane Gjerstad, Wichita Public Schools
Dennis J. Howard, City of Lenexa
Judy Stork, Office of State Bank Commissioner
Mike Taylor, City of Wichita
Chuck Stones, Kansas Bankers Association

Others attending: (See Attached)

Hearing on SB 549 - Cities; deposits of public moneys

Dr. Bill Wolff, Legislative Research, explained that local unit idle funds must be deposited in a bank with a main office in Kansas. Local unit idle funds may be deposited in a Kansas bank or in other types of investments, including the Money Investment Pool as allowed by law. State idle funds can be deposited in any bank, however, Kansas does have its active state accounts in state-chartered banks.

Don Moler, Executive Director of the Kansas League of Municipalities, stated that due to the changing nature of banking, cities must have the ability to invest in banks which do not have a main office in Kansas (Attachment 1). They support the language which removes the personal liability from public officers who make deposits in banks which do not have a main office located in Kansas when public monies are lost but feel that it is not extensive enough. Mr. Moler requested the removal of the restrictions which are placed on investments by local government as they disallow maximizing the return on the public's money.

Chuck Stones, Kansas Bankers Association, reminded the Committee that local idle funds may be invested in the MIP. Active funds must be put out for bids first to state-chartered banks and if no one bids, these funds may go to a bank not chartered in Kansas.

Diane Gjerstad, Wichita Public Schools, stated that whether a bank has a Kansas charter should not be the most influential consideration when deciding where to place funds (Attachment 2). Public schools should be able to invest at the best rate possible. The reluctance to place funds in non-Kansas chartered institutions is impractical and inefficient partially due to the constant expense of changing banks (new checks, cashing in CD's early) when a Kansas-chartered bank is purchased by a non-Kansas-chartered bank. Ms. Gjerstad requested that both **SB 549** and **SB 524** be passed. to improve efficiency and competition.

Dennis Howard, Chief Financial Officer for the City of Lenexa, expressed support for the bill due to the difficulty in complying with the statutes governing designation of official depositories for both active and idle municipal funds (Attachment 3). Also, the statutes do not provide any guidance for interpreting the meaning of "acceptable bid." The City strongly prefers that all location restrictions be removed from the statutes as in **SB 524**. Also included in his testimony was a survey of how the rest of the states regulate the deposits of public funds. Kansas is the most restrictive in demanding deposits be made in state-chartered banks. No other state makes such an identification.

Judy Stork, Deputy Bank Commissioner, reaffirmed that personal assets can legally be taken from city officials if they make bad investments and it can be proven that there were not made "in good faith." If they have ignored the issue of whether the bank is state-chartered or not, this might be construed as not acting in good faith.

CONTINUATION SHEET

Mike Taylor, Government Relations Director, City of Wichita, stated that with their annual investment transactions exceeding \$2.6 billion and the annual volume of deposits totaling more than \$700 million, they find the selection of banks able to bid on their business to be limited due to the restrictions of the current law (Attachment 4). He recommended the passage of both **SB 549** and **SB 524** as it would provide sensible, reasonable, and much needed change to antiquated laws.

Norm Wilks, Kansas Association of School Boards, testified that school districts do business with companies and entities that are local, Kansas based, multi-state, and multi-national (Attachment 5). School districts should have to option to consider doing business with any depository institution, not just those with charters in Kansas. Many times they are doing business with a bank and then find they are out of compliance as the bank has been sold to an out-of-state company. He recommended the passage of **SB 524** as it would not then be necessary to pass **SB 549**.

Chuck Stones, Kansas Bankers Association, reminded the Committee again of the option open to public officials to use the Municipal Investment pool for idle funds in the case that local banks were nonexistent or not acceptable (Attachment 6). The word "acceptable" was purposefully left undefined at the request of the League of Municipalities in order to give the local units maximum flexibility under the law. The KBA would be willing to work on a definition for "acceptable."

The Committee discussed the ambiguity in the law and the confusion it causes to the public. It was pointed out that there are 20 banks in Wichita that can legally bid on idle funds but that it would probably have to be a piecemeal situation. The argument that local tax payer's money should remain in Kansas was dismissed in that Kansas-chartered banks make loans to people out of state as well as investing in municipal bonds out of state.

The Office of the State Bank Commissioner presented comparative data of all Kansas commercial banks (Attachment 7).

Chuck Stones, Kansas Bankers Association, again addressed the issue of public funds in his testimony in opposition to **SB 524** (Attachment 8). They object to allowing idle funds to be placed in other than Kansas-chartered banks for the following reasons:

- It is not the local unit of government's money—it is the taxpayers.
- It is not about competition—there are 178 Kansas banks with a total branching and main locations of 432.
- No need for legislation due to the availability of the Municipal Investment Pool.
- Public funds is one of the very few reasons that an out-of-state bank would keep a charter in Kansas.
- Many Kansas banks depend on local public funds as a stable base of deposits in order to meet the needs of their communities.
- This is not in the best economic interest of Kansas.

The meeting was adjourned at 10:00 a.m. The next meeting will be held on February 17, 2000.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: Feb. 16, 2000

NAME	REPRESENTING
Dennis Howard	City of Seneca
Diane Gjerstad	Wichita Public Schools
Norm Wick	KASB
Don Moler	LKM
Mike Taylor	City of Wichita
George Barbee	Comm. Bankers
Sue Anderson	Community Bankers Assn.
Matt Goddard	HCBA
Chuck Stone	KBA
Kathy Olsen	KBA
Judi Stork	OSBC
Sonya Allen	OSBC
Franklin W. Nelson	OSBC



League of Kansas Municipalities

TO: Senate Financial Institutions and Insurance Committee
FROM: Don Moler, Executive Director
DATE: February 16, 2000
RE: Support for SB 549

First I would like to thank the Committee for allowing the League to testify today in favor of the successful passage of SB 549. Given the ever changing nature of banking in Kansas, we believe cities must have the ability to invest in banks which do not have a main office in the State of Kansas. The concern which has been raised, to which we believe SB 549 partially responds, involves when investments may be made in banks which do not have main offices in Kansas.

The issue which was brought to our attention focuses on the fact that personal liability could fall upon public officers if they have invested in banks which do not have a main office in Kansas. We believe the language which has been added to K.S.A. Supp. 9-1406 would remove personal liability from public officers who make deposits in banks which do not have a main office located in Kansas, when public monies are lost. We would suggest, however, that this is merely a stop-gap measure and falls short of what we believe should be the ultimate goal of the legislature in this area.

Specifically we believe the restrictions which are placed on investments by local government, which are now found in K.S.A. Chapter 9, Article 14, and K.S.A. 12-1675 *et seq.* should be removed. Essentially, these statutes hamstringing local government investments by limiting the width and the breath of investments available for public money. While we understand that safety is always an issue when dealing with public funds, we believe the time has come, or soon will come, when cities should be allowed the ability to invest the public's money so as to maximize the return on that money. While we applaud the efforts of the drafters of SB 549 concerning the liability of public officers when making deposits in banks without a main office in Kansas, we would urge the legislature to consider going further and removing the investment restrictions now placed on local governments so that local governments may maximize the public's dollar. I appreciate being allowed to speak today on this matter and I would be happy to answer any questions the Committee may have.

Senate Financial Institutions & Insurance

Date 2/16/00

Attachment # 1



**Senate Financial Institutions & Insurance Committee
Senator Steffes, chairman**

**S.B. 524 and 549
Investment of public funds**

*Submitted by: Diane Gjerstad
Wichita Public Schools*

Mr. Chairman, members of the committee:

I rise in support of the effort to lift the specter of liability when public officers place public funds in non-Kansas chartered banks.

For public schools the issue of placing funds solely in Kansas charter banks has been at the least inconvenient and the at the most cost lost interest.

By law public schools hold cash reserves only in the most conservative financial instruments, certificates of deposit, treasuries, or demand deposits. Whether the bank has a Kansas charter should not be the most influential consideration when deciding where to place funds. Public schools should be able to invest at the best rate possible. But the cloud of mistrust, which stills shrouds placement of funds in non-Kansas chartered institutions, still takes precedence over return on investment.

Another inefficient result of casting doubt on investing in non-Kansas chartered banks is the effect on individual school buildings. Wichita Public Schools has about one hundred schools. Most have activity funds in checking accounts and some have certificates of deposits. These funds are the results of thousands of bake sales, activity fees, booster club activities and numerous other activities.

Each time a Kansas chartered bank is purchased by a non-Kansas chartered bank, the building secretary has to move the funds (often to a bank much further away), buy new checks and may have to prematurely cash in a certificate of deposit. }/o

Current law is inefficient, inconvenient, and stifles competition.

Mr. Chairman, it would appear the S.B. 549 does not go far enough in totally clearing the way for schools to invest, without a cloud of doubt, in non-Kansas chartered banks. For that reason I would ask this committee to favorably pass S.B. 524.

Thank you, Mr. Chairman, I must leave to deliver testimony in House Education, but I welcome the opportunity to visit with a new committee for a few minutes if there are questions.

Senate Financial Institutions & Insurance

Date 2/16/00

Attachment # 2

**Testimony of the City of Lenexa
in Support of Senate Bill No. 549**

Dennis J. Howard
Chief Financial Officer
City of Lenexa
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dhoward@ci.lenexa.ks.us

Good morning. My name is Dennis Howard, Chief Financial Officer for the City of Lenexa. On behalf of the City, I would like to express our support for Senate Bill No. 549.

Over the past several years, the City of Lenexa has experienced significant **difficulty in complying with (or, more properly, staying in compliance with) the statutes** governing designation of official depositories for both active and idle municipal funds. As the Committee is aware, both sets of statutes impose a preference in favor of in-state financial institutions. However, because of the high level of activity in bank mergers and acquisitions, it is nearly impossible to ensure that an in-state bank, "officially designated" as a depository will *remain* an in-state bank for any length of time.

The City of Lenexa, for example, designated an in-state bank as the depository for its active funds, but a few months later, the bank was purchased by an out-of-state bank. This automatically put the City out of compliance with the law through no fault of the City. We believe public officials and municipalities should be shielded from liability under such circumstances, and Senate Bill No. 549, by adopting a "good faith" standard, accomplishes that result.

Another problem is created by the fact that the current statutes pertaining to *active* municipal funds impose a preference in favor of any in-state institution that submits an "acceptable bid." **Unfortunately, the statutes do not provide any guidance for interpreting the meaning of "acceptable bid."** Senate Bill No. 549 would afford "good faith" immunity to officials and municipalities as they exercise their discretion in determining whether a bid is "acceptable."

In light of the many administrative and, potentially, legal problems created by the current statutes relating to designation of depositories, **the City of Lenexa would strongly prefer that all locational restrictions be removed from the statutes.** This, in fact, is the result achieved by another bill that has been introduced in this Committee – Senate Bill No. 524. In the alternative, **the City of Lenexa supports Senate Bill No. 549** for the reasons previously stated.

I would be glad to answer any questions the Committee may have.

Senate Financial Institutions & Insurance

Date 2/16/00

Attachment # 3

MEMORANDUM

TO: Cindy Harmison
FROM: Marcy Knight
DATE: February 8, 2000
RE: Banking Legislation

I reviewed the statutes of several surrounding states to determine what restrictions, if any, exist regarding banks and depositories eligible to receive deposits of public funds. The following is a summary of my findings, with copies of the corresponding statutes attached.

1. Arkansas: It appears that the only requirements are that the bank be located in the state, and be a member of the FDIC. Per § 19-8-104, public funds must be deposited in banks located in the state of Arkansas. Each year, the Bank Commission furnishes the governing board of each city a list of all banks doing business in the state which are members of the FDIC. (See § 19-8-106.) Certain city officials are then responsible for designating the specific depositories for depositing municipal funds. (See § 19-8-106).

2. Arizona: Arizona discusses "eligible depositories" in two different sections of the same Chapter of its statutes. However, neither section contains restrictions requiring the bank to be an Arizona bank.

"Eligible depository" is defined under Article 2 "State Management of Public Monies," of Chapter 2 "Handling of Public Funds," to be any bank or S&L with a principle place of business in the United States, so long as it is insured by the FDIC or some other "insuring instrumentality." Under Article 2.1 "Money Management" of the same Chapter 2, "eligible depository" is defined to include any insured bank or S&L with *either* a branch or its principal place of business in the state. These appear to be the only restrictions.

3. Colorado: I found a definition section in the Colorado Statutes, which is part of the "Public Deposit Protection Act." [Article 10.5 of Chapter 11 of the Colorado Statutes is known as the "Public Deposit Protection Act."] It states that "[f]or purposes of section 11-10.5-104 and 11-10.5-111(1) only, the definition of "bank" also includes those banks chartered under the laws of other states." (See § 11-10.5-103(2)). These sections to which this statement applies (11-10.5-104 and 11-10.5-111(1)) are very general in nature, and deal with the deposit of public funds into eligible public depositories.

4. Iowa: Iowa defines a depository to include a bank, S&L, or credit union. Bank is further defined to include "any office of a bank." Section 12C.4 states that deposits shall be in depositories located in the county in which the city is located or an adjoining county. That is the only restriction I could find.

5. Illinois: The only limit or restriction I found in Illinois is that the bank must be located in the state. (See Public Act 91-0211, Sec. 1, Deposits). Sec.6, Report of

Financial Institutions, imposes other standard requirements such as resource amount and liability reporting requirements, but no location restrictions.

6. Missouri: Chapter 110 of the Missouri Statutes covers “Depositaries for Public Funds.” However, the statute is not very clear with regard to this issue. Sec. 110.010 makes reference to deposits by cities into “banking institution[s] acting as a legal depositary of the funds under the statutes of Missouri.” Sec. 110.040 applies to depositaries “outside of territorial limits” and states that if there is no bank “in the territory within which the depositary or depositaries of any public fund must, under the applicable laws of this state, be located to become eligible for selection,…” the authorized parties may select depositaries outside the territorial limits. I could not determine exactly what these “territorial limits” were, however.

7. Nebraska: The City Treasurer, pursuant to § 14-556, is authorized to deposit all funds of the city in the banks or capital stock financial institutions *within the city* as shall agree to pay the highest rate of interest. Sec. 15-845 also applies to the deposit of city funds, but also only requires that the bank or capital stock financial institution be located in the city, and be “of approved and responsible standing.” Said banks and institutions must be designated by the city council, as is the case for most states.

8. Oklahoma: Oklahoma’s statutes were rather hard to search. I did find § 62-513, Deposits with Federal Instrumentalities, which states that the treasurer of a municipality is “specifically authorized to deposit said [public] funds in any federally-insured building and loan association *wherever located, ...*” (emphasis added).

I hope these examples are helpful. Please let me know if you would like copies of additional statutes, or anything else.

A handwritten signature in cursive script, appearing to read "Mary".

1. ARKAN 3

§ 19-8-104. Investment of public funds.

- (a) Except as provided in subsections (b) and (c) of this section, all public funds as defined in § 19-8-101 shall be deposited in banks located in the State of Arkansas.
- (b) A school district may seek a hardship waiver from the Legislative Joint Auditing Committee from the provisions of this section and deposit state funds in an out-of-state bank under the following conditions:
- (1) The school district is designated as an isolated school district under the provisions of §§ 6-20-601 [see Publisher's Note] and 6-20-602 [repealed];
 - (2) The school district lies on the borders of the state line;
 - (3) The nearest Arkansas bank is located at least eighteen (18) miles from the administrative offices of the district;
 - (4) The administrative offices of the district are located within six (6) miles from an out-of-state bank; and
 - (5) The out-of-state bank meets all other requirements concerning collateralization of state funds.
- (c) Any private donations to cities of the first class or the second class or incorporated towns, unless restrictions are established by the donor, may be invested in accordance with the "prudent man rule" established by § 28-71-105.

History. Acts 1935, No. 21, § 5; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1991, No. 459, § 1; 1995, No. 770, § 1.

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§ 19-8-105. Annual list of eligible banks.

(a) Annually, on December 1, the Bank Commissioner shall furnish to the governing board of each city, or town officer, and the county board of each county, and also any officer of any improvement district or any other political subdivision, having the supervision of public funds or funds belonging to the state or any political subdivision a list of all the banks or banking institutions doing business in this state which are members of the Federal Deposit Insurance Corporation. The commissioner shall recommend the maximum amount of deposit of public funds each bank shall be allowed to receive. None of these public funds shall be deposited in any bank other than those contained in the list.

(b) In no instance shall the commissioner recommend, or any bank accept, for deposit more public funds than twenty-five percent (25%) of the total of its general deposits, exclusive of the public funds. Public money in excess of the amount allowed in this section, if approved by the governing board, may be deposited in an authorized bank if the excess deposit is carried in cash, United States Government Bonds, Housing and Home Finance Agency bonds, or demand loans on cotton of the kind commonly known as Commodity Credit Corporation loans, being only such loans as are guaranteed by the United States.

History. Acts 1935, No. 21, § 1; Pope's Dig., § 4327; A.S.A. 1947, § 13-801.

§ 19-8-106. Depository boards.

(a)(1) The quorum court of each of the several counties shall by ordinance establish a county depository board. The county depository board is to be composed of the county judge, the county treasurer and county collector, or the sheriff when acting as ex officio tax collector, or those officials performing the duties of the above officials where an elective county office has been changed in accordance with Arkansas Constitution, Amendment 55.

(2) The board shall designate depositories and supervise the depositing of all county funds and all other public funds held by the county treasurer, except funds of a school district, and shall also designate depositories and supervise the depositing of all funds collected and held by the county collector.

(3) The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law.

→ (b) The mayor, city clerk or recorder, and city collector shall constitute a board to designate depositories and supervise the depositing of municipal funds.

(c) The commissioners of road, drainage, levee, and other improvement districts shall designate depositories and supervise the depositing of funds of their respective districts.

(d) The board of directors of any school district shall constitute a board to designate depositories and supervise the depositing of school district funds. All school district funds, whether held by the treasurer of the school district or by the county treasurer, shall be deposited as designated by the board of directors.

History. Acts 1935, No. 21, § 2; Pope's Dig., § 4328; Acts 1945, No. 57, § 1; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1987, No. 250, § 1.

2. ARIZONA

35-321. Definitions

In this article, unless the context otherwise requires:

1. "Board of deposit" means, in the case of a county, the board of supervisors, and in the case of a city or town, the board of trustees or common council.

2. "Capital structure" means the amount of the capital of the eligible depository shown by the latest call statement of condition as defined by rule of the superintendent of banks for the purpose of administration of this article.

→ 3. "Eligible depository" means any:

(a) Commercial or savings bank or savings and loan association having either a branch in this state or its principal place of business in this state and insured by the federal deposit insurance corporation or its successor or any other insuring instrumentality of the United States according to the applicable federal law.

(b) Credit union that is insured by the national credit union administration or its successor.

4. "Permissible rate of interest" means a rate of interest which an eligible financial institution is permitted to pay by state or federal law or valid state rules or federal regulations.

5. "Public deposit" means public monies deposited in an eligible depository pursuant to this article.

→ 6. "Public monies" includes subdivision monies.

7. "State monies" means all monies in the treasury of this state or coming lawfully into the possession or custody of the state treasurer.

→ 8. "Subdivision" means any county, noncharter city or town. Cities governed by charter have the option of operating under this article.

9. "Subdivision monies" means all monies in the treasury of a subdivision or coming lawfully into the possession or custody of the treasurer.

10. "Supervisory banking authority" means the state superintendent of banks in respect to the affairs of state financial institutions and the comptroller of currency or the federal home loan bank board in respect to national financial associations.

11. "Treasurer" includes the treasurer or officer exercising the functions of treasurer of any subdivision but excludes the state treasurer.

12. "Trust funds" means those monies entrusted to a public body or official for preservation and investment, as prescribed by the instrument establishing such funds.

under- or 2 Handling of Public Funds
Art. 2.1 Money Mgmt.

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35-310. Definitions

In this article, unless the context otherwise requires:

- 1. "Eligible depository" means any commercial or savings bank or savings and loan association with its principal place of business in the United States which is insured by the federal deposit insurance corporation or any successor, or any other insuring instrumentality of the United States, in accordance with the applicable law of the United States or credit union which is insured by the national credit union administration.
2. "Operating monies" means those treasury monies the interest from which is paid to the state general fund.
3. "Permanent endowment funds" means those funds, established by law, to retain trust monies, the principal of which may not be expended.
4. "Treasury monies" means all monies in the treasury of this state or coming lawfully into the possession or custody of the state treasurer.
5. "Trust monies" means treasury monies, other than operating monies, that are entrusted to the state treasurer for preservation and investment.

↓
under Ch. 2 - 'Handling of Public Funds'
Art. 2 - State Mgmt. of Public Monies

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35-323. Investing public monies; bidding; security and other requirements

A. The treasurer shall invest and reinvest public monies in securities and deposits with a maximum maturity of three years. All public monies shall be invested in eligible investments. Eligible investments are:

1. Certificates of deposit in eligible depositories.
 2. Interest bearing savings accounts in banks and savings and loan institutions doing business in this state whose accounts are insured by federal deposit insurance for their industry, but only if deposits in excess of the insured amount are secured by the eligible depository to the same extent and in the same manner as required under this article.
 3. Repurchase agreements with a maximum maturity of one hundred eighty days.
 4. The pooled investment funds established by the state treasurer pursuant to section 35-326.
 5. Bonds or other evidences of indebtedness of the United States or any of its agencies or instrumentalities if the obligations are guaranteed as to principal and interest by the United States or by any agency or instrumentality of the United States.
 6. Bonds or other evidences of indebtedness of this state or any of its counties, incorporated cities or towns or school districts.
 7. Bonds, notes or evidences of indebtedness of any county, municipal district, municipal utility or special taxing district within this state that are payable from revenues, earnings or a special tax specifically pledged for the payment of the principal and interest on the obligations, and for the payment of which a lawful sinking fund or reserve fund has been established and is being maintained, but only if no default in payment on principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if such obligations were issued less than five years before the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased nor any other obligations of the issuer within five years of the investment.
 8. Bonds, notes or evidences of indebtedness issued by any municipal improvement district in this state to finance local improvements authorized by law, if the principal and interest of the obligations are payable from assessments on real property within the improvement district. An investment shall not be made if:
 - (a) The face value of all such obligations, and similar obligations outstanding, exceeds fifty per cent of the market value of the real property, and if improvements on which the bonds or the assessments for the payment of principal and interest on the bonds are liens inferior only to the liens for general ad valorem taxes.
 - (b) A default in payment of principal or interest on the obligations to be purchased has occurred within five years of the date of investment, or, if the obligations were issued less than five years before the date of investment, a default in the payment of principal or interest has occurred on the obligations to be purchased or on any other obligation of the issuer within five years of the investment.
- B. Certificates of deposit shall be purchased from the eligible depository bidding the highest permissible rate of interest. No monies over one hundred thousand dollars may be awarded at any interest rate less than one hundred three per cent of the equivalent bond yield of the offer side of United States treasury bills having a similar term. If the eligible depository offering to pay the highest rate of interest has bid only for

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a portion of the monies to be awarded, the remainder of the monies shall be awarded to eligible depositories bidding the next highest rates of interest.

C. An eligible depository is not eligible to receive total aggregate deposits from this state and all its subdivisions in an amount exceeding twice its capital structure as outlined in the last call of condition of the superintendent of banks.

D. If two or more eligible depositories submit bids of an identical rate of interest for all or any portion of the monies to be deposited, the award of the deposit of the monies shall be made to the eligible depository among those submitting identical bids having, at the time of the bid opening, the lowest ratio of total public deposits in relation to its capital structure.

E. Each bid submitted, and not withdrawn prior to the time specified, constitutes an irrevocable offer to pay interest as specified in the bid on the deposit, or portion bid for, and the award of a deposit in accordance with this section obligates the depository to accept the deposit and pay interest as specified in the bid pursuant to which the deposit is awarded.

F. The treasurer shall maintain a record of all bids received and shall make available to the board of deposit at its next regularly scheduled meeting a correct list showing the bidders, the bids received and the amount awarded. These records shall be available to the public and shall be kept in the possession of the treasurer for not less than two years from the date of the report.

G. Any eligible depository, before receiving a deposit in excess of the insured amount under this article, shall deliver collateral for the purposes of this subsection equal to at least one hundred one per cent of the deposit. The collateral shall be any of the following:

1. A bond executed by a surety company that is approved by the treasury department of the United States and authorized to do business in this state. The bond shall be approved as to form by the legal advisor of the treasurer.

2. Securities or instruments of the following character:

(a) United States government or agency obligations.

(b) State, county, school district and other district municipal bonds.

(c) Registered warrants of this state, a county or other political subdivisions of this state, when offered as security for monies of the state, county or political subdivision by which they are issued.

(d) First mortgages and trust deeds on improved, unencumbered real estate located in this state. No single first mortgages or trust deeds may represent more than ten per cent of the total collateral. The treasurer may require that the first mortgages or trust deeds comprising the total collateral security be twice the amount the eligible depository receives on deposit. First mortgages or trust deeds qualify as collateral subject to the following limitations:

(i) The promissory note or other evidences of indebtedness secured by such first mortgage or trust deed shall have been in existence for at least three years and shall not have been in default during this period.

(ii) An eligible depository shall at its own expense execute, deposit with the treasurer and record with the appropriate county recorder a complete sale and assignment with recourse in a form approved by the attorney general, together with an unconditional assumption of obligation to promptly pay to the entitled

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parties public monies in its custody upon lawful demand and tender of resale and assignment.

Eligible depositories may deposit the security described in this subdivision with the state treasurer, and county, city or town treasurers may accept the security described in this subdivision at their option.

3. The safekeeping receipt of a federal reserve bank or any bank located in a reserve city, or any bank authorized to do business in this state, whose combined capital, surplus and outstanding capital notes and debentures on the date of the safekeeping receipt are ten million dollars or more, evidencing the deposit therein of any securities or instruments described in this section. A safekeeping receipt shall not qualify as security, if issued by a bank to secure its own public deposits, unless issued directly through its trust department. The safekeeping receipt shall show upon its face that it is issued for the account of the treasurer and shall be delivered to the treasurer. The safekeeping receipt may provide for the substitution of securities or instruments which qualify under this section with the affirmative act of the treasurer.

H. The securities, instruments or safekeeping receipt for the securities, instruments or warrants shall be accepted at market value if not above par, and, if at any time their market value becomes less than the deposit liability to that treasurer, additional securities or instruments required to guarantee deposits shall be deposited immediately with the treasurer who made the deposit and deposited by the eligible depository in which the deposit was made.

I. The condition of the surety bond, or the deposit of securities, instruments or a safekeeping receipt, must be such that the eligible depository will promptly pay to the parties entitled public monies in its custody, upon lawful demand, and will, when required by law, pay the monies to the treasurer making the deposit.

J. Notwithstanding the requirements of this section, any institution qualifying as an eligible depository may accept deposits of public monies to the total then authorized insurance of accounts, insured by federal deposit insurance, without depositing a surety bond or securities in lieu of the surety bond.

K. An eligible depository shall report monthly to the treasurer the total deposits of that treasurer and the par value and the market value of any pledged collateral securing those deposits.

L. When a security or instrument pledged as collateral matures or is called for redemption, the cash received for the security or instrument shall be held in place of the security until the depository has obtained a written release or provided substitute securities or instruments.

M. The surety bond, securities, instruments or safekeeping receipt of an eligible depository shall be deposited with the treasurer making the deposit, and he shall be the custodian of the bond, securities, instruments or safekeeping receipt. The treasurer may then deposit with the depository public monies then in his possession in accordance with this article, but not in an amount in excess of the surety bond, securities, instruments or safekeeping receipt deposited, except for federal deposit insurance.

N. The following restrictions on investments are applicable:

1. An investment of public operating fund monies shall not be invested for a duration of longer than three years.

2. The board of deposit may order the treasurer to sell any of the securities, and any order shall specifically describe the securities and fix the date upon which they are to be sold. Securities so ordered to be sold shall be sold for cash by the treasurer on the date fixed in the order, at the then current market price. The treasurer and the members of the board are not accountable for any loss occasioned by sales of securities at prices lower than their cost. Any loss or expense shall be charged against earnings received from

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investment of public funds.

O. If the total amount of subdivision monies available for deposit at any time is less than one hundred thousand dollars, the subdivision board of deposit shall award the deposit of the funds to an eligible depository in accordance with an ordinance or resolution of the governing body of the subdivision.

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COLORADO

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11-10.5-101 - Short title.



This article shall be known and may be cited as the "Public Deposit Protection Act".

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Colorado

11-10.5-103 - Definitions.

As used in this article, unless the context otherwise requires:

(1) "Aggregate uninsured public deposits" means the total amount of cash, checks, or drafts on deposit at the close of a business day for credit to the official custodian accounts in an eligible public depository, and which are either not insured by or are in excess of the insurable limits of federal deposit insurance.

(2) "Bank" means any bank organized or chartered under articles 1 to 11 or 22 of this title or any bank organized or chartered under chapter 2 of Title 12 of the United States Code. For purposes of section 11-10.5-104 and 11-10.5-111 (1) only, the definition of "bank" also includes those banks chartered under the laws of other states.

→ "Colorado Banking Code of 1957"

(3) "Banking board" means the banking board established by section 11-2-102.

(4) "Defaulting depository" means any eligible public depository to which an event of default has occurred.

(5) "Eligible collateral" means, with respect to the securing of uninsured public funds, those instruments or obligations approved to be used for such purposes by the banking board pursuant to the provisions of section 11-10.5-107.

(6) "Eligible public depository" means any bank which has been designated as an eligible public depository by the banking board.

(7) "Event of default" means the issuance of an order by a supervisory authority or a receiver which restrains an eligible public depository from paying its deposit liabilities.

(8) "Federal deposit insurance" means deposit insurance or guarantees provided by the federal deposit insurance corporation or any successor agency thereto.

(9) "Official custodian" means:

(a) A designee with plenary authority, including control over public funds of a public unit which the official custodian is appointed to serve. For purposes of this paragraph (a), "control" includes possession of public funds, as well as the authority to establish accounts for such public funds in banks and to make deposits, withdrawals, or disbursements of such public funds. If the exercise of plenary authority over the public funds of a public unit requires action by or the consent of two or more putative official custodians, then such official custodians shall be treated as one official custodian with respect to such public funds.

(b) A designee, other than a designee described in paragraph (a) of this subsection (9), with authority, including control, over public funds of an entity, including the state of Colorado; any institution, agency, instrumentality, authority, county, municipality, city and county, school district, special district, or other political subdivision of the state of Colorado, including any institution of higher education; any institution, department, agency, instrumentality, or authority of any of the

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foregoing, including any county or municipal housing authority; any local government investment pool organized pursuant to part 7 of article 75 of title 24, C.R.S.; any public entity insurance pool organized pursuant to state statute; any public body corporate created or established under the constitution of the state of Colorado or any state statute; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing. For purposes of this paragraph (b), "control" includes possession of **public funds**, as well as the authority to establish accounts for such **public funds** in banks and to make deposits, withdrawals, or disbursements of such **public funds**. If the exercise of authority over such **public funds** requires action by or the consent of two or more putative official custodians, then such official custodians shall be treated as one official custodian with respect to such **public funds**.

(10) (a) "Political subdivision" includes any subdivision or any principal department of a public unit:

(I) The creation of which subdivision or principal department has been expressly authorized by state statute;

(II) To which some functions of government have been delegated by state statute; and

(III) To which funds have been allocated by ordinance or state statute for its exclusive use and control.

(b) "Political subdivision" also includes drainage, irrigation, navigation, improvement, levee, sanitary, school, and power districts and bridge and port authorities and any other special district created by state statute or compact between the state of Colorado and one or more states.

(c) "Political subdivision" does not include subordinate or nonautonomous divisions, agencies, or boards within principal departments of a public unit.

(11) "Public deposits" means all **public funds** on deposit in an eligible public depository in any form, whether time, savings, or demand.

(12) "**Public funds**" means all funds of a public unit and all funds of any entity referred to in paragraph (b) of subsection (9) of this section.

(13) "Public unit" means the state of Colorado, any county, city and county, city, or municipality, including any home rule city or town or territorial charter city, or any political subdivision thereof.

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11-10.5-104 - Applicability of article.



The provisions of this article shall apply to all banks which elect to become eligible public depositories. No bank shall hold any public funds unless such bank has been designated as an eligible public depository pursuant to the provisions of this article.

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11-10.5-106 - Designation as eligible public depository - acceptance of provisions.

(1) No bank shall be a public depository or shall hold public funds without first being designated as an eligible public depository by the banking board pursuant to the provisions of this section.

(2) No bank shall be designated an eligible public depository unless the bank meets the following criteria:

(a) The deposits of such bank are insured or guaranteed by federal deposit insurance;

(b) The bank is in compliance with the capital standards established by the banking board; and

(c) The bank agrees in writing to abide by all regulatory directives, reporting requirements, examination requirements, and other criteria established for the administration and enforcement of the provisions and purposes of this article.

(3) (a) (I) Any bank which meets the criteria established in subsection (2) of this section and which desires to accept and hold public funds on and after September 1, 1989, shall file a written application with the banking board requesting designation as an eligible public depository. The request shall be signed by an executive officer of the bank and shall state that the bank agrees to abide by the provisions of this article and all rules and regulations promulgated by the banking board for the administration and enforcement of the provisions of this article.

(II) If the bank requesting such designation was an eligible public depository under applicable law in effect prior to September 1, 1989, and desires to continue to be an eligible public depository subject to the provisions of this article, it shall file the required written application within thirty days following August 1, 1989. If the banking board has no reason to believe that the bank would fail to meet the criteria or fail to follow the provisions of this article, it may designate such bank as an eligible public depository and issue an appropriate certificate evidencing such designation. Such immediate designation is provided for the convenience of the banking board in order to expedite transition from laws governing the protection of public funds in effect prior to September 1, 1989, and is not to be construed as granting a right or privilege to any bank to be designated as an eligible public depository.

(III) Any bank which was not an eligible public depository under applicable law in effect prior to September 1, 1989, or any bank which was granted a charter on or after said date, or any bank which has had its certificate as an eligible public depository withdrawn or revoked by either the banking board or the commissioner may at any time make written application to the banking board for designation as an eligible public depository. Such application shall be made on such forms or in such format as may be prescribed by the banking board. Upon submittal, the application shall contain all required information and shall be accompanied by a fee to be determined by the banking board. The banking board shall review the application and, not more than sixty days from the date that the application was submitted, shall either grant and issue or deny issuance of a certificate evidencing such designation. The banking board may extend the sixty-day review period for not more than thirty additional days.

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(b) (I) Designation as an eligible public depository shall not constitute either a right or a license, and such designation may be revoked, suspended, or placed under restrictions, limitations, or other conditions by the banking board if the board determines that the eligible public depository has failed to comply with the provisions of this article or any rule and regulation promulgated by the banking board for the administration or enforcement of this article or with the provisions of any order of the banking board.

(II) Once granted, designation as an eligible public depository may be retained by the bank to which it was granted unless the banking board acts to suspend, revoke, or otherwise limit the designation. Designation is unique to the bank to which it was granted and may not be sold or transferred to another bank. In the event that a bank designated as an eligible public depository is acquired or merged with another entity, the banking board shall review the continuation of such designation under either this paragraph (b) or paragraph (a) of this subsection (3).

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11-10.5-111 - Public funds to be deposited only in eligible public depositories - responsibilities of official custodians and eligible public depositories - penalty.

(1) Any official custodian may deposit public funds in any bank which has been designated by the banking board as an eligible public depository. It is unlawful for an official custodian to deposit public funds in any bank other than one that has been so designated.

(2) Each official custodian shall inform an eligible public depository that the public funds on deposit are subject to the provisions of this article before entering into a depository agreement with the eligible public depository. It is the responsibility of the official custodian to maintain documents or other verification necessary to properly identify the public funds which are subject to the provisions of this article.

(3) The banking board, in consultation with the state treasurer, the executive director of the department of local affairs, the executive director of the department of revenue, and such other persons as the banking board may designate, shall establish and initiate an account numbering system to be used universally by all eligible public depositories and all official custodians. The numbering system shall designate unique numbers for accounts established by each official custodian so that the amount of public funds subject to federal deposit insurance and the amount of public funds subject to the collateral requirements of this article may be readily and accurately determined at all times. It is the responsibility of the official custodian to make application to the banking board for assignment of such numbers. Failure of an official custodian to secure the required account numbers may result in the inapplicability of the protections provided by section 11-10.5-110 and subsection (4) of this section to the uninsured public funds under the control of such official custodian or to the official custodian in the event of default and subsequent liquidation of an eligible public depository.

(4) (a) An official custodian who acted in good faith in selecting, designating, or approving any eligible public depository for the deposit of public funds shall not be liable for any loss of public funds deposited in an eligible public depository if such loss is caused by the occurrence of an event of default of such eligible public depository.

(b) Any official custodian who violates the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, which fine shall be mandatory and may not be reimbursed nor paid by the public unit. Upon any such conviction, the court may adjudge that the official custodian be removed from public office.

(c) Any director, bank officer, or manager who knowingly violates the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars nor more than two thousand dollars, which fine shall be mandatory.

(5) It is unlawful for any director, bank officer, or manager of any bank to accept or receive any public funds while such bank is insolvent or while under verbal or written order from the banking board not to accept or receive any public funds.

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(6) Notwithstanding any other provision of this section to the contrary, nothing shall be construed to prevent a bank which is an eligible public depository operating pursuant to the provisions of this article from being or acting as an agent on behalf of any official custodian for the purposes of making investments as authorized by part 6 of article 75 of title 24, C.R.S. Any such bank shall maintain such accounting records as are necessary to readily distinguish between the activities authorized by said part 6 and the purposes of the public deposit protection requirements imposed upon it as a condition of being an eligible public depository. The banking board may promulgate such rules and regulations as it deems necessary to ensure that the activities authorized under part 6 of article 75 of title 24, C.R.S., and the protection of public funds pursuant to this article are not commingled.

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[Back to List](#) [Previous](#) [Next](#)**11-47-118 - Public moneys to be deposited only in eligible public depositories - penalty for violation.**

(1) On and after January 1, 1976, it shall be unlawful for any public moneys to be deposited in any state-chartered savings and loan association, or in any federally chartered savings and loan association having its principal office in this state, other than one which has been designated by the commissioner as an eligible public depository, unless the entire amount of such deposit is insured by the federal savings and loan insurance corporation.

(2) Any official of a governmental unit having custody of or control over public moneys who violates the provisions of subsection (1) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, which fine shall be mandatory, and, upon any such conviction, the court may adjudge that he be removed from office.

(3) Notwithstanding any other provision of this section to the contrary, nothing shall be construed to prevent a savings and loan association which is an eligible public depository operating pursuant to the provisions of this article from being or acting as an agent in behalf of any public entity for the purposes of making investments as authorized by part 6 of article 75 of title 24, C.R.S. Any such savings and loan association shall maintain such accounting records as are necessary to readily distinguish between the activities authorized by said part 6 of article 75 of title 24, C.R.S., and the purposes of the public deposit protection requirements imposed upon it as a condition of being an eligible public depository. The financial services board may promulgate such rules and regulations as it deems desirable to ensure that the activities authorized under part 6 of article 75 of title 24, C.R.S., and the protection of public funds pursuant to this article are not commingled.

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12C.1 Deposits in general--definitions.

1. All funds held by the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: for the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, and sheriff, by the board of supervisors; for the city treasurer or other designated financial officer of a city, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter 256, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision or the designated financial officer of a city shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 12B.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. This subsection does not limit the definition of "public funds" contained in subsection 2. Notwithstanding provisions of this section to the contrary, public funds of a state government deferred compensation plan established by the executive council may also be invested in the investment products authorized under section 509A.12.

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

a. "Depository" means a bank, a savings and loan, or a credit union in which public funds are deposited under this chapter.

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

c. "Bank" means a corporation engaged in the business of banking authorized by law to receive deposits and whose deposits are insured by the bank insurance fund of the federal deposit insurance corporation and includes any office of a bank. "Bank" also means a savings and loan or savings association.

d. "Savings and loan" means a corporation authorized to operate under chapter 534 or the federal Home Owner's Loan Act of 1933, 12 U.S.C. § 1461, et seq., and includes a savings and loan association, a savings bank, or any branch of a savings and loan association or savings bank.

e. "Credit union" means a cooperative, nonprofit association incorporated under chapter 533 or the federal Credit Union Act, 12 U.S.C. § 1751, et seq., and that is insured by the national credit union administration and includes an office of a credit union.

f. "Financial institution" means a bank or a credit union.

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

a. If a depository is a credit union, then public deposits in the credit union shall be secured pursuant to sections 12C.16 through 12C.19 and sections 12C.23 and 12C.24.

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b. If a depository is a bank, public deposits in the bank shall be secured pursuant to sections 12C.23A and 12C.24.

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

Section History: Early form

[C24, 27, § 139, 4319, 5548, 5651, 7404; C31, 35, § 7420-d1; C39, § 7420.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, § 453.1; 81 Acts, ch 148, § 1; 82 Acts, ch 1202, § 1]

Section History: Recent form

83 Acts, ch 97, § 1, 3; 83 Acts, ch 186, § 1014, 10201; 84 Acts, ch 1230, § 5; 85 Acts, ch 194, § 2; 89 Acts, ch 39, § 12; 92 Acts, ch 1156, § 20-22

C93, § 12C.1

93 Acts, ch 48, § 3; 97 Acts, ch 185, § 5; 99 Acts, ch 117, § 1-4, 15; 99 Acts, ch 208, § 42, 74

Internal References

Referred to in § 12B.10A, 12B.10C, 12C.7, 12C.8, 176A.8, 179.1, 181.1, 183A.1, 184.1, 184A.1, 185.1, 185C.1, 350.6, 602.8102(64)

Footnotes

Supreme court shall approve institutions in which a court employee may deposit public funds commencing on the date the employee becomes a member of the judicial branch; see chapter 602, article 11, and Temporary Court Transition Rule 1.16

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12B.10 Public funds investment standards.

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1. In addition to investment standards and requirements otherwise provided by law, the investment of public funds by the treasurer of state, state agencies authorized to invest funds, and political subdivisions of this state, shall comply with this section, except where otherwise provided by another statute specifically referring to this section.

The treasurer of state and the treasurer of each political subdivision shall at all times keep funds coming into their possession as public money in a vault or safe to be provided for that purpose or in one or more depositories approved pursuant to chapter 12C. However, the treasurer of state and the treasurer of each political subdivision shall invest, unless otherwise provided, any public funds not currently needed in investments authorized by this section.

2. The treasurer of state, state agencies authorized to invest funds, and political subdivisions of this state, when investing or depositing public funds, shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the goals of this subsection. This standard requires that when making investment decisions, a public entity shall consider the role that the investment or deposit plays within the portfolio of assets of the public entity and the goals of this subsection. The primary goals of investment prudence shall be based in the following order of priority:

- a. Safety of principal is the first priority.
- b. Maintaining the necessary liquidity to match expected liabilities is the second priority.
- c. Obtaining a reasonable return is the third priority.

3. Investments of public funds shall be made in accordance with written policies. A written investment policy shall address the goals set out in subsection 2 and shall also address, but is not limited to, compliance with state law, diversification, maturity, quality, and capability of investment management.

The trading of securities in which any public funds are invested for the purpose of speculation and the realization of short-term trading profits is prohibited.

Investments by a political subdivision must have maturities that are consistent with the needs and use of that political subdivision or agency.

4. The treasurer of state and all other state agencies authorized to invest funds shall only purchase and invest in the following:

- a. Obligations of the United States government, its agencies and instrumentalities.
- b. Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to chapter 12C.
- c. Prime bankers' acceptances that mature within two hundred seventy days and that are eligible for purchase by a federal reserve bank, provided that at the time of purchase no more than thirty percent of the investment portfolio of the treasurer of state or any other state agency shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

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d. Commercial paper or other short-term corporate debt that matures within two hundred seventy days and that is rated within the two highest classifications, as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A, provided that at the time of purchase no more than five percent of all amounts invested in commercial paper and other short-term corporate debt shall be invested in paper and debt rated in the second highest classification, and provided further that at the time of purchase no more than thirty percent of the investment portfolio of the treasurer of state or any other state agency shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

e. Repurchase agreements whose underlying collateral consists of the investments set out in paragraphs "a" through "d" if the treasurer of state or state agency takes delivery of the collateral either directly or through an authorized custodian. Repurchase agreements do not include reverse repurchase agreements.

f. Investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b", except that investment in common stocks is not permitted.

g. An open-end management investment company organized in trust form registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7.

Futures and options contracts are not permissible investments.

5. Political subdivisions of this state, including entities organized pursuant to chapter 28E whose primary function is other than to jointly invest public funds, shall purchase and invest only in the following:

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

b. Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to chapter 12C.

c. Prime bankers' acceptances that mature within two hundred seventy days and that are eligible for purchase by a federal reserve bank, provided that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

d. Commercial paper or other short-term corporate debt that matures within two hundred seventy days and that is rated within the two highest classifications, as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A, provided that at the time of purchase no more than five percent of all amounts invested in commercial paper and other short-term corporate debt shall be invested in paper and debt rated in the second highest classification, and provided further that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single issuer.

e. Repurchase agreements whose underlying collateral consists of the investments set out in paragraph "a" if the political subdivision takes delivery of the collateral either directly or through an authorized custodian. Repurchase agreements do not include reverse repurchase agreements.

f. An open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in

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accordance with 17 C.F.R. § 270.2a-7.

g. A joint investment trust organized pursuant to chapter 28E prior to and existing in good standing on the effective date of this Act or a joint investment trust organized pursuant to chapter 28E after April 28, 1992, provided that the joint investment trust shall either be rated within the two highest classifications by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A and operated in accordance with 17 C.F.R. § 270.2a-7, or be registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7. The manager or investment advisor of the joint investment trust shall be registered with the federal securities and exchange commission under the Investment Advisor Act of 1940, 15 U.S.C. § 80(b).

h. Warrants or improvement certificates of a levee or drainage district.

Futures and options contracts are not permissible investments.

6. The following investments are not subject to this section:

a. Investments by the public safety peace officers' retirement system governed by chapter 97A.

b. Investments by the Iowa public employees' retirement system governed by chapter 97B.

c. Investments by the Iowa finance authority governed by chapter 16.

d. Investments by the state board of regents. However, investments by the state board of regents or institutions governed by the state board of regents are limited to the following:

(1) Those investments set out in subsection 4.

(2) The common fund for nonprofit organizations.

(3) Common stocks.

(4) For investments of short-term operating funds, the funds shall not be invested in investments having maturities exceeding sixty-three months.

e. A pension and annuity retirement system governed by chapter 294.

f. Investments by the statewide fire and police retirement system governed by chapter 411.

g. Investments by the judicial retirement system governed by chapter 602, article 9.

h. Investments under the deferred compensation plan established by the executive council pursuant to section 509A.12.

Section History: Early form

[R60, § 804; C73, § 918; C97, § 1462; S13, § 1462; C24, 27, 31, 35, 39, § 7412; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 452.10]

Section History: Recent form

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84 Acts, ch 1194, § 1; 84 Acts, ch 1230, § 4; 85 Acts, ch 194, §1; 87 Acts, ch 105, § 3; 88 Acts, ch 1027, § 1; 88 Acts, ch 1187, § 1; 90 Acts, ch 1233, § 30; 91 Acts, ch 249, §1; 92 Acts, ch 1156, § 16

C93, § 12B.10

94 Acts, ch 1012, §1; 96 Acts, ch 1187, § 75; 97 Acts, ch 185, §1

Internal References

Referred to in § 12B.10A, 12B.10B, 12B.14, 12C.1, 12C.7, 12C.9, 12C.10, 28E.5, 99E.10, 161A.80, 279.29, 331.555, 357A.11, 384.21, 905.6

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12C.4 Location of depositories.

Deposits by the treasurer of state shall be in depositories located in this state; by a county officer or county public hospital officer or merged area hospital officer, in depositories located in the county or in an adjoining county within this state; by a memorial hospital treasurer, in a depository located within this state which shall be selected by the memorial hospital treasurer and approved by the memorial hospital commission; by a city treasurer or other city financial officer, in depositories located in the county in which the city is located or in an adjoining county, but if there is no depository in the county in which the city is located or in an adjoining county then in any other depository located in this state which shall be selected as a depository by the city council; by a school treasurer or by a school secretary in a depository within this state which shall be selected by the board of directors or the trustees of the school district; by a township clerk in a depository located within this state which shall be selected by the township clerk and approved by the trustees of the township. However, deposits may be made in depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when the deposit is made not more than ten days before the date the principal or interest becomes due. Further, the treasurer of state may maintain an account or accounts outside the state of Iowa for the purpose of providing custodial services for the state and state retirement fund accounts.

Section History: Early form

[C24, 27, § 139, 4319, 5548, 5651, 7404; C31, 35, § 7420-d4; C39, § 7420.04; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 453.4; 82 Acts, ch 1202, § 2]

Section History: Recent form

84 Acts, ch 1230, § 8; 86 Acts, ch 1243, § 31

C93, § 12C.4

Previous Section [12C.3](#)

Next Section [12C.5](#)



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5. 11. 015

Query **investments of public funds** against document
</publicacts/pubact91/acts/91-0211.html>

You can navigate between the hits using the "<<" and ">>" tags around a hit. Clicking "<<" takes you to the previous hit, clicking ">>" takes you to the next hit.

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[New Query](#)

Public Act 91-0211 of the 91st General Assembly State of Illinois
Public Acts

91st General Assembly [Home] [Public Acts] [ILCS] [Search] [Bottom] Public Act 91-0211
SB1026 Enrolled LRB9105177PTmb AN ACT to amend the Public Funds Deposit Act by changing
Section 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly:
Section 5. The Public Funds Deposit Act is amended by changing Section 1 as follows: (30 ILCS 225/1)
(from Ch. 102, par. 34) Sec. 1. Deposits. Any treasurer or other custodian of public funds may deposit
such funds in a savings and loan association, savings bank, or State or national bank in this State. When
such deposits become collected funds and are not needed for immediate disbursement, they shall be
invested within 2 working days at prevailing rates or better. The treasurer or other custodian of public
funds may require such bank, savings bank, or savings and loan association to deposit with him or her
securities guaranteed by agencies and instrumentalities of the federal government equal in market value
to the amount by which the funds deposited exceed the federally insured amount. Such treasurer or other
custodian is authorized to enter into an agreement with any such bank, savings bank, or savings and loan
association, with any federally insured financial institution or trust company, or with any agency of the
U.S. government relating to the deposit of such securities. Any such treasurer or other custodian shall be
discharged from responsibility for any funds for which securities are so deposited with him or her, and
the funds for which securities are so deposited shall not be subject to any otherwise applicable limitation
as to amount. No bank, savings bank, or savings and loan association shall receive public funds as
permitted by this Section, unless it has complied with the requirements established pursuant to Section 6
of the Public Funds Investment Act "An Act relating to certain << investments >> of << public
funds >> by public agencies", approved July 23, 1943, as now or hereafter amended. (Source: P.A.
83-541.) Section 99. Effective date. This Act takes effect upon becoming law.
[Top]

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</publicacts/pubact91/acts/91-0324.html>

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New Query

Public Act 91-0324 of the 91st General Assembly State of Illinois
Public Acts

91st General Assembly [Home] [Public Acts] [ILCS] [Search] [Bottom] Public Act 91-0324
HB2047 Enrolled LRB9105499DHmg AN ACT to amend the **<< Public Funds Investment Act >>**
by changing Section 6. Be it enacted by the People of the State of Illinois, represented in the General
Assembly: Section 5. The **<< Public Funds Investment Act >>** is amended by changing Section 6 as
follows: (30 ILCS 235/6) (from Ch. 85, par. 906) **Sec. 6. Report of financial institutions.** (a) No bank
shall receive any public funds unless it has furnished the corporate authorities of a public agency
submitting a deposit with copies of the last two sworn statements of resources and liabilities which the
bank is required to furnish to the Commissioner of Banks and Real Estate or to the Comptroller of the
Currency. Each bank designated as a depository for public funds shall, while acting as such depository,
furnish the corporate authorities of a public agency with a copy of all statements of resources and
liabilities which it is required to furnish to the Commissioner of Banks and Real Estate or to the
Comptroller of the Currency; provided, that if such funds or moneys are deposited in a bank, the amount
of all such deposits not collateralized or insured by an agency of the federal government shall not exceed
75% of the capital stock and surplus of such bank, and the corporate authorities of a public agency
submitting a deposit shall not be discharged from responsibility for any funds or moneys deposited in any
bank in excess of such limitation. (b) No savings bank or savings and loan association shall receive
public funds unless it has furnished the corporate authorities of a public agency submitting a deposit with
copies of the last 2 sworn statements of resources and liabilities which the savings bank or savings and
loan association is required to furnish to the Commissioner of Banks and Real Estate or the Federal
Deposit Insurance Corporation. Each savings bank or savings and loan association designated as a
depository for public funds shall, while acting as such depository, furnish the corporate authorities of a
public agency with a copy of all statements of resources and liabilities which it is required to furnish to
the Commissioner of Banks and Real Estate or the Federal Deposit Insurance Corporation; provided, that
if such funds or moneys are deposited in a savings bank or savings and loan association, the amount of
all such deposits not collateralized or insured by an agency of the federal government shall not exceed
75% of the net worth of such savings bank or savings and loan association as defined by the Federal
Deposit Insurance Corporation, and the corporate authorities of a public agency submitting a deposit
shall not be discharged from responsibility for any funds or moneys deposited in any savings bank or
savings and loan association in excess of such limitation. (c) No credit union shall receive public funds
unless it has furnished the corporate authorities of a public agency submitting a share deposit with copies
of the last two reports of examination prepared by or submitted to the Illinois Department of Financial
Institutions or the National Credit Union Administration. Each credit union designated as a depository
for public funds shall, while acting as such depository, furnish the corporate authorities of a public
agency with a copy of all reports of examination prepared by or furnished to the Illinois Department of
Financial Institutions or the National Credit Union Administration; provided that if such funds or moneys
are invested in a credit union account, the amount of all such investments not collateralized or insured by
an agency of the federal government or other approved share insurer shall not exceed 50% of the
unimpaired capital and surplus of such credit union, which shall include shares, reserves and undivided
earnings and the corporate authorities of a public agency making an investment shall not be discharged
from responsibility for any funds or moneys invested in a credit union in excess of such limitation. (d)

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Whenever a public agency deposits any public funds in a financial institution, the public agency may enter into an agreement with the financial institution requiring any funds not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer to be collateralized by securities, or mortgages, or loans covered by a State Guaranty under the Illinois Farm Development Act in an amount equal to at least market value of that amount of funds deposited exceeding the insurance limitation provided by the Federal Deposit Insurance Corporation or the National Credit Union Administration or other approved share insurer. (e) Paragraphs (a), (b), (c), and (d) of this Section do not apply to the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Cooperative Computer Center and public community colleges. (Source: P.A. 89-4, eff. 1-1-96; 89-508, eff. 7-3-96.)

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6. MISSOURI

Missouri Revised Statutes

Chapter 110 Depositaries for Public Funds Section 110.010

August 28, 1999

Deposits of public funds to be secured.

110.010. 1. The public funds of every county, township, city, town, village, school district of every character, road district, sewer district, fire protection district, water supply district, drainage or levee district, state hospital, state schools for the mentally deficient, Missouri School for the Deaf, Missouri School for the Blind, Missouri Training School for Boys, training school for girls, Missouri Veterans' Home, Missouri State Chest Hospital, state university, Missouri state teachers' colleges, Lincoln University, which are deposited in any banking institution acting as a legal depository of the funds under the statutes of Missouri requiring the letting and deposit of the same and the furnishing of security therefor, shall be secured by the deposit of securities of the character prescribed by section 30.270, RSMo, for the security of funds deposited by the state treasurer.

2. The securities shall, at the option of the depository banking institution, be delivered either to the fiscal officer or the governing body of the municipal corporation or other depositor of the funds, or by depositing the securities with another banking institution or safe depository as trustee satisfactory to both parties to the depository agreement. The trustee may be a bank owned or controlled by the same bank holding company as the depository banking institution.

3. The rights and duties of the several parties to the depository contract shall be the same as those of the state and the depository banking institution respectively under section 30.270, RSMo. If a depository banking institution deposits the bonds or securities with a trustee as above provided, and the municipal corporation or other depositor of funds gives notice in writing to the trustee that there has been a breach of the depository contract and makes demand in writing on the trustee for the securities, or any part thereof, then the trustee shall forthwith surrender to the municipal corporation or other depositor of funds a sufficient amount of the securities to fully protect the depositor from loss and the trustee shall thereby be discharged of all further responsibility in respect to the securities so surrendered.

(RSMo 1939 § 8183, A.L. 1955 p. 735, A.L. 1959 S.B. 77, A.L. 1961 p. 463, A.L. 1971 H.B. 581, A.L. 1988 H.B. 1204)

CROSS REFERENCES: Banks exempt from furnishing security for insured deposits, RSMo 362.490 Depositaries of state moneys, RSMo 30.250 to 30.280 Fiscal agent, selection of bank as--duties, RSMo 33.440 to 33.470 School funds, depositaries for, RSMo 165.201 to 165.301



Missouri General Assembly

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Missouri Revised Statutes

Chapter 110 Depositaries for Public Funds Section 110.040

August 28, 1999

Depository outside of territorial limits legal, when.

110.040. In the event that there shall be no banking corporation, association, trust company or individual banker in the territory within which the depository or depositaries of any public fund must, under the applicable laws of this state, be located to become eligible for selection, or in the event that the selected depository or depositaries within such territory shall fail to accept such award or awards of such public funds as may be made, then the authority or authorities which are by law empowered to make such selection of depositaries and awards of public funds thereto are authorized and empowered to select as depository or depositaries such banking institutions located outside the territorial limits aforesaid as such authority or authorities may deem the safest and most convenient depository or depositaries for such public fund.

(RSMo 1939 § 8186)



Missouri General Assembly

Missouri Revised Statutes

Chapter 110 Depositaries for Public Funds Section 110.030

August 28, 1999

Advertisement for bids unnecessary, when.

110.030. The various statutory provisions in relation to the advertisement for and receipt of bids and the award of the funds to the best bidder or bidders for the whole or any part of any of the public funds of the character referred to in section 110.010 shall be applicable only if and when, at the time of said advertisement and award, it shall be lawful for banking institutions to pay interest upon demand deposits, in which event such applicable statutory provisions shall be complied with; but if, at the time of the advertisement for bids or the receipt of bids or the award of funds, it shall be unlawful for depositary banks and trust companies to pay interest upon such demand deposits, the award or awards of such funds shall be made in each case, without bids and without requiring the payment of any bonus or interest, by the authority or authorities which are by statute empowered to make the awards of such funds upon bids.

(RSMo 1939 § 8185)



Missouri General Assembly

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Missouri Revised Statutes

Chapter 110 **Depositaries for Public Funds** **Section 110.050**

August 28, 1999

Liability of depositaries.

110.050. No bank or trust company wherein any deposits of private or public moneys shall be made shall become obligated or liable on account thereof except for the safekeeping thereof and for the payment of the amount thereof with interest thereon, if any, which said depositary may have contracted to pay. All banks and trust companies and other banking institutions now or hereafter engaged in business in this state shall be and they are hereby authorized with respect to any and all such funds deposited with them to provide and maintain the security for such deposits as may be by law required.

(RSMo 1939 § 8187)



Missouri General Assembly

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Missouri Revised Statutes

Chapter 110 Depositaries for Public Funds Section 110.090

August 28, 1999

Selection of depositary--computation of interest--rejected bids.

110.090. 1. At twelve o'clock noon on the day named for the selection of the depositary, the board shall publicly open the bids and cause each bid to be entered upon the records of the board, and shall select from the bidders, as depositaries of the funds and moneys of the institution, the banking corporation, association or trust company, who bid the highest rate of interest, and shall notify the successful bidder selected; but the board may reject any and all bids.

2. The interest upon the funds and moneys shall be computed upon the daily balances to the credit of the institution with each of the depositaries, and shall be payable by each depositary on the first day of each month, to the treasurer of the institution, who shall place the same to the credit of the institution. The depositaries shall, on the first day of each month, render to the secretary of the board a statement, in writing, showing the amount of interest paid by the depositary.

3. The secretary of the board shall return the certified checks accompanying the bids to the banking corporations, associations, or trust companies whose bids which they accompanied were rejected, and, upon the approval of the securities provided for in section 110.010, return the certified check accompanying the accepted bids to the banking corporation, association, or trust company from whom it was received.

4. If, for any reason, no selection of a depositary is made at the time fixed by sections 110.070 to 110.120, the board of managers by whatever name called may, at any subsequent time, after twenty days' notice, receive bids and select depositaries in the manner herein provided, in which event the selection shall only be for the period of time as may intervene until the next regular period for the selection of the depositary.

(RSMo 1939 § 9375, A.L. 1959 S.B. 77)

Prior revisions: 1929 § 8678; 1919 § 12321



Missouri General Assembly

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Nebraska

NEBRASKA

14-556. City treasurer; authorized depositories; securities; conflict interest. (1) The city treasurer shall place all the city, as the same accrue, on in such banks or capital stock financial institutions within the city as shall agree to pay the highest rate interest for the use such so . The city council is hereby directed to advertise for bids for rates for the such as is hereby contemplated.

(2) The banks or capital stock financial institutions referred to in subsection (1) this section, so selected, shall:

(a) Give bond to the city for the safekeeping such , and such city shall not have on in any bank or capital stock financial institution giving a guaranty bond more than the amount insured by the Federal Insurance Corporation plus the maximum amount the bond given by the bank or capital stock financial institution or in any bank or capital stock financial institution giving a personal bond more than the amount insured by the Federal Insurance Corporation plus one-half the amount the bond the bank or capital stock financial institution. All bonds such banks or capital stock financial institutions shall be with and held by the city treasurer; or

(b) Give security as provided in the Security Act.

(3) The fact that a stockholder, director, or other officer such bank or capital stock financial institution is also serving as mayor, as a member the city council, as a member a board works, or as any other officer such municipality shall not disqualify such bank or capital stock financial institution from acting as a depository for such municipal .

(4) The provisions section 77-2366 shall apply to in capital stock financial institutions.

Source:

Laws 1921, c. 116, art. IV, § 44, p. 491; C.S.1922, § 3670; C.S.1929, § 14-547; R.S.1943, § 14-556; Laws 1957, c. 54, § 1, p. 263; Laws 1959, c. 35, § 2, p. 193; Laws 1989, LB 33, § 9; Laws 1993, LB 157, § 1; Laws 1996, LB 1274, § 13.

Cross Reference

Security Act, see section 77-2386.

Annotations:

City metropolitan class can make no in bank unless the is protected by bond, and while it may be implied, it is not expressly required, that the bank must pay the premium on the bond. State ex rel. Sorensen v. South Omaha State Bank, 128 Neb. 733, 260 N.W. 278 (1935).

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15-845. of city funds; conditions. The city treasurer of a city of the primary class shall and at all times keep on safekeeping in the banks, in the capital stock financial institutions, or in some of them doing business in such city of approved and responsible standing all money collected, received, or held him or her as such city treasurer. Any such bank or capital stock financial institution located in the city may apply the privilege of keeping such money or any part thereof upon the following conditions: (1) All such shall be subject to payment when demanded the city treasurer; and (2) such shall be subject to all regulations imposed law or adopted the city the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank or capital stock financial institution shall also be serving as mayor, as a member of the city council, or as any other officer of such shall not disqualify such bank or capital stock financial institution from acting as a such municipal funds. The provisions of section 77-2366 shall apply to in capital stock financial institutions.

Source:

Laws 1963, c. 54, § 1, p. 232; Laws 1987, LB 440, § 2; Laws 1989, LB 33, § 13; Laws 1996, LB 1274, § 14.

Web-

17-607. Treasurer; designate ; bond; exemption treasurer from liability; conflict interest. (1) The city council board trustees, as the case may be, at its first meeting in each fiscal year, shall designate some one more capital stock financial institutions approved and responsible standing in which the city treasurer village treasurer shall keep at all times, subject to payment on his her demand, all money held by him her as such city treasurer village treasurer. If there is one more capital stock financial institutions located in the city village which apply for the privilege keeping such money and give bond give security for the repayment deposits as provided in this section, such capital stock financial institutions shall be selected as such. The city treasurer village treasurer shall not give a preference to any one more them in the money he she may so deposit.

(2) The council board trustees shall require from all capital stock financial institutions (a) a bond, referred to in subsection (1) this section, in such penal sum as may be the maximum amount on deposit at any time less the amount insured by the Federal Deposit Insurance Corporation, in lieu thereof, (b) security given as provided in the Public Funds Deposit Security Act, referred to in subsection (1) this section, to secure the payment all such deposits and accretions. The council board shall approve such bond giving security. The city treasurer village treasurer shall not be liable for any loss any money sustained by reason the failure any such so designated and approved. The fact that a stockholder, director, other officer such capital stock financial institution is also serving as mayor, as a member the city council board trustees, as a member a board public works, as any other officer such municipality shall not disqualify such capital stock financial institution from acting as a for such municipal funds.

Source:

Laws 1879, § 65, p. 209; R.S.1913, § 5149; Laws 1921, c. 304, § 1, p. 961; C.S.1922, § 4324; Laws 1927, c. 38, § 1, p. 168; Laws 1929, c. 45, § 1, p. 193; C.S.1929, § 17-515; Laws 1931, c. 33, § 1, p. 124; Laws 1935, c. 140, § 2, p. 515; Laws 1937, c. 31, § 1, p. 155; C.S.Supp.,1941, § 17-515; Laws 1943, c. 27, § 2(1), p. 121; R.S.1943, § 17-607; Laws 1957, c. 54, § 3, p. 264; Laws 1989, LB 33, § 22; Laws 1992, LB 757, § 19; Laws 1996, LB 1274, § 22.

Cross Reference

Public Funds Deposit Security Act, see section 77-2386.

Annotations:

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8. OKLAHO. 7

OK

§62-513. Deposits with federal instrumentalities.

The State Treasurer, and the treasurers of counties, school districts, cities, towns, municipalities and any other political subdivision of the state, and any other officer, board, department or commission having custody, control and management of any public or trust fund or funds charged with the safekeeping and deposit of said funds or funds are hereby specifically authorized to deposit said fund or funds in any federally-insured building and loan association wherever located, whether federally or state chartered, in an amount and to the extent that such deposit is fully insured by the Federal Savings and Loan Insurance Corporation or any other instrumentality of the United States Government. When any such insured deposit is made it shall not be necessary for such treasurer, officer, board, department or commission to require any security, and such insurance shall be accepted in lieu of any security, restriction or other limitation now required or imposed by law upon the deposit of public funds.

[1]

Laws 1947, p. 395, § 1. [2]



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Phone: 316-268-4351 Fax: 316-268-4519

Senate Bill 549 Liabilities of Public Officers of Depositories

Delivered February 16, 2000
To
Senate Financial Institutions and Insurance Committee

The City of Wichita supports Senate Bill 549. Managing public money involves a special trust and requires public officials to use caution, diligence and expertise to make sure those funds are invested in the public interest. That means not only making sure the funds bring the best value and return to the taxpayer, but that they are as safe as possible.

But a public official or municipal corporation should not be held liable for any loss of public funds caused by the failure or default of an officially designated bank or financial institution. The good faith provision included in Senate 549 is reasonable and makes sense.

Another measure which is reasonable, makes sense and will make sure public funds are invested in the best and most effective way, is expanding the number of banks allowed to compete for public funds. We are convinced increased competition for public funds and banking services will improve the type and array of services offered, lower the cost of those services and bring a better investment return for taxpayers. Current law now severely restricts which banks local governments can use, although that law does not place the same restrictions on State government.

With annual investment transactions exceeding \$2.6-billion and the annual volume of deposits totaling more than \$700-million, the City of Wichita finds the selection of banks able to bid on our business is limited because of the restrictions in current law.

While the committee is considering the sensible and reasonable change proposed in Senate Bill 549, the City of Wichita would also suggest adopting the sensible and reasonable change proposed in Senate Bill 524. Both bills would bring beneficial reforms.

Senate Financial Institutions & Insurance

Date 2/16/00

Attachment # 4

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

**TESTIMONY BEFORE THE
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE**

By
Norman D. Wilks
February 16, 2000

Mr. Chairman and members of the Committee, it is a pleasure to discuss changes in the statutes designating depositories of funds for local school districts.

On behalf of the members of the Kansas Association of School Boards, we support the changes proposed by S.B. 524. The business of banking has changed like most every other business. The location of a main office or branch is no longer a critical issue in the selection of depositories for district funds. Service to the school district and the ability to provide proper security for funds should be the first consideration.

School districts do business with companies and entities that are local, Kansas based, multi-state and multi-national. In today's financial market, if a bank, savings and loan or savings bank is authorized to do business in Kansas, a Kansas school district should have the option to consider such institution as one of the depositories of district funds.

If S.B. 524 is approved, it would seem there is no need for the changes proposed by S.B. 549.

Thank you for your consideration of this important issue.

Senate Financial Institutions & Insurance

Date 2/16/00

Attachment # 5

Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

785-232-3444 Fax - 785-232-3484 kbacs@ink.org

2-16-00

TO: Senate Financial Institutions and Insurance Committee
FROM: Chuck Stones; Senior Vice President

RE: SB 549

Mr. Chair and Members of the Committee:

The Kansas Bankers Association appreciates the opportunity to appear before you regarding SB 549.

SB 549 is an attempt to address the concern of a few cities regarding the deposit of public funds. We support this clarification of the law. We have made every effort to be amenable to the concerns of the public units of government.

When the concern was expressed that banks were not bidding at all or not bidding a high enough rate for the money that local taxpayers had paid to the local unit, we helped design the Municipal Investment Pool. A bank must now bid a minimum rate, called the "Investment rate", or the local unit has the option to then place their money in the MIP.

When the concern was raised that some banks simply did not have the technology or the capacity available to handle some cities active accounts, we were willing to insert the word "acceptable" in the statute dealing with bids from banks with charters in Kansas. The word "acceptable" was purposefully left undefined in order give the local units maximum flexibility under the law.

Earlier this year, we met with officials with the City of Lenexa and many members of the Johnson County legislative delegation. We listened to their concerns and believe we have addressed the valid concerns with this bill. We urge you to adopt SB 549.

Senate Financial Institutions & Insurance

Date 2/16/00

Attachment # 6

Comparative Data of All Kansas Commercial Banks

and

Selected Charts

Senate Financial Institutions & Insurance

Date 2/16/00

Attachment # 7

Comparative Data of All Kansas Commercial Banks

<i>dollar figures in thousands</i>	All Commercial Banks State = KS 30-Sep-99	All Commercial Banks State = KS 31-Dec-98	All Commercial Banks State = KS 31-Dec-97	All Commercial Banks State = KS 31-Dec-96	All Commercial Banks State = KS 31-Dec-95
	Number of institutions reporting	389	393	403	416
Assets and liabilities					
Total employees (full-time equivalent)	13,225	13,238	12,820	12,632	13,821
Total assets	33,878,456	34,013,342	31,317,054	28,607,049	31,427,952
Cash and due from depository institutions	1,261,974	1,527,950	1,506,357	1,319,895	1,603,284
Interest-bearing Securities	137,994	202,616	156,582	185,674	147,267
Securities	9,594,273	9,863,971	9,250,235	9,448,675	10,500,822
Federal funds sold & reverse repurchase agreements	700,011	1,687,491	1,053,945	1,109,107	1,442,403
Net loans & leases	20,951,918	19,633,249	18,329,486	15,606,229	16,592,765
Loan loss allowance	340,762	333,741	304,950	284,535	325,986
Trading account assets	5,628	15,042	10,247	8,134	18,757
Bank premises and fixed assets	510,628	491,468	442,427	416,801	461,162
Other real estate owned	29,817	31,793	36,306	47,825	69,646
Goodwill and other intangibles	183,986	176,811	153,897	167,802	219,232
Mortgage servicing assets	1,341	696	677	298	1,812
All other assets	640,221	585,567	534,157	482,583	519,881
Total liabilities and capital	33,878,456	34,013,342	31,317,054	28,607,049	31,427,952
Total liabilities	30,590,391	30,736,484	28,312,104	25,776,338	28,404,236
Total deposits	28,309,060	28,870,664	26,704,332	24,513,675	26,570,684
Interest-bearing deposits	24,668,421	24,795,582	22,863,959	20,934,379	22,658,671
Deposits held in domestic offices	28,309,060	28,870,664	26,704,332	24,513,675	26,570,684
% insured (estimated)	82.99%	81.84%	82.63%	84.27%	86.13%
Federal funds purchased & repurchase agreements	1,272,145	1,088,569	1,074,944	861,094	1,381,630
Demand notes issued to U.S. Treasury	39,911	13,249	36,384	32,657	36,657
Trading liabilities	0	1	1	0	0
Other borrowed funds	688,120	488,654	255,089	143,745	146,431
Subordinated debt	0	0	0	2,000	2,125
All other liabilities	281,155	275,347	241,354	223,167	266,709
Equity capital	3,288,065	3,276,858	3,004,950	2,830,711	3,023,716
Perpetual preferred stock	3,377	3,377	1,377	1,827	4,827
Common stock	300,210	296,264	291,867	296,278	314,666
Surplus	1,089,544	1,064,299	983,680	975,576	1,157,090
Undivided profits	1,894,934	1,912,918	1,728,026	1,557,031	1,547,132
Memoranda					
Noncurrent loans and leases	179,860	158,719	158,480	177,146	165,840
Earning assets	31,389,824	31,402,356	28,800,426	26,357,819	28,702,014
Long-term assets (5+ years)	4,617,302	4,211,532	3,071,622	2,761,316	3,286,442
Average Assets, year-to-date	33,597,492	32,338,316	28,554,035	27,135,775	30,363,898
Average Assets, quarterly	33,732,978	33,199,416	30,408,568	28,116,423	30,919,404
Volatile liabilities	4,883,644	4,564,277	4,257,465	3,472,893	3,697,424
Insider loans	509,684	467,581	448,542	471,848	567,523

FHLB advances (TFR filers only)	N/A	N/A	N/A	N/A	N/A
Unused loan commitments	5,728,114	5,903,690	4,818,817	4,078,975	5,187,859
Restructured Loans and leases	16,276	23,273	28,355	37,052	55,121
Quarterly mutual fund sales	133,330	130,110	110,193	79,944	68,964
Off-balance-sheet derivatives	49,033	45,287	111,537	377	81,249
<i>Income and Expense</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>
<u>Total interest income</u>	1,849,466	2,461,882	2,242,851	2,061,421	2,257,855
<u>Total interest expense</u>	832,526	1,141,213	1,031,779	950,722	1,056,249
Net interest income	1,016,940	1,320,669	1,211,073	1,110,698	1,201,606
Provision for credit losses	80,006	109,012	79,365	87,235	61,807
Total noninterest income	274,293	353,329	316,784	312,053	363,620
Service charges on deposit accounts	127,441	153,157	136,560	125,707	142,731
Total noninterest expense	755,088	999,410	927,386	912,524	1,003,865
Salaries and employee benefits	376,822	495,974	453,246	433,144	464,899
Premises and equipment expense	99,931	130,225	118,805	113,716	118,059
All other noninterest expense	278,336	373,211	355,345	365,664	420,908
Pre-tax net operating income	456,138	565,576	521,106	422,991	499,553
Securities gains (losses)	-18,812	5,806	1,111	3,986	-15,472
Applicable income taxes	129,663	177,885	164,768	129,568	153,944
Extraordinary gains - net	3	9	3	232	132
Net income	307,666	393,506	357,452	297,642	330,269
Net charge-offs	69,033	86,126	70,817	91,969	50,167
Cash dividends	164,029	202,393	217,956	138,614	254,590
Net operating income	319,613	389,324	356,698	294,647	339,960

Memoranda

Average Assets	33,597,492	32,338,316	28,554,035	27,135,775	30,363,898
% of unprofitable institutions	2.57%	2.03%	2.23%	3.12%	2.77%
% of institutions with earnings gains	49.35%	60.55%	69.97%	70.43%	65.81%

<i>Performance Ratios (%)</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>	<i>(Year-to-date)</i>
Yield on earning assets	7.92%	8.24%	8.53%	8.25%	8.12%
Cost of funding earning assets	3.56%	3.82%	3.92%	3.80%	3.80%
Net interest margin	4.35%	4.42%	4.60%	4.44%	4.32%
Noninterest income to earning assets	1.17%	1.18%	1.20%	1.25%	1.31%
Noninterest expense to earning assets	3.23%	3.35%	3.53%	3.65%	3.61%
Net operating income to assets	1.27%	1.20%	1.25%	1.09%	1.12%
Return on assets	1.22%	1.22%	1.25%	1.10%	1.09%
Return on equity	12.62%	12.49%	12.73%	10.99%	11.30%
Retained earnings to average equity (ytd only)	5.89%	6.07%	4.97%	5.87%	2.59%
<u>Net charge-offs to loans</u>	0.45%	0.45%	0.43%	0.61%	0.30%
Credit loss provision to net charge-offs	115.90%	126.57%	112.07%	94.85%	123.20%
Earnings coverage of net loan charge-offs (x)	7.76	7.83	8.47	5.54	11.18
Efficiency ratio	57.31%	58.56%	59.67%	62.80%	62.68%

Assets per employee (\$mill,	2.56	2.57	2.44	2.26	2.27
Market to book value of securities held to maturity	98.99%	101.13%	100.64%	100.41%	101.11%
Cash dividends to net income (ytd only)	53.31%	51.43%	60.97%	46.57%	77.08%
Condition Ratios (%)	(Year-to-date)	(Year-to-date)	(Year-to-date)	(Year-to-date)	(Year-to-date)
Loss allowance to loans	1.60%	1.67%	1.64%	1.79%	1.93%
Loss allowance to noncurrent loans	189.46%	210.27%	192.42%	160.62%	196.57%
Noncurrent assets plus other real estate owned to assets	0.62%	0.56%	0.62%	0.79%	0.75%
<u>Noncurrent loans to loans</u>	0.84%	0.79%	0.85%	1.11%	0.98%
Net loans and leases to deposits	74.01%	68.00%	68.64%	63.66%	62.45%
Net loans and leases to core deposits	83.99%	77.05%	77.39%	70.94%	68.20%
Net non core funding to long term assets	16.04%	11.78%	9.26%	10.90%	10.63%
Equity capital to assets	9.71%	9.63%	9.60%	9.90%	9.62%
Core capital (leverage) ratio	9.43%	9.26%	9.34%	9.50%	9.01%
Tier 1 risk-based capital ratio	13.56%	13.84%	14.02%	15.17%	14.40%
Total risk-based capital ratio	14.74%	15.02%	15.18%	16.33%	15.62%

Comparative Data of Kansas Commercial Bank Loans and Leases

	All Commercial Banks State = KS 30-Sep-99		All Commercial Banks State = KS 31-Dec-98		All Commercial Banks State = KS 31-Dec-97		All Commercial Banks State = KS 31-Dec-96		All Commercial Banks State = KS 31-Dec-95	
<i>Dollar figures in thousands</i>										
Number of institutions reporting	389		393		403		416		433	
Net loans & leases										
Total loans & leases	21,292,680		19,966,990		18,634,436		15,890,763		16,918,752	
Real estate loans	10,413,188	48.91%	9,552,499	47.84%	8,873,192	47.62%	7,131,282	44.88%	7,594,682	44.89%
Construction and development	1,322,049	6.21%	1,058,399	5.30%	884,310	4.75%	628,260	3.95%	659,183	3.90%
Commercial real estate	3,275,222	15.38%	2,880,108	14.42%	2,616,453	14.04%	2,255,993	14.20%	2,289,855	13.53%
Multifamily residential real estate	335,655	1.58%	298,274	1.49%	249,402	1.34%	237,830	1.50%	319,632	1.89%
1-4 family residential	4,262,840	20.02%	4,174,044	20.90%	4,102,093	22.01%	3,085,128	19.41%	3,398,783	20.09%
Home equity	245,518	1.15%	217,645	1.09%	218,624	1.17%	150,550	0.95%	217,987	1.29%
Farmland	1,217,422	5.72%	1,141,674	5.72%	1,020,934	5.48%	924,071	5.82%	927,229	5.48%
Held in foreign offices	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Commercial & industrial loans	4,250,377	19.96%	4,072,134	20.39%	3,852,298	20.67%	3,279,365	20.64%	3,477,668	20.56%
Loans to individuals	3,283,966	15.42%	3,110,226	15.58%	2,879,226	15.45%	2,878,599	18.11%	3,140,769	18.56%
Credit cards & related plans	826,347	3.88%	834,785	4.18%	759,807	4.08%	688,897	4.34%	730,871	4.32%
Other loans to individuals	2,457,619	11.54%	2,275,441	11.40%	2,119,419	11.37%	2,189,702	13.78%	2,409,898	14.24%
Farm loans	2,440,141	11.46%	2,542,960	12.74%	2,420,678	12.99%	2,066,812	13.01%	2,226,290	13.16%
Total other loans & leases	910,598	4.28%	694,572	3.48%	614,888	3.30%	541,878	3.41%	487,034	2.88%
Less: Unearned income	5,590	0.03%	5,402	0.03%	5,846	0.03%	7,174	0.05%	7,692	0.05%
Less: Loan loss allowance	340,762	1.60%	333,741	1.67%	304,950	1.64%	284,535	1.79%	325,986	1.93%
Net loans & leases	20,951,918	98.40%	19,633,249	98.33%	18,329,486	98.36%	15,606,229	98.21%	16,592,765	98.07%
Memo: Commercial real estate loans not secured by real estate	117,541	0.55%	119,410	0.60%	83,180	0.45%	65,118	0.41%	59,487	0.35%

7-5

Kansas Commercial Banks

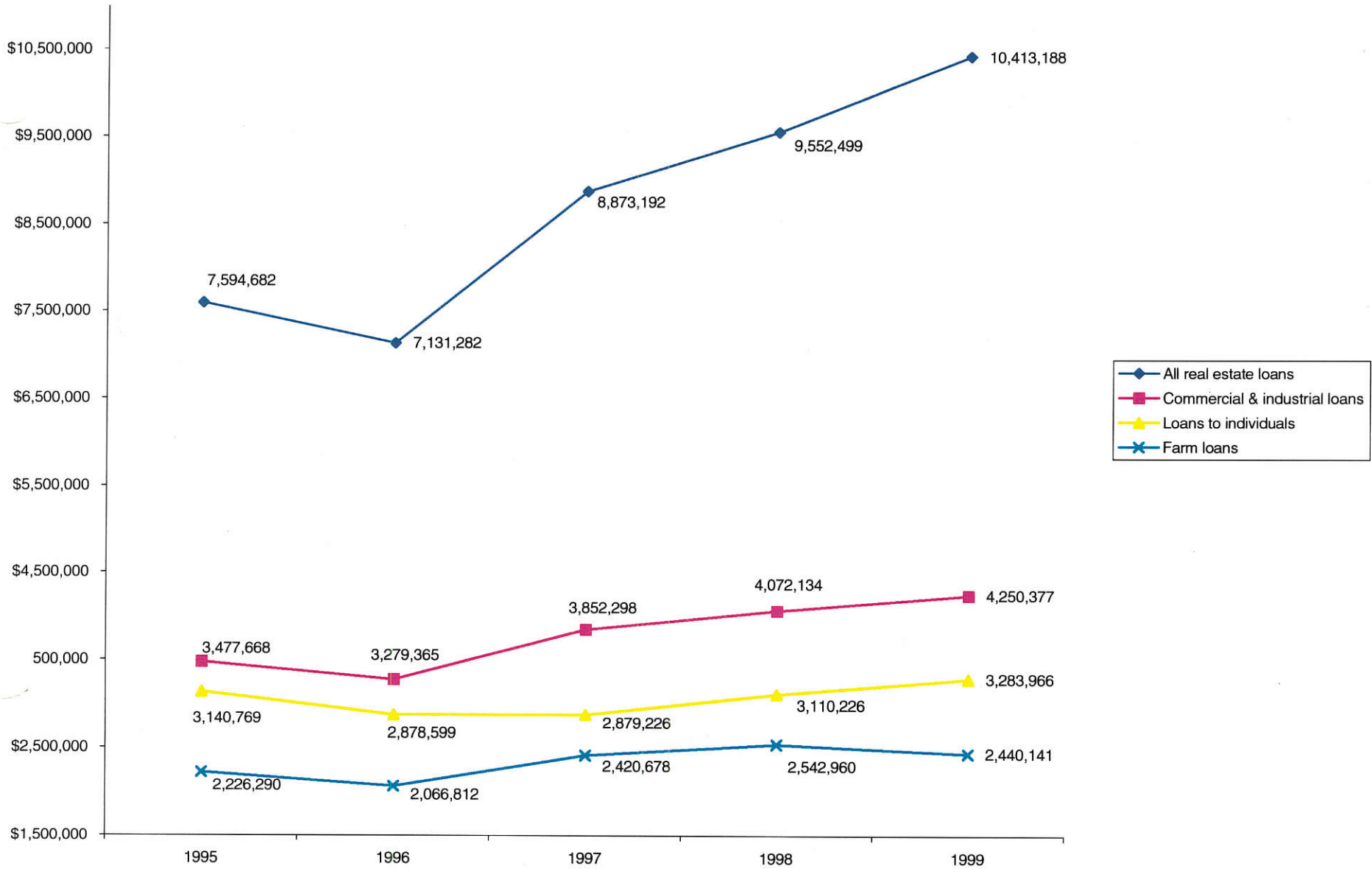
Loans by Category

	30-Sep-99	31-Dec-98	31-Dec-97	31-Dec-96	31-Dec-95
All real estate loans	10413188	9552499	8873192	7131282	7594682
Commercial & industrial loans	4250377	4072134	3852298	3279365	3477668
Loans to individuals	3283966	3110226	2879226	2878599	3140769
Farm loans	2440141	2542960	2420678	2066812	2226290

Breakdown of Real Estate Loans

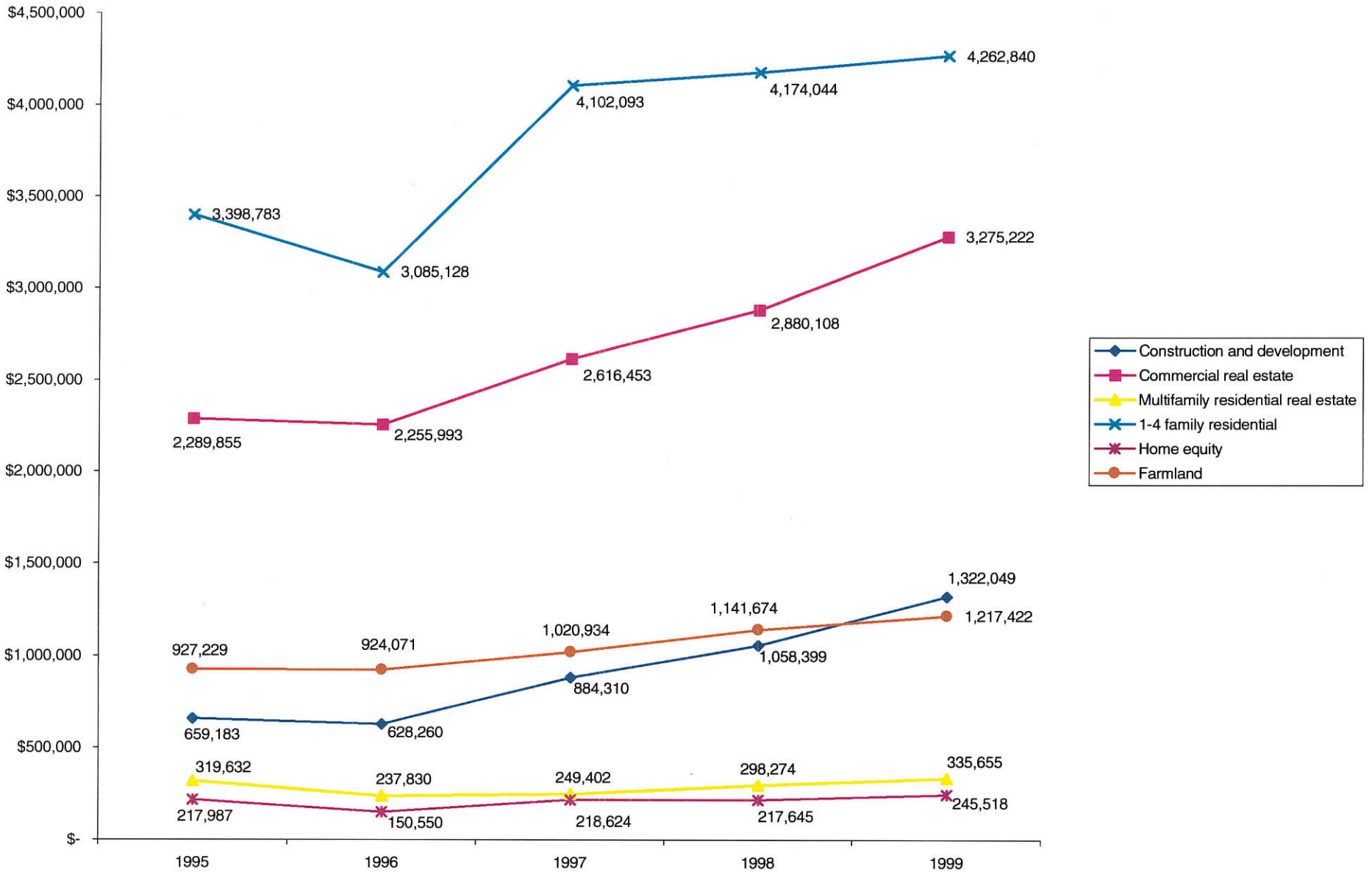
	30-Sep-99	31-Dec-98	31-Dec-97	31-Dec-96	31-Dec-95
Construction and development	1322049	1058399	884310	628260	659183
Commercial real estate	3275222	2880108	2616453	2255993	2289855
Multifamily residential real estate	335655	298274	249402	237830	319632
1-4 family residential	4262840	4174044	4102093	3085128	3398783
Home equity	245518	217645	218624	150550	217987
Farmland	1217422	1141674	1020934	924071	927229

Kansas Commercial Banks Loans by Category



Figures in Thousands of Dollars

Kansas Commercial Banks Real Estate Loans



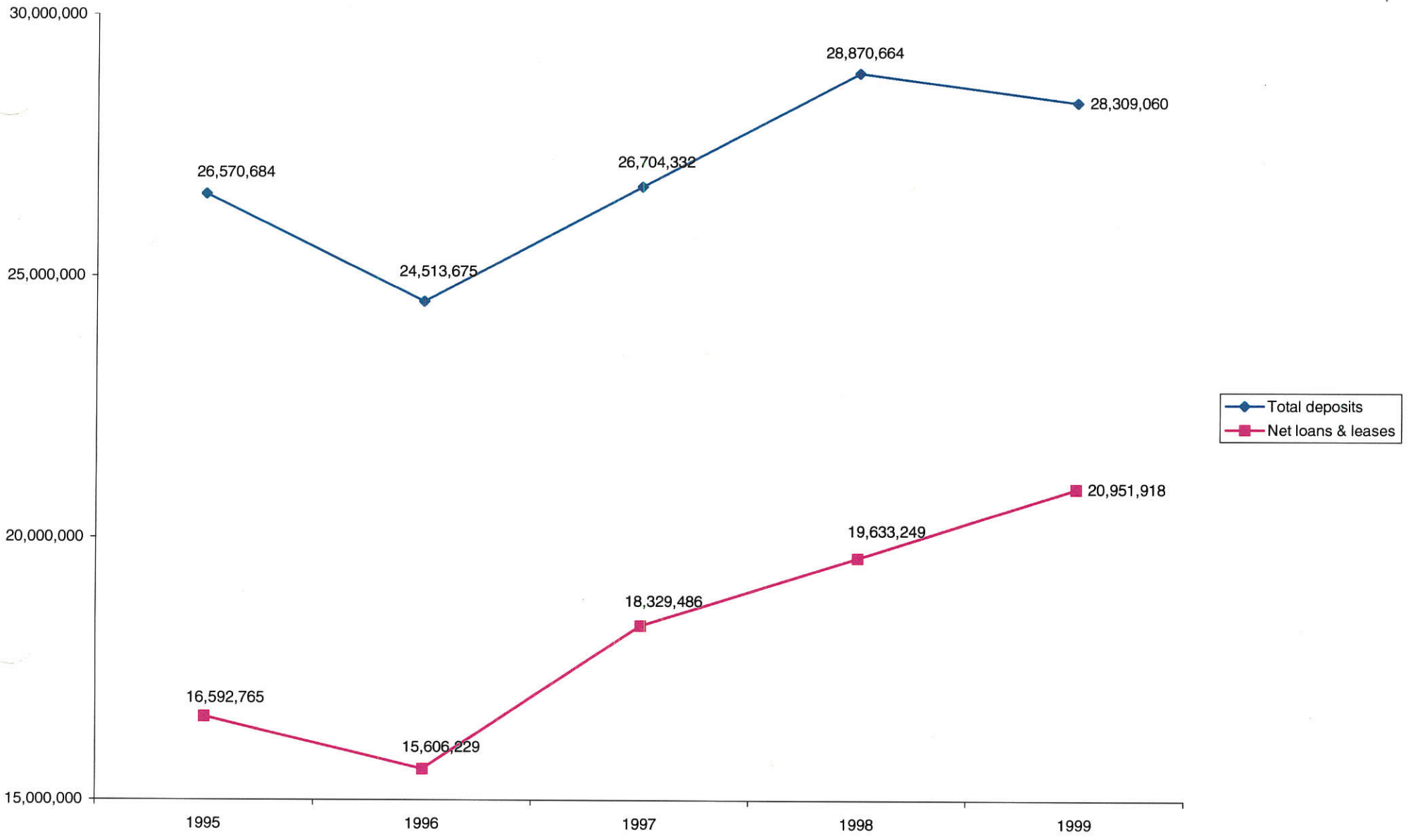
Figures in Thousands of Dollars

Loans and Leases Compared to Deposits

	All Commercial Banks	All Commercial Banks	All Commercial Banks	All Commercial Banks	All Commercial Banks
<i>dollar figures in thousands</i>	State = KS 31-Dec-95	State = KS 31-Dec-96	State = KS 31-Dec-97	State = KS 31-Dec-98	State = KS 30-Sep-99
<u>Total deposits</u>	26,570,684	24,513,675	26,704,332	28,870,664	28,309,060
<u>Net loans & leases</u>	16,592,765	15,606,229	18,329,486	19,633,249	20,951,918

Kansas Commercial Banks Loans and Leases Compared to Deposits

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Figures in Thousands of Dollars

Kansas Bankers Association

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KANSAS TAXPAYERS MONEY SHOULD STAY IN KANSAS FOR THE BENEFIT OF THE TAXPAYERS.

◆ **IT IS NOT THE LOCAL UNIT OF GOVERNMENTS' MONEY.**

If they are going to horde taxpayers money, it should should, at least, be used to the benefit of the people in the taxing unit and the State.

Kansas is definitely a "host" state when it comes to interstate banking and branching. There are 11 out of state banks with 196 branches in Kansas, while there are 4 Kansas banks with about 15 branches in other states.

It is very evident that Kansas is mere acting as a deposit collecting area for many of the large multi-state banking operations. If more deposits are needed to fund activity in other states, they merely increase rates to collect the needed funding. The same would be true in the case of public funds. Kansas taxpayers money would be used to fund projects in other states.

◆ **IT IS NOT ABOUT COMPETITION.**

In the last 15 years the number of banks has declined from a high of 628 to 372. In 1986 out of town branching was first allowed. There are now 178 Kansas banks with branches in other towns with a total of 423 out of town locations. In other words, there is more competition now than there was before.

◆ **THERE IS NOT A NEED FOR THIS LEGISLATION.**

We have made every effort to be amenable to the concerns of the public units of government.

When the concern was expressed that banks were not bidding at all or not bidding a high enough rate for the money that local taxpayers had paid to the local unit, we helped design the Municipal Investment Pool. A bank must now bid a minimum rate, called the "Investment rate", or the local unit has the option to then place their money in the MIP.

When the concern was raised that some banks simply did not have the technology or the capacity available to handle some cities active accounts, we were willing to insert the word “acceptable” in the statute dealing with bids from banks with charters in Kansas. The word “acceptable” was purposefully left undefined in order give the local units maximum flexibility under the law.

We have not heard a valid reason to make this change. All the reasons cited are *convenience* factors for the local units. None address the issue of Kansas taxpayer dollars remaining in Kansas.

◆ **PUBLIC FUNDS IS ONE OF THE VERY FEW REASONS THAT AN OUT-OF-STATE BANK WOULD KEEP A CHARTER IN KANSAS.**

There are currently 3 major out-of-state banks that have decided to maintain a charter in Kansas in order to qualify to hold public funds. Those 3 banks combined represent 17% of the total deposits in Kansas. Added to the current 18% of deposits of out-of-state branches, that would be a total of 35% of the total deposits in Kansas held in branches of out-of-state banks.

◆ **MANY KANSAS BANKS DEPEND ON LOCAL PUBLIC FUNDS AS A STABLE BASE OF DEPOSITS IN ORDER TO MEET THE NEEDS OF THEIR COMMUNITIES.**

Deposit growth in Kansas banks has been relatively flat. A lot of the growth in bank deposits has been because of conversions and purchases of S&L branches. We are seeing the beginnings of a “funding concern” in many rural areas of Kansas. As the population base ages and declines many Kansas banks find it difficult to sustain a stable deposit base. A bank in western Kansas did an internal study recently. They found that:

- ◆ 79% of their core deposits were held by people 60 years of age or older
- ◆ The inheritors of 62% of that money were not in their community
- ◆ The result will be a 51% decline in the banks deposit base

An examination of “*The Governor’s Economic and Demographic Report – 1999-2000*” shows the same scenario can likely be told throughout rural Kansas, and in many cases is already true in some very small rural communities. Kansas is above the national average for population over the age of 65 and 85. the percentage of people over the age of 65 makes up over 20% of the population in 43 counties. In addition, 40 Kansas counties are projected to have less population in 10 years than they currently have.

◆ **THIS IS NOT IN THE BEST ECONOMIC INTERESTS OF KANSAS**

Kansas spends millions each year on economic development in order to attract capital. Yet this bill opens the spigot and allows Kansas tax dollars to flow freely out of the state. For over 65 years we have had a sound policy of requiring that local public funds be invested locally if at all possible. Are we going to abandon this sound and logical policy just to please a small number of out of state banks, whose primary interests are merely deposit gathering, or for the convenience of a few cities.

Where is the logic in putting forth all the effort on economic development and then casually allowing out-of-state institutions to raid Kansas capital?

The multiplier effect has a dramatic effect when you look at public funds on deposit with Kansas banks.

- ◆ **\$2.8 billion** of public funds on deposit at Kansas banks
- ◆ **68%** loan to deposit ratio
- ◆ multiplier effect of 4 = **\$7.6 billion** economic benefit
- ◆ **\$456 million** benefit to the state if economic growth is taxed at 6%

Looking at the benefits, local units of governments seem very short sighted in promoting this proposal. How much of this benefit is the state willing to lose?

Lending Statistics

Year end 1991 through 3rd Q 1999

Deposits increased 9.8%

Loans increased 44.2%

Real Estate loans increased 66%

Components of Real Estate lending

1-4 family	59% increase
Const & Land Devp	64% increase
Farmland	75% increase
Nonfarm-non resid	75% increase

Ag Prod loans	14.7% increase
Commercial & Industrial	29.3% increase
Individuals	31% increase