

# Senate Amendment 5135

## Amendment Text

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1 1 Amend [Senate File 2245](#) as follows:  
1 2 #1. Page 1, by inserting after line 2 the  
1 3 following:  
1 4 "Sec. \_\_\_\_\_. Section [12.8](#), unnumbered paragraph 3,  
1 5 Code 1995, is amended to read as follows:  
1 6 The treasurer of state, with the approval of the  
1 7

~~investment~~

- board of trustees of the Iowa public  
1 8 employees' retirement system, may conduct a program of  
1 9 lending securities in the Iowa public employees'  
1 10 retirement system portfolio. When securities are  
1 11 loaned as provided by this paragraph, the treasurer  
1 12 shall act in the manner provided for investment of  
1 13 moneys in the Iowa public employees' retirement fund  
1 14 under section 97B.7. The treasurer of state shall  
1 15 report at least annually to the

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- board of  
1 16 trustees of the Iowa public employees' retirement  
1 17 system on the program and shall provide additional  
1 18 information on the program upon the request of the  
1 19

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- board of trustees or the employees of the  
1 20 Iowa public employees' retirement system division of  
1 21 the department of personnel.  
1 22 Sec. \_\_\_\_\_. Section [19A.1](#), subsection 3, paragraph  
1 23 c, Code 1995, is amended to read as follows:  
1 24 c. The

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- board of trustees of the Iowa  
1 25 public employees' retirement system created by section  
1 26

~~97B.8~~

- [97B.8A](#).  
1 27 Sec. \_\_\_\_\_. Section [68B.35](#), subsection 2, paragraph  
1 28 e, Code 1995, is amended to read as follows:  
1 29 e. Members of the banking board, the ethics and  
1 30 campaign disclosure board, the credit union review  
1 31 board, the economic development board, the employment  
1 32 appeal board, the environmental protection commission,  
1 33 the health facilities council, the Iowa business  
1 34 investment corporation board of directors, the Iowa  
1 35 finance authority, the Iowa seed capital corporation,  
1 36 the Iowa public employees' retirement system  
1 37

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- board of trustees, the lottery board, the  
1 38 natural resource commission, the board of parole, the  
1 39 petroleum underground storage tank fund board, the

1 40 public employment relations board, the state racing  
1 41 and gaming commission, the state board of regents, the  
1 42 tax review board, the transportation commission, the  
1 43 office of consumer advocate, the utilities board, and  
1 44 any full-time members of other boards and commissions  
1 45 as defined under section 7E.4 who receive an annual  
1 46 salary for their service on the board or commission.

1 47 Sec. \_\_\_\_\_. Section [97B.1](#), Code 1995, is amended to  
1 48 read as follows:

1 49 97B.1 SYSTEM CREATED - ORGANIZATIONAL  
1 50 DEFINITIONS.

2 1 1. The "Iowa Public Employees' Retirement System"  
2 2 is created. The system is within the department of  
2 3 personnel, subject to the administration of the board.

2 4 2. As used in this chapter unless the context  
2 5 requires otherwise:

2 6 a. "Board" means the

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- board of trustees

2 7 created by section

~~97B.8~~

- 97B.8A.

2 8 b. "Department" means the department of personnel.

2 9 c. "Director" means the director of the department  
2 10 of personnel.

2 11 d. "System" means the Iowa public employees'  
2 12 retirement system."

2 13 #2. By striking page 1, line 3, through page 2,  
2 14 line 23, and inserting the following:

2 15 "Sec. \_\_\_\_\_. Section [97B.4](#), Code 1995, is amended to  
2 16 read as follows:

2 17 97B.4 ADMINISTRATION OF SYSTEM - POWERS AND  
2 18 DUTIES - IMMUNITY.

2 19 The

~~department~~

- board, through the department and

2 20 the chief investment officer and chief benefits  
2 21 officer, shall administer this chapter. The  
2 22 department, upon the approval of the board, may adopt,  
2 23 amend, or rescind rules, employ persons, execute  
2 24 contracts with outside parties, make expenditures,  
2 25 require reports, make investigations, and take other  
2 26 action it deems necessary for the administration of  
2 27 the system in conformity with the requirements of this  
2 28 chapter, the applicable provisions of the Internal  
2 29 Revenue Code, and all other applicable federal and  
2 30 state laws. The rules shall be effective upon  
2 31 compliance with chapter 17A. Not later than the  
2 32 fifteenth day of December of each year, the department  
2 33 shall submit to the governor a report covering the  
2 34 administration and operation of this chapter during  
2 35 the preceding fiscal year and shall make  
2 36 recommendations for amendments to this chapter. The  
2 37 report shall include a balance sheet of the moneys in  
2 38 the Iowa public employees' retirement fund.

2 39 In the administration of the investment of moneys  
2 40 in the fund and in making benefit recommendations,  
2 41 employees of the department and members of the board  
2 42 may travel outside the state for the purpose of  
2 43 meeting with investment and benefit firms and  
2 44 consultants and attending conferences and meetings to  
2 45 fulfill their fiduciary responsibilities. This travel  
2 46 is not subject to section 421.38, subsection 2.

2 47 The department, members of the

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- board,

2 48 and the treasurer of state are not personally liable  
2 49 for actions or omissions under this chapter that do  
2 50 not involve malicious or wanton misconduct even if  
3 1 those actions or omissions violate the standards  
3 2 established in section 97B.7.

3 3 Sec. \_\_\_\_\_. Section 97B.7, subsection 2, paragraphs  
3 4 b and d, Code 1995, are amended to read as follows:

3 5 b. To invest the portion of the retirement fund  
3 6 which in the judgment of the department is not needed  
3 7 for current payment of benefits under this chapter.  
3 8 The department shall execute the disposition and  
3 9 investment of moneys in the retirement fund in  
3 10 accordance with the investment policy and goal  
3 11 statement established by the

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- board. In

3 12 establishing the investment policy of the fund and the  
3 13 investment of the fund, the department and

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3 14 board shall exercise the judgment and care, under the  
3 15 circumstances then prevailing, which persons of  
3 16 prudence, discretion, and intelligence exercise in the  
3 17 management of their own affairs, not for the purpose  
3 18 of speculation, but with regard to the permanent  
3 19 disposition of the funds, considering the probable  
3 20 income, as well as the probable safety, of their  
3 21 capital. Within the limitations of the standard  
3 22 prescribed in this section, the treasurer of state,  
3 23 the department, and the board may acquire and retain  
3 24 every kind of property and every kind of investment  
3 25 which persons of prudence, discretion, and  
3 26 intelligence acquire or retain for their own account.  
3 27 The department and

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- board shall give

3 28 appropriate consideration to those facts and  
3 29 circumstances that the department and

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- board

3 30 know or should know are relevant to the particular  
3 31 investment or investment policy involved, including  
3 32 the role the investment plays in the total value of  
3 33 the retirement fund.

3 34 For the purposes of this paragraph, appropriate  
3 35 consideration includes, but is not limited to, a  
3 36 determination by the department and

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- board

3 37 that the particular investment or investment policy is  
3 38 reasonably designed to further the purposes of the  
3 39 retirement system, taking into consideration the risk  
3 40 of loss and the opportunity for gain or other return  
3 41 associated with the investment or investment policy  
3 42 and consideration of the following factors as they  
3 43 relate to the retirement fund:

3 44 (1) The composition of the retirement fund with  
3 45 regard to diversification.

3 46 (2) The liquidity and current return of the

3 47 investments in the fund relative to the anticipated  
3 48 cash flow requirements of the retirement system.  
3 49 (3) The projected return of the investments  
3 50 relative to the funding objectives of the retirement  
4 1 system.

4 2 Consistent with this paragraph, investments made  
4 3 under this paragraph shall be made in a manner that  
4 4 will enhance the economy of this state, and in  
4 5 particular, will result in increased employment of the  
4 6 residents of this state. Investments of moneys in the  
4 7 fund are not subject to sections 73.15 through 73.21.

4 8 Except as provided in section 97B.4, if there is  
4 9 loss to the fund, the treasurer, the department, and  
4 10 the board are not personally liable, and the loss  
4 11 shall be charged against the retirement fund. There  
4 12 is appropriated from the retirement fund the amount  
4 13 required to cover a loss. Expenses incurred in the  
4 14 sale and purchase of securities belonging to the  
4 15 retirement fund shall be charged to the retirement  
4 16 fund, and there is appropriated from the retirement  
4 17 fund the amount required for the expenses incurred.  
4 18 Investment management expenses shall be charged to the  
4 19 investment income of the retirement fund, and there is  
4 20 appropriated from the retirement fund the amount  
4 21 required for the investment management expenses,  
4 22 subject to the limitations stated in this unnumbered  
4 23 paragraph. The amount appropriated for a fiscal year  
4 24 under this unnumbered paragraph shall not exceed one-  
4 25 half percent of the market value of the retirement  
4 26 fund. The department shall report the investment  
4 27 management expenses for a fiscal year as a percent of  
4 28 the market value of the retirement fund in the annual  
4 29 report to the governor required in section 97B.4. A  
4 30 person who has signed a contract with the department  
4 31 for investment management purposes shall meet the  
4 32 requirements for doing business in Iowa sufficient to  
4 33 be subject to tax under rules of the department of  
4 34 revenue and finance.

4 35 d. To sell any securities or other property in the  
4 36 trust fund and reinvest the proceeds in accordance  
4 37 with the direction of the department when such action  
4 38 may be deemed advisable by the department for the  
4 39 protection of the trust fund or the preservation of  
4 40 the value of the investment. Such sale of securities  
4 41 or other property of the trust fund shall only be made  
4 42 after advice from the

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- board in the manner

4 43 and to the extent provided in this chapter in regard  
4 44 to the purchase of investments.

4 45 Sec. \_\_\_\_ . NEW SECTION. 97B.8A BOARD OF TRUSTEES.

4 46 1. BOARD ESTABLISHED. A board is established to  
4 47 be known as the "Board of Trustees of the Iowa Public  
4 48 Employees' Retirement System", referred to in this  
4 49 chapter as the "board", whose duties are to establish  
4 50 policy for the department in matters relating to the  
5 1 administration of the system, including the investment  
5 2 of the trust funds and the disbursement of benefits  
5 3 provided to members of the system.

5 4 2. REVIEW.

5 5 a. At least annually the board shall review the  
5 6 investment policies and procedures used by the  
5 7 department under section 97B.7, subsection 2,  
5 8 paragraph "b", and shall hold a public meeting on the  
5 9 investment policies and investment performance of the  
5 10 fund. Following its review and the public meeting,

5 11 the board shall establish an investment policy and  
5 12 goal statement which shall direct the investment  
5 13 activities of the department. The development of the  
5 14 investment policy and goal statement and its  
5 15 subsequent execution shall be performed cooperatively  
5 16 between the board and the department.

5 17 b. At least every two years, the board shall  
5 18 review the benefits provided to members under chapter  
5 19 97B and shall hold a public meeting on the benefits  
5 20 provided to members under this chapter. Following its  
5 21 review and public meeting, the board shall make  
5 22 recommendations to the general assembly concerning the  
5 23 benefits provided under this chapter.

5 24 3. MEMBERSHIP.

5 25 a. The board consists of eleven members. Eight of  
5 26 the members shall be appointed by the governor. One  
5 27 member shall be an executive of a domestic life  
5 28 insurance company; one member shall be an executive of  
5 29 a state or national bank operating within the state of  
5 30 Iowa; one member shall be an executive of an  
5 31 industrial corporation located within the state of  
5 32 Iowa; one, not a member of the system, who is a member  
5 33 of a county board of supervisors or local school  
5 34 board; and four shall be members of the system, one of  
5 35 whom is an active member who is an employee of a  
5 36 school district, area education agency, or merged  
5 37 area, one of whom is an active member who is not  
5 38 employed in a position described under section 97B.49,  
5 39 subsection 16, and is not an employee of a school  
5 40 district, area education agency, or merged area, one  
5 41 of whom is employed in a position described under  
5 42 section 97B.49, subsection 16, and one of whom is a  
5 43 retired member of the system. The president of the  
5 44 senate, after consultation with the majority leader  
5 45 and the minority leader of the senate, shall appoint  
5 46 one member from the membership of the senate and the  
5 47 speaker of the house of representatives, after  
5 48 consultation with the majority leader and the minority  
5 49 leader of the house of representatives, shall appoint  
5 50 one member from the membership of the house. The  
6 1 following members are ex officio, voting members of  
6 2 the board: the two legislative members; the member  
6 3 who is a member of a county board of supervisors or local  
6 4 school board; the active member who is an employee of  
6 5 a school district, area education agency, or merged  
6 6 area; the active member who is not employed in a  
6 7 position described under section 97B.49, subsection  
6 8 16, and is not an employee of a school district, area  
6 9 education agency, or merged area; and the active  
6 10 member who is employed in a position described under  
6 11 section 97B.49, subsection 16. The director of the  
6 12 department of personnel is an ex officio, nonvoting  
6 13 member of the board. Six voting members of the board  
6 14 shall constitute a quorum.

6 15 b. The members who are an executive of a domestic  
6 16 life insurance company, an executive of a state or  
6 17 national bank operating within the state of Iowa, an  
6 18 executive of an industrial corporation located within  
6 19 the state of Iowa, a member of a county board of  
6 20 supervisors or school board, and the member who is a  
6 21 retired member of the system, shall be paid their  
6 22 actual expenses incurred in performance of their  
6 23 duties and shall receive a per diem as specified in  
6 24 section 7E.6 for each day of service not exceeding  
6 25 forty days per year. Legislative members shall be  
6 26 paid the per diem specified in section 2.10,  
6 27 subsection 6, for each day of service, and their

6 28 actual expenses incurred in the performance of their  
6 29 duties. The per diem and expenses of the legislative  
6 30 members shall be paid from funds appropriated under  
6 31 section 2.12. The following members shall be paid  
6 32 their actual expenses incurred in the performance of  
6 33 their duties as members of the board and the  
6 34 performance of their duties as members of the board  
6 35 shall not affect their salaries, vacations, or leaves  
6 36 of absence for sickness or injury: the director of  
6 37 the department of personnel; the active member who is  
6 38 an employee of a school district, area education  
6 39 agency, or merged area; the active member who is not  
6 40 employed in a position described under section 97B.49,  
6 41 subsection 16, and is not an employee of a school  
6 42 district, area education agency, or merged area; and  
6 43 the active member who is employed in a position  
6 44 described under section 97B.49, subsection 16. The  
6 45 appointive terms of the members appointed by the  
6 46 governor are for a period of six years beginning and  
6 47 ending as provided in section 69.19. A vacancy in the  
6 48 membership of the board shall be filled in the same  
6 49 manner as the original appointment. Gubernatorial  
6 50 appointees to the board are subject to confirmation by  
7 1 the senate.

7 2 4. ADMINISTRATIVE AUTHORITY.

7 3 The authority of the department to carry out its  
7 4 duties as provided by this chapter are,  
7 5 notwithstanding provisions of this chapter to the  
7 6 contrary, subject to the approval of the board."

7 7 #3. Page 50, by inserting after line 23 the  
7 8 following:

7 9 "Sec. \_\_\_\_\_. Section 473.11, subsection 2,  
7 10 unnumbered paragraph 1, Code 1995, is amended to read  
7 11 as follows:

7 12 The treasurer of state shall be the custodian of  
7 13 the energy conservation trust and shall invest the  
7 14 moneys in the trust, in consultation with the energy  
7 15 fund disbursement council established in subsection 3  
7 16 and the

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- board of trustees of the Iowa  
7 17 public employees' retirement system, in accordance  
7 18 with the following guidelines:

7 19 Sec. \_\_\_\_\_. BOARD TRANSITION - EFFECTIVE DATE.

7 20 1. Notwithstanding provisions of section 97B.8A,  
7 21 as enacted in this Act, to the contrary, the initial  
7 22 board of trustees of the Iowa public employees'  
7 23 retirement system shall consist of the following  
7 24 members, who shall serve the following terms:

7 25 a. The governor shall appoint to the initial board  
7 26 of trustees one member, not a member of the system,  
7 27 who is a member of a county board of supervisors or  
7 28 local school board and one member who is an active  
7 29 member of the system and is employed in a position  
7 30 described under section 97B.49, subsection 16. The  
7 31 terms of these two members appointed under this  
7 32 paragraph shall commence on July 1, 1996 and expire on  
7 33 April 30, 2002.

7 34 b. The members of the investment board established  
7 35 under section 97B.8, Code 1995, who were appointed by  
7 36 the governor shall cease membership on the investment  
7 37 board and commence membership on the initial board of  
7 38 trustees on July 1, 1996. The terms of these members  
7 39 on the initial board of trustees shall expire on the  
7 40 same date as their terms would have expired on the  
7 41 investment board in accordance with section 97B.8,

7 42 Code 1995.

7 43 c. The members of the investment board established  
7 44 under section [97B.8](#), Code 1995, who are legislative  
7 45 members shall cease membership on the investment board  
7 46 and commence membership on the initial board of  
7 47 trustees on July 1, 1996. The terms of these members  
7 48 shall expire at the pleasure of the appointing  
7 49 authorities as provided in section 97B.8A, as enacted  
7 50 in this Act.

8 1 d. The director of the department of personnel  
8 2 shall cease membership on the investment board  
8 3 established under section [97B.8](#), Code 1995, and  
8 4 commence membership on the initial board of trustees  
8 5 on July 1, 1996. The director of the department of  
8 6 personnel shall serve on the board of trustees as  
8 7 provided in section 97B.8A, as enacted in this Act.

8 8 2. Initial appointments by the governor under this  
8 9 section are subject to confirmation by the senate. If  
8 10 a vacancy occurs as to a member of the initial board  
8 11 of trustees who is appointed by the governor prior to  
8 12 the expiration of a term as provided in this section,  
8 13 the governor shall appoint a member to serve the  
8 14 remainder of the term so that the membership  
8 15 requirements of section 97B.8A, as enacted in this  
8 16 Act, are fulfilled, and the appointment shall be  
8 17 subject to confirmation by the senate. Upon the  
8 18 expiration of a term established in this section, a  
8 19 member shall be appointed in the manner and for a term  
8 20 of service as specified in section 97B.8A, as enacted  
8 21 in this Act. Except as otherwise provided in this  
8 22 section, the initial board of trustees shall be  
8 23 subject to the requirements of section 97B.8A, as  
8 24 enacted in this Act.

8 25 3. In order to provide for the appointments to the  
8 26 initial board of trustees, this section of this Act,  
8 27 being deemed of immediate importance, takes effect  
8 28 upon enactment.

8 29 Sec. \_\_\_\_\_. REPEAL. Section [97B.8](#), Code 1995, is  
8 30 repealed."

8 31 #4. By renumbering as necessary.

8 32

8 33

8 34

8 35 JIM [LIND](#)

8 36 MICHAEL E. [GRONSTAL](#)

8 37 [SF 2245](#).306 76

8 38 ec/cf