

2036. Code 123 Amend (5018) to Code 130  
Referred Committee 1/30/92 (S.S. 2/5/92)  
" " 2/13/92 (S.S. 2/29/92) (5,085) Code 420 (p. 127)

Reprinted

SENATE FILE 2036  
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 2003.1)

Passed Senate, Date 3/10/92 (p. 690) Passed House, Date 4/2/92 (P.1016)  
Vote: Ayes 46 Nays 0 Vote: Ayes 99 Nays 0  
Approved April 28, 1992

A BILL FOR

1 An Act establishing requirements for investments of funds by the  
2 state and political subdivisions of the state, including the  
3 state board of regents, and providing that such investments  
4 shall be regulated by the treasurer of state and the  
5 commissioner of insurance, and providing an effective date.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2036

1 Section 1. Section 11.2, Code 1991, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The audits of the state board of  
4 regents required under this section shall include a  
5 determination of whether investments by the state board of  
6 regents comply with state law. The audits shall also include  
7 a determination of whether all contracts with outside persons  
8 investing, advising in the investment of, or directing the  
9 deposit of funds of, or acting in a fiduciary capacity for,  
10 the state board of regents or a regents institution contain  
11 all terms required by state law.

12 Sec. 2. Section 11.6, subsection 1, Code Supplement 1991,  
13 is amended by adding the following new unnumbered paragraph:

14 NEW UNNUMBERED PARAGRAPH. An examination under this  
15 subsection shall include a determination of whether a  
16 governmental subdivision is complying with state law in its  
17 investments of funds and a determination of whether all  
18 contracts with outside persons investing, advising in the  
19 investment of, or directing the deposit of funds of, or acting  
20 in a fiduciary capacity for, the governmental subdivision  
21 contain all terms required by state law.

22 Sec. 3. Section 11.6, subsection 4, Code Supplement 1991,  
23 is amended by adding the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. An examination under this  
25 subsection shall include a determination of whether a  
26 governmental subdivision is complying with state law in its  
27 investments of funds and a determination of whether all  
28 contracts with outside persons investing, advising in the  
29 investment of, or directing the deposit of funds of, or acting  
30 in a fiduciary capacity for, the governmental subdivision  
31 contain all terms required by state law.

32 Sec. 4. Section 12.1, Code 1991, is amended by adding the  
33 following new unnumbered paragraph:

34 NEW UNNUMBERED PARAGRAPH. The treasurer is responsible for  
35 reporting on the investment activities of all political

1 subdivisions with third parties, and shall make  
2 recommendations as deemed necessary to the general assembly  
3 and the governor on modification in the investing authority of  
4 political subdivisions. The treasurer shall require each  
5 political subdivision to report to the treasurer the amount of  
6 investments with third parties outstanding and each new third-  
7 party investment. The treasurer shall adopt rules pursuant to  
8 chapter 17A and establish forms for administering this  
9 provision. Each political subdivision shall provide all the  
10 information required by the treasurer under this provision.

11 Sec. 5. Section 12.8, unnumbered paragraph 1, Code  
12 Supplement 1991, is amended to read as follows:

13 The treasurer of state shall invest or deposit, subject to  
14 chapter 12A and as provided by law, any of the public funds  
15 not currently needed for operating expenses and shall do so  
16 upon receipt of monthly notice from the director of revenue  
17 and finance of the amount not so needed. In the event of loss  
18 on redemption or sale of securities invested as prescribed by  
19 law, and if the transaction is reported to the executive  
20 council, neither the treasurer nor director of revenue and  
21 finance is personally liable but the loss shall be charged  
22 against the funds which would have received the profits or  
23 interest of the investment and there is appropriated from the  
24 funds the amount so required. Joint investments of funds  
25 shall be subject to section 452.10A.

26 Sec. 6. NEW SECTION. 12.62 INVESTMENTS BY POLITICAL  
27 SUBDIVISIONS -- ASSISTANCE.

28 The treasurer of state shall adopt rules pursuant to  
29 chapter 17A for providing information and assistance to  
30 political subdivisions seeking to invest funds of the  
31 political subdivision. The treasurer or the treasurer's  
32 designee shall provide information and assistance to a  
33 political subdivision at the request of the political  
34 subdivision, including but not limited to information  
35 regarding the statutory requirements for investments by the

1 political subdivision and technical assistance to enable the  
2 political subdivision to invest its funds in accordance with  
3 state law. However, the fact that information and assistance  
4 are provided under this section to a political subdivision  
5 shall not make the state, the treasurer of state, or the  
6 treasurer's designee liable to a political subdivision in any  
7 manner for any loss, damage, or expense incurred by the  
8 political subdivision as a result of an investment.

9 Sec. 7. Section 262.14, subsection 3, unnumbered paragraph  
10 1, Code 1991, is amended to read as follows:

11 Any portion of the funds may be invested by the board.  
12 Joint investments of funds shall be subject to section  
13 452.10A. In the investment of the funds, the board shall  
14 exercise the judgment and care, under the circumstances then  
15 prevailing, which persons of prudence, discretion and  
16 intelligence exercise in their own affairs as provided in  
17 section 633.123, subsection 1.

18 Sec. 8. Section 279.29, unnumbered paragraph 2, Code 1991,  
19 is amended to read as follows:

20 Pending audit and allowance of claims under this section,  
21 the board shall invest moneys of the corporation to the extent  
22 practicable, and the board may provide for the joint  
23 investment of moneys with one or more school corporations  
24 pursuant to a joint investment agreement. Joint investments  
25 of funds shall be subject to section 452.10A.

26 Sec. 9. Section 302.11, Code 1991, is amended to read as  
27 follows:

28 302.11 SCHOOL FUND ACCOUNTS -- AUDIT OF LOSSES.

29 The director of revenue and finance shall keep the  
30 permanent school fund accounts in books provided for that  
31 purpose, separate and distinct from the revenue books. The  
32 auditor of state shall audit losses to the permanent school or  
33 university fund caused by the defalcation, mismanagement, or  
34 fraud of the agents or officers controlling and managing the  
35 fund, or caused in connection with a joint investment with a

1 third party. The auditor of state shall adopt rules pursuant  
2 to chapter 17A for those officers as necessary to ascertain  
3 the losses.

4 Sec. 10. Section 331.555, subsection 6, Code 1991, is  
5 amended to read as follows:

6 6. The treasurer shall keep all funds invested to the  
7 extent practicable and may invest the funds jointly with one  
8 or more counties, judicial district departments of  
9 correctional services, cities, or city utilities pursuant to a  
10 joint investment agreement. Joint investments of funds shall  
11 be subject to section 452.10A.

12 Sec. 11. Section 384.21, Code 1991, is amended to read as  
13 follows:

14 384.21 JOINT INVESTMENT OF FUNDS.

15 A city or a city utility board shall keep all funds  
16 invested to the extent practicable and may invest the funds  
17 jointly with one or more cities, utility boards, judicial  
18 district departments of correctional services, or counties  
19 pursuant to a joint investment agreement. Joint investments  
20 of funds shall be subject to section 452.10A.

21 Sec. 12. NEW SECTION. 452.10A INVESTMENT OF PUBLIC FUNDS -  
22 - STANDARDS AND PROCEDURES.

23 1. In addition to investment standards and requirements  
24 otherwise provided by law, the investment of public funds by  
25 political subdivisions or their agencies pursuant to any law  
26 which authorizes the investment of public funds shall meet the  
27 requirements and standards for investments specified in this  
28 section, except where specifically otherwise provided. It is  
29 the intent of this section to promote the exercise of care in  
30 investing public funds which persons of discretion and  
31 intelligence exercise in the management of their own affairs,  
32 not with a purpose of speculation, but with regard to the  
33 permanent disposition of funds considering the probable income  
34 as well as the probable safety of capital. The primary goals  
35 of investment prudence shall be based in the following order

1 of priority:

2 a. Safety of principal is the first priority.

3 b. Maintaining the necessary liquidity to match expended  
4 liabilities is the second priority.

5 c. Obtaining a reasonable return is the third priority.

6 2. The joint investment of public funds by political  
7 subdivisions or their agencies shall be subject to the  
8 following:

9 a. As used in this section, "operating funds" mean those  
10 funds which will be expended during a current budget year or  
11 within twelve months of receipt. Operating funds must be  
12 identified and separated as distinguished from all other funds  
13 available for investment.

14 b. Operating funds may only be jointly invested in  
15 investments which mature within three hundred sixty-five days  
16 and which are authorized by law for the investing agencies or  
17 subdivisions.

18 c. The weighted average maturity of all operating fund  
19 investments shall not exceed ninety days.

20 d. In order to ensure that joint operating fund  
21 investments can be liquidated without risk of principal loss,  
22 the market value of such investments must not be permitted to  
23 fluctuate by more than one-half of one percent from the  
24 amortized cost thereof. If such fluctuations occur, actions  
25 must be taken promptly to maintain the principal value of such  
26 investments.

27 e. The trading of securities in which any operating funds  
28 are invested for the purpose of speculation and the  
29 realization of short-term trading profits are prohibited.  
30 Only investments having maturities consistent with the needs  
31 and use of the investing agencies or subdivisions shall be  
32 made.

33 f. Political subdivisions shall approve written investment  
34 policies which incorporate the guidelines specified in this  
35 section and any other provisions deemed necessary to

1 adequately safeguard invested public funds.

2 g. This section shall not be construed to supersede  
3 chapter 453.

4 Sec. 13. NEW SECTION. 502.613 JOINT INVESTMENTS WITH  
5 POLITICAL SUBDIVISIONS.

6 The administrator shall regulate and supervise companies  
7 jointly investing or managing funds for political  
8 subdivisions. The administrator shall adopt rules pursuant to  
9 chapter 17A regarding reasonable fees for institutions acting  
10 as custodians of funds or transferring funds for political  
11 subdivisions involved in joint investments and other rules  
12 necessary to administer this section.

13 Sec. 14. Section 905.6, subsection 4, Code Supplement  
14 1991, is amended to read as follows:

15 4. Prepare all budgets and fiscal documents, and certify  
16 for payment all expenses and payrolls lawfully incurred by the  
17 district department. The director may invest funds which are  
18 not needed for current expenses, jointly with one or more  
19 cities, city utilities, or counties pursuant to a joint  
20 investment agreement. Joint investments of funds shall be  
21 subject to section 452.10A.

22 Sec. 15. EFFECTIVE DATE. This Act, being deemed of  
23 immediate importance, takes effect upon enactment.

24 EXPLANATION

25 This bill requires an audit of governmental subdivisions or  
26 the state board of regents to contain an audit of the  
27 contracts with outside persons acting as investment advisors,  
28 investing or directing the investment of funds or acting in a  
29 fiduciary capacity for those political subdivisions required  
30 to be audited under section 11.6 or for the state board of  
31 regents. The bill also provides that the treasurer of state  
32 shall report on joint investments of, and shall adopt rules to  
33 provide information and assistance regarding investment law  
34 requirements and other matters to, political subdivisions  
35 desiring to invest funds. The bill further provides that the

1 commissioner of insurance, as the administrator for the  
2 securities law, shall regulate companies jointly investing or  
3 managing funds of political subdivisions and shall establish  
4 rules governing what is a reasonable fee for an institution to  
5 charge as a custodian of funds or to transfer funds for  
6 political subdivisions involved in joint investments.

7 The bill also establishes guidelines to protect funds  
8 invested jointly by the state and political subdivisions,  
9 including the treasurer of state's office and the state board  
10 of regents.

11 This bill takes effect upon enactment and may include a  
12 state mandate as defined in section 25B.3.

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SENATE FILE 2036  
FISCAL NOTE

A fiscal note for Senate File 2036 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2036 requires an audit of governmental subdivisions or the Board of Regents to contain an audit of contracts with third parties holding funds or acting in a fiduciary capacity for those governmental subdivisions. The bill also requires the Treasurer to report on joint investments of political subdivisions and to adopt administrative rules to obtain the necessary information. The Commissioner of Insurance is required to regulate companies jointly investing or managing funds for political subdivisions and establish administrative rules governing the fee charged by the fund custodian. Guidelines to protect funds invested jointly by the State and political subdivisions, including the Treasurer and Board of Regents, are established.

**Fiscal Impact:**

1. The combined audit costs for the Regent's institutions would increase between \$5,000 and \$10,000 annually.
2. The Office of the Treasurer will be able to provide technical assistance and collect the required information within current budget and staffing levels, assuming the volume of requests and information is not excessive.
3. The cost to the Office of the Auditor cannot be estimated. (The Office has indicated that its responsibilities are not defined with sufficient clarity.)
4. The Insurance Division, Commerce Commission, would need an additional auditor (1.0 FTE position). The one-time, start-up costs would be \$5,000 with on-going annual costs of \$42,830 for salary and audit expenses.
5. There are no significant costs for the Department of Revenue and Finance.
6. The costs to the political subdivisions cannot be estimated but may be significant.

**Sources:**

Auditor of State  
Board of Regents  
Treasurer of State  
Commissioner of Insurance  
League of Iowa Municipalities

(LSB 5482sv, MDF)

FILED FEBRUARY 14, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

S-5085

1 Amend Senate File 2036 as follows:

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

4 "Section 1. Section 12.1, Code 1991, is amended by  
5 adding the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. The treasurer shall  
7 report on the investments of all political  
8 subdivisions and agencies authorized to invest funds  
9 made in accordance with section 452.10 to the general  
10 assembly. The treasurer shall adopt rules pursuant to  
11 chapter 17A requiring all political subdivisions and  
12 agencies authorized to invest funds to submit periodic  
13 reports of investments made in accordance with section  
14 452.10 to the treasurer and prescribing the forms for  
15 making the reports. Each political subdivision and  
16 agencies authorized to invest funds shall provide all  
17 the information required pursuant to this provision  
18 which shall be public records under section 22.1.

19 Sec. 2. NEW SECTION. 12.62 INVESTMENTS BY  
20 AGENCIES AND POLITICAL SUBDIVISIONS -- TECHNICAL  
21 INFORMATION AND ASSISTANCE.

22 The treasurer of state shall adopt rules pursuant  
23 to chapter 17A for providing technical information and  
24 assistance to agencies of this state authorized to  
25 invest funds and political subdivisions seeking to  
26 invest public funds. The treasurer or the treasurer's  
27 designee shall provide technical information and  
28 assistance to an agency authorized to invest funds or  
29 political subdivision at the request of the agency  
30 authorized to invest funds or political subdivision,  
31 including but not limited to technical information  
32 regarding the statutory requirements for investments  
33 by the agency authorized to invest funds or political  
34 subdivision and technical assistance to enable the  
35 agency authorized to invest funds or political  
36 subdivision to invest its funds in accordance with  
37 state law. However, the fact that information and  
38 assistance are provided under this section to an  
39 agency or political subdivision authorized to invest  
40 funds shall not make the state, the treasurer of  
41 state, or the treasurer's designee liable to an agency  
42 or political subdivision authorized to invest funds in  
43 any manner for any loss, damage, or expense incurred  
44 by the agency or political subdivision authorized to  
45 invest funds as a result of an investment.

46 Sec. 3. Section 262.14, subsection 3, unnumbered  
47 paragraph 1, Code 1991, is amended to read as follows:

48 Any portion of the funds may be invested by the  
49 board. All investments of funds shall be subject to  
50 sections 452.10 and 452.10A and other applicable law.

S-5085

S-5085

Page 2

1 In the investment of the funds, the board shall  
2 exercise the judgment and care, under the  
3 circumstances then prevailing, which persons of  
4 prudence, discretion and intelligence exercise in  
5 their own affairs as provided in section 633.123,  
6 subsection 1.

7 Sec. 4. Section 279.29, unnumbered paragraph 2,  
8 Code 1991, is amended to read as follows:

9 Pending audit and allowance of claims under this  
10 section, the board shall invest moneys of the  
11 corporation to the extent practicable, and the board  
12 may provide for the joint investment of moneys with  
13 one or more school corporations pursuant to a joint  
14 investment agreement. All investments of funds shall  
15 be subject to sections 452.10 and 452.10A and other  
16 applicable law.

17 Sec. 5. Section 302.11, Code 1991, is amended to  
18 read as follows:

19 302.11 SCHOOL FUND ACCOUNTS -- AUDIT OF LOSSES.

20 The director of revenue and finance shall keep the  
21 permanent school fund accounts in books provided for  
22 that purpose, separate and distinct from the revenue  
23 books. The auditor of state shall audit losses to the  
24 permanent school or university fund caused by the  
25 defalcation, mismanagement, or ~~fraud of the agents or~~  
26 ~~officers controlling and managing the fund.~~ The  
27 auditor of state shall adopt rules pursuant to chapter  
28 17A for those officers as necessary to ascertain the  
29 losses.

30 Sec. 6. Section 331.555, subsection 6, Code 1991,  
31 is amended to read as follows:

32 6. The treasurer shall keep all funds invested to  
33 the extent practicable and may invest the funds  
34 jointly with one or more counties, judicial district  
35 departments of correctional services, cities, or city  
36 utilities pursuant to a joint investment agreement.  
37 All investments of funds shall be subject to sections  
38 452.10 and 452.10A and other applicable law.

39 Sec. 7. Section 384.21, Code 1991, is amended to  
40 read as follows:

41 384.21 JOINT INVESTMENT OF FUNDS.

42 A city or a city utility board shall keep all funds  
43 invested to the extent practicable and may invest the  
44 funds jointly with one or more cities, utility boards,  
45 judicial district departments of correctional  
46 services, or counties pursuant to a joint investment  
47 agreement. All investments of funds shall be subject  
48 to sections 452.10 and 452.10A and other applicable  
49 law.

50 Sec. 8. Section 452.10, Code Supplement 1991, is

S-5085

S-5085

Page 3

1 amended by striking the section and inserting in lieu  
2 thereof the following:

3 452.10 PUBLIC FUNDS INVESTMENT STANDARDS.

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

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

25 a. Safety of principal is the first priority.

26 b. Maintaining the necessary liquidity to match  
27 expected liabilities is the second priority.

28 c. Obtaining a reasonable return is the third  
29 priority.

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

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

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

41 b. Certificates of deposit and other evidences of  
42 deposit at federally insured depository institutions  
43 approved pursuant to chapter 453.

44 c. Prime bankers' acceptances.

45 d. Commercial paper or other short term corporate  
46 debt rated within the two highest classifications, as  
47 established by at least one of the standard rating  
48 services approved by the superintendent of banking by  
49 rule adopted pursuant to chapter 17A, provided that at  
50 the time of purchase no more than five percent of all

S-5085

-3-

S-5085

Page 4

1 amounts invested in commercial paper shall be invested  
2 in paper rated in the second highest classification.

3 e. Repurchase agreements whose underlying  
4 collateral consists of the investments set out in  
5 paragraphs "a" through "d" if the treasurer of state  
6 or state agency authorized to invest funds takes  
7 delivery of the collateral either directly or through  
8 an authorized custodian. Repurchase agreements do not  
9 include reverse repurchase agreements.

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

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

19 Futures and options contracts are not permissible  
20 investments.

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

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

28 b. Certificates of deposit and other evidences of  
29 deposit at federally insured depository institutions  
30 approved pursuant to chapter 453.

31 c. Prime bankers' acceptances.

32 d. Commercial paper or other short-term corporate  
33 debt rated within the two highest classifications as  
34 established by at least one of the standard rating  
35 services approved by the superintendent of banking by  
36 rule adopted pursuant to chapter 17A, provided that at  
37 the time of purchase no more than five percent of all  
38 amounts invested in commercial paper shall be in paper  
39 rated in the second highest classification.

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

46 f. A joint investment trust organized pursuant to  
47 chapter 28E or an open-end management investment  
48 company, provided that such entities are registered  
49 with the federal securities and exchange commission  
50 under the federal Investment Company Act of 1940, 15

S-5085

-4-

S-5085

Page 5

1 U.S.C. § 80(a), and are operated in accordance with 17  
2 C.F.R. § 270.2a-7.

3 Futures and options contracts are not permissible  
4 investments. The provisions of section 452.10A must  
5 also be satisfied by the purchase or investor.

6 6. Investments by the Iowa public employees'  
7 retirement system are governed by chapter 97E and are  
8 not subject to this section.

9 Sec. 9. NEW SECTION. 452.10A PUBLIC INVESTMENT  
10 MATURITY AND PROCEDURAL LIMITATIONS.

11 1. In addition to the investment standards and  
12 requirements otherwise required by law, including  
13 section 452.10, subsections 3 and 5, the following  
14 shall apply to the investment of public funds by an  
15 individual political subdivision of this state,  
16 including entities organized pursuant to chapter 28E  
17 whose primary function is other than to jointly invest  
18 public funds:

19 a. As used in this subsection, "operating funds"  
20 means those funds which are reasonably expected to be  
21 expended or disbursed during the current budget year  
22 or within fifteen months of receipt.

23 b. Operating funds must be accounted for in a  
24 manner so as to be distinguishable from all other  
25 funds available for deposit or investment.

26 c. Operating funds shall only be invested in  
27 investments which mature within three hundred ninety-  
28 seven days and which are authorized by law for the  
29 investing public entity.

30 d. A contract for the investment or deposit of  
31 public funds shall not provide for compensation of an  
32 agent or fiduciary based upon performance above market  
33 interest rates.

34 2. The investment standards and requirements  
35 otherwise required by law, including section 452.10,  
36 subsections 3 and 5, governing the investment of  
37 public funds do not supercede chapter 453 and shall be  
38 construed so as to add to and not conflict with the  
39 requirements of chapter 453 regarding collateralized  
40 deposits in financial institutions.

41 Sec. 10. NEW SECTION. 452.10B COMPLIANCE TESTING  
42 OF INVESTMENT POLICIES.

43 1. The written investment policy required by  
44 section 452.10 shall be delivered to all of the  
45 following:

46 a. The governing body or officer of the public  
47 entity to which the policy applies.

48 b. All depository institutions or fiduciaries for  
49 public funds of the public entity.

50 c. The independent auditor of the public entity.

S-5085

-5-

S-5085

Page 6

1 2. At the time of audit, the auditor shall also  
2 perform compliance testing of a reasonable number of  
3 transactions in relation to the total assets invested  
4 and quantity of transactions of the public entity in  
5 the course of the audit of the public entity under  
6 section 11.2, 11.6, or 302.11. The audit report shall  
7 specifically review internal control structures. The  
8 auditor shall report the results of the compliance  
9 testing in the audit report. The auditor may make  
10 recommendations for changes to either the investment  
11 policies or practices or internal control structures  
12 to improve safety or compliance. The governing body  
13 of the entity and the officer responsible for deposits  
14 or investments of the public entity shall take  
15 immediate steps to remedy the causes of any reported  
16 incidents of noncompliance to assure future  
17 compliance.

18 3. The audit report of the public entity shall  
19 include a review of the most recent regulatory  
20 examination report or independent audit report of all  
21 outside persons doing one or more of the following for  
22 the public entity:

- 23 a. Investing public funds.
- 24 b. Advising on the investment of public funds.
- 25 c. Directing the deposit or investment of public  
26 funds.
- 27 d. Acting in a fiduciary capacity for the public  
28 entity.

29 The review by the auditor of the most recent annual  
30 report to shareholders of an open-end management  
31 investment company registered with the federal  
32 securities and exchange commission under the federal  
33 Investment Company Act of 1940, 15 U.S.C. § 80(a),  
34 pursuant to 17 C.F.R. § 270.30d-1 shall satisfy the  
35 review requirements of this subsection.

36 The auditor shall advise the public entity of  
37 concerns raised by review of such reports on third  
38 parties.

39 Sec. 11. NEW SECTION. 452.10C REGULATION OF  
40 PUBLIC FUNDS CUSTODIAL AGREEMENTS.

41 A commission consisting of the treasurer of state,  
42 the auditor of state, the commissioner of insurance,  
43 the superintendent of banking, the superintendent of  
44 savings and loan associations, and the superintendent  
45 of credit unions, shall adopt rules under chapter 17A  
46 requiring the inclusion in public funds custodial  
47 agreements of any provisions necessary to prevent loss  
48 of public funds.

49 The superintendent of banking shall enforce  
50 compliance with rules adopted pursuant to this section

S-5085

-6-

S-5085

Page 7

1 with respect to banks organized under chapter 524 and  
2 acting as or designating custodians of public funds.  
3 The superintendent of credit unions shall enforce  
4 compliance with rules adopted pursuant to this section  
5 with respect to credit unions organized under chapter  
6 533 and acting as or designating custodians of public  
7 funds. The superintendent of savings and loan  
8 associations shall enforce compliance with rules  
9 adopted pursuant to this section with respect to  
10 associations organized under chapter 534 and acting as  
11 or designating custodians of public funds. The  
12 administrator under chapter 502 shall enforce  
13 compliance with rules adopted pursuant to this section  
14 with respect to all other persons acting as or  
15 designating custodians of public funds.

16 As used in this section, "public funds custodial  
17 agreement" means any contractual arrangement pursuant  
18 to which one or more persons, including but not  
19 limited to, investment advisors, investment companies,  
20 trustees, agents and custodians, are authorized to act  
21 as a custodian of or to designate another person to  
22 act as a custodian of public funds or any security or  
23 document of ownership or title evidencing public funds  
24 investments other than custodial agreements between an  
25 open-end management investment company registered with  
26 the federal securities and exchange commission under  
27 the federal Investment Company Act of 1940, 15 U.S.C.  
28 § 80(a) and a custodian bank.

29 As used in this section "public funds" means public  
30 funds as defined in section 453.1, and any borrowed  
31 funds which are secured by a pledge of public funds as  
32 defined in section 453.1, or future receipts or  
33 revenues of the state or a political subdivision.

34 Sec. 12. Section 453.16, subsection 1, unnumbered  
35 paragraph 1, Code 1991, is amended to read as follows:

36 Before a deposit of public funds is made by a  
37 public officer with a depository institution in excess  
38 of the amount insured by federal deposit insurance or  
39 federal savings and loan insurance, ~~and before the~~  
40 ~~investment of public funds in investments authorized~~  
41 ~~in section 452.10 which either are not obligations of~~  
42 ~~or guaranteed by the United States government or any~~  
43 ~~of its agencies, are in excess of the amount insured~~  
44 ~~by federal deposit insurance or federal savings and~~  
45 ~~loan insurance, or are investments by the treasurer of~~  
46 ~~state specifically authorized by section 452.10 to be~~  
47 ~~made as additional investments under section 97B.7,~~  
48 ~~subsection 2, paragraph "b,"~~ the public officer shall  
49 obtain security for the deposit or investment by one  
50 or more of the following:

S-5085

-7-



1 Sec. 13. Section 453.16, subsection 1, paragraph  
2 b, unnumbered paragraph 2, Code 1991, is amended to  
3 read as follows:

4 Direct obligations of, or obligations that are  
5 insured or fully guaranteed as to principal and  
6 interest by, the United States of America, which may  
7 be used to secure the deposit of public funds under  
8 subparagraph (1), include investments in an open-end  
9 management investment company or investment trust  
10 registered under the federal Investment Company Act of  
11 1940, 15 U.S.C. § 80a, and operated in accordance with  
12 17 C.F.R. § 270.2a-7 the portfolio of which is limited  
13 to the United States government obligations described  
14 in subparagraph (1) and to repurchase agreements fully  
15 collateralized by the United States government  
16 obligations described in subparagraph (1), if the  
17 investment company or investment trust takes delivery  
18 of the collateral either directly or through an  
19 authorized custodian.

20 Sec. 14. EFFECTIVE DATE. This Act, being deemed  
21 of immediate importance, takes effect upon enactment.  
22 The requirements for adoption of rules, written  
23 investment policies, audit standards, and other  
24 administrative duties shall be implemented as soon as  
25 possible but not later than September 1, 1992. This  
26 Act does not apply to an investment made on or before  
27 the effective date of this Act or to a joint  
28 investment trust organized pursuant to chapter 28E  
29 prior to the effective date of this Act, except that  
30 such a joint investment trust shall fully comply with  
31 this Act by July 1, 1993."

32 2. Title page, by striking lines 1 through 5 and  
33 inserting the following: "An Act relating to  
34 regulating the investment of public funds and  
35 providing an effective date."

By COMMITTEE ON COMMERCE  
PATRICK J. DELUHERY, Chairperson

S-5085 FILED FEBRUARY 20, 1992  
*Adopted and amended by 5135, 5136, & 5157  
3/10 (p. 689)*

SENATE FILE 2036

S-5018

1 Amend Senate File 2036 as follows:  
2 1. Page 2, line 27, by inserting before the word  
3 "ASSISTANCE" the following: "INFORMATION AND  
4 TECHNICAL".  
5 2. Page 2, line 29, by inserting before the word  
6 "assistance" the following: "technical".  
7 3. Page 2, line 32, by inserting before the word  
8 "assistance" the following: "technical".  
9 4. Page 3, line 3, by inserting before the word  
10 "assistance" the following: "technical".

By COMMITTEE ON STATE GOVERNMENT  
JOHN KIBBIE, Chairperson

S-5018 FILED JANUARY 30, 1992  
*Placed on 3/10 (p. 689)*

## SENATE FILE 2036

S-5118

1 Amend the amendment, S-5085, to Senate File 2036 as  
2 follows:

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

5 "Sec. \_\_\_\_ . Section 11.2, Code 1991, is amended to  
6 read as follows:

7 11.2 ANNUAL SETTLEMENTS.

8 1. The auditor of state shall annually, and  
9 oftener if deemed necessary, make a full settlement  
10 between the state and all state officers and  
11 departments and all persons receiving or expending  
12 state funds, and shall annually make a complete audit  
13 of the books and accounts of every department of the  
14 state.

15 Provided, that the accounts, records, and documents  
16 of the treasury department shall be audited daily.

17 Provided further, that a preliminary audit of the  
18 educational institutions and the state fair board  
19 shall be made periodically, at least quarterly, to  
20 check the monthly reports submitted to the director of  
21 revenue and finance as required by section 421.31,  
22 subsection 4 and that a final audit of such state  
23 agencies shall be made at the close of each fiscal  
24 year.

25 2. In conjunction with the audit of the state  
26 board of regents required under this section, the  
27 auditor of state shall also perform tests for  
28 compliance with the investment policy of a reasonable  
29 number of investment transactions in relation to the  
30 total investments and quantity of transactions in the  
31 period audited. The results of the compliance testing  
32 shall be reported by the auditor of state in  
33 accordance with generally accepted auditing standards.  
34 The auditor of state may also make recommendations for  
35 changes to investment policy or practices. The state  
36 board of regents is responsible for the remedy of  
37 reported noncompliance with its policy or practices.

38 Except for security for public deposits as provided  
39 in sections 453.16 through 453.19 and sections 453.22  
40 and 453.23, as part of its audit, the state board of  
41 regents is responsible for obtaining and providing to  
42 the auditor of state the audited financial statements  
43 and related report on internal control structure of  
44 outside persons, performing any of the following for  
45 the state board of regents:

46 a. Investing public funds.

47 b. Advising on the investment of public funds.

48 c. Directing the deposit or investment of public  
49 funds.

50 d. Acting in a fiduciary capacity for the state

S-5118

S-5118

Page 2

1 board of regents.

2 The review by the auditor of state of the most  
3 recent annual report to shareholders of an open-end  
4 management investment company or an unincorporated  
5 investment company or investment trust registered with  
6 the federal securities and exchange commission under  
7 the federal Investment Company Act of 1940, 15 U.S.C.  
8 § 80(a), pursuant to 17 C.F.R. § 270.30d-1 shall  
9 satisfy the review requirements of this subsection.

10 All outside persons shall notify in writing the  
11 state board of regents subdivision within thirty days  
12 of receipt of communication from the auditor of state  
13 or any regulatory authority of the existence of a  
14 material weakness in internal control structure, or  
15 regulatory complaints, orders, or sanctions against  
16 the outside person. This provision to provide notice  
17 shall not be limited, or avoided, by contract.

18 Provided, however, that to the extent that a  
19 provision of this subsection conflicts with federal  
20 law, it shall be construed to avoid such conflict.

21 To the extent that a provision of this subsection  
22 conflicts with federal law, it shall be construed to  
23 avoid such conflict.

24 Sec. \_\_\_\_ . Section 11.6, subsection 1, Code  
25 Supplement 1991, is amended to read as follows:

26 1. a. The financial condition and transactions of  
27 all cities and city offices, counties, county  
28 hospitals organized under chapters 347 and 347A,  
29 memorial hospitals organized under chapter 37,  
30 entities organized under chapter 28E having gross  
31 receipts in excess of one hundred thousand dollars in  
32 a fiscal year, merged areas, area education agencies,  
33 and all school offices in school districts, shall be  
34 examined at least once each year, except that cities  
35 having a population of seven hundred or more but less  
36 than two thousand shall be examined at least once  
37 every four years, and cities having a population of  
38 less than seven hundred may be examined as otherwise  
39 provided in this section. The examination shall cover  
40 the fiscal year next preceding the year in which the  
41 audit is conducted. The examination of school offices  
42 shall include an audit of all school funds, the  
43 certified annual financial report, and the certified  
44 enrollment as provided in section 257.11.  
45 Examinations of community colleges shall include an  
46 audit of eligible and noneligible contact hours as  
47 defined in section 286A.2. Eligible and noneligible  
48 contact hours and the certified enrollment shall be  
49 certified to the department of management.

50 Subject to the exceptions and requirements of

S-5118

-2-

S-5118

Page 3

1 subsection 2 and subsection 4, paragraph "c",  
2 examinations shall be made as determined by the  
3 governmental subdivision either by the auditor of  
4 state or by certified public accountants, certified in  
5 the state of Iowa, and they shall be paid from the  
6 proper public funds of the governmental subdivision.

7 b. In conjunction with the audit of the  
8 governmental subdivision required under this section,  
9 the person performing the audit shall also perform  
10 tests for compliance with the investment policy of a  
11 reasonable number of investment transactions in  
12 relation to the total investments and quantity of  
13 transactions in the period audited. The results of  
14 the compliance testing shall be reported in accordance  
15 with generally accepted auditing standards. The  
16 person performing the audit may also make  
17 recommendations for changes to investment policy or  
18 practices. The governmental subdivision is  
19 responsible for the remedy of reported noncompliance  
20 with its policy or practices.

21 Except for security for public deposits as provided  
22 in sections 453.16 through 453.19 and sections 453.22  
23 and 453.23, as part of its audit, the governmental  
24 subdivision is responsible for obtaining and providing  
25 to the person performing the audit the audited  
26 financial statements and related report on internal  
27 control structure of outside persons, performing any  
28 of the following for the governmental subdivision:

29 (1) Investing public funds.  
30 (2) Advising on the investment of public funds.  
31 (3) Directing the deposit or investment of public  
32 funds.

33 (4) Acting in a fiduciary capacity for the  
34 governmental subdivision.

35 The review by the person performing the audit of  
36 the most recent annual report to shareholders of an  
37 open-end management investment company or an  
38 unincorporated investment company or investment trust  
39 registered with the federal securities and exchange  
40 commission under the federal Investment Company Act of  
41 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. §  
42 270.30d-1 shall satisfy the review requirements of  
43 this lettered paragraph.

44 All outside persons shall notify in writing the  
45 governmental subdivision within thirty days of receipt  
46 of communication from an independent auditor or any  
47 regulatory authority of the existence of a material  
48 weakness in internal control structure, or regulatory  
49 complaints, orders, or sanctions against the outside  
50 person. This provision to provide notice shall not be

S-5118

S-5118

Page 4

1 limited, or avoided, by contract.

2 The auditor of a joint investment trust shall file  
3 all examination reports with the administrator of the  
4 securities bureau of the insurance division of the  
5 department of commerce within ten days of completing  
6 the examination. The auditor shall immediately notify  
7 the administrator of any violations or weaknesses in  
8 internal control structures.

9 Provided, however, that if a governmental  
10 subdivision does not have an annual audit, the  
11 governmental subdivision shall not contract with an  
12 outside person other than a joint investment trust  
13 pursuant to section 452.10, subsection 5, paragraph  
14 "F".

15 Sec. \_\_\_\_. Section 11.6, subsection 4, Code  
16 Supplement 1991, is amended by adding the following  
17 new unnumbered paragraph:

18 NEW UNNUMBERED PARAGRAPH. An examination under  
19 this subsection shall include a determination of  
20 whether investments by the governmental subdivision  
21 are authorized by state law."

22 2. Page 1, line 8, by striking the words "and  
23 agencies" and inserting the following: ",  
24 instrumentalities, and agencies of the state".

25 3. Page 1, by striking lines 22 through 45 and  
26 inserting the following:

27 "The treasurer of state shall adopt rules pursuant  
28 to chapter 17A for providing technical information and  
29 assistance to political subdivisions,  
30 instrumentalities, and agencies of the state  
31 authorized to invest funds which are seeking to invest  
32 public funds. The treasurer or the treasurer's  
33 designee shall provide technical information and  
34 assistance to a political subdivision,  
35 instrumentality, or agency of the state authorized to  
36 invest funds at the request of the political  
37 subdivision, instrumentality, or agency of the state  
38 authorized to invest funds, including but not limited  
39 to technical information regarding the statutory  
40 requirements for investments by the political  
41 subdivision, instrumentality, or agency and technical  
42 assistance to enable the political subdivision,  
43 instrumentality, or agency to invest funds in  
44 accordance with state law. However, the fact that  
45 information and assistance are provided under this  
46 section to a political subdivision, instrumentality,  
47 or agency authorized to invest funds shall not make  
48 the state, the treasurer of state, or the treasurer's  
49 designee liable to a political subdivision,  
50 instrumentality, or agency of the state in any manner

S-5118

-4-

S-5118

Page 5

1 for any loss, damage, or expense incurred by the  
2 political subdivision, instrumentality, or agency as a  
3 result of an investment."

4 4. Page 1, by inserting before line 46 the  
5 following:

6 "Sec. \_\_\_\_\_. Section 28E 5, subsection 2, Code 1991  
7 is amended to read as follows:

8 2. The precise organization, composition and  
9 nature of any separate legal or administrative entity  
10 created thereby together with the powers delegated  
11 thereto, provided such entity may be legally created.  
12 However, if the agreement establishes a separate legal  
13 or administrative entity, the entity shall, when  
14 investing funds, comply with the provisions of  
15 sections 452.10 and 452.10A through 452.10C and other  
16 applicable law."

17 5. Page 3, by inserting after line 10 the  
18 following:

19 "The treasurer of state and the treasurer of each  
20 political subdivision shall at all times keep funds  
21 coming into their possession as public money in a  
22 vault or safe to be provided for that purpose or in  
23 one or more depositories approved pursuant to chapter  
24 453. However, the treasurer of state and the  
25 treasurer of each political subdivision shall invest,  
26 unless otherwise provided, any public funds not  
27 currently needed in investments authorized by this  
28 section."

29 6. Page 3, by striking line 34 and inserting the  
30 following: "limited to, compliance with state law,  
31 diversification, maturity, quality, and".

32 7. Page 3, line 40, by inserting after the word  
33 "instrumentalities" the following: "that are insured  
34 or fully guaranteed by the United States of America".

35 8. Page 4, line 1, by inserting after the word  
36 "paper" the following: "and other short-term  
37 corporate debt".

38 9. Page 4, line 2, by inserting after the word  
39 "paper" the following: "and debt".

40 10. Page 4, line 18, by inserting after the  
41 figure "270.2a-7" the following: ", the portfolio of  
42 which is limited to investments authorized by  
43 paragraphs "a" through "e".

44 11. Page 4, lines 21 through 24, by striking the  
45 words ", including entities organized pursuant to  
46 chapter 28E whose primary function is other than to  
47 jointly invest public funds,".

48 12. Page 4, line 27, by inserting after the word  
49 "instrumentalities" the following: "that are insured  
50 or fully guaranteed by the United States of America".

S-5118

-5-

S-5118

Page 6

1 13. Page 4, line 38, by striking the words "shall  
2 be in paper" and inserting the following: "and other  
3 short-term corporate debt shall be".

4 14. By striking page 4, line 47, through page 5,  
5 line 2, and inserting the following: "chapter 28E  
6 organized prior to and existing in good standing on  
7 the effective date of this Act. Provided that the  
8 joint investment trust shall be rated within the two  
9 highest classifications by at least one of the  
10 standard rating services approved by the  
11 superintendent of banking by rule adopted pursuant to  
12 chapter 17A.

13 g. An open-end management investment company, or  
14 an unincorporated investment company or investment  
15 trust, or a joint investment trust organized pursuant  
16 to chapter 28E on or after the effective date of this  
17 Act, provided that such entities are registered under  
18 the federal Investment Company Act of 1940, 15 U.S.C.  
19 § 80(a), and are operated in accordance with 17 C.F.R.  
20 § 270.2a-7, the portfolio of which is authorized by  
21 section 452.10. An open-end management investment  
22 company, or unincorporated investment company or  
23 investment trust, or a joint investment trust  
24 organized pursuant to chapter 28E on or after the  
25 effective date of this Act shall be rated within the  
26 two highest classifications by at least one of the  
27 standard rating services approved by the  
28 superintendent of banking by rule adopted pursuant to  
29 chapter 17A."

30 15. Page 5, by inserting after line 5 the  
31 following:

32 "The trading of securities in which public funds  
33 are invested for the purpose of speculation and the  
34 realization of short-term trading profits is  
35 prohibited.

36 The investments by a political subdivision or  
37 agency must have maturities that are consistent with  
38 the needs and use of that political subdivision or  
39 agency."

40 16. Page 5, by striking lines 11 through 50 and  
41 inserting the following:

42 "1. The investment of public funds which are  
43 operating funds by a political subdivision shall be  
44 subject to the following:

45 a. As used in this section, "operating funds"  
46 means those funds which are reasonably expected to be  
47 expended during a current budget year or within  
48 fifteen months of receipt.

49 b. Operating funds must be identified and  
50 distinguished from all other funds available for

S-5118

-6-

S-5118

Page 7

1 investment.

2 c. Operating funds may only be invested in  
3 investments which mature within three hundred ninety-  
4 seven days or less and which are authorized by law for  
5 the investing public entity. If the operating funds  
6 are being invested jointly, the following additional  
7 requirements apply:

8 (1) The weighted average maturity of all operating  
9 fund investments shall not exceed ninety days.

10 (2) In order to assure that the investments can be  
11 liquidated without risk of principal loss, the market  
12 value of the investments must not be permitted to  
13 fluctuate by more than one-half of one percent from  
14 the amortized cost thereof. If larger fluctuations  
15 occur, actions must be taken promptly to maintain the  
16 principal value of such investments.

17 2. All investments of public funds by political  
18 subdivisions shall be subject to the following:

19 a. Each investment must be authorized by  
20 applicable law and the written investment policy of  
21 the political subdivision.

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

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

29 d. Each political subdivision whose investments  
30 involve the use of a public funds custodial agreement,  
31 as defined in section 452.10C, shall comply with rules  
32 adopted pursuant to section 452.10B relating to those  
33 investments. All contracts providing for the  
34 investment of public funds shall be in writing and  
35 shall contain a provision requiring that all  
36 investments shall be made in accordance with the laws  
37 of this state. The political subdivision also shall  
38 submit information about investments involving outside  
39 persons to the treasurer of state as required by rule  
40 adopted under section 12.1 which shall be public  
41 records under section 22.1.

42 e. A contract for the investment or deposit of  
43 public funds shall not provide for compensation of an  
44 agent or fiduciary based upon investment performance.

45 3. A treasurer of a political subdivision may  
46 invest funds of the political subdivision or agency  
47 that are not operating funds in investments having  
48 maturities longer than three hundred ninety-seven  
49 days. Subsection 1 does not apply to public funds  
50 that are not operating funds or to public funds that

S-5118

-7-



S-5113

Page 8

1 are invested under the provisions of a resolution or  
2 indenture for the issuance of bonds, notes,  
3 certificates, warrants, or other evidences of  
4 indebtedness if such investments are classified or  
5 approved as investments for municipal financing,  
6 within the two highest classifications by at least one  
7 of the standard rating services approved by the  
8 superintendent of banking by rule pursuant to chapter  
9 17A.

10 4. As used in this section, "public funds" means  
11 all funds that are public funds within the meaning of  
12 section 453.1, subsection 2, paragraph "b", except  
13 state funds invested by the treasurer of state.

14 5. This section shall not be construed to  
15 supersede any provision of this chapter or of chapter  
16 453.

17 Sec. \_\_\_\_ . NEW SECTION. 452.10B WRITTEN  
18 INVESTMENT POLICIES.

19 1. Political subdivisions shall approve written  
20 investment policies which incorporate the guidelines  
21 specified in section 452.10, sections 452.10A through  
22 452.10C, and any other provisions deemed necessary to  
23 adequately safeguard invested public funds.

24 2. The written investment policy required by  
25 section 452.10 shall be delivered to all of the  
26 following:

27 a. The governing body or officer of the public  
28 entity to which the policy applies.

29 b. All depository institutions or fiduciaries for  
30 public funds of the public entity.

31 c. The independent auditor of the public entity."

32 17. Page 6, by striking lines 1 through 38.

33 18. Page 7, by striking lines 30 through 33 and  
34 inserting the following: "funds as defined in section  
35 453.1. However, this section does not apply to public  
36 funds that are invested under the provisions of a  
37 resolution or indenture for the issuance of bonds,  
38 notes, certificates, warrants, or other evidences of  
39 indebtedness. To the extent that a provision of this  
40 section conflicts with federal law, it shall be  
41 construed to avoid the conflict."

42 19. Page 8, by inserting after line 19 the  
43 following:

44 "Sec. \_\_\_\_ . NEW SECTION. 502.701 PUBLIC JOINT  
45 INVESTMENT TRUSTS.

46 1. A joint investment trust organized pursuant to  
47 chapter 28E for the purposes of joint investment of  
48 public funds is subject to the jurisdiction and  
49 authority of the administrator, including all  
50 requirements of this chapter, except the registration

S-5113

S-5118

Page 9

1 provisions of section 502.201 and 502.218.  
 2 2. The administrator may make examinations within  
 3 or without the state, of the business and records of  
 4 each joint investment trust, at the times and in the  
 5 scope as the administrator determines. The  
 6 examinations may be made without prior notice to the  
 7 joint investment trust or the trust's investment  
 8 advisor. The administrator may copy all records the  
 9 administrator feels are necessary to conduct the  
 10 examination. The expense reasonably attributable to  
 11 the examination shall be paid by the joint investment  
 12 trusts whose business is examined, but the expense so  
 13 payable shall not exceed an amount which the  
 14 administrator by rule prescribes. For the purpose of  
 15 avoiding unnecessary duplication of examinations, the  
 16 administrator may cooperate with other regulatory  
 17 authorities."  
 18 20. Page 8, by striking lines 27 through 31 and  
 19 inserting the following: "the effective date of this  
 20 Act."

By RICHARD VARN  
 WILLIAM D. PALMER

W. L. LANN

S-5118 FILED FEBRUARY 28, 1992

## SENATE FILE 2036

S-5117

1 Amend the amendment, S-5085, to Senate File 2036 as  
 2 follows:  
 3 1. Page 1, line 50, by striking the words and  
 4 figures "sections 452.10 and 452.10A and other  
 5 applicable law" and inserting the following: "section  
 6 452.10".  
 7 2. Page 2, by inserting after line 6, the  
 8 following:  
 9 "The board shall have written investment policies  
 10 which include listings of authorized and unauthorized  
 11 investments, approval processes for the selection of  
 12 investment managers and other investment  
 13 professionals, allowable maturities for fixed income  
 14 securities, and provisions for regular and frequent  
 15 board oversight, including audit. The board's  
 16 investment policy shall cover endowment and  
 17 nonendowment investments."  
 18 3. Page 4, line 13, by inserting after the word  
 19 "permitted" the following: "except with respect to  
 20 endowment funds or investments held under deferred  
 21 compensation agreements".  
 22 4. Page 4, line 18, by inserting after the figure  
 23 "\$ 270.2a-7" the following: "or "The Common Fund For  
 24 Nonprofit Organizations" or its affiliates, provided  
 25 that the persons managing the funds are regulated by  
 26 the federal securities and exchange commission as an  
 27 investment company under the federal Investment  
 28 Company Act of 1940, 15 U.S.C. § 80(a)."

By RICHARD J. VARN

S-5117 FILED FEBRUARY 28, 1992

W. L. LANN

SENATE FILE 2036

S-5121

1 Amend the amendment, S-5085, to Senate File 2036 as  
2 follows:

3 1. Page 3, line 44, by inserting after the word  
4 "acceptances" the following: "that mature within one  
5 hundred eighty days and that are eligible for purchase  
6 by a federal reserve bank, provided that no more than  
7 ten percent of the investment portfolio of the  
8 treasurer of state or any other state agency shall be  
9 in investments authorized by this paragraph".

10 2. Page 3, line 46, by inserting after the word  
11 "debt" the following: "that matures within one  
12 hundred eighty days and that is".

13 3. Page 4, line 2, by inserting after the word  
14 "classification" the following: ", and provided  
15 further that no more than ten percent of the  
16 investment portfolio of the treasurer of state or any  
17 other state agency shall be in investments authorized  
18 by this paragraph".

19 4. Page 4, line 31, by inserting after the word  
20 "acceptances" the following: "that mature within one  
21 hundred eighty days and that are eligible for purchase  
22 by a federal reserve bank, provided that no more than  
23 ten percent of the investment portfolio of the  
24 treasurer of state or any other state agency shall be  
25 in investments authorized by this paragraph".

26 5. Page 4, line 33, by inserting after the word  
27 "debt" the following: "that matures within one  
28 hundred eighty days and that is".

29 6. Page 4, line 39, by inserting after the word  
30 "classification" the following: ", and provided  
31 further that no more than ten percent of the  
32 investment portfolio of the treasurer of state or any  
33 other state agency shall be in investments authorized  
34 by this paragraph".

By DERRYL McLAREN  
JIM KERSTEN  
HARRY SLIFE

S-5121, FILED MARCH 2, 1992

*w/s slife*

SENATE FILE 2036

S-5123

1 Amend the amendment, S-5085, to Senate File 2036 as  
2 follows:

3 1. Page 7, by inserting before line 34 the  
4 following:

5 "Sec. \_\_\_\_\_. Section 453.1, subsection 2, paragraph  
6 a, Code 1991, is amended to read as follows:

7 a. "Depository" means a bank ~~or any office of a~~  
8 ~~bank whose accounts are insured by the federal deposit~~  
9 ~~insurance corporation, or, a savings and loan~~  
10 ~~association or a savings bank or any branch of a~~  
11 ~~savings and loan association or savings bank whose~~  
12 ~~accounts are insured by the federal savings and loan~~  
13 ~~insurance corporation, or a credit union insured by~~  
14 ~~the national credit union administration in which~~  
15 public funds are deposited under this chapter.

16 Sec. \_\_\_\_\_. Section 453.1, subsection 2, Code 1991,  
17 is amended by adding the following new paragraphs:

18 NEW PARAGRAPH. c. "Bank" means a corporation  
19 engaged in the business of banking authorized by law  
20 to receive deposits and whose deposits are insured by  
21 the bank insurance fund of the federal deposit  
22 insurance corporation and includes any office of a  
23 bank.

24 NEW PARAGRAPH. d. "Savings and loan" means a  
25 corporation authorized to operate under chapter 534 or  
26 the federal Home Owner's Loan Act of 1933, 12 U.S.C. §  
27 1461, et seq., and includes a savings and loan  
28 association, a savings bank, or any branch of a  
29 savings and loan association or savings bank.

30 NEW PARAGRAPH. e. "Credit union" means a  
31 cooperative, nonprofit association incorporated under  
32 chapter 533 or the federal Credit Union Act, 12 U.S.C.  
33 § 1751, et seq., and that is insured by the national  
34 credit union administration and includes an office of  
35 a credit union.

36 NEW PARAGRAPH. f. "Financial institution" means a  
37 bank, savings and loan, or a credit union.

38 Sec. \_\_\_\_\_. Section 453.1, subsection 3, Code 1991,  
39 is amended to read as follows:

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

42 a. If a depository is a savings and loan  
43 association, ~~a savings bank, or an office of a savings~~  
44 ~~and loan association or savings bank,~~ then the public  
45 deposits in these depositories the savings and loan  
46 association shall be secured pursuant to sections  
47 453.16 through 453.19 and sections 453.23 and 453.24.

48 b. If a depository is a bank, ~~credit union, or an~~  
49 ~~office of a bank or credit union,~~ then the public  
50 deposits in these depositories the bank shall be

S-5123

S-5123

Page 2

1 secured pursuant to sections ~~453.22 through~~ 453.21,  
2 453.23, and 453.24.

3 c. If the depository is a credit union, then  
4 public deposits in the credit union shall be secured  
5 pursuant to sections 453.22 through 453.24.

6 Sec. \_\_\_\_ . Section 453.15, Code 1991, is amended to  
7 read as follows:

8 453.15 RESTRICTION ON REQUIRING COLLATERAL.

9 A local government shall not require a pledge of  
10 collateral for that portion of the local government's  
11 deposits in a depository-institution savings and loan  
12 or credit union that is covered by insurance of a  
13 federal agency or instrumentality ~~including the~~  
14 ~~federal-deposit-insurance-corporation, the federal~~  
15 ~~savings-and-loan-insurance-corporation, or the~~  
16 ~~national-credit-union-administration."~~

17 2. Page 7, by striking lines 34 through 50 and  
18 inserting the following:

19 "Sec. \_\_\_\_ . Section 453.16, subsection 1,  
20 unnumbered paragraph 1, Code 1991, is amended to read  
21 as follows:

22 Before a deposit of public funds is made by a  
23 public officer with a depository-institution savings  
24 and loan in excess of the amount federally insured by  
25 ~~federal-deposit-insurance-or-federal-savings-and-loan~~  
26 ~~insurance, and before the investment of public funds~~  
27 ~~in investments authorized in section 452.10 which~~  
28 ~~either are not obligations of or guaranteed by the~~  
29 ~~United States government or any of its agencies, are~~  
30 ~~in excess of the amount insured by federal deposit~~  
31 ~~insurance or federal savings and loan insurance, or~~  
32 ~~are investments by the treasurer of state specifically~~  
33 ~~authorized by section 452.10 to be made as additional~~  
34 ~~investments under section 97B.77, subsection 2,~~  
35 ~~paragraph "b",~~ the public officer shall obtain  
36 security for the deposit ~~or investment~~ by one or more  
37 of the following:

38 Sec. \_\_\_\_ . Section 453.16, subsection 1, paragraph  
39 a, Code 1991, is amended to read as follows:

40 a. The depository-institution savings and loan may  
41 give to the public officer a corporate surety bond of  
42 a surety corporation approved by the treasury  
43 department of the United States and authorized to do  
44 business in this state, which bond shall be in an  
45 amount equal to the public funds on deposit at any  
46 time. The bond shall be conditioned that the deposit  
47 shall be paid promptly on the order of the public  
48 officer making the deposit and shall be approved by  
49 the officer making the deposit.

50 Sec. \_\_\_\_ . Section 453.16, subsection 1, paragraph

S-5123

-2-

S-5123

Page 3

1 b, unnumbered paragraph 1, Code 1991, is amended to  
2 read as follows:

3 The depository-institution savings and loan may  
4 deposit, maintain, pledge and assign for the benefit  
5 of the public officer in the manner provided in this  
6 chapter, securities approved by the public officer,  
7 the market value of which is not less than one hundred  
8 ten percent of the total deposits of public funds  
9 placed by that public officer in the depository  
10 institution savings and loan. The securities shall  
11 consist of any of the following:"

12 3. Page 8, by inserting before line 20 the  
13 following:

14 "Sec. \_\_\_\_\_. Section 453.16, subsection 2, Code  
15 1991, is amended to read as follows:

16 2. If public funds are secured by both the assets  
17 of a depository-institution savings and loan and a  
18 bond of a surety company, the assets and bond shall be  
19 held as security for a rateable proportion of the  
20 deposit on the basis of the market value of the assets  
21 and of the total amount of the surety bonds.

22 Sec. \_\_\_\_\_. Section 453.17, subsection 1, unnumbered  
23 paragraph 1, Code 1991, is amended to read as follows:

24 A depository-institution savings and loan which  
25 receives public funds shall pledge securities owned by  
26 it as required by this chapter in one of the following  
27 methods:

28 Sec. \_\_\_\_\_. Section 453.17, subsections 3 and 4,  
29 Code 1991, are amended to read as follows:

30 3. All deposits of securities, other than deposits  
31 of securities with the appropriate public officer,  
32 shall have a joint custody receipt taken for the  
33 securities with one copy delivered to the public  
34 officer and one copy delivered to the depository  
35 institution savings and loan. A depository  
36 institution savings and loan pledging securities with  
37 a public officer may cause the securities to be  
38 examined in the officer's office to show the  
39 securities are placed with the officer as collateral  
40 security and are not transferable except upon the  
41 conditions provided in this chapter.

42 4. Upon written request from the appropriate  
43 public officer but not less than quarterly, a  
44 depository-institution savings and loan shall report  
45 the par value and the market value of any pledged  
46 collateral and the total deposits of public funds of  
47 that officer in the depository-institution savings and  
48 loan.

49 Sec. \_\_\_\_\_. Section 453.18, Code 1991, is amended to  
50 read as follows:

S-5123

-3-

S-5123

Page 4

1 453.18 CONDITION OF SECURITY.

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

10 Sec. \_\_\_\_ . Section 453.19, subsections 3 and 4,  
11 Code 1991, are amended to read as follows:

12 3. In the event of substitution or exchange of  
13 securities, the holder or custodian of the securities  
14 shall, on the same day, forward by certified mail,  
15 return receipt requested, to the public officer and  
16 the depository-institution savings and loan, a receipt  
17 specifically describing and identifying both the  
18 substituted securities and those released and returned  
19 to the depository-institution savings and loan.

20 4. The public officer which deposits public funds  
21 with a depository-institution savings and loan shall  
22 require, if the market value of the securities  
23 deposited with or for the benefit of the officer falls  
24 below one hundred ten percent of the deposit liability  
25 to the public officer, the deposit of additional  
26 security to bring the total market value of the  
27 security to one hundred ten percent of the amount of  
28 public funds held by the depository savings and loan.

29 Sec. \_\_\_\_ . NEW SECTION. 453.21 REQUIRED  
30 COLLATERAL -- BANKS.

31 1. A depository that is a bank shall pledge the  
32 required collateral securities to the treasurer of  
33 state by depositing before January 31 of each year the  
34 collateral securities in restricted accounts of the  
35 treasurer of state, including but not limited to  
36 pledge-custody accounts, at a federal reserve bank, a  
37 trust department of another commercial bank, or with  
38 another financial institution which has been  
39 designated by the treasurer of state that is not owned  
40 or controlled directly or indirectly by the same  
41 depository or holding company. The bank shall deliver  
42 to the treasurer of state a security agreement which  
43 provides the treasurer of state with a valid and  
44 perfected security interest in the required  
45 collateral. The market value of the required  
46 collateral shall not be less than five percent of the  
47 average total public funds placed on deposit in the  
48 bank during the preceding year. The average total  
49 public funds shall be calculated by adding the total  
50 public funds reported quarterly to the federal

S-5123

S-5123

Page 5

1 government on the report of condition and income, and  
2 dividing that amount by four. The calculation of the  
3 average total public funds shall be made before  
4 January 31 of each year.

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

7 a. Providing for valuation of collateral if the  
8 market value of a security is not readily  
9 determinable.

10 b. Establishing reporting requirements.

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

13 d. Establishing administrative procedures  
14 necessary to implement this chapter and other rules as  
15 may be necessary to accomplish the purposes of this  
16 chapter.

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

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

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

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

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

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

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

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

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

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

S-5123

-5-



S-5123

Page 6

1 Direct obligations of, or obligations that are  
2 insured or fully guaranteed as to principal and  
3 interest by, the United States of America, which may  
4 be used to secure public deposits under paragraph "a",  
5 include investments in an investment company or  
6 investment trust registered under the federal  
7 Investment Company Act of 1940, 15 U.S.C. § 80a, the  
8 portfolio of which is limited to the United States  
9 government obligations described in paragraph "a", if  
10 the investment company or investment trust takes  
11 delivery of the collateral either directly or through  
12 an authorized custodian.

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

16 Sec. \_\_\_\_ . Section 453.22, subsection 1, Code 1991,  
17 is amended to read as follows:

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

36 Sec. \_\_\_\_ . Section 453.22, subsection 4, Code 1991,  
37 is amended to read as follows:

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

41 Sec. \_\_\_\_ . Section 453.22, subsection 5, is amended  
42 by striking the subsection."

43 4. By renumbering as necessary.

By RICHARD VARN  
PATRICK DELUHERY

S-5123 FILED MARCH 2, 1992

**WITHDRAWN**

SENATE FILE 2036

S-5135

1 Amend the amendment, S-5085, to Senate File 2036 as  
2 follows:

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

5 "Sec. \_\_\_\_ . Section 11.2, Code 1991, is amended to  
6 read as follows:

7 11.2 ANNUAL SETTLEMENTS.

8 1. The auditor of state shall annually, and  
9 oftener if deemed necessary, make a full settlement  
10 between the state and all state officers and  
11 departments and all persons receiving or expending  
12 state funds, and shall annually make a complete audit  
13 of the books and accounts of every department of the  
14 state.

15 Provided, that the accounts, records, and documents  
16 of the treasury department shall be audited daily.

17 Provided further, that a preliminary audit of the  
18 educational institutions and the state fair board  
19 shall be made periodically, at least quarterly, to  
20 check the monthly reports submitted to the director of  
21 revenue and finance as required by section 421.31,  
22 subsection 4 and that a final audit of such state  
23 agencies shall be made at the close of each fiscal  
24 year.

25 2. In conjunction with the audit of the state  
26 board of regents required under this section, the  
27 auditor of state shall also perform tests for  
28 compliance with the investment policy of a reasonable  
29 number of investment transactions in relation to the  
30 total investments and quantity of transactions in the  
31 period audited. The results of the compliance testing  
32 shall be reported by the auditor of state in  
33 accordance with generally accepted auditing standards.  
34 The auditor of state may also make recommendations for  
35 changes to investment policy or practices. The state  
36 board of regents is responsible for the remedy of  
37 reported noncompliance with its policy or practices.

38 Except for security for public deposits as provided  
39 in sections 453.16 through 453.19 and sections 453.22  
40 and 453.23, as part of its audit, the state board of  
41 regents is responsible for obtaining and providing to  
42 the auditor of state the audited financial statements  
43 and related report on internal control structure of  
44 outside persons, performing any of the following for  
45 the state board of regents:

- 46 a. Investing public funds.  
47 b. Advising on the investment of public funds.  
48 c. Directing the deposit or investment of public  
49 funds.  
50 d. Acting in a fiduciary capacity for the state

S-5135

S-5135

Page 2

1 board of regents.

2 The review by the auditor of state of the most  
3 recent annual report to shareholders of an open-end  
4 management investment company or an unincorporated  
5 investment company or investment trust registered with  
6 the federal securities and exchange commission under  
7 the federal Investment Company Act of 1940, 15 U.S.C.  
8 § 80(a), pursuant to 17 C.F.R. § 270.30d-1 or the  
9 review pursuant to a regular examination under state  
10 or federal law, to the extent the results of the  
11 examination are not confidential, of the investment  
12 activities of a bank, savings and loan, or credit  
13 union on behalf of the board of regents, shall satisfy  
14 the review requirements of this subsection.

15 All outside persons shall notify in writing the  
16 state board of regents subdivision within thirty days  
17 of receipt of communication from the auditor of state  
18 or any regulatory authority of the existence of a  
19 material weakness in internal control structure, or  
20 regulatory complaints, orders, or sanctions against  
21 the outside person. This provision to provide notice  
22 shall not be limited, or avoided, by contract.

23 Provided, however, that to the extent that a  
24 provision of this subsection conflicts with federal  
25 law, it shall be construed to avoid such conflict.

26 Sec. \_\_\_\_ . Section 11.6, subsection 1, Code  
27 Supplement 1991, is amended to read as follows:

28 1. a. The financial condition and transactions of  
29 all cities and city offices, counties, county  
30 hospitals organized under chapters 347 and 347A,  
31 memorial hospitals organized under chapter 37,  
32 entities organized under chapter 28E having gross  
33 receipts in excess of one hundred thousand dollars in  
34 a fiscal year, merged areas, area education agencies,  
35 and all school offices in school districts, shall be  
36 examined at least once each year, except that cities  
37 having a population of seven hundred or more but less  
38 than two thousand shall be examined at least once  
39 every four years, and cities having a population of  
40 less than seven hundred may be examined as otherwise  
41 provided in this section. The examination shall cover  
42 the fiscal year next preceding the year in which the  
43 audit is conducted. The examination of school offices  
44 shall include an audit of all school funds, the  
45 certified annual financial report, and the certified  
46 enrollment as provided in section 257.11.  
47 Examinations of community colleges shall include an  
48 audit of eligible and noneligible contact hours as  
49 defined in section 286A.2. Eligible and noneligible  
50 contact hours and the certified enrollment shall be

S-5135

-2-

S-5135

Page 3

1 certified to the department of management.

2 Subject to the exceptions and requirements of  
3 subsection 2 and subsection 4, paragraph "c",  
4 examinations shall be made as determined by the  
5 governmental subdivision either by the auditor of  
6 state or by certified public accountants, certified in  
7 the state of Iowa, and they shall be paid from the  
8 proper public funds of the governmental subdivision.

9 b. In conjunction with the audit of the  
10 governmental subdivision required under this section,  
11 the person performing the audit shall also perform  
12 tests for compliance with the investment policy of a  
13 reasonable number of investment transactions in  
14 relation to the total investments and quantity of  
15 transactions in the period audited. The results of  
16 the compliance testing shall be reported in accordance  
17 with generally accepted auditing standards. The  
18 person performing the audit may also make  
19 recommendations for changes to investment policy or  
20 practices. The governmental subdivision is  
21 responsible for the remedy of reported noncompliance  
22 with its policy or practices.

23 Except for security for public deposits as provided  
24 in sections 453.16 through 453.19 and sections 453.22  
25 and 453.23, as part of its audit, the governmental  
26 subdivision is responsible for obtaining and providing  
27 to the person performing the audit the audited  
28 financial statements and related report on internal  
29 control structure of outside persons, performing any  
30 of the following for the governmental subdivision:

- 31 (1) Investing public funds.  
32 (2) Advising on the investment of public funds.  
33 (3) Directing the deposit or investment of public  
34 funds.  
35 (4) Acting in a fiduciary capacity for the  
36 governmental subdivision.

37 The review by the person performing the audit of  
38 the most recent annual report to shareholders of an  
39 open-end management investment company or an  
40 unincorporated investment company or investment trust  
41 registered with the federal securities and exchange  
42 commission under the federal Investment Company Act of  
43 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. §  
44 270.30d-1 or the review pursuant to a regular  
45 examination under state or federal law, to the extent  
46 the results of the review are not confidential, of the  
47 investment activities of a bank, savings and loan, or  
48 credit union on behalf of a governmental subdivision,  
49 shall satisfy the review requirements of this lettered  
50 paragraph.

S-5135

-3-

S-5135

Page 4

1 All outside persons shall notify in writing the  
2 governmental subdivision within thirty days of receipt  
3 of communication from an independent auditor or any  
4 regulatory authority of the existence of a material  
5 weakness in internal control structure, or regulatory  
6 complaints, orders, or sanctions against the outside  
7 person. This provision to provide notice shall not be  
8 limited, or avoided, by contract.

9 The auditor of a joint investment trust shall file  
10 all examination reports with the administrator of the  
11 securities bureau of the insurance division of the  
12 department of commerce within ten days of completing  
13 the examination. The auditor shall immediately notify  
14 the administrator of any violations or weaknesses in  
15 internal control structures.

16 Provided, however, that to the extent that a  
17 provision of this subsection conflicts with federal  
18 law, it shall be construed to avoid such conflict.

19 Sec. \_\_\_\_ . Section 11.6, subsection 4, Code  
20 Supplement 1991, is amended by adding the following  
21 new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. An examination under  
23 this subsection shall include a determination of  
24 whether investments by the governmental subdivision  
25 are authorized by state law.

26 Sec. \_\_\_\_ . Section 11.6, subsection 7, Code  
27 Supplement 1991, is amended to read as follows:

28 7. The auditor of state shall make guidelines  
29 available to the public setting forth accounting and  
30 auditing standards and procedures and audit and legal  
31 compliance programs to be applied in the examination  
32 of the governmental subdivisions of the state, which  
33 shall require a review of the internal control  
34 structure and specify testing of transactions for  
35 compliance. The guidelines shall include a  
36 requirement that the certified public accountant  
37 immediately notify the auditor of state regarding any  
38 suspected embezzlement or theft. The auditor shall  
39 also provide standard reporting formats for use in  
40 reporting the results of an examination of a  
41 governmental subdivision."

42 2. Page 1, line 8, by striking the words "and  
43 agencies" and inserting the following: ",  
44 instrumentalities, and agencies of the state".

45 3. Page 1, by striking lines 22 through 45 and  
46 inserting the following:

47 "The treasurer of state shall adopt rules pursuant  
48 to chapter 17A for providing technical information and  
49 assistance to political subdivisions,  
50 instrumentalities, and agencies of the state

S-5135

-4-

S-5135

Page 5

1 authorized to invest funds which are seeking to invest  
2 public funds. The treasurer or the treasurer's  
3 designee shall provide technical information and  
4 assistance to a political subdivision,  
5 instrumentality, or agency of the state authorized to  
6 invest funds at the request of the political  
7 subdivision, instrumentality, or agency of the state  
8 authorized to invest funds, including but not limited  
9 to technical information regarding the statutory  
10 requirements for investments by the political  
11 subdivision, instrumentality, or agency and technical  
12 assistance to enable the political subdivision,  
13 instrumentality, or agency to invest funds in  
14 accordance with state law. However, the fact that  
15 information and assistance are provided under this  
16 section to a political subdivision, instrumentality,  
17 or agency authorized to invest funds shall not make  
18 the state, the treasurer of state, or the treasurer's  
19 designee liable to a political subdivision,  
20 instrumentality, or agency of the state in any manner  
21 for any loss, damage, or expense incurred by the  
22 political subdivision, instrumentality, or agency as a  
23 result of an investment."

24 4. Page 1, by inserting before line 46 the  
25 following:

26 "Sec. \_\_\_\_ . Section 28E.5, subsection 2, Code 1991,  
27 is amended to read as follows:

28 2. The precise organization, composition and  
29 nature of any separate legal or administrative entity  
30 created thereby together with the powers delegated  
31 thereto, provided such entity may be legally created.  
32 However, if the agreement establishes a separate legal  
33 or administrative entity, the entity shall, when  
34 investing funds, comply with the provisions of  
35 sections 452.10 and 452.10A through 452.10C and other  
36 applicable law."

37 5. Page 1, line 50, by striking the words and  
38 figures "sections 452.10 and 452.10A and other  
39 applicable law" and inserting the following: "section  
40 452.10".

41 6. Page 2, by inserting after line 6, the  
42 following:

43 "The board shall have written investment policies  
44 which include listings of authorized and unauthorized  
45 investments, approval processes for the selection of  
46 investment managers and other investment  
47 professionals, allowable maturities for fixed income  
48 securities, and provisions for regular and frequent  
49 board oversight, including audit. The board's  
50 investment policy shall cover endowment and

S-5135

-5-

S-5135

Page 6

1 nonendowment investments."

2 7. Page 2, by inserting after line 49 the  
3 following:

4 "Sec. \_\_\_\_ . Section 411.7, subsection 2, Code  
5 Supplement 1991, is amended by adding the following  
6 new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. Investments by the fund  
8 shall be subject to the same audit and compliance  
9 testing requirements as is a political subdivision  
10 which invests public funds with a joint investment  
11 trust organized pursuant to chapter 28E."

12 8. Page 3, by inserting after line 10 the  
13 following:

14 "The treasurer of state and the treasurer of each  
15 political subdivision shall at all times keep funds  
16 coming into their possession as public money in a  
17 vault or safe to be provided for that purpose or in  
18 one or more depositories approved pursuant to chapter  
19 453. However, the treasurer of state and the  
20 treasurer of each political subdivision shall invest,  
21 unless otherwise provided, any public funds not  
22 currently needed in investments authorized by this  
23 section."

24 9. Page 3, by striking line 34 and inserting the  
25 following: "limited to, compliance with state law,  
26 diversification, maturity, quality, and".

27 10. Page 4, line 1, by inserting after the word  
28 "paper" the following: "and other short-term  
29 corporate debt".

30 11. Page 4, line 2, by inserting after the word  
31 "paper" the following: "and debt".

32 12. Page 4, line 13, by inserting after the word  
33 "permitted" the following: "except with respect to  
34 endowment funds or investments held under deferred  
35 compensation agreements".

36 13. Page 4, line 18, by inserting after the  
37 figure "270.2a-7" the following: "or "The Common Fund  
38 For Nonprofit Organizations" or its affiliates,  
39 provided that the persons managing the funds are  
40 regulated by the federal securities and exchange  
41 commission as an investment company under the federal  
42 Investment Company Act of 1940, 15 U.S.C. § 80(a)."

43 14. Page 4, lines 21 through 24, by striking the  
44 words ", including entities organized pursuant to  
45 chapter 28E whose primary function is other than to  
46 jointly invest public funds,".

47 15. Page 4, line 38, by striking the words "paper  
48 shall be in paper" and inserting the following:  
49 "paper and other short term corporate debt shall be in  
50 paper and debt".

S-5135

-6-

S-5135

Page 7

1 16. By striking page 4, line 47, through page 5,  
2 line 2, and inserting the following: "chapter 28E  
3 organized prior to and existing in good standing on  
4 the effective date of this Act. Provided that the  
5 joint investment trust shall be rated within the two  
6 highest classifications by at least one of the  
7 standard rating services approved by the  
8 superintendent of banking by rule adopted pursuant to  
9 chapter 17A.

10 g. An open-end management investment company, or  
11 an unincorporated investment company or investment  
12 trust, or a joint investment trust organized pursuant  
13 to chapter 28E on or after the effective date of this  
14 Act, provided that such entities are registered under  
15 the federal Investment Company Act of 1940, 15 U.S.C.  
16 § 80(a), and are operated in accordance with 17 C.F.R.  
17 § 270.2a-7, the portfolio of which is authorized by  
18 section 452.10."

19 17. Page 5, by inserting after line 5 the  
20 following:

21 "The trading of securities in which public funds  
22 are invested for the purpose of speculation and the  
23 realization of short-term trading profits is  
24 prohibited.

25 The investments by a political subdivision or  
26 agency must have maturities that are consistent with  
the needs and use of that political subdivision or  
agency."

29 18. Page 5, by striking lines 11 through 50 and  
30 inserting the following:

31 "1. The investment of public funds which are  
32 operating funds by a political subdivision shall be  
33 subject to the following:

34 a. As used in this section, "operating funds"  
35 means those funds which are reasonably expected to be  
36 expended during a current budget year or within  
37 fifteen months of receipt.

38 b. Operating funds must be identified and  
39 distinguished from all other funds available for  
40 investment.

41 c. Operating funds may only be invested in  
42 investments which mature within three hundred ninety-  
43 seven days or less and which are authorized by law for  
44 the investing public entity.

45 2. All investments of public funds by political  
46 subdivisions shall be subject to the following:

47 a. Each investment must be authorized by  
48 applicable law and the written investment policy of  
49 the political subdivision.

50 b. The trading of securities in which any public

S-5135

-7-



S-5135

Page 8

1 funds are invested for the purpose of speculation and  
2 the realization of short-term trading profits is  
3 prohibited.

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

7 d. Each political subdivision whose investments  
8 involve the use of a public funds custodial agreement,  
9 as defined in section 452.10C, shall comply with rules  
10 adopted pursuant to section 452.10B relating to those  
11 investments. All contracts providing for the  
12 investment of public funds shall be in writing and  
13 shall contain a provision requiring that all  
14 investments shall be made in accordance with the laws  
15 of this state. The political subdivision also shall  
16 submit information about investments involving outside  
17 persons to the treasurer of state as required by rule  
18 adopted under section 12.1 which shall be public  
19 records under section 22.1.

20 e. A contract for the investment or deposit of  
21 public funds shall not provide for compensation of an  
22 agent or fiduciary based upon investment performance.

23 3. A treasurer of a political subdivision may  
24 invest funds of the political subdivision or agency  
25 that are not operating funds in investments having  
26 maturities longer than three hundred ninety-seven  
27 days. Subsection 1 does not apply to public funds  
28 that are not operating funds or to public funds that  
29 are invested under the provisions of a resolution or  
30 indenture for the issuance of bonds, notes,  
31 certificates, warrants, or other evidences of  
32 indebtedness if such investments are classified or  
33 approved as investments for municipal financing,  
34 within the two highest classifications by at least one  
35 of the standard rating services approved by the  
36 superintendent of banking by rule pursuant to chapter  
37 17A.

38 4. As used in this section, "public funds" means  
39 all funds that are public funds within the meaning of  
40 section 453.1, subsection 2, paragraph "b", except  
41 state funds invested by the treasurer of state.

42 5. This section shall not be construed to  
43 supersede any provision of this chapter or of chapter  
44 453.

45 Sec. \_\_\_\_ . NEW SECTION. 452.10B WRITTEN  
46 INVESTMENT POLICIES.

47 1. Political subdivisions shall approve written  
48 investment policies which incorporate the guidelines  
49 specified in section 452.10, sections 452.10A through  
50 452.10C, and any other provisions deemed necessary to

S-5135

S-5135

Page 9

1 adequately safeguard invested public funds.

2 2. The written investment policy required by  
3 section 452.10 shall be delivered to all of the  
4 following:

5 a. The governing body or officer of the public  
6 entity to which the policy applies.

7 b. All depository institutions or fiduciaries for  
8 public funds of the public entity.

9 c. The auditor of the public entity."

10 19. Page 6, by striking lines 1 through 38.

11 20. Page 7, by striking lines 30 through 33 and  
12 inserting the following: "funds as defined in section  
13 453.1. However, this section does not apply to public  
14 funds that are invested under the provisions of a  
15 resolution or indenture for the issuance of bonds,  
16 notes, certificates, warrants, or other evidences of  
17 indebtedness. To the extent that a provision of this  
18 section conflicts with federal law, it shall be  
19 construed to avoid the conflict."

20 21. Page 8, by inserting before line 20 the  
21 following:

22 "Sec. \_\_\_\_ . NEW SECTION. 502.701 PUBLIC JOINT  
23 INVESTMENT TRUSTS.

24 1. A joint investment trust organized pursuant to  
25 chapter 28E for the purposes of joint investment of  
26 public funds is subject to the jurisdiction and  
27 authority of the administrator, including all  
28 requirements of this chapter, except the registration  
29 provisions of section 502.201 and 502.218.

30 2. The administrator may make examinations within  
31 or without the state, of the business and records of  
32 each joint investment trust, at the times and in the  
33 scope as the administrator determines. The  
34 examinations may be made without prior notice to the  
35 joint investment trust or the trust's investment  
36 advisor. The administrator may copy all records the  
37 administrator feels are necessary to conduct the  
38 examination. The expense reasonably attributable to  
39 the examination shall be paid by the joint investment  
40 trusts whose business is examined, but the expense so  
41 payable shall not exceed an amount which the  
42 administrator by rule prescribes. For the purpose of  
43 avoiding unnecessary duplication of examinations, the  
44 administrator may cooperate with other regulatory  
45 authorities."

46 22. Page 8, by striking lines 26 through 31 and  
47 inserting the following: "Act does not apply to an  
48 investment made prior to the effective date of this  
49 Act.

50 The requirement in section 452.10, subsection 5,

S-5135

S-5135

Page 10

1 paragraph "f", as enacted in this Act that a joint  
 2 investment trust organized pursuant to chapter 28E and  
 3 existing prior to the effective date of this Act must  
 4 be rated within the two highest classifications by at  
 5 least one of the standard rating services approved by  
 6 the superintendent of banking by rule pursuant to  
 7 chapter 17A as a condition of eligibility for public  
 8 funds investments does not apply until July 1, 1993.  
 9 The operations of such a joint investment trust  
 10 nevertheless shall comply with all other provisions of  
 11 this Act not specifically exempted, on and after the  
 12 effective date of this Act."

13 23. By renumbering, relettering, or redesignating  
 14 and correcting internal references as necessary.

By RICHARD VARN  
 PAT DELUHERY

S-5135 FILED MARCH 4, 1992

*Adopted 3/4/92 (7.6.77)*

SENATE FILE 2036

S-5136

1 Amend the amendment, S-5085, to Senate File 2036 as  
2 follows:

3 1. Page 7, by striking lines 34 through 50 and  
4 inserting the following:

5 "Sec. \_\_\_\_ . Section 453.1, subsection 2, paragraph  
6 a, Code 1991, is amended to read as follows:

7 a. "Depository" means a bank ~~or any office of a~~  
8 ~~bank whose accounts are insured by the federal deposit~~  
9 ~~insurance corporation, or, a savings and loan~~  
10 ~~association or a savings bank or any branch of a~~  
11 ~~savings and loan association or savings bank whose~~  
12 ~~accounts are insured by the federal savings and loan~~  
13 ~~insurance corporation, or a credit union insured by~~  
14 ~~the national credit union administration in which~~  
15 public funds are deposited under this chapter.

16 Sec. \_\_\_\_ . Section 453.1, subsection 2, Code 1991,  
17 is amended by adding the following new paragraphs:

18 NEW PARAGRAPH. c. "Bank" means a corporation  
19 engaged in the business of banking authorized by law  
20 to receive deposits and whose deposits are insured by  
21 the bank insurance fund of the federal deposit  
22 insurance corporation and includes any office of a  
23 bank.

24 NEW PARAGRAPH. d. "Savings and loan" means a  
25 corporation authorized to operate under chapter 534 or  
26 the federal Home Owner's Loan Act of 1933, 12 U.S.C. §  
27 1461, et seq., and includes a savings and loan  
28 association, a savings bank, or any branch of a  
29 savings and loan association or savings bank.

30 NEW PARAGRAPH. e. "Credit union" means a  
31 cooperative, nonprofit association incorporated under  
32 chapter 533 or the federal Credit Union Act, 12 U.S.C.  
33 § 1751, et seq., and that is insured by the national  
34 credit union administration and includes an office of  
35 a credit union.

36 NEW PARAGRAPH. f. "Financial institution" means a  
37 bank, savings and loan, or a credit union.

38 Sec. \_\_\_\_ . Section 453.1, subsection 3, Code 1991,  
39 is amended to read as follows:

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

42 a. If a depository is a savings and loan  
43 ~~association, a savings bank, or an office of a savings~~  
44 ~~and loan association or savings bank~~ or a credit  
45 union, then the public deposits in ~~those depositories~~  
46 the savings and loan or credit union shall be secured  
47 pursuant to sections 453.16 through 453.19 and  
48 sections 453.23 and 453.24.

49 b. If a depository is a bank, ~~credit union, or an~~  
50 ~~office of a bank or credit union~~, then the public

S-5136

S-5136

Page 2

1 deposits in ~~these depositories~~ the bank shall be  
2 secured pursuant to sections ~~453.22 through 453.21,~~  
3 ~~453.23, and 453.24.~~

4 Sec. \_\_\_\_. Section 453.15, Code 1991, is amended to  
5 read as follows:

6 453.15 RESTRICTION ON REQUIRING COLLATERAL.

7 A local government shall not require a pledge of  
8 collateral for that portion of the local government's  
9 deposits in a depository-institution savings and loan  
10 or credit union that is covered by insurance of a  
11 ~~federal agency or instrumentality including the~~  
12 ~~federal deposit insurance corporation, the federal~~  
13 ~~savings and loan insurance corporation, or the~~  
14 ~~national credit union administration.~~

15 Sec. \_\_\_\_. Section 453.16, subsection 1, unnumbered  
16 paragraph 1, Code 1991, is amended to read as follows:

17 Before a deposit of public funds is made by a  
18 public officer with a depository-institution savings  
19 and loan or credit union in excess of the amount  
20 ~~federally insured by federal deposit insurance or~~  
21 ~~federal savings and loan insurance, and before the~~  
22 ~~investment of public funds in investments authorized~~  
23 ~~in section 452.10 which either are not obligations of~~  
24 ~~or guaranteed by the United States government or any~~  
25 ~~of its agencies, are in excess of the amount insured~~  
26 ~~by federal deposit insurance or federal savings and~~  
27 ~~loan insurance, or are investments by the treasurer of~~  
28 ~~state specifically authorized by section 452.10 to be~~  
29 ~~made as additional investments under section 97B.7,~~  
30 ~~subsection 2, paragraph "b",~~ the public officer shall  
31 obtain security for the deposit ~~or investment~~ by one  
32 or more of the following:

33 Sec. \_\_\_\_. Section 453.16, subsection 1, paragraph  
34 a, Code 1991, is amended to read as follows:

35 a. The depository-institution savings and loan or  
36 credit union may give to the public officer a  
37 corporate surety bond of a surety corporation approved  
38 by the treasury department of the United States and  
39 authorized to do business in this state, which bond  
40 shall be in an amount equal to the public funds on  
41 deposit at any time. The bond shall be conditioned  
42 that the deposit shall be paid promptly on the order  
43 of the public officer making the deposit and shall be  
44 approved by the officer making the deposit.

45 Sec. \_\_\_\_. Section 453.16, subsection 1, paragraph  
46 b, unnumbered paragraph 1, Code 1991, is amended to  
47 read as follows:

48 The depository-institution savings and loan or  
49 credit union may deposit, maintain, pledge and assign  
50 for the benefit of the public officer in the manner

S-5136

S-5136

Page 3

1 provided in this chapter, securities approved by the  
2 public officer, the market value of which is not less  
3 than one hundred ten percent of the total deposits of  
4 public funds placed by that public officer in the  
5 depository-institution savings and loan or credit  
6 union. The securities shall consist of any of the  
7 following:

8 Sec. \_\_\_\_\_. Section 453.16, subsection 1, paragraph  
9 b, subparagraph (4), Code 1991, is amended to read as  
10 follows:

11 (4) To the extent of the guarantee, loans,  
12 obligations, or nontransferable letters of credit upon  
13 which the payment of principal and interest is fully  
14 secured or guaranteed by the United States of America  
15 or an agency or instrumentality of the United States  
16 of America or the United States corporate central  
17 credit union, and the rating of the United States  
18 corporate central credit union remains within the two  
19 highest classifications of prime established by at  
20 least one of the standard rating services approved by  
21 the superintendent of banking by rule pursuant to  
22 chapter 17A. The treasurer of state shall adopt rules  
23 pursuant to chapter 17A to implement this section."

24 2. Page 8, by inserting after line 19 the  
25 following:

26 "Sec. \_\_\_\_\_. Section 453.16, subsection 2, Code  
27 1991, is amended to read as follows:

28 2. If public funds are secured by both the assets  
29 of a depository-institution savings and loan or credit  
30 union and a bond of a surety company, the assets and  
31 bond shall be held as security for a rateable  
32 proportion of the deposit on the basis of the market  
33 value of the assets and of the total amount of the  
34 surety bonds.

35 Sec. \_\_\_\_\_. Section 453.17, subsection 1, unnumbered  
36 paragraph 1, Code 1991, is amended to read as follows:

37 A depository-institution savings and loan or credit  
38 union which receives public funds shall pledge  
39 securities owned by it as required by this chapter in  
40 one of the following methods:

41 Sec. \_\_\_\_\_. Section 453.17, subsection 1, paragraph  
42 c, Code 1991, is amended to read as follows:

43 c. The securities shall be deposited with the  
44 federal reserve bank of Chicago, Illinois, ~~or~~ the  
45 federal home loan bank of Des Moines, Iowa, or the  
46 United States corporate central credit union pursuant  
47 to a bailment agreement or a pledge custody agreement.

48 Sec. \_\_\_\_\_. Section 453.17, subsections 3 and 4,  
49 Code 1991, are amended to read as follows:

50 3. All deposits of securities, other than deposits

S-5136

S-5136

Page 4

1 of securities with the appropriate public officer,  
2 shall have a joint custody receipt taken for the  
3 securities with one copy delivered to the public  
4 officer and one copy delivered to the depository  
5 institution savings and loan or credit union. A  
6 depository-institution savings and loan or credit  
7 union pledging securities with a public officer may  
8 cause the securities to be examined in the officer's  
9 office to show the securities are placed with the  
10 officer as collateral security and are not  
11 transferable except upon the conditions provided in  
12 this chapter.

13 4. Upon written request from the appropriate  
14 public officer but not less than quarterly, a  
15 depository-institution savings and loan or credit  
16 union shall report the par value and the market value  
17 of any pledged collateral and the total deposits of  
18 public funds of that officer in the depository  
19 institution savings and loan or credit union.

20 Sec. \_\_\_\_ . Section 453.18, Code 1991, is amended to  
21 read as follows:

22 453.18 CONDITION OF SECURITY.

23 The condition of the surety bond or the deposit of  
24 securities, instruments, or a joint custody receipt,  
25 must be that the depository-institution savings and  
26 loan or credit union will promptly pay to the parties  
27 entitled public funds, including any interest on the  
28 funds, in its custody upon lawful demand and, when  
29 required by law, pay the funds to the public officer  
30 who made the deposit.

31 Sec. \_\_\_\_ . Section 453.19, subsections 3 and 4,  
32 Code 1991, are amended to read as follows:

33 3. In the event of substitution or exchange of  
34 securities, the holder or custodian of the securities  
35 shall, on the same day, forward by certified mail,  
36 return receipt requested, to the public officer and  
37 the depository-institution savings and loan or credit  
38 union, a receipt specifically describing and  
39 identifying both the substituted securities and those  
40 released and returned to the depository-institution  
41 savings and loan or credit union.

42 4. The public officer which deposits public funds  
43 with a depository-institution savings and loan or  
44 credit union shall require, if the market value of the  
45 securities deposited with or for the benefit of the  
46 officer falls below one hundred ten percent of the  
47 deposit liability to the public officer, the deposit  
48 of additional security to bring the total market value  
49 of the security to one hundred ten percent of the  
50 amount of public funds held by the depository savings

S-5136

S-5136

Page 5

1 and loan or credit union.

2 Sec. \_\_\_\_\_. NEW SECTION. 453.21 REQUIRED

3 COLLATERAL -- BANKS.

4 1. A depository that is a bank shall pledge the  
5 required collateral securities to the treasurer of  
6 state by depositing before January 31 of each year the  
7 collateral securities in restricted accounts of the  
8 treasurer of state, including but not limited to  
9 pledge-custody accounts, at a federal reserve bank, a  
10 trust department of another commercial bank, or with  
11 another financial institution which has been  
12 designated by the treasurer of state that is not owned  
13 or controlled directly or indirectly by the same  
14 depository or holding company. The bank shall deliver  
15 to the treasurer of state a security agreement which  
16 provides the treasurer of state with a valid and  
17 perfected security interest in the required  
18 collateral. The market value of the required  
19 collateral shall not be less than five percent of the  
20 average total public funds placed on deposit in the  
21 bank during the preceding year. The average total  
22 public funds shall be calculated by adding the total  
23 public funds reported quarterly to the federal  
24 government on the report of condition and income, and  
25 dividing that amount by four. The calculation of the  
26 average total public funds shall be made before  
27 January 31 of each year.

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

30 a. Providing for valuation of collateral if the  
31 market value of a security is not readily  
32 determinable.

33 b. Establishing reporting requirements.

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

36 d. Establishing administrative procedures  
37 necessary to implement this chapter and other rules as  
38 may be necessary to accomplish the purposes of this  
39 chapter.

40 e. Designating financial institutions eligible to  
41 be custodian of pledged collateral.

42 f. Establishing fee schedules to cover costs  
43 incurred for opening and closing accounts and  
44 substitution of collateral.

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

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

S-5136

-5-



S-5136

Page 6

1 or instrumentality of the United States of America.  
2 b. Public bonds or obligations of this state or a  
3 political subdivision of this state.  
4 c. Public bonds or obligations of another state or  
5 a political subdivision of another state whose bonds  
6 are rated within the two highest classifications of  
7 prime as established by at least one of the standard  
8 rating services approved by the superintendent of  
9 banking pursuant to chapter 17A.  
10 d. To the extent of the guarantee, loans,  
11 obligations, or nontransferable letters of credit upon  
12 which the payment of principal and interest is fully  
13 secured or guaranteed by the United States of America  
14 or an agency or instrumentality of the United States  
15 of America.  
16 e. First lien mortgages which are valued according  
17 to practices acceptable to the treasurer of state.  
18 f. Corporate bonds rated within the two highest  
19 classifications of prime as established by at least  
20 one of the standard rating services approved by the  
21 superintendent of banking pursuant to chapter 17A.  
22 g. A bond of a surety company approved by the  
23 United States treasury department.  
24 Direct obligations of, or obligations that are  
25 insured or fully guaranteed as to principal and  
26 interest by, the United States of America, which may  
27 be used to secure public deposits under paragraph "a",  
28 include investments in an investment company or  
29 investment trust registered under the federal  
30 Investment Company Act of 1940, 15 U.S.C. § 80a, the  
31 portfolio of which is limited to the United States  
32 government obligations described in paragraph "a", if  
33 the investment company or investment trust takes  
34 delivery of the collateral either directly or through  
35 an authorized custodian.  
36 4. A bank may borrow collateral used for a pledge  
37 if the collateral is free of any liens, security  
38 interests, claims, or encumbrances.  
39 Sec. \_\_\_\_\_. Section 453.22, Code 1991, is repealed."  
40 3. By renumbering, relettering, or redesignating  
41 and correcting internal references as necessary.

By RICHARD VARN  
PAT DELUHERY

S-5136 FILED MARCH 4, 1992

*Adopted 3/4 (p. 677)*

SENATE FILE 2036

S-5157

1 Amend the amendment, S-5085, to Senate File 2036 as  
2 follows:

3 1. Page 3, line 44, by inserting after the word  
4 "acceptances" the following: "that mature within one  
5 hundred eighty days and that are eligible for purchase  
6 by a federal reserve bank, provided that at the time  
7 of purchase no more than thirty percent of the  
8 investment portfolio of the treasurer of state or any  
9 other state agency shall be in investments authorized  
10 by this paragraph and that at the time of purchase no  
11 more than five percent of the investment portfolio  
12 shall be invested in the securities of a single  
13 issuer".

14 2. Page 3, line 46, by inserting after the word  
15 "debt" the following: "that matures within one  
16 hundred eighty days and that is".

17 3. Page 4, line 2, by inserting after the word  
18 "classification" the following: ", and provided  
19 further that at the time of purchase no more than  
20 thirty percent of the investment portfolio of the  
21 treasurer of state or any other state agency shall be  
22 in investments authorized by this paragraph and that  
23 at the time of purchase no more than five percent of  
24 the investment portfolio shall be invested in the  
25 securities of a single issuer".

26 4. Page 4, line 31, by inserting after the word  
27 "acceptances" the following: "that mature within one  
28 hundred eighty days and that are eligible for purchase  
29 by a federal reserve bank, provided that at the time  
30 of purchase no more than ten percent of the investment  
31 portfolio shall be in investments authorized by this  
32 paragraph and that at the time of purchase no more  
33 than five percent of the investment portfolio shall be  
34 invested in the securities of a single issuer".

35 5. Page 4, line 33, by inserting after the word  
36 "debt" the following: "that matures within one  
37 hundred eighty days and that is".

38 6. Page 4, line 39, by inserting after the word  
39 "classification" the following: ", and provided  
40 further that at the time of purchase no more than ten  
41 percent of the investment portfolio shall be in  
42 investments authorized by this paragraph and that at  
43 the time of purchase no more than five percent of the  
44 investment portfolio shall be invested in the  
45 securities of a single issuer".

By DERRYL McLAREN

S-5157 FILED MARCH 9, 1992

*Adopted 3/10*

SENATE FILE 2036  
AS PASSED BY THE SENATE  
FISCAL NOTE

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A fiscal note for Senate File 2036, as passed by the Senate, is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 2036, as passed by the Senate, deals with the investment of public funds and defines responsibilities and requirements. The bill requires an auditor, when examining the Board of Regents institutions, cities and city offices, counties, and county and memorial hospitals, to test for compliance with investment policy. Factors to be examined are specified, including a review of the internal control structure.

The Treasurer is required to report on investments by political entities and may adopt administrative rules to collect the information for reporting and for other purposes. The Treasurer also is to provide technical information and assistance to political subdivisions. Providing assistance does not make the State, the Treasurer, or the Treasurer's designee liable for loss, damage, or expense incurred by the political subdivision.

Written investment policies are required for the Board of Regents and other entities investing public funds.

Standards are set for investment of public funds. In addition to providing for safekeeping of funds in their possession, State agencies and political subdivisions are to exercise skill and diligence, applying the prudent person standard. The primary investment goals, in order of priority, are:

1. The safety of the principal.
2. Maintaining proper liquidity.
3. Obtaining a reasonable return.

Investments are permitted in obligations of the U. S. government, federally insured certificates of deposit, prime bankers acceptances, commercial paper or short-term corporate debt, repurchase agreements with underlying collateral of the above mentioned types, and in an open-end management investment company registered with the Federal Securities and Exchange Commission. Some differences exist in other requirements for State and local agencies.

The Iowa Public Employees Retirement System is exempt from these regulations.

Limits are set for investing operating funds, and speculation is prohibited.

A commission consisting of the Treasurer of State, the Auditor of State, the Commissioner of Insurance, and the Superintendents of Banking, of Savings and Loan Associations, and of Credit Unions is established. The Superintendents are to enforce these rules within their respective industries.

-2-

Requirements for banks, savings and loans, and credit unions, as depositories, are established. The requirements deal with collateral, federally insured deposits and security for the deposit, and other such factors. Joint investments are subject to examination by an administrator appointed by the Commissioner of Insurance.

**Assumptions:**

1. The demand for services from the Office of the Treasurer by political subdivisions will be met by responding directly to questions, distributing informative publications, and public presentations. Current staffing is expected to be sufficient to provide these services.
2. The Treasurer's current investment practices are consistent with the requirements of the bill.
3. The Securities Bureau, Insurance Division, of the Department of Commerce will be required to take on new duties and provide examinations in the investment trust area.
4. Examination costs by the Banking and Credit Union Divisions, of the Department of Commerce will be offset by increased billings for these examinations.
5. Local governments will experience some increase in audit costs. The additional costs of obtaining federal Security and Exchange Commission registration will be passed along to the local government investors.
6. The 3 Board of Regents' universities would be prohibited from investing in certain money market instruments they currently use for overnight investment. For purposes of estimation, it is assumed that:
  - a. The current operating funds remain constant.
  - b. The difference between the rate of return on money market funds and the repurchase agreements will remain constant.
  - c. The cut off time for investing in repurchase agreements is 11:00 a.m. and the Common Fund cut off is 2:00 p.m. Central Time.
  - d. \$3.0 million is left uninvested on a daily basis.

**Fiscal Impact:**

1. The Office of the Treasurer will be able to provide technical assistance and collect the required information within current budget and staffing levels, assuming the volume of requests and information is not excessive.
2. The cost to the Office of the Auditor cannot be estimated. The increased charges by the Auditor to the Regents' institutions are estimated to be less than \$5,000 annually.
3. The Insurance Division, Department of Commerce, would need an experienced auditor (1.0 FTE position). The one-time, start-up costs would be \$5,000 with on-going annual costs of \$49,100 for salary and audit expenses to meet the new responsibilities. Costs could be reduced if clear authority were provided permitting the Commissioner of Insurance to contract for outside professional services.
4. It is anticipated that additional costs to the Banking Division and the Credit Union Division, Department of Commerce, will be minimal and can be absorbed through normal examination functions.
5. Local school districts could experience increased administrative and

-3-

auditing costs. No estimate of these costs is available.

6. The required investment auditing will increase the costs to cities. The amount will vary by city. Joint investment costs are expected to increase by \$25,000 to \$50,000 for the federal Securities and Exchange Commission registration which would probably be taken out of interest earned by the cities.
7. For the Board of Regents, the administrative costs for the increased workload for managing the daily investment of repurchase agreements will be approximately \$52,000 annually. Investment revenues will be reduced by approximately \$479,000 annually, for a total cost of \$531,000.

Sources:

Auditor of State  
Treasurer of State  
Department of Commerce:  
    Insurance Division  
    Banking Division  
    Credit Unions Division  
League of Iowa Municipalities  
Department of Education  
Board of Regents  
Iowa Association of School Boards

(LSB 5482sv.2, MDF)

FILED MARCH 20, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

*See Stat. Book, No. Pass 3/26 + Amend (H-5550)*

SENATE FILE **2036**  
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 2003.1)

(AS AMENDED AND PASSED BY THE SENATE MARCH 10, 1992)

ALL New Language by the Senate

Passed Senate, Date 4/16/92 (p.1459) Passed House, Date 4/2/92 (p.1016)

Vote: Ayes 49 Nays 0 Vote: Ayes 49 Nays 0

Approved April 28, 1992 (p.1697)

*Repassed 4/17/92 (p.1626)*

*Ayes 87 - Nays 0*

**A BILL FOR**

1 An Act relating to regulating the investment of public funds and  
2 providing an effective date.

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

4  
5

S.F.

**SENATE FILE 2036**

**H-5620**

1 Amend Senate File 2036 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 8, by inserting after line 10 the  
4 following:

5 "Sec. \_\_\_\_ Section 331.303, Code 1991, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 8A. Approve the written  
8 investment policy for the county required under  
9 section 452.10B."

10 2. By renumbering as necessary.

By MURPHY of Dubuque

H-5620 FILED MARCH 31, 1992

*Adopted 4/2 (p.1016)*

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1 Section 1. Section 11.2, Code 1991, is amended to read as  
2 follows:

3 11.2 ANNUAL SETTLEMENTS.

4 1. The auditor of state shall annually, and oftener if  
5 deemed necessary, make a full settlement between the state and  
6 all state officers and departments and all persons receiving  
7 or expending state funds, and shall annually make a complete  
8 audit of the books and accounts of every department of the  
9 state.

10 Provided, that the accounts, records, and documents of the  
11 treasury department shall be audited daily.

12 Provided further, that a preliminary audit of the  
13 educational institutions and the state fair board shall be  
14 made periodically, at least quarterly, to check the monthly  
15 reports submitted to the director of revenue and finance as  
16 required by section 421.31, subsection 4 and that a final  
17 audit of such state agencies shall be made at the close of  
18 each fiscal year.

19 2. In conjunction with the audit of the state board of  
20 regents required under this section, the auditor of state  
21 shall also perform tests for compliance with the investment  
22 policy of a reasonable number of investment transactions in  
23 relation to the total investments and quantity of transactions  
24 in the period audited. The results of the compliance testing  
25 shall be reported by the auditor of state in accordance with  
26 generally accepted auditing standards. The auditor of state  
27 may also make recommendations for changes to investment policy  
28 or practices. The state board of regents is responsible for  
29 the remedy of reported noncompliance with its policy or  
30 practices.

31 Except for security for public deposits as provided in  
32 sections 453.16 through 453.19 and sections 453.22 and 453.23,  
33 as part of its audit, the state board of regents is  
34 responsible for obtaining and providing to the auditor of  
35 state the audited financial statements and related report on

1 internal control structure of outside persons, performing any  
2 of the following for the state board of regents:

- 3 a. Investing public funds.  
4 b. Advising on the investment of public funds.  
5 c. Directing the deposit or investment of public funds.  
6 d. Acting in a fiduciary capacity for the state board of  
7 regents.

8 The review by the auditor of state of the most recent  
9 annual report to shareholders of an open-end management  
10 investment company or an unincorporated investment company or  
11 investment trust registered with the federal securities and  
12 exchange commission under the federal Investment Company Act  
13 of 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. § 270.30d-1  
14 or the review pursuant to a regular examination under state or  
15 federal law, to the extent the results of the examination are  
16 not confidential, of the investment activities of a bank,  
17 savings and loan, or credit union on behalf of the board of  
18 regents, shall satisfy the review requirements of this  
19 subsection.

20 All outside persons shall notify in writing the state board  
21 of regents subdivision within thirty days of receipt of  
22 communication from the auditor of state or any regulatory  
23 authority of the existence of a material weakness in internal  
24 control structure, or regulatory complaints, orders, or  
25 sanctions against the outside person. This provision to  
26 provide notice shall not be limited, or avoided, by contract.

27 Provided, however, that to the extent that a provision of  
28 this subsection conflicts with federal law, it shall be  
29 construed to avoid such conflict.

30 Sec. 2. Section 11.6, subsection 1, Code Supplement 1991,  
31 is amended to read as follows:

32 1. a. The financial condition and transactions of all  
33 cities and city offices, counties, county hospitals organized  
34 under chapters 347 and 347A, memorial hospitals organized  
35 under chapter 37, entities organized under chapter 28E having



1 gross receipts in excess of one hundred thousand dollars in a  
2 fiscal year, merged areas, area education agencies, and all  
3 school offices in school districts, shall be examined at least  
4 once each year, except that cities having a population of  
5 seven hundred or more but less than two thousand shall be  
6 examined at least once every four years, and cities having a  
7 population of less than seven hundred may be examined as  
8 otherwise provided in this section. The examination shall  
9 cover the fiscal year next preceding the year in which the  
10 audit is conducted. The examination of school offices shall  
11 include an audit of all school funds, the certified annual  
12 financial report, and the certified enrollment as provided in  
13 section 257.11. Examinations of community colleges shall  
14 include an audit of eligible and noneligible contact hours as  
15 defined in section 286A.2. Eligible and noneligible contact  
16 hours and the certified enrollment shall be certified to the  
17 department of management.

18 Subject to the exceptions and requirements of subsection 2  
19 and subsection 4, paragraph "c", examinations shall be made as  
20 determined by the governmental subdivision either by the  
21 auditor of state or by certified public accountants, certified  
22 in the state of Iowa, and they shall be paid from the proper  
23 public funds of the governmental subdivision.

24 b. In conjunction with the audit of the governmental  
25 subdivision required under this section, the person performing  
26 the audit shall also perform tests for compliance with the  
27 investment policy of a reasonable number of investment  
28 transactions in relation to the total investments and quantity  
29 of transactions in the period audited. The results of the  
30 compliance testing shall be reported in accordance with  
31 generally accepted auditing standards. The person performing  
32 the audit may also make recommendations for changes to  
33 investment policy or practices. The governmental subdivision  
34 is responsible for the remedy of reported noncompliance with  
35 its policy or practices.

1 Except for security for public deposits as provided in  
2 sections 453.16 through 453.19 and sections 453.22 and 453.23,  
3 as part of its audit, the governmental subdivision is  
4 responsible for obtaining and providing to the person  
5 performing the audit the audited financial statements and  
6 related report on internal control structure of outside  
7 persons, performing any of the following for the governmental  
8 subdivision:

9 (1) Investing public funds.

10 (2) Advising on the investment of public funds.

11 (3) Directing the deposit or investment of public funds.

12 (4) Acting in a fiduciary capacity for the governmental  
13 subdivision.

14 The review by the person performing the audit of the most  
15 recent annual report to shareholders of an open-end management  
16 investment company or an unincorporated investment company or  
17 investment trust registered with the federal securities and  
18 exchange commission under the federal Investment Company Act  
19 of 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. § 270.30d-1  
20 or the review pursuant to a regular examination under state or  
21 federal law, to the extent the results of the review are not  
22 confidential, of the investment activities of a bank, savings  
23 and loan, or credit union on behalf of a governmental  
24 subdivision, shall satisfy the review requirements of this  
25 lettered paragraph.

26 All outside persons shall notify in writing the  
27 governmental subdivision within thirty days of receipt of  
28 communication from an independent auditor or any regulatory  
29 authority of the existence of a material weakness in internal  
30 control structure, or regulatory complaints, orders, or  
31 sanctions against the outside person. This provision to  
32 provide notice shall not be limited, or avoided, by contract.

33 The auditor of a joint investment trust shall file all  
34 examination reports with the administrator of the securities  
35 bureau of the insurance division of the department of commerce

1 within ten days of completing the examination. The auditor  
2 shall immediately notify the administrator of any violations  
3 or weaknesses in internal control structures.

4 Provided, however, that to the extent that a provision of  
5 this subsection conflicts with federal law, it shall be  
6 construed to avoid such conflict.

7 Sec. 3. Section 11.6, subsection 4, Code Supplement 1991,  
8 is amended by adding the following new unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. An examination under this  
10 subsection shall include a determination of whether  
11 investments by the governmental subdivision are authorized by  
12 state law.

13 Sec. 4. Section 11.6, subsection 7, Code Supplement 1991,  
14 is amended to read as follows:

15 7. The auditor of state shall make guidelines available to  
16 the public setting forth accounting and auditing standards and  
17 procedures and audit and legal compliance programs to be  
18 applied in the examination of the governmental subdivisions of  
19 the state, which shall require a review of the internal  
20 control structure and specify testing of transactions for  
21 compliance. The guidelines shall include a requirement that  
22 the certified public accountant immediately notify the auditor  
23 of state regarding any suspected embezzlement or theft. The  
24 auditor shall also provide standard reporting formats for use  
25 in reporting the results of an examination of a governmental  
26 subdivision.

27 Sec. 5. Section 12.1, Code 1991, is amended by adding the  
28 following new unnumbered paragraph:

29 NEW UNNUMBERED PARAGRAPH. The treasurer shall report on  
30 the investments of all political subdivisions,  
31 instrumentalities, and agencies of the state authorized to  
32 invest funds made in accordance with section 452.10 to the  
33 general assembly. The treasurer shall adopt rules pursuant to  
34 chapter 17A requiring all political subdivisions and agencies  
35 authorized to invest funds to submit periodic reports of

1 investments made in accordance with section 452.10 to the  
2 treasurer and prescribing the forms for making the reports.  
3 Each political subdivision and agencies authorized to invest  
4 funds shall provide all the information required pursuant to  
5 this provision which shall be public records under section  
6 22.1.

7 Sec. 6. NEW SECTION. 12.62 INVESTMENTS BY AGENCIES AND  
8 POLITICAL SUBDIVISIONS -- TECHNICAL INFORMATION AND  
9 ASSISTANCE.

10 The treasurer of state shall adopt rules pursuant to  
11 chapter 17A for providing technical information and assistance  
12 to political subdivisions, instrumentalities, and agencies of  
13 the state authorized to invest funds which are seeking to  
14 invest public funds. The treasurer or the treasurer's  
15 designee shall provide technical information and assistance to  
16 a political subdivision, instrumentality, or agency of the  
17 state authorized to invest funds at the request of the  
18 political subdivision, instrumentality, or agency of the state  
19 authorized to invest funds, including but not limited to  
20 technical information regarding the statutory requirements for  
21 investments by the political subdivision, instrumentality, or  
22 agency and technical assistance to enable the political  
23 subdivision, instrumentality, or agency to invest funds in  
24 accordance with state law. However, the fact that information  
25 and assistance are provided under this section to a political  
26 subdivision, instrumentality, or agency authorized to invest  
27 funds shall not make the state, the treasurer of state, or the  
28 treasurer's designee liable to a political subdivision,  
29 instrumentality, or agency of the state in any manner for any  
30 loss, damage, or expense incurred by the political  
31 subdivision, instrumentality, or agency as a result of an  
32 investment.

33 Sec. 7. Section 28E.5, subsection 2, Code 1991, is amended  
34 to read as follows:

35 2. The precise organization, composition and nature of any

1 separate legal or administrative entity created thereby  
2 together with the powers delegated thereto, provided such  
3 entity may be legally created. However, if the agreement  
4 establishes a separate legal or administrative entity, the  
5 entity shall, when investing funds, comply with the provisions  
6 of sections 452.10 and 452.10A through 452.10C and other  
7 applicable law.

8 Sec. 8. Section 262.14, subsection 3, unnumbered paragraph  
9 1, Code 1991, is amended to read as follows:

10 Any portion of the funds may be invested by the board. All  
11 investments of funds shall be subject to section 452.10. In  
12 the investment of the funds, the board shall exercise the  
13 judgment and care, under the circumstances then prevailing,  
14 which persons of prudence, discretion and intelligence  
15 exercise in their own affairs as provided in section 633.123,  
16 subsection 1.

17 The board shall have written investment policies which  
18 include listings of authorized and unauthorized investments,  
19 approval processes for the selection of investment managers  
20 and other investment professionals, allowable maturities for  
21 fixed income securities, and provisions for regular and  
22 frequent board oversight, including audit. The board's  
23 investment policy shall cover endowment and nonendowment  
24 investments.

25 Sec. 9. Section 279.29, unnumbered paragraph 2, Code 1991,  
26 is amended to read as follows:

27 Pending audit and allowance of claims under this section,  
28 the board shall invest moneys of the corporation to the extent  
29 practicable, and the board may provide for the joint  
30 investment of moneys with one or more school corporations  
31 pursuant to a joint investment agreement. All investments of  
32 funds shall be subject to sections 452.10 and 452.10A and  
33 other applicable law.

34 Sec. 10. Section 302.11, Code 1991, is amended to read as  
35 follows:

1 302.11 SCHOOL FUND ACCOUNTS -- AUDIT OF LOSSES.

2 The director of revenue and finance shall keep the  
3 permanent school fund accounts in books provided for that  
4 purpose, separate and distinct from the revenue books. The  
5 auditor of state shall audit losses to the permanent school or  
6 university fund caused by the defalcation, mismanagement, or  
7 ~~fraud of the agents or officers controlling and managing the~~  
8 fund. The auditor of state shall adopt rules pursuant to  
9 chapter 17A for those officers as necessary to ascertain the  
10 losses.

11 Sec. 11. Section 331.555, subsection 6, Code 1991, is  
12 amended to read as follows:

13 6. The treasurer shall keep all funds invested to the  
14 extent practicable and may invest the funds jointly with one  
15 or more counties, judicial district departments of  
16 correctional services, cities, or city utilities pursuant to a  
17 joint investment agreement. All investments of funds shall be  
18 subject to sections 452.10 and 452.10A and other applicable  
19 law.

20 Sec. 12. Section 384.21, Code 1991, is amended to read as  
21 follows:

22 384.21 JOINT INVESTMENT OF FUNDS.

23 A city or a city utility board shall keep all funds  
24 invested to the extent practicable and may invest the funds  
25 jointly with one or more cities, utility boards, judicial  
26 district departments of correctional services, or counties  
27 pursuant to a joint investment agreement. All investments of  
28 funds shall be subject to sections 452.10 and 452.10A and  
29 other applicable law.

30 Sec. 13. Section 411.7, subsection 2, Code Supplement  
31 1991, is amended by adding the following new unnumbered  
32 paragraph:

33 NEW UNNUMBERED PARAGRAPH. Investments by the fund shall be  
34 subject to the same audit and compliance testing requirements  
35 as is a political subdivision which invests public funds with

1 a joint investment trust organized pursuant to chapter 28E.

2 Sec. 14. Section 452.10, Code Supplement 1991, is amended  
3 by striking the section and inserting in lieu thereof the  
4 following:

5 452.10 PUBLIC FUNDS INVESTMENT STANDARDS.

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

12 The treasurer of state and the treasurer of each political  
13 subdivision shall at all times keep funds coming into their  
14 possession as public money in a vault or safe to be provided  
15 for that purpose or in one or more depositories approved  
16 pursuant to chapter 453. However, the treasurer of state and  
17 the treasurer of each political subdivision shall invest,  
18 unless otherwise provided, any public funds not currently  
19 needed in investments authorized by this section.

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

32 a. Safety of principal is the first priority.

33 b. Maintaining the necessary liquidity to match expected  
34 liabilities is the second priority.

35 c. Obtaining a reasonable return is the third priority.

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

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

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

12 b. Certificates of deposit and other evidences of deposit  
13 at federally insured depository institutions approved pursuant  
14 to chapter 453.

15 c. Prime bankers' acceptances that mature within one  
16 hundred eighty days and that are eligible for purchase by a  
17 federal reserve bank, provided that at the time of purchase no  
18 more than thirty percent of the investment portfolio of the  
19 treasurer of state or any other state agency shall be in  
20 investments authorized by this paragraph and that at the time  
21 of purchase no more than five percent of the investment  
22 portfolio shall be invested in the securities of a single  
23 issuer.

24 d. Commercial paper or other short term corporate debt  
25 that matures within one hundred eighty days and that is rated  
26 within the two highest classifications, as established by at  
27 least one of the standard rating services approved by the  
28 superintendent of banking by rule adopted pursuant to chapter  
29 17A, provided that at the time of purchase no more than five  
30 percent of all amounts invested in commercial paper and other  
31 short-term corporate debt shall be invested in paper and debt  
32 rated in the second highest classification, and provided  
33 further that at the time of purchase no more than thirty  
34 percent of the investment portfolio of the treasurer of state  
35 or any other state agency shall be in investments authorized



1 by this paragraph and that at the time of purchase no more  
2 than five percent of the investment portfolio shall be  
3 invested in the securities of a single issuer.

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

10 f. Investments authorized for the Iowa public employee  
11 retirement system in section 97B.7, subsection 2, paragraph  
12 "b", except that investment in common stocks is not permitted  
13 except with respect to endowment funds or investments held  
14 under deferred compensation agreements.

15 g. An open-end management investment company organized in  
16 trust form registered with the federal securities and exchange  
17 commission under the federal Investment Company Act of 1940,  
18 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. §  
19 270.2a-7 or "The Common Fund For Nonprofit Organizations" or  
20 its affiliates, provided that the persons managing the funds  
21 are regulated by the federal securities and exchange  
22 commission as an investment company under the federal  
23 Investment Company Act of 1940, 15 U.S.C. § 80(a).

24 Futures and options contracts are not permissible  
25 investments.

26 5. Political subdivisions of this state shall only  
27 purchase and invest in the following:

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

30 b. Certificates of deposit and other evidences of deposit  
31 at federally insured depository institutions approved pursuant  
32 to chapter 453.

33 c. Prime bankers' acceptances that mature within one  
34 hundred eighty days and that are eligible for purchase by a  
35 federal reserve bank, provided that at the time of purchase no

1 more than ten percent of the investment portfolio shall be in  
2 investments authorized by this paragraph and that at the time  
3 of purchase no more than five percent of the investment  
4 portfolio shall be invested in the securities of a single  
5 issuer.

6 d. Commercial paper or other short term corporate debt  
7 that matures within one hundred eighty days and that is rated  
8 within the two highest classifications, as established by at  
9 least one of the standard rating services approved by the  
10 superintendent of banking by rule adopted pursuant to chapter  
11 17A, provided that at the time of purchase no more than five  
12 percent of all amounts invested in commercial paper and other  
13 short term corporate debt shall be in paper and debt rated in  
14 the second highest classification, and provided further that  
15 at the time of purchase no more than ten percent of the  
16 investment portfolio shall be in investments authorized by  
17 this paragraph and that at the time of purchase no more than  
18 five percent of the investment portfolio shall be invested in  
19 the securities of a single issuer.

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

25 f. A joint investment trust organized pursuant to chapter  
26 28E organized prior to and existing in good standing on the  
27 effective date of this Act. Provided that the joint  
28 investment trust shall be rated within the two highest  
29 classifications by at least one of the standard rating  
30 services approved by the superintendent of banking by rule  
31 adopted pursuant to chapter 17A.

32 g. An open-end management investment company, or an  
33 unincorporated investment company or investment trust, or a  
34 joint investment trust organized pursuant to chapter 28E on or  
35 after the effective date of this Act, provided that such

1 entities are registered under the federal Investment Company  
2 Act of 1940, 15 U.S.C. § 80(a), and are operated in  
3 accordance with 17 C.F.R. § 270.2a-7, the portfolio of which  
4 is authorized by section 452.10.

5 Futures and options contracts are not permissible  
6 investments. The provisions of section 452.10A must also be  
7 satisfied by the purchaser or investor.

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

11 The investments by a political subdivision or agency must  
12 have maturities that are consistent with the needs and use of  
13 that political subdivision or agency.

14 6. Investments by the Iowa public employees' retirement  
15 system are governed by chapter 97B and are not subject to this  
16 section.

17 Sec. 15. NEW SECTION. 452.10A PUBLIC INVESTMENT MATURITY  
18 AND PROCEDURAL LIMITATIONS.

19 1. The investment of public funds which are operating  
20 funds by a political subdivision shall be subject to the  
21 following:

22 a. As used in this section, "operating funds" means those  
23 funds which are reasonably expected to be expended during a  
24 current budget year or within fifteen months of receipt.

25 b. Operating funds must be identified and distinguished  
26 from all other funds available for investment.

27 c. Operating funds may only be invested in investments  
28 which mature within three hundred ninety-seven days or less  
29 and which are authorized by law for the investing public  
30 entity.

31 2. All investments of public funds by political  
32 subdivisions shall be subject to the following:

33 a. Each investment must be authorized by applicable law  
34 and the written investment policy of the political  
35 subdivision.

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

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

7 d. Each political subdivision whose investments involve  
8 the use of a public funds custodial agreement, as defined in  
9 section 452.10C, shall comply with rules adopted pursuant to  
10 section 452.10B relating to those investments. All contracts  
11 providing for the investment of public funds shall be in  
12 writing and shall contain a provision requiring that all  
13 investments shall be made in accordance with the laws of this  
14 state. The political subdivision also shall submit  
15 information about investments involving outside persons to the  
16 treasurer of state as required by rule adopted under section  
17 12.1 which shall be public records under section 22.1.

18 e. A contract for the investment or deposit of public  
19 funds shall not provide for compensation of an agent or  
20 fiduciary based upon investment performance.

21 3. A treasurer of a political subdivision may invest funds  
22 of the political subdivision or agency that are not operating  
23 funds in investments having maturities longer than three  
24 hundred ninety-seven days. Subsection 1 does not apply to  
25 public funds that are not operating funds or to public funds  
26 that are invested under the provisions of a resolution or  
27 indenture for the issuance of bonds, notes, certificates,  
28 warrants, or other evidences of indebtedness if such  
29 investments are classified or approved as investments for  
30 municipal financing, within the two highest classifications by  
31 at least one of the standard rating services approved by the  
32 superintendent of banking by rule pursuant to chapter 17A.

33 4. As used in this section, "public funds" means all funds  
34 that are public funds within the meaning of section 453.1,  
35 subsection 2, paragraph "b", except state funds invested by

1 the treasurer of state.

2 5. This section shall not be construed to supersede any  
3 provision of this chapter or of chapter 453.

4 <sup>5542</sup> Sec. 16. NEW SECTION. 452.10B WRITTEN INVESTMENT  
5 POLICIES.

6 1. Political subdivisions shall approve written investment  
7 policies which incorporate the guidelines specified in section  
8 452.10, sections 452.10A through 452.10C, and any other  
9 provisions deemed necessary to adequately safeguard invested  
10 public funds.

11 2. The written investment policy required by section  
12 452.10 shall be delivered to all of the following:

13 a. The governing body or officer of the public entity to  
14 which the policy applies.

15 b. All depository institutions or fiduciaries for public  
16 funds of the public entity.

17 c. The auditor of the public entity.

18 Sec. 17. NEW SECTION. 452.10C REGULATION OF PUBLIC FUNDS  
19 CUSTODIAL AGREEMENTS.

20 A commission consisting of the treasurer of state, the  
21 auditor of state, the commissioner of insurance, the  
22 superintendent of banking, the superintendent of savings and  
23 loan associations, and the superintendent of credit unions,  
24 shall adopt rules under chapter 17A requiring the inclusion in  
25 public funds custodial agreements of any provisions necessary  
26 to prevent loss of public funds.

27 The superintendent of banking shall enforce compliance with  
28 rules adopted pursuant to this section with respect to banks  
29 organized under chapter 524 and acting as or designating  
30 custodians of public funds. The superintendent of credit  
31 unions shall enforce compliance with rules adopted pursuant to  
32 this section with respect to credit unions organized under  
33 chapter 533 and acting as or designating custodians of public  
34 funds. The superintendent of savings and loan associations  
35 shall enforce compliance with rules adopted pursuant to this

1 section with respect to associations organized under chapter  
2 534 and acting as or designating custodians of public funds.  
3 The administrator under chapter 502 shall enforce compliance  
4 with rules adopted pursuant to this section with respect to  
5 all other persons acting as or designating custodians of  
6 public funds.

7 As used in this section, "public funds custodial agreement"  
8 means any contractual arrangement pursuant to which one or  
9 more persons, including but not limited to, investment  
10 advisors, investment companies, trustees, agents and  
11 custodians, are authorized to act as a custodian of or to  
12 designate another person to act as a custodian of public funds  
13 or any security or document of ownership or title evidencing  
14 public funds investments other than custodial agreements  
15 between an open-end management investment company registered  
16 with the federal securities and exchange commission under the  
17 federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and  
18 a custodian bank.

19 As used in this section "public funds" means public funds  
20 as defined in section 453.1. However, this section does not  
21 apply to public funds that are invested under the provisions  
22 of a resolution or indenture for the issuance of bonds, notes,  
23 certificates, warrants, or other evidences of indebtedness.  
24 To the extent that a provision of this section conflicts with  
25 federal law, it shall be construed to avoid the conflict.

26 Sec. 18. Section 453.1, subsection 2, paragraph a, Code  
27 1991, is amended to read as follows:

28 a. ~~"Depository" means a bank or any office of a bank whose~~  
29 ~~accounts are insured by the federal deposit insurance~~  
30 ~~corporation, or, a savings and loan association or a savings~~  
31 ~~bank or any branch of a savings and loan association or~~  
32 ~~savings bank whose accounts are insured by the federal savings~~  
33 ~~and loan insurance corporation, or a credit union insured by~~  
34 ~~the national credit union administration in which public funds~~  
35 are deposited under this chapter.

1 Sec. 19. Section 453.1, subsection 2, Code 1991, is  
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. c. "Bank" means a corporation engaged in  
4 the business of banking authorized by law to receive deposits  
5 and whose deposits are insured by the bank insurance fund of  
6 the federal deposit insurance corporation and includes any  
7 office of a bank.

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

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

18 NEW PARAGRAPH. f. "Financial institution" means a bank,  
19 savings and loan, or a credit union.

20 Sec. 20. Section 453.1, subsection 3, Code 1991, is  
21 amended to read as follows:

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

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

30 b. If a depository is a bank, ~~credit union, or an office~~  
31 ~~of a bank or credit union~~, then the public deposits in those  
32 ~~depositories~~ the bank shall be secured pursuant to sections  
33 ~~453.22 through~~ 453.21, 453.23, and 453.24.

34 Sec. 21. Section 453.15, Code 1991, is amended to read as  
35 follows:

1 453.15 RESTRICTION ON REQUIRING COLLATERAL.

2 A local government shall not require a pledge of collateral  
3 for that portion of the local government's deposits in a  
4 depository-institution savings and loan or credit union that  
5 is covered by insurance of a federal agency or instrumentality  
6 ~~including-the-federal-deposit-insurance-corporation,-the~~  
7 ~~federal-savings-and-loan-insurance-corporation,-or-the~~  
8 ~~national-credit-union-administration.~~

9 Sec. 22. Section 453.16, subsection 1, unnumbered  
10 paragraph 1, Code 1991, is amended to read as follows:

11 Before a deposit of public funds is made by a public  
12 officer with a depository-institution savings and loan or  
13 credit union in excess of the amount federally insured by  
14 ~~federal-deposit-insurance-or-federal-savings-and-loan~~  
15 ~~insurance,-and-before-the-investment-of-public-funds-in~~  
16 ~~investments-authorized-in-section-452.10-which-either-are-not~~  
17 ~~obligations-of-or-guaranteed-by-the-United-States-government~~  
18 ~~or-any-of-its-agencies,-are-in-excess-of-the-amount-insured-by~~  
19 ~~federal-deposit-insurance-or-federal-savings-and-loan~~  
20 ~~insurance,-or-are-investments-by-the-treasurer-of-state~~  
21 ~~specifically-authorized-by-section-452.10-to-be-made-as~~  
22 ~~additional-investments-under-section-97B.7,-subsection-27~~  
23 ~~paragraph-"b",~~ the public officer shall obtain security for  
24 the deposit ~~or-investment~~ by one or more of the following:

25 Sec. 23. Section 453.16, subsection 1, paragraph a, Code  
26 1991, is amended to read as follows:

27 a. The depository-institution savings and loan or credit  
28 union may give to the public officer a corporate surety bond  
29 of a surety corporation approved by the treasury department of  
30 the United States and authorized to do business in this state,  
31 which bond shall be in an amount equal to the public funds on  
32 deposit at any time. The bond shall be conditioned that the  
33 deposit shall be paid promptly on the order of the public  
34 officer making the deposit and shall be approved by the  
35 officer making the deposit.



1     Sec. 24. Section 453.16, subsection 1, paragraph b,  
2 unnumbered paragraph 1, Code 1991, is amended to read as  
3 follows:

4     The ~~depository-institution~~ savings and loan or credit union  
5 may deposit, maintain, pledge and assign for the benefit of  
6 the public officer in the manner provided in this chapter,  
7 securities approved by the public officer, the market value of  
8 which is not less than one hundred ten percent of the total  
9 deposits of public funds placed by that public officer in the  
10 ~~depository-institution~~ savings and loan or credit union. The  
11 securities shall consist of any of the following:

12     Sec. 25. Section 453.16, subsection 1, paragraph b,  
13 subparagraph (4), Code 1991, is amended to read as follows:

14     (4) To the extent of the guarantee, loans, obligations, or  
15 nontransferable letters of credit upon which the payment of  
16 principal and interest is fully secured or guaranteed by the  
17 United States of America or an agency or instrumentality of  
18 the United States of America or the United States corporate  
19 central credit union, and the rating of the United States  
20 corporate central credit union remains within the two highest  
21 classifications of prime established by at least one of the  
22 standard rating services approved by the superintendent of  
23 banking by rule pursuant to chapter 17A. The treasurer of  
24 state shall adopt rules pursuant to chapter 17A to implement  
25 this section.

26     Sec. 26. Section 453.16, subsection 1, paragraph b,  
27 unnumbered paragraph 2, Code 1991, is amended to read as  
28 follows:

29     Direct obligations of, or obligations that are insured or  
30 fully guaranteed as to principal and interest by, the United  
31 States of America, which may be used to secure the deposit of  
32 public funds under subparagraph (1), include investments in an  
33 open-end management investment company or investment trust  
34 registered under the federal Investment Company Act of 1940,  
35 15 U.S.C. § 80a, and operated in accordance with 17 C.F.R. §

1 270.2a-7 the portfolio of which is limited to the United  
2 States government obligations described in subparagraph (1)  
3 and to repurchase agreements fully collateralized by the  
4 United States government obligations described in subparagraph  
5 (1), if the investment company or investment trust takes  
6 delivery of the collateral either directly or through an  
7 authorized custodian.

8 Sec. 27. Section 453.16, subsection 2, Code 1991, is  
9 amended to read as follows:

10 2. If public funds are secured by both the assets of a  
11 depository institution savings and loan or credit union and a  
12 bond of a surety company, the assets and bond shall be held as  
13 security for a rateable proportion of the deposit on the basis  
14 of the market value of the assets and of the total amount of  
15 the surety bonds.

16 Sec. 28. Section 453.17, subsection 1, unnumbered  
17 paragraph 1, Code 1991, is amended to read as follows:

18 A depository institution savings and loan or credit union  
19 which receives public funds shall pledge securities owned by  
20 it as required by this chapter in one of the following  
21 methods:

22 Sec. 29. Section 453.17, subsection 1, paragraph c, Code  
23 1991, is amended to read as follows:

24 c. The securities shall be deposited with the federal  
25 reserve bank of Chicago, Illinois, or the federal home loan  
26 bank of Des Moines, Iowa, or the United States corporate  
27 central credit union pursuant to a bailment agreement or a  
28 pledge custody agreement.

29 Sec. 30. Section 453.17, subsections 3 and 4, Code 1991,  
30 are amended to read as follows:

31 3. All deposits of securities, other than deposits of  
32 securities with the appropriate public officer, shall have a  
33 joint custody receipt taken for the securities with one copy  
34 delivered to the public officer and one copy delivered to the  
35 depository institution savings and loan or credit union. A

1 ~~depository-institution~~ savings and loan or credit union  
2 pledging securities with a public officer may cause the  
3 securities to be examined in the officer's office to show the  
4 securities are placed with the officer as collateral security  
5 and are not transferable except upon the conditions provided  
6 in this chapter.

7 4. Upon written request from the appropriate public  
8 officer but not less than quarterly, a ~~depository-institution~~  
9 savings and loan or credit union shall report the par value  
10 and the market value of any pledged collateral and the total  
11 deposits of public funds of that officer in the ~~depository~~  
12 institution savings and loan or credit union.

13 Sec. 31. Section 453.18, Code 1991, is amended to read as  
14 follows:

15 453.18 CONDITION OF SECURITY.

16 The condition of the surety bond or the deposit of  
17 securities, instruments, or a joint custody receipt, must be  
18 that the ~~depository-institution~~ savings and loan or credit  
19 union will promptly pay to the parties entitled public funds,  
20 including any interest on the funds, in its custody upon  
21 lawful demand and, when required by law, pay the funds to the  
22 public officer who made the deposit.

23 Sec. 32. Section 453.19, subsections 3 and 4, Code 1991,  
24 are amended to read as follows:

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

33 4. The public officer which deposits public funds with a  
34 ~~depository-institution~~ savings and loan or credit union shall  
35 require, if the market value of the securities deposited with

1 or for the benefit of the officer falls below one hundred ten  
2 percent of the deposit liability to the public officer, the  
3 deposit of additional security to bring the total market value  
4 of the security to one hundred ten percent of the amount of  
5 public funds held by the depository savings and loan or credit  
6 union.

7 Sec. 33. NEW SECTION. 453.21 REQUIRED COLLATERAL --  
8 BANKS.

9 1. A depository that is a bank shall pledge the required  
10 collateral securities to the treasurer of state by depositing  
11 before January 31 of each year the collateral securities in  
12 restricted accounts of the treasurer of state, including but  
13 not limited to pledge-custody accounts, at a federal reserve  
14 bank, a trust department of another commercial bank, or with  
15 another financial institution which has been designated by the  
16 treasurer of state that is not owned or controlled directly or  
17 indirectly by the same depository or holding company. The  
18 bank shall deliver to the treasurer of state a security  
19 agreement which provides the treasurer of state with a valid  
20 and perfected security interest in the required collateral.  
21 The market value of the required collateral shall not be less  
22 than five percent of the average total public funds placed on  
23 deposit in the bank during the preceding year. The average  
24 total public funds shall be calculated by adding the total  
25 public funds reported quarterly to the federal government on  
26 the report of condition and income, and dividing that amount  
27 by four. The calculation of the average total public funds  
28 shall be made before January 31 of each year.

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

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

32 b. Establishing reporting requirements.

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

35 d. Establishing administrative procedures necessary to

1 implement this chapter and other rules as may be necessary to  
2 accomplish the purposes of this chapter.

3 e. Designating financial institutions eligible to be  
4 custodian of pledged collateral.

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

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

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

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

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

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

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

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

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

34 Direct obligations of, or obligations that are insured or  
35 fully guaranteed as to principal and interest by, the United

1 States of America, which may be used to secure public deposits  
2 under paragraph "a", include investments in an investment  
3 company or investment trust registered under the federal  
4 Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio  
5 of which is limited to the United States government  
6 obligations described in paragraph "a", if the investment  
7 company or investment trust takes delivery of the collateral  
8 either directly or through an authorized custodian.

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

12 Sec. 34. NEW SECTION. 502.701 PUBLIC JOINT INVESTMENT  
13 TRUSTS.

14 1. A joint investment trust organized pursuant to chapter  
15 28E for the purposes of joint investment of public funds is  
16 subject to the jurisdiction and authority of the  
17 administrator, including all requirements of this chapter,  
18 except the registration provisions of section 502.201 and  
19 502.218.

20 2. The administrator may make examinations within or  
21 without the state, of the business and records of each joint  
22 investment trust, at the times and in the scope as the  
23 administrator determines. The examinations may be made  
24 without prior notice to the joint investment trust or the  
25 trust's investment advisor. The administrator may copy all  
26 records the administrator feels are necessary to conduct the  
27 examination. The expense reasonably attributable to the  
28 examination shall be paid by the joint investment trusts whose  
29 business is examined, but the expense so payable shall not  
30 exceed an amount which the administrator by rule prescribes.  
31 For the purpose of avoiding unnecessary duplication of  
32 examinations, the administrator may cooperate with other  
33 regulatory authorities.

34 Sec. 35. Section 453.22, Code 1991, is repealed.

35 Sec. 36. EFFECTIVE DATE. This Act, being deemed of

1 immediate importance, takes effect upon enactment. The  
2 requirements for adoption of rules, written investment  
3 policies, audit standards, and other administrative duties  
4 shall be implemented as soon as possible but not later than  
5 September 1, 1992. This Act does not apply to an investment  
6 made prior to the effective date of this Act.

7 The requirement in section 452.10, subsection 5, paragraph  
8 "f", as enacted in this Act that a joint investment trust  
9 organized pursuant to chapter 28E and existing prior to the  
10 effective date of this Act must be rated within the two  
11 highest classifications by at least one of the standard rating  
12 services approved by the superintendent of banking by rule  
13 pursuant to chapter 17A as a condition of eligibility for  
14 public funds investments does not apply until July 1, 1993.  
15 The operations of such a joint investment trust nevertheless  
16 shall comply with all other provisions of this Act not  
17 specifically exempted, on and after the effective date of this  
18 Act.

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## SENATE FILE 2036

H-5550

1 Amend Senate File 2036 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking page 1, line 19, through page 2,  
4 line 29, and inserting the following:

5 "2. In conjunction with the audit of the state  
6 board of regents required under this section, the  
7 auditor of state, in accordance with generally  
8 accepted auditing standards, shall perform audit  
9 testing on the state board of regents' investments.

10 The auditor shall report to the state board of regents  
11 concerning compliance with state law and state board  
12 of regents' investment policies. The state board of  
13 regents is responsible for remedying any reported  
14 noncompliance with its own policy or practices.

15 The state board of regents shall make available to  
16 the auditor of state and treasurer of state the most  
17 recent annual report of any investment entity or  
18 investment professional employed by an institution  
19 governed by the board.

20 All contracts or agreements with an investment  
21 entity or investment professional employed by an  
22 institution governed by the state board of regents  
23 shall require the investment entity or investment  
24 professional employed by an institution governed by  
25 the state board of regents to notify in writing the  
26 state board of regents within thirty days of receipt  
27 of all communication from the auditor of state or any  
28 regulatory authority of the existence of a material  
29 weakness in internal control structure, or regulatory  
30 complaints, orders, or sanctions against the  
31 investment entity or investment professional. This  
32 provision shall not be limited or avoided by another  
33 contractual provision.

34 The audit under this section shall not be certified  
35 until the most recent annual reports of any investment  
36 entity or investment professional employed by an  
37 institution governed by the state board of regents are  
38 reviewed by the auditor of state."

39 2. Page 3, line 24, by inserting after the figure  
40 "b." the following: "(1)".

41 3. Page 4, by striking line 1 and inserting the  
42 following:

43 "(2) Except for public deposits which are secured  
44 pursuant to".

45 4. Page 4, line 2, by striking the figure  
46 "453.22" and inserting the following: "453.21".

47 5. Page 4, by striking lines 9 through 14 and  
48 inserting the following:

49 "(a) Investing public funds.

50 (b) Advising on the investment of public funds.

H-5550

-1-



H-5550

Page 2

1 (c) Directing the deposit or investment of public  
2 funds.

3 (d) Acting in a fiduciary capacity for the  
4 governmental subdivision.

5 The audit under this section shall not be certified  
6 until the information required by this subparagraph is  
7 reviewed by the person performing the audit.

8 (3) The review by the person performing the audit  
9 of the most".

10 6. Page 4, by striking lines 26 through 32 and  
11 inserting the following:

12 "(4) All contracts or agreements with outside  
13 persons performing any of the functions listed in  
14 subparagraph (2) shall require the outside person to  
15 notify in writing the governmental subdivision within  
16 thirty days of receipt of all communication from the  
17 auditor of state or any regulatory authority of the  
18 existence of a material weakness in internal control  
19 structure, or regulatory complaints, orders, or  
20 sanctions against the outside person. This provision  
21 shall not be limited or avoided by another contractual  
22 provision."

23 7. Page 5, by striking lines 4 through 6.

24 8. Page 5, by striking lines 15 through 26 and  
25 inserting the following:

26 "7. The auditor of state shall make guidelines  
27 available to the public setting forth accounting and  
28 auditing standards and procedures and audit and legal  
29 compliance programs to be applied in the examination  
30 of the governmental subdivisions of the state. The  
31 guidelines shall require that audits under this  
32 section be conducted in accordance with generally  
33 accepted auditing standards as set forth in the  
34 American institute of certified public accountants'  
35 statements on auditing standards and generally  
36 accepted government auditing standards as set forth in  
37 the government auditing standards (standards for audit  
38 of governmental organizations, programs, activities,  
39 and functions) issued by the comptroller general of  
40 the United States. The auditor of state shall have  
41 the power to establish by rule under chapter 17A  
42 supplementary auditing standards, legal compliance  
43 programs and audit reporting formats which are  
44 demonstrated to have a benefit exceeding the cost of  
45 implementation and which are necessary to address  
46 material issues unique to the auditing of governmental  
47 units of this state. The guidelines shall include a  
48 requirement that the certified public accountant  
49 immediately notify the auditor of state regarding any  
50 suspected embezzlement or theft. The auditor shall

H-5550

H-5550

Page 3

1 also provide standard reporting formats for use in  
2 reporting the results of an examination of a  
3 governmental subdivision."

4 9. By striking page 5, line 27, through page 6,  
5 line 6.

6 10. Page 6, line 12, by inserting after the word  
7 "subdivisions," the following: "the state board of  
8 regents,".

9 11. Page 6, line 16, by inserting after the word  
10 "subdivision," the following: "the state board of  
11 regents,".

12 12. Page 6, line 18, by inserting after the word  
13 "subdivision," the following: "the state board of  
14 regents,".

15 13. Page 6, line 21, by inserting after the word  
16 "subdivision," the following: "the state board of  
17 regents,".

18 14. Page 6, line 23, by inserting after the word  
19 "subdivision," the following: "the state board of  
20 regents,".

21 15. Page 6, line 26, by inserting after the word  
22 "subdivision," the following: "the state board of  
23 regents,".

24 16. Page 6, line 28, by inserting after the word  
25 "subdivision," the following: "the state board of  
26 regents,".

27 17. Page 6, line 31, by inserting after the word  
28 "subdivision," the following: "the state board of  
29 regents,".

30 18. Page 7, by striking lines 4 and 5 and  
31 inserting the following: "establishes a joint  
32 investment trust, the joint investment trust shall,  
33 when investing funds, comply with the provisions".

34 19. Page 7, by striking lines 8 through 24 and  
35 inserting the following:

36 "Sec. \_\_\_\_ . Section 262.14, subsection 3, Code  
37 1991, is amended by adding the following new  
38 unnumbered paragraph:

39 NEW UNNUMBERED PARAGRAPH. The board shall have a  
40 written investment policy, the goal of which is to  
41 provide for the financial health of the institutions  
42 governed by the board. The board shall establish  
43 investment practices that preserve principal, provide  
44 for liquidity sufficient for anticipated needs, and  
45 maintain purchasing power of investable assets of the  
46 board and its institutions. The policy shall also  
47 include a list of authorized investments, maturity  
48 guidelines, procedures for selecting and approving  
49 investment managers and other investment  
50 professionals, and provisions for regular and frequent

H-5550

E-5550

Page 4

1 oversight of investment decisions by the board,  
2 including audit. The board shall make available to  
3 the auditor of state and treasurer of state the most  
4 recent annual report of any investment entity or  
5 investment professional employed by an institution  
6 governed by the board. The investment policy shall  
7 cover investments of endowment and nonendowment  
8 funds."

9 20. By striking page 8, line 30, through page 9,  
10 line 1.

11 21. Page 9, by inserting after line 11 the  
12 following:

13 "For the purposes of this section and sections  
14 452.10A, 452.10B, and 452.10C, "political subdivision"  
15 means any entity authorized to invest public funds for  
16 a public purpose."

17 22. Page 10, by inserting after line 6 the  
18 following:

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

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

26 23. By striking page 10, line 7, through page 13,  
27 line 13 and inserting the following:

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

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

33 b. Certificates of deposit and other evidences of  
34 deposit at federally insured depository institutions  
35 approved pursuant to chapter 453.

36 c. Prime bankers' acceptances.

37 d. Commercial paper or other short-term corporate  
38 debt rated within the two highest classifications, as  
39 established by at least one of the standard rating  
40 services approved by the superintendent of banking by  
41 rule adopted pursuant to chapter 17A, provided that at  
42 the time of purchase no more than five percent of all  
43 amounts invested in commercial paper and other short-  
44 term corporate debt shall be invested in paper and  
45 debt rated in the second highest classification.

46 e. Repurchase agreements whose underlying  
47 collateral consists of the investments set out in  
48 paragraphs "a" through "d" if the treasurer of state  
49 or state agency takes delivery of the collateral  
50 either directly or through an authorized custodian.

E-5550

-4-

H-5550

Page 5

1 Repurchase agreements do not include reverse  
2 repurchase agreements.  
3 f. Investments authorized for the Iowa public  
4 employee retirement system in section 97B.7,  
5 subsection 2, paragraph "b", except that investment in  
6 common stocks is not permitted.  
7 g. An open-end management investment company  
8 organized in trust form registered with the federal  
9 securities and exchange commission under the federal  
10 Investment Company Act of 1940, 15 U.S.C. § 80(a), and  
11 operated in accordance with 17 C.F.R. § 270.2a-7.  
12 Futures and options contracts are not permissible  
13 investments.  
14 5. Political subdivisions of this state, including  
15 entities organized pursuant to chapter 28E whose  
16 primary function is other than to jointly invest  
17 public funds, shall purchase and invest only in the  
18 following:  
19 a. Obligations of the United States government,  
20 its agencies and instrumentalities.  
21 b. Certificates of deposit and other evidences of  
22 deposit at federally insured depository institutions  
23 approved pursuant to chapter 453.  
24 c. Prime bankers' acceptances.  
25 d. Commercial paper or other short-term corporate  
26 debt rated within the two highest classifications, as  
27 established by at least one of the standard rating  
28 services approved by the superintendent of banking by  
29 rule adopted pursuant to chapter 17A, provided that at  
30 the time of purchase no more than five percent of all  
31 amounts invested in commercial paper and other short-  
32 term corporate debt shall be invested in paper and  
33 debt rated in the second highest classification.  
34 e. Repurchase agreements whose underlying  
35 collateral consists of the investments set out in  
36 paragraph "a" if the political subdivision takes  
37 delivery of the collateral either directly or through  
38 an authorized custodian. Repurchase agreements do not  
39 include reverse repurchase agreements.  
40 f. An open-end management investment company  
41 registered with the federal securities and exchange  
42 commission under the federal Investment Company Act of  
43 1940, 15 U.S.C. § 80(a), and operated in accordance  
44 with 17 C.F.R. § 270.2a-7.  
45 g. A joint investment trust organized pursuant to  
46 chapter 28E prior to and existing in good standing on  
47 the effective date of this Act or a joint investment  
48 trust organized pursuant to chapter 28E after the  
49 effective date of this Act, provided that the joint  
50 investment trust shall either be rated within the two

H-5550

-5-

H-5550

Page 6

1 highest classifications by at least one of the  
2 standard rating services approved by the  
3 superintendent of banking by rule adopted pursuant to  
4 chapter 17A and operated in accordance with 17 C.F.R.  
5 § 270.2a-7, or be registered with the federal  
6 securities and exchange commission under the federal  
7 Investment Company Act of 1940, 15 U.S.C. § 80(a), and  
8 operated in accordance with 17 C.F.R. § 270.2a-7. The  
9 manager or investment advisor of the joint investment  
10 trust shall be registered with the federal securities  
11 and exchange commission under the Investment Advisor  
12 Act of 1940, 15 U.S.C. § 80(b).

13 Futures and options contracts are not permissible  
14 investments."

15 24. Page 13, by striking lines 14 through 16 and  
16 inserting the following:

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

19 a. Investments by the Iowa public employees'  
20 retirement system governed by chapter 97B.

21 b. Investments by the state board of regents  
22 governed by chapter 262.

23 c. Investments by the statewide fire and police  
24 retirement system governed by chapter 411."

25 25. Page 14, by striking lines 1 through 6.

26 26. Page 14, line 7, by striking the letter "d"  
27 and inserting the following: "b".

28 27. Page 14, line 18, by striking the letter "e"  
29 and inserting the following: "c".

30 28. Page 15, by inserting after line 3, the  
31 following:

32 "6. The following entities are not subject to this  
33 section:

34 a. The Iowa public employees' retirement system  
35 governed by chapter 97B.

36 b. The state board of regents governed by chapter  
37 262.

38 c. The statewide fire and police retirement system  
39 governed by chapter 411."

40 29. Page 15, by inserting after line 17, the  
41 following:

42 "3. The following entities are not subject to this  
43 section:

44 a. The Iowa public employees' retirement system  
45 governed by chapter 97B.

46 b. The state board of regents governed by chapter  
47 262.

48 c. The statewide fire and police retirement system  
49 governed by chapter 411."

50 30. Page 15, by striking lines 20 through 23 and

H-5550

-6-

H-5550

Page 7

1 inserting the following:

2 "The treasurer of state".

*end of  
order*  
3 31. Page 16, by inserting after line 2 the  
4 following: "The commissioner of insurance shall  
5 enforce compliance with rules adopted pursuant to this  
6 section with respect to insurance companies."

7 32. Page 16, by inserting after line 25, the  
8 following:

9 "The following investments are not subject to this  
10 section:

11 1. Investments by the Iowa public employees'  
12 retirement system governed by chapter 97B.

13 2. Investments by the state board of regents  
14 governed by chapter 262.

15 3. Investments by the statewide fire and police  
16 retirement system governed by chapter 411."

17 33. Page 19, line 18, by striking the words  
18 "United States corporate" and inserting the following:  
19 "U.S.".

20 34. Page 19, lines 19 and 20, by striking the  
21 words "United States corporate" and inserting the  
22 following: "U.S.".

23 35. By striking page 19, line 27, through page  
24 20, line 7, and inserting the following: "Code 1991,  
25 is amended by adding the following new subparagraph:  
26 NEW SUBPARAGRAPH. (6) Investments in an open-end  
27 management investment company registered with the  
28 federal securities and exchange commission under the  
29 federal Investment Company Act of 1940, 15 U.S.C. §  
30 80(a), which is operated in accordance with 17 C.F.R.  
31 § 270.2a-7."

32 36. Page 20, line 26, by striking the words  
33 "United States corporate" and inserting the following:  
34 "U.S.".

35 37. Page 22, line 22, by striking the word "five"  
36 and inserting the following: "ten".

37 38. Page 22, line 23, by inserting after the word  
38 "year" the following: "in excess of the federally  
39 insured amount".

40 39. Page 23, by inserting after line 33 the  
41 following:

42 "h. Investments in an open-end management  
43 investment company registered with the federal  
44 securities and exchange commission under the federal  
45 Investment Company Act of 1940, 15 U.S.C. § 80(a),  
46 which is operated in accordance with 17 C.F.R. §  
47 270.2a-7."

48 40. Page 24, by inserting after line 11 the  
49 following:

50 "Sec. \_\_\_\_ . Section 453.23, subsection 1, Code

H-5550

-7-

H-5550

Page 8

1 1991, is amended by adding the following new  
2 unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The acceptance of public  
4 funds by a depository pursuant to this chapter  
5 constitutes consent by the depository to assessments  
6 by the treasurer of state in accordance with this  
7 chapter.

8 Sec. \_\_\_\_ . Section 453.23, subsection 2, Code 1991,  
9 is amended to read as follows:

10 2. The depository and the security given for the  
11 public funds in its hands are liable for payment if  
12 the depository fails to pay a check, draft, or warrant  
13 drawn by the public officer or to account for a check,  
14 draft, warrant, order or certificates of deposit, or  
15 any public funds entrusted to it if in failing to pay  
16 the depository acts contrary to the terms of an  
17 agreement between the depository and the public body  
18 treasurer or, if the depository fails to pay an  
19 assessment, by the treasurer of state when due.

20 Sec. \_\_\_\_ . Section 453.23, subsection 3, paragraph  
21 d, subparagraph (1), Code 1991, is amended to read as  
22 follows:

23 (1) If the loss was incurred in a bank, then any  
24 further payments to cover the loss will come from the  
25 state sinking fund for public deposits in banks. If  
26 the funds-are balance in that sinking fund is  
27 inadequate to cover pay the entire loss, then the  
28 treasurer shall make obtain the additional amount  
29 needed by making an assessment against other banks who  
30 hold whose public funds deposits exceed deposit  
31 insurance coverage. The A bank's assessment shall be  
32 determined by multiplying the total amount of the  
33 remaining loss to all public depositors by a  
34 percentage that represents the that bank's  
35 proportional share of the average of uninsured public  
36 funds deposits held by all banks during-the-preceding  
37 twelve-month-period-ending-on-the-last-day-of-the  
38 month-immediately-preceding-the-month as of the  
39 reporting date under section 453.21 immediately  
40 preceding the date the depository was closed. Each  
41 bank shall pay its assessment to the treasurer within  
42 three business days after it receives notice of  
43 assessment. If a bank fails to pay its assessment  
44 when due, the treasurer shall satisfy the assessment  
45 by selling securities pledged by that bank. If the  
46 securities pledged by that bank are inadequate to pay  
47 the assessment, the treasurer of state shall make  
48 additional assessments as may be necessary against  
49 other banks which hold uninsured public funds to  
50 satisfy any unpaid assessment. Any additional

H-5550

-8-

H-5550

Page 9

1 assessments shall be determined, collected, and  
2 satisfied in the same manner as the first assessment.  
3 If a bank fails to pay its assessment when due, the  
4 treasurer of state shall initiate a lawsuit to collect  
5 the assessment. If a bank is found to have failed to  
6 pay the assessment as required by this subparagraph,  
7 the court shall order it to pay the assessment, court  
8 costs, reasonable attorney's fees based on the amount  
9 of time the attorney general's office spent preparing  
10 and bringing the action, and reasonable expenses  
11 incurred by the treasurer of state. Idle balances in  
12 the fund are to shall be invested by the treasurer  
13 with earnings credited to the fund. Fees paid by  
14 banks for administration of this chapter will shall be  
15 credited to the fund and the treasurer may deduct  
16 actual costs of administration from the fund.

17 Sec. \_\_\_\_ . Section 453.23, subsection 3, paragraph  
18 d, subparagraph (2), Code 1991, is amended to read as  
19 follows:

20 (2) If the loss was incurred in a credit union,  
21 then any further payments to cover the loss will come  
22 from the state sinking fund for public deposits in  
23 credit unions. If the funds are inadequate to cover  
24 the entire loss, then the treasurer shall make an  
25 assessment against other credit unions who hold public  
26 funds. The assessment shall be determined by  
27 multiplying the total amount of the remaining loss to  
28 public depositors by a percentage that represents the  
29 average of public funds deposits held by all credit  
30 unions during the preceding twelve month period ending  
31 on the last day of the month immediately preceding the  
32 month the depository was closed. Each credit union  
33 shall pay its assessment to the treasurer within three  
34 business days after it receives notice of assessment.  
35 ~~If a credit union fails to pay its assessment when~~  
36 ~~due, the treasurer shall satisfy the assessment by~~  
37 ~~selling securities pledged by that credit union.~~ If a  
38 credit union fails to pay its assessment when due, the  
39 treasurer of state shall initiate a lawsuit to collect  
40 the assessment. If a credit union is found to have  
41 failed to pay the assessment as required by this  
42 subparagraph, the court shall order it to pay the  
43 assessment, court costs, reasonable attorney's fees  
44 based upon the amount of time the attorney general's  
45 office spent preparing and bringing the action, and  
46 reasonable expenses incurred by the treasurer of  
47 state's office. Idle balances in the fund are to be  
48 invested by the treasurer with earnings credited to  
49 the fund. Fees paid by credit unions for  
50 administration of this chapter will be credited to the

H-5550

-9-



H-5550

Page 10

1 fund and the treasurer may deduct actual costs of  
2 administration from the fund."

3 41. Page 24, line 23, by inserting after the word  
4 "determines." the following: "The administrator shall  
5 have the authority to contract for outside  
6 professional services in the conduct of examinations."

7 42. Page 24, by striking lines 29 and 30 and  
8 inserting the following: "business is examined."

9 43. Page 25, by striking lines 5 and 6 and  
10 inserting the following: "September 1, 1992."

11 44. Page 25, by striking lines 7 through 18 and  
12 inserting the following:

13 "Section 14 of this Act does not apply to an  
14 investment made prior to the effective date of this  
15 Act. A joint investment trust organized pursuant to  
16 chapter 28E existing prior to the effective date of  
17 this Act, shall fully comply with this Act, on and  
18 after the effective date of this Act, except that such  
19 a joint investment trust shall have until July 1,  
20 1993, to fulfill the rating or registration of section  
21 452.10, subsection 5, paragraph "g"."

22 45. By renumbering as necessary.

By COMMITTEE ON STATE GOVERNMENT  
BLANSHAN of Greene, Chairperson

H-5550 FILED MARCH 26, 1992

*Out of order 4/2 (p. 1015) lines 3 to page 7*

SENATE FILE 2036

H-5596

Amend Senate File 2036, as amended, passed, and

reprinted by the Senate, as follows:

1. Page 15, by inserting before line 4 the  
following:

"A joint investment trust organized pursuant  
to chapter 28E whose primary function is to invest  
public funds shall report to the general assembly not  
later than January 1 of each year the amount of any  
trust royalty, residual payment, administrative or  
service fee, or other fee paid by the trust, the  
services performed for the fee, and the person  
receiving the fee."

2. By numbering and renumbering as necessary.

By BISIGNANO of Polk  
CARPENTER of Polk  
BLANSHAN of Greene

H-5596 FILED MARCH 30, 1992

*(Adopted 4/2 (p. 1516))*

## SENATE FILE 2036

H-5668

1 Amend the amendment, H-5550, to Senate File 2036,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by inserting after line 2, the  
5 following:

6 "\_\_\_\_\_. Page 1, line 4, by striking the word  
7 "oftener" and inserting the following: "oftener more  
8 often"."

9 2. Page 1, line 27, by inserting after the word  
10 "from" the following: "an independent auditor or".

11 3. Page 1, line 30, by striking the word  
12 "complaints,".

13 4. Page 1, line 31, by inserting after the word  
14 "professional" the following: ", with regard to the  
15 type of services being performed under the contracts  
16 or agreements".

17 5. Page 1, by striking line 38 and inserting the  
18 following: "reviewed by the auditor of state.

19 The submission of the most recent annual report to  
20 shareholders of an open-end management investment  
21 company or an unincorporated investment company or  
22 investment trust registered with the federal  
23 securities and exchange commission under the federal  
24 Investment Company Act of 1940, 15 U.S.C. § 80(a),  
25 pursuant to 17 C.F.R. § 270.30d-1 or the review, by  
26 the person performing the audit, of the most recent  
27 annual report to shareholders, call reports, or the  
28 findings pursuant to a regular examination under state  
29 or federal law, to the extent the findings are not  
30 confidential, of a bank, savings and loan association,  
31 or credit union shall satisfy the review requirements  
32 of this paragraph.

33 As used in this subsection, "investment entity" and  
34 "investment professional" exclude a bank, savings and  
35 loan association, or credit union when acting as an  
36 approved depository pursuant to chapter 453."

37 6. Page 1, by striking lines 41 through 46 and  
38 inserting the following:

39 "\_\_\_\_\_. Page 4, by striking lines 1 through 3 and  
40 inserting the following:

41 "As part of its audit, the governmental subdivision  
42 is".

43 "\_\_\_\_\_. Page 4, line 7, by inserting after the word  
44 "following" the following: "during the period under  
45 audit"."

46 7. Page 2, line 6, by striking the word "the" and  
47 inserting the following: "all material".

48 8. Page 2, by inserting after line 9 the  
49 following:

50 "\_\_\_\_\_. Page 4, by striking lines 20 through 25 and

H-5668

H-5668

Page 2

1 inserting the following: "or the review, by the  
2 person performing the audit, of the most recent annual  
3 report to shareholders, call reports, or the findings  
4 pursuant to a regular examination under state or  
5 federal law, to the extent the findings are not  
6 confidential, of a bank, savings and loan association,  
7 or credit union shall satisfy the review requirements  
8 of this paragraph."

9 9. Page 2, line 17, by striking the words  
10 "auditor of state" and inserting the following:  
11 "person performing the audit".

12 10. Page 2, line 20, by inserting after the word  
13 "person" the following: ", with regard to the type of  
14 services being performed under the contracts or  
15 agreements".

16 11. Page 2, by inserting after line 22 the  
17 following:

18 "    ". Page 4, by inserting before line 33 the  
19 following:

20 "(5) As used in this subsection, "investment  
21 entity" and "investment professional" exclude a bank,  
22 savings and loan association, or credit union when  
23 acting as an approved depository pursuant to chapter  
24 453."

25     . By striking page 4, line 33 through page 5,  
26 line 3 and inserting the following:

27 "(6) A joint investment trust organized pursuant  
28 to chapter 28E shall file the audit reports required  
29 by this chapter with the administrator of the  
30 securities bureau of the insurance division of the  
31 department of commerce within ten days of receipt from  
32 the auditor. The auditor of a joint investment trust  
33 shall provide written notice to the administrator of  
34 the time of delivery of the reports to the joint  
35 investment trust.

36 (7) If during the course of an audit of a joint  
37 investment trust organized pursuant to chapter 28E,  
38 the auditor determines the existence of a material  
39 weakness in the internal control structure or a  
40 material violation of the internal control structure,  
41 the auditor shall report the determination to the  
42 joint investment trust which shall notify the  
43 administrator in writing within twenty-four hours, and  
44 provide a copy of the notification to the auditor.  
45 The auditor shall provide, within twenty-four hours of  
46 the receipt of the copy of the notice, written  
47 acknowledgement of the receipt to the administrator.  
48 If the joint investment trust does not make the  
49 notification within twenty-four hours, or the auditor  
50 does not receive a copy of the notification within

H-5668

-2-

H-5668

Page 3

1 twenty-four hours, the auditor shall immediately  
2 notify the administrator in writing of the material  
3 weakness in the internal control structure or the  
4 material violation of the internal control  
5 structure."

6 12. Page 3, by striking lines 30 through 33.

7 13. Page 4, by striking lines 11 through 16.

8 14. Page 6, by inserting after line 18 the

9 following:

10 "\_\_\_\_. Investments by the public safety peace  
11 officers retirement system governed by chapter 97A."

12 15. Page 6, by inserting after line 20 the

13 following:

14 "\_\_\_\_. Investments by the Iowa finance authority  
15 governed by chapter 220."

16 16. Page 6, by inserting after line 24 the

17 following:

18 "\_\_\_\_. Investments by the judicial retirement  
19 system governed by chapter 602, article 9."

20 17. Page 6, by inserting after line 27 the

21 following:

22 "\_\_\_\_. Page 14, by striking lines 14 through 17  
23 and inserting the following: "state."

24 18. Page 6, by inserting after line 29 the

25 following:

26 "\_\_\_\_. Page 14, by striking lines 24 through 32  
27 and inserting the following: "hundred and ninety-seven

28 days."

29 19. Page 6, by inserting after line 33 the

30 following:

31 "\_\_\_\_. The public safety peace officers retirement  
32 system governed by chapter 97A."

33 20. Page 6, by inserting after line 35 the

34 following:

35 "\_\_\_\_. The Iowa finance authority governed by  
36 chapter 220."

37 21. Page 6, by inserting after line 39 the

38 following:

39 "\_\_\_\_. The judicial retirement system governed by  
40 chapter 602, article 9."

41 22. Page 6, by inserting after line 43 the

42 following:

43 "\_\_\_\_. The public safety peace officers retirement  
44 system governed by chapter 97A."

45 23. Page 6, by inserting after line 45 the

46 following:

47 "\_\_\_\_. The Iowa finance authority governed by  
48 chapter 220."

49 24. Page 6, by inserting after line 49 the

50 following:

H-5668

1 "\_\_\_\_\_. The judicial retirement system governed by  
2 chapter 602, article 9."

3 25. Page 7, by inserting after line 2 the  
4 following:

5 "\_\_\_\_\_. By striking page 15, line 27, through page  
6 16, line 6."

7 26. Page 7, by striking lines 9 through 16 and  
8 inserting the following:

9 ""The following entities are not subject to this  
10 section:

11 . The public safety peace officers retirement  
12 system governed by chapter 57A.

13 . The Iowa public employees retirement system  
14 governed by chapter 97B.

15 . Investments by the Iowa finance authority  
16 governed by chapter 220.

17 . The statewide fire and police retirement  
18 system governed by chapter 411.

19 . The judicial retirement system governed by  
20 chapter 602, article 9.

21 . Page 17, by inserting after line 33, the  
22 following:

23 "Sec. \_\_\_\_\_. Section 453.9, Code Supplement 1991, is  
24 amended by striking the section and inserting in lieu  
25 thereof the following:

26 453.9 INVESTMENT OF SINKING FUNDS -- BOND  
27 PROCEEDS.

28 The treasurer of state and all other state agencies  
29 authorized to invest funds and the treasurer or other  
30 designated financial officer of each political  
31 subdivision may invest the proceeds of public bonds or  
32 obligations and funds being accumulated for the  
33 payment of principal and interest or reserves in  
34 investments set out in section 452.10, subsection 4,  
35 paragraphs "a" through "g", section 452.10, subsection  
36 5, paragraphs "a" through "g", an investment contract,  
37 or tax-exempt bonds. The investment shall be as  
38 defined and permitted by section 148 of the Internal  
39 Revenue Code and applicable regulations under that  
40 section. An investment contract or tax exempt bonds  
41 shall be rated within the two highest classifications  
42 as established by at least one of the standard-rating  
43 services approved by the superintendent of banking by  
44 rule adopted pursuant to chapter 17A."

45 27. Page 10, by striking lines 18 through 21 and  
46 inserting the following: "after the effective date of  
47 this Act, including but not limited to complying with  
48 the requirement in section 452.10, subsection 5,  
49 paragraph "g", that it be operated in accordance with  
50 17 C.F.R. § 270.2a-7, except that such a joint

1 investment trust shall have until July 1, 1993, to  
2 become rated or registered as required by section  
3 452.10, subsection 5, paragraph "g".

4 28. By renumbering and correcting internal  
5 references as necessary.

By BLANSHAN of Greene  
CARPENTER of Polk

HOUSE AMENDMENT TO  
SENATE FILE 2036

S-5531

1 Amend Senate File 2036 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, line 4, by striking the word "oftener"  
4 and inserting the following: "~~estate~~ more often".

5 2. By striking page 1, line 19, through page 2,  
6 line 29, and inserting the following:

7 "2. In conjunction with the audit of the state  
8 board of regents required under this section, the  
9 auditor of state, in accordance with generally  
10 accepted auditing standards, shall perform audit  
11 testing on the state board of regents' investments.  
12 The auditor shall report to the state board of regents  
13 concerning compliance with state law and state board  
14 of regents' investment policies. The state board of  
15 regents is responsible for remedying any reported  
16 noncompliance with its own policy or practices.

17 The state board of regents shall make available to  
18 the auditor of state and treasurer of state the most  
19 recent annual report of any investment entity or  
20 investment professional employed by an institution  
21 governed by the board.

22 All contracts or agreements with an investment  
23 entity or investment professional employed by an  
24 institution governed by the state board of regents  
25 shall require the investment entity or investment  
26 professional employed by an institution governed by  
27 the state board of regents to notify in writing the  
28 state board of regents within thirty days of receipt  
29 of all communication from an independent auditor or  
30 the auditor of state or any regulatory authority of  
31 the existence of a material weakness in internal  
32 control structure, or regulatory orders, or sanctions  
33 against the investment entity or investment  
34 professional, with regard to the type of services  
35 being performed under the contracts or agreements.  
36 This provision shall not be limited or avoided by  
37 another contractual provision.

38 The audit under this section shall not be certified  
39 until the most recent annual reports of any investment  
40 entity or investment professional employed by an  
41 institution governed by the state board of regents are  
42 reviewed by the auditor of state.

43 The submission of the most recent annual report to  
44 shareholders of an open-end management investment  
45 company or an unincorporated investment company or  
46 investment trust registered with the federal  
47 securities and exchange commission under the federal  
48 Investment Company Act of 1940, 15 U.S.C. § 80(a),  
49 pursuant to 17 C.F.R. § 270.306-1 or the review, by  
50 the person performing the audit, of the most recent

S-5531

-1-

S-5531

Page 2

1 annual report to shareholders, call reports, or the  
2 findings pursuant to a regular examination under state  
3 or federal law, to the extent the findings are not  
4 confidential, of a bank, savings and loan association,  
5 or credit union shall satisfy the review requirements  
6 of this paragraph.

7 As used in this subsection, "investment entity" and  
8 "investment professional" exclude a bank, savings and  
9 loan association, or credit union when acting as an  
10 approved depository pursuant to chapter 453."

11 3. Page 3, line 24, by inserting after the figure  
12 "b." the following: "(1)".

13 4. Page 4, by striking lines 1 through 3 and  
14 inserting the following:

15 "As part of its audit, the governmental subdivision  
16 is".

17 5. Page 4, line 7, by inserting after the word  
18 "following" the following: "during the period under  
19 audit".

20 6. Page 4, by striking lines 9 through 14 and  
21 inserting the following:

22 "(a) Investing public funds.

23 (b) Advising on the investment of public funds.

24 (c) Directing the deposit or investment of public  
25 funds.

26 (d) Acting in a fiduciary capacity for the  
27 governmental subdivision.

28 The audit under this section shall not be certified  
29 until all material information required by this  
30 subparagraph is reviewed by the person performing the  
31 audit.

32 (3) The review by the person performing the audit  
33 of the most".

34 7. Page 4, by striking lines 20 through 25 and  
35 inserting the following: "or the review, by the  
36 person performing the audit, of the most recent annual  
37 report to shareholders, call reports, or the findings  
38 pursuant to a regular examination under state or  
39 federal law, to the extent the findings are not  
40 confidential, of a bank, savings and loan association,  
41 or credit union shall satisfy the review requirements  
42 of this paragraph."

43 8. Page 4, by striking lines 26 through 32 and  
44 inserting the following:

45 "(4) All contracts or agreements with outside  
46 persons performing any of the functions listed in  
47 subparagraph (2) shall require the outside person to  
48 notify in writing the governmental subdivision within  
49 thirty days of receipt of all communication from the  
50 person performing the audit or any regulatory

S-5531

-2-

S-5531

Page 3

1 authority of the existence of a material weakness in  
2 internal control structure, or regulatory complaints,  
3 orders, or sanctions against the outside person, with  
4 regard to the type of services being performed under  
5 the contracts or agreements. This provision shall not  
6 be limited or avoided by another contractual  
7 provision."

8 9. Page 4, by inserting before line 33 the  
9 following:

10 "(5) As used in this subsection, "investment  
11 entity" and "investment professional" exclude a bank,  
12 savings and loan association, or credit union when  
13 acting as an approved depository pursuant to chapter  
14 453."

15 10. By striking page 4, line 33 through page 5,  
16 line 3 and inserting the following:

17 "(6) A joint investment trust organized pursuant  
18 to chapter 28E shall file the audit reports required  
19 by this chapter with the administrator of the  
20 securities bureau of the insurance division of the  
21 department of commerce within ten days of receipt from  
22 the auditor. The auditor of a joint investment trust  
23 shall provide written notice to the administrator of  
24 the time of delivery of the reports to the joint  
25 investment trust.

26 (7) If during the course of an audit of a joint  
27 investment trust organized pursuant to chapter 28E,  
28 the auditor determines the existence of a material  
29 weakness in the internal control structure or a  
30 material violation of the internal control structure,  
31 the auditor shall report the determination to the  
32 joint investment trust which shall notify the  
33 administrator in writing within twenty-four hours, and  
34 provide a copy of the notification to the auditor.  
35 The auditor shall provide, within twenty-four hours of  
36 the receipt of the copy of the notice, written  
37 acknowledgement of the receipt to the administrator.  
38 If the joint investment trust does not make the  
39 notification within twenty-four hours, or the auditor  
40 does not receive a copy of the notification within  
41 twenty-four hours, the auditor shall immediately  
42 notify the administrator in writing of the material  
43 weakness in the internal control structure or the  
44 material violation of the internal control structure."

45 11. Page 5, by striking lines 4 through 6.

46 12. Page 5, by striking lines 15 through 26 and  
47 inserting the following:

48 "7. The auditor of state shall make guidelines  
49 available to the public setting forth accounting and  
50 auditing standards and procedures and audit and legal

S-5531



S-5531

Page 4

1 compliance programs to be applied in the examination  
2 of the governmental subdivisions of the state. The  
3 guidelines shall require that audits under this  
4 section be conducted in accordance with generally  
5 accepted auditing standards as set forth in the  
6 American institute of certified public accountants'  
7 statements on auditing standards and generally  
8 accepted government auditing standards as set forth in  
9 the government auditing standards (standards for audit  
10 of governmental organizations, programs, activities,  
11 and functions) issued by the comptroller general of  
12 the United States. The auditor of state shall have  
13 the power to establish by rule under chapter 17A  
14 supplementary auditing standards, legal compliance  
15 programs and audit reporting formats which are  
16 demonstrated to have a benefit exceeding the cost of  
17 implementation and which are necessary to address  
18 material issues unique to the auditing of governmental  
19 units of this state. The guidelines shall include a  
20 requirement that the certified public accountant  
21 immediately notify the auditor of state regarding any  
22 suspected embezzlement or theft. The auditor shall  
23 also provide standard reporting formats for use in  
24 reporting the results of an examination of a  
25 governmental subdivision."

26 13. By striking page 5, line 27, through page 6,  
27 line 6.

28 14. Page 6, line 12, by inserting after the word  
29 "subdivisions," the following: "the state board of  
30 regents,".

31 15. Page 6, line 16, by inserting after the word  
32 "subdivision," the following: "the state board of  
33 regents,".

34 16. Page 6, line 18, by inserting after the word  
35 "subdivision," the following: "the state board of  
36 regents,".

37 17. Page 6, line 21, by inserting after the word  
38 "subdivision," the following: "the state board of  
39 regents,".

40 18. Page 6, line 23, by inserting after the word  
41 "subdivision," the following: "the state board of  
42 regents,".

43 19. Page 6, line 26, by inserting after the word  
44 "subdivision," the following: "the state board of  
45 regents,".

46 20. Page 6, line 28, by inserting after the word  
47 "subdivision," the following: "the state board of  
48 regents,".

49 21. Page 6, line 31, by inserting after the word  
50 "subdivision," the following: "the state board of

S-5531

-4-

S-5531

Page 5

1 regents,".

2 22. Page 7, by striking lines 8 through 24 and  
3 inserting the following:

4 "Sec. \_\_\_\_\_. Section 262.14, subsection 3, Code  
5 1991, is amended by adding the following new  
6 unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. The board shall have a  
8 written investment policy, the goal of which is to  
9 provide for the financial health of the institutions  
10 governed by the board. The board shall establish  
11 investment practices that preserve principal, provide  
12 for liquidity sufficient for anticipated needs, and  
13 maintain purchasing power of investable assets of the  
14 board and its institutions. The policy shall also  
15 include a list of authorized investments, maturity  
16 guidelines, procedures for selecting and approving  
17 investment managers and other investment  
18 professionals, and provisions for regular and frequent  
19 oversight of investment decisions by the board,  
20 including audit. The board shall make available to  
21 the auditor of state and treasurer of state the most  
22 recent annual report of any investment entity or  
23 investment professional employed by an institution  
24 governed by the board. The investment policy shall  
25 cover investments of endowment and nonendowment  
26 funds."

27 23. Page 8, by inserting after line 10 the  
28 following:

29 "Sec. \_\_\_\_\_. Section 331.303, Code 1991, is amended  
30 by adding the following new subsection:

31 NEW SUBSECTION. 8A. Approve the written  
32 investment policy for the county required under  
33 section 452.10B."

34 24. By striking page 8, line 30, through page 9,  
35 line 1.

36 25. Page 10, by inserting after line 6 the  
37 following:

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

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

45 26. By striking page 10, line 7, through page 13,  
46 line 13 and inserting the following:

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

50 a. Obligations of the United States government,

S-5531

S-5531

Page 6

1 its agencies and instrumentalities.  
2 b. Certificates of deposit and other evidences of  
3 deposit at federally insured depository institutions  
4 approved pursuant to chapter 453.  
5 c. Prime bankers' acceptances.  
6 d. Commercial paper or other short-term corporate  
7 debt rated within the two highest classifications, as  
8 established by at least one of the standard rating  
9 services approved by the superintendent of banking by  
10 rule adopted pursuant to chapter 17A, provided that at  
11 the time of purchase no more than five percent of all  
12 amounts invested in commercial paper and other short-  
13 term corporate debt shall be invested in paper and  
14 debt rated in the second highest classification.  
15 e. Repurchase agreements whose underlying  
16 collateral consists of the investments set out in  
17 paragraphs "a" through "d" if the treasurer of state  
18 or state agency takes delivery of the collateral  
19 either directly or through an authorized custodian.  
20 Repurchase agreements do not include reverse  
21 repurchase agreements.  
22 f. Investments authorized for the Iowa public  
23 employee retirement system in section 97B.7,  
24 subsection 2, paragraph "b", except that investment in  
25 common stocks is not permitted.  
26 g. An open-end management investment company  
27 organized in trust form registered with the federal  
28 securities and exchange commission under the federal  
29 Investment Company Act of 1940, 15 U.S.C. § 80(a), and  
30 operated in accordance with 17 C.F.R. § 270.2a-7.  
31 Futures and options contracts are not permissible  
32 investments.  
33 5. Political subdivisions of this state, including  
34 entities organized pursuant to chapter 28E whose  
35 primary function is other than to jointly invest  
36 public funds, shall purchase and invest only in the  
37 following:  
38 a. Obligations of the United States government,  
39 its agencies and instrumentalities.  
40 b. Certificates of deposit and other evidences of  
41 deposit at federally insured depository institutions  
42 approved pursuant to chapter 453.  
43 c. Prime bankers' acceptances.  
44 d. Commercial paper or other short-term corporate  
45 debt rated within the two highest classifications, as  
46 established by at least one of the standard rating  
47 services approved by the superintendent of banking by  
48 rule adopted pursuant to chapter 17A, provided that at  
49 the time of purchase no more than five percent of all  
50 amounts invested in commercial paper and other short-

S-5531 -6-

S-5531

Page 7

1 term corporate debt shall be invested in paper and  
2 debt rated in the second highest classification.

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

9 f. An open-end management investment company  
10 registered with the federal securities and exchange  
11 commission under the federal Investment Company Act of  
12 1940, 15 U.S.C. § 80(a), and operated in accordance  
13 with 17 C.F.R. § 270.2a-7.

14 g. A joint investment trust organized pursuant to  
15 chapter 28E prior to and existing in good standing on  
16 the effective date of this Act or a joint investment  
17 trust organized pursuant to chapter 28E after the  
18 effective date of this Act, provided that the joint  
19 investment trust shall either be rated within the two  
20 highest classifications by at least one of the  
21 standard rating services approved by the  
22 superintendent of banking by rule adopted pursuant to  
23 chapter 17A and operated in accordance with 17 C.F.R.  
24 § 270.2a-7, or be registered with the federal  
25 securities and exchange commission under the federal  
26 Investment Company Act of 1940, 15 U.S.C. § 80(a), and  
27 operated in accordance with 17 C.F.R. § 270.2a-7. The  
28 manager or investment advisor of the joint investment  
29 trust shall be registered with the federal securities  
30 and exchange commission under the Investment Advisor  
31 Act of 1940, 15 U.S.C. § 80(b).

32 Futures and options contracts are not permissible  
33 investments."

34 27. Page 13, by striking lines 14 through 16 and  
35 inserting the following:

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

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

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

42 c. Investments by the Iowa finance authority  
43 governed by chapter 220.

44 d. Investments by the state board of regents  
45 governed by chapter 262.

46 e. Investments by the statewide fire and police  
47 retirement system governed by chapter 411."

48 f. Investments by the judicial retirement system  
49 governed by chapter 602, article 9."

50 28. Page 14, by striking lines 1 through 6.

S-5531

-7-

S-5531

Page 8

- 1 29. Page 14, line 7, by striking the letter "d"  
2 and inserting the following: "b".  
3 30. Page 14, by striking lines 14 through 17 and  
4 inserting the following: "state."  
5 31. Page 14, line 18, by striking the letter "e"  
6 and inserting the following: "c".  
7 32. Page 14, by striking lines 24 through 32 and  
8 inserting the following: "hundred and ninety-seven  
9 days."  
10 33. Page 15, by inserting after line 3, the  
11 following:  
12 "6. The following entities are not subject to this  
13 section:  
14 a. The public safety peace officers retirement  
15 system governed by chapter 97A.  
16 b. The Iowa public employees' retirement system  
17 governed by chapter 97B.  
18 c. The Iowa finance authority governed by chapter  
19 220.  
20 d. The state board of regents governed by chapter  
21 262.  
22 e. The statewide fire and police retirement system  
23 governed by chapter 411.  
24 f. The judicial retirement system governed by  
25 chapter 602, article 9."  
26 34. Page 15, by inserting before line 4 the  
27 following:  
28 "\_\_\_\_. A joint investment trust organized pursuant  
29 to chapter 28E whose primary function is to invest  
30 public funds shall report to the general assembly not  
31 later than January 1 of each year the amount of any  
32 trust royalty, residual payment, administrative or  
33 service fee, or other fee paid by the trust, the  
34 services performed for the fee, and the person  
35 receiving the fee."  
36 35. Page 15, by inserting after line 17, the  
37 following:  
38 "3. The following entities are not subject to this  
39 section:  
40 a. The public safety peace officers retirement  
41 system governed by chapter 97A.  
42 b. The Iowa public employees' retirement system  
43 governed by chapter 97B.  
44 c. The Iowa finance authority governed by chapter  
45 220.  
46 d. The state board of regents governed by chapter  
47 262.  
48 e. The statewide fire and police retirement system  
49 governed by chapter 411.  
50 f. The judicial retirement system governed by

S-5531

-8-

S-5531

Page 9

1 chapter 602, article 9."

2 36. Page 15, by striking lines 20 through 23 and  
3 inserting the following:

4 "The treasurer of state".

5 37. By striking page 15, line 27, through page  
6 16, line 6.

7 38. Page 16, by inserting after line 25, the  
8 following:

9 "The following entities are not subject to this  
10 section:

11 1. The public safety peace officers retirement  
12 system governed by chapter 97A.

13 2. The Iowa public employees retirement system  
14 governed by chapter 97B.

15 3. Investments by the Iowa finance authority  
16 governed by chapter 220.

17 4. The statewide fire and police retirement system  
18 governed by chapter 411.

19 5. The judicial retirement system governed by  
20 chapter 602, article 9."

21 39. Page 17, by inserting after line 33, the  
22 following:

23 "Sec. \_\_\_\_\_. Section 453.9, Code Supplement 1991, is  
24 amended by striking the section and inserting in lieu  
25 thereof the following:

26 453.9 INVESTMENT OF SINKING FUNDS -- BOND  
27 PROCEEDS.

28 The treasurer of state and all other state agencies  
29 authorized to invest funds and the treasurer or other  
30 designated financial officer of each political  
31 subdivision may invest the proceeds of public bonds or  
32 obligations and funds being accumulated for the  
33 payment of principal and interest or reserves in  
34 investments set out in section 452.10, subsection 4,  
35 paragraphs "a" through "g", section 452.10, subsection  
36 5, paragraphs "a" through "g", an investment contract,  
37 or tax-exempt bonds. The investment shall be as  
38 defined and permitted by section 148 of the Internal  
39 Revenue Code and applicable regulations under that  
40 section. An investment contract or tax exempt bonds  
41 shall be rated within the two highest classifications  
42 as established by at least one of the standard rating  
43 services approved by the superintendent of banking by  
44 rule adopted pursuant to chapter 17A."

45 40. Page 19, line 18, by striking the words  
46 "United States corporate" and inserting the following:  
47 "U.S.".

48 41. Page 19, lines 19 and 20, by striking the  
49 words "United States corporate" and inserting the  
50 following: "U.S.".

S-5531

-9-

S-5531

Page 10

1 42. By striking page 19, line 27, through page  
2 20, line 7, and inserting the following: "Code 1991,  
3 is amended by adding the following new subparagraph:  
4 NEW SUBPARAGRAPH. (6) Investments in an open-end  
5 management investment company registered with the  
6 federal securities and exchange commission under the  
7 federal Investment Company Act of 1940, 15 U.S.C. §  
8 80(a), which is operated in accordance with 17 C.F.R.  
9 § 270.2a-7."

10 43. Page 20, line 26, by striking the words  
11 "United States corporate" and inserting the following:  
12 "U.S.".

13 44. Page 22, line 22, by striking the word "five"  
14 and inserting the following: "ten".

15 45. Page 22, line 23, by inserting after the word  
16 "year" the following: "in excess of the federally  
17 insured amount".

18 46. Page 23, by inserting after line 33 the  
19 following:

20 "h. Investments in an open-end management  
21 investment company registered with the federal  
22 securities and exchange commission under the federal  
23 Investment Company Act of 1940, 15 U.S.C. § 80(a),  
24 which is operated in accordance with 17 C.F.R. §  
25 270.2a-7."

26 47. Page 24, by inserting after line 11 the  
27 following:

28 "Sec. \_\_\_\_ . Section 453.23, subsection 1, Code  
29 1991, is amended by adding the following new  
30 unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. The acceptance of public  
32 funds by a depository pursuant to this chapter  
33 constitutes consent by the depository to assessments  
34 by the treasurer of state in accordance with this  
35 chapter.

36 Sec. \_\_\_\_ . Section 453.23, subsection 2, Code 1991,  
37 is amended to read as follows:

38 2. The depository and the security given for the  
39 public funds in its hands are liable for payment if  
40 the depository fails to pay a check, draft, or warrant  
41 drawn by the public officer or to account for a check,  
42 draft, warrant, order or certificates of deposit, or  
43 any public funds entrusted to it if in failing to pay  
44 the depository acts contrary to the terms of an  
45 agreement between the depository and the public body  
46 treasurer or, if the depository fails to pay an  
47 assessment, by the treasurer of state when due.

48 Sec. \_\_\_\_ . Section 453.23, subsection 3, paragraph  
49 d, subparagraph (1), Code 1991, is amended to read as  
50 follows:

S-5531

-10-

S-5531

Page 11

1 (1) If the loss was incurred in a bank, then any  
2 further payments to cover the loss will come from the  
3 state sinking fund for public deposits in banks. If  
4 the funds-are balance in that sinking fund is  
5 inadequate to cover pay the entire loss, then the  
6 treasurer shall ~~make~~ obtain the additional amount  
7 needed by making an assessment against other banks who  
8 hold whose public funds deposits exceed deposit  
9 insurance coverage. The A bank's assessment shall be  
10 determined by multiplying the total amount of the  
11 remaining loss to all public depositors by a  
12 percentage that represents the that bank's  
13 proportional share of the average of uninsured public  
14 funds deposits held by all banks during-the-preceding  
15 twelve-month-period-ending-on-the-last-day-of-the  
16 month-immediately-preceding-the-month as of the  
17 reporting date under section 453.21 immediately  
18 preceding the date the depository was closed. Each  
19 bank shall pay its assessment to the treasurer within  
20 three business days after it receives notice of  
21 assessment. If a bank fails to pay its assessment  
22 when due, the treasurer shall satisfy the assessment  
23 by selling securities pledged by that bank. If the  
24 securities pledged by that bank are inadequate to pay  
25 the assessment, the treasurer of state shall make  
26 additional assessments as may be necessary against  
27 other banks which hold uninsured public funds to  
28 satisfy any unpaid assessment. Any additional  
29 assessments shall be determined, collected, and  
30 satisfied in the same manner as the first assessment.  
31 If a bank fails to pay its assessment when due, the  
32 treasurer of state shall initiate a lawsuit to collect  
33 the assessment. If a bank is found to have failed to  
34 pay the assessment as required by this subparagraph,  
35 the court shall order it to pay the assessment, court  
36 costs, reasonable attorney's fees based on the amount  
37 of time the attorney general's office spent preparing  
38 and bringing the action, and reasonable expenses  
39 incurred by the treasurer of state. Idle balances in  
40 the fund ~~are to~~ shall be invested by the treasurer  
41 with earnings credited to the fund. Fees paid by  
42 banks for administration of this chapter ~~will~~ shall be  
43 credited to the fund and the treasurer may deduct  
44 actual costs of administration from the fund.

45 Sec. \_\_\_\_ . Section 453.23, subsection 3, paragraph  
46 d, subparagraph (2), Code 1991, is amended to read as  
47 follows:

48 (2) If the loss was incurred in a credit union,  
49 then any further payments to cover the loss will come  
50 from the state sinking fund for public deposits in

S-5531

-11-



1 credit unions. If the funds are inadequate to cover  
 2 the entire loss, then the treasurer shall make an  
 3 assessment against other credit unions who hold public  
 4 funds. The assessment shall be determined by  
 5 multiplying the total amount of the remaining loss to  
 6 public depositors by a percentage that represents the  
 7 average of public funds deposits held by all credit  
 8 unions during the preceding twelve month period ending  
 9 on the last day of the month immediately preceding the  
 10 month the depository was closed. Each credit union  
 11 shall pay its assessment to the treasurer within three  
 12 business days after it receives notice of assessment.  
 13 ~~If a credit union fails to pay its assessment when~~  
 14 ~~due, the treasurer shall satisfy the assessment by~~  
 15 ~~setting securities pledged by that credit union.~~ If a  
 16 credit union fails to pay its assessment when due, the  
 17 treasurer of state shall initiate a lawsuit to collect  
 18 the assessment. If a credit union is found to have  
 19 failed to pay the assessment as required by this  
 20 subparagraph, the court shall order it to pay the  
 21 assessment, court costs, reasonable attorney's fees  
 22 based upon the amount of time the attorney general's  
 23 office spent preparing and bringing the action, and  
 24 reasonable expenses incurred by the treasurer of  
 25 state's office. Idle balances in the fund are to be  
 26 invested by the treasurer with earnings credited to  
 27 the fund. Fees paid by credit unions for  
 28 administration of this chapter will be credited to the  
 29 fund and the treasurer may deduct actual costs of  
 30 administration from the fund."

31 48. Page 24, line 23, by inserting after the word  
 32 "determines." the following: "The administrator shall  
 33 have the authority to contract for outside  
 34 professional services in the conduct of examinations."

35 49. Page 24, by striking lines 29 and 30 and  
 36 inserting the following: "business is examined."

37 50. Page 25, by striking lines 5 and 6 and  
 38 inserting the following: "September 1, 1992."

39 51. Page 25, by striking lines 7 through 18 and  
 40 inserting the following:

41 "Section 14 of this Act does not apply to an  
 42 investment made prior to the effective date of this  
 43 Act. A joint investment trust organized pursuant to  
 44 chapter 28E existing prior to the effective date of  
 45 this Act, shall fully comply with this Act, on and  
 46 after the effective date of this Act, including but  
 47 not limited to complying with the requirement in  
 48 section 452.10, subsection 5, paragraph "g", that it  
 49 be operated in accordance with 17 C.F.R. § 270.2a-7,  
 50 except that such a joint investment trust shall have

1 until July 1, 1993, to become rated or registered as  
 2 required by section 452.10, subsection 5, paragraph  
 3 "g".

4 52. By renumbering, relettering, or redesignating  
 5 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5706

1 Amend the House amendment, S-5531, to Senate File  
 2 2036 as amended, passed, and reprinted by the Senate,  
 3 as follows:

4 1. Page 1, line 32, by striking the word  
 5 "orders," and inserting the following: "orders".

6 2. Page 1, line 43, by striking the word  
 7 "submission" and inserting the following: "review".

8 3. Page 2, line 15, by striking the word "As" and  
 9 inserting the following: "(2) As".

10 4. Page 3, lines 2 and 3, by striking the words  
 11 "complaints, orders," and inserting the following:  
 12 "orders".

13 5. Page 3, lines 10 and 11, by striking the words  
 14 "investment entity" and "investment professional"  
 15 exclude" and inserting the following: "outside  
 16 person excludes".

17 6. By striking page 3, line 46, through page 4,  
 18 line 25.

19 7. Page 5, by inserting after line 1 the  
 20 following:

21 "    . Page 6, by inserting after line 32 the  
 22 following:

23 "Sec.    . Section 22.1, unnumbered paragraph 1,  
 24 Code Supplement 1991, is amended to read as follows:  
 25 As used in this chapter, "public records" includes  
 26 all records, documents, tape, or other information,  
 27 stored or preserved in any medium, of or belonging to  
 28 this state or any county, city, township, school  
 29 corporation, political subdivision, nonprofit  
 30 corporation other than a county or district fair or  
 31 agricultural society, whose facilities or indebtedness  
 32 are supported in whole or in part with property tax  
 33 revenue and which is licensed to conduct pari-mutuel  
 34 wagering pursuant to chapter 99D, or tax-supported  
 35 district in this state, or any branch, department,  
 36 board, bureau, commission, council, or committee of  
 37 any of the foregoing.

38 "Public records" also includes all records relating  
 39 to the investment of public funds including but not  
 40 limited to investment policies, instructions, trading  
 41 orders, or contracts, whether in the custody of the  
 42 public body responsible for the public funds or a  
 43 fiduciary or other third party.

44 "Sec.    . Section 22.1, unnumbered paragraph 3,  
 45 Code Supplement 1991, is amended to read as follows:  
 46 The term "lawful custodian" means the government  
 47 body currently in physical possession of the public  
 48 record. The custodian of a public record in the  
 49 physical possession of persons outside a government  
 50 body is the government body owning that record. The

S-5706

S-5706

Page 2

1 records relating to the investment of public funds are  
2 the property of the public body responsible for the  
3 public funds. Each government body shall delegate to  
4 particular officials or employees of that government  
5 body the responsibility for implementing the  
6 requirements of this chapter and shall publicly  
7 announce the particular officials or employees to whom  
8 responsibility for implementing the requirements of  
9 this chapter has been delegated. "Lawful custodian"  
10 does not mean an automated data processing unit of a  
11 public body if the data processing unit holds the  
12 records solely as the agent of another public body,  
13 nor does it mean a unit which holds the records of  
14 other public bodies solely for storage.

15 Sec. \_\_\_\_ . NEW SECTION. 22.13 PUBLIC FUNDS  
16 INVESTMENT RECORDS IN CUSTODY OF THIRD PARTIES.

17 1. The records of investment transactions made by  
18 or on behalf of a public body are public records and  
19 are the property of the public body whether in the  
20 custody of the public body or in the custody of a  
21 fiduciary or other third party.

22 2. If such records of public investment  
23 transactions are in the custody of a fiduciary or  
24 other third party, the public body shall obtain from  
25 the fiduciary or other third party records requested  
26 pursuant to section 22.2.

27 3. If a fiduciary or other third party with  
28 custody of public investment transactions records  
29 fails to produce public records within a reasonable  
30 period of time as requested by the public body, the  
31 public body shall make no new investments with or  
32 through the fiduciary or other third party and shall  
33 not renew existing investments upon their maturity  
34 with or through the fiduciary or other third party.  
35 The fiduciary or other third party shall be liable for  
36 the penalties imposed under section 22.6 due to the  
37 acts or omissions of the fiduciary or other third  
38 party and any other remedies available under statute,  
39 common law, or contract."

40 8. Page 5, line 18, by inserting after the word  
41 "professionals" the following: "as described in  
42 section 11.2, subsection 2".

43 9. Page 7, line 38, by striking the word  
44 "officers" and inserting the following: "officers".

45 10. Page 7, by striking lines 44 and 45 and  
46 inserting the following:

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

S-5706

-2-

- 1 (1) Those investments set out in section 452.10,
- 2 subsection 4.
- 3 (2) The common fund for nonprofit organizations.
- 4 (3) Common stocks.
- 5 (4) For investments of short-term operating funds,
- 6 the funds shall not be invested in investments having
- 7 maturities exceeding sixty-three months."
- 8 11. Page 8, by inserting after line 2 the
- 9 following:
- 10 "\_\_\_\_. Page 14, line 10, by striking the figure
- 11 "452.10B" and inserting the following: "452.10C".
- 12 12. Page 8, line 14, by striking the word
- 13 "officers" and inserting the following: "officers'".
- 14 13. Page 8, by striking lines 20 and 21 and
- 15 inserting the following:
- 16 "d. The state board of regents. However,
- 17 investments by the state board of regents or
- 18 institutions governed by the state board of regents
- 19 are limited to the following:
- 20 (1) Those investments set out in section 452.10,
- 21 subsection 4.
- 22 (2) The common fund for nonprofit organizations.
- 23 (3) Common stocks.
- 24 (4) For investments of short-term operating funds,
- 25 the funds shall not be invested in investments having
- 26 maturities exceeding sixty-three months."
- 27 14. Page 9, line 4, by inserting after the word
- 28 "state" the following: ", in consultation with the
- 29 attorney general,".
- 30 15. Page 10, by striking lines 13 through 17 and
- 31 inserting the following:
- 32 "\_\_\_\_. Page 22, by striking lines 21 through 28
- 33 and inserting the following: "The market value of the
- 34 required collateral shall be at least ten percent of
- 35 the average amount of the excess of total public funds
- 36 over total federally insured public funds on deposit
- 37 in the bank during the preceding year. The average
- 38 amount of the excess shall be determined by adding the
- 39 amounts of excess if any for all public funds deposit
- 40 accounts as they existed on the date in each calendar
- 41 quarter used in preparing the report of condition and
- 42 income for submission to the federal government,
- 43 adding the subtotals for the four calendar quarters,
- 44 and dividing that total by four. The calculation of
- 45 the minimum market value of required collateral shall
- 46 be made before January 31 of each year.""
- 47 16. Page 10, by inserting before line 18 the
- 48 following:
- 49 "\_\_\_\_. Page 22, line 29, by inserting after the
- 50 word "rules" the following: "pursuant to chapter

S-5706

Page 4

1 17A"."

2 17. Page 12, by inserting after line 36 the  
3 following:

4 "\_\_\_\_. Page 24, by inserting after line 34 the  
5 following:

6 "Sec. \_\_\_\_\_. The guidelines under section 4 of this  
7 Act shall be made available by February 1, 1993."

By PAT DELUHERY

RICHARD VARN

S-5706 FILED APRIL 15, 1992

ADOPTED (p 143c)

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## SENATE FILE 2036

S-5707

1 Amend the House Amendment, S-5531, to Senate File  
2 2036, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 6, by striking lines 5 through 14 and  
5 inserting the following:

6 "c. Prime bankers' acceptances that mature within  
7 one hundred eighty days and that are eligible for  
8 purchase by a federal reserve bank, provided that at  
9 the time of purchase no more than thirty percent of  
10 the investment portfolio of the treasurer of state or  
11 any other state agency shall be in investments  
12 authorized by this paragraph and that at the time of  
13 purchase no more than five percent of the investment  
14 portfolio shall be invested in the securities of a  
15 single issuer.

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

33 2. Page 6, line 30, by inserting after the figure  
34 "270.2a-7" the following: ", the portfolio of which  
35 is limited to the types of investments authorized by  
36 paragraphs "a" through "e".

37 3. By striking page 6, line 43, through page 7,  
38 line 2, and inserting the following:

39 "c. Prime bankers' acceptances that mature within  
40 one hundred eighty days and that are eligible for  
41 purchase by a federal reserve bank, provided that at  
42 the time of purchase no more than ten percent of the  
43 investment portfolio shall be in investments  
44 authorized by this paragraph and that at the time of  
45 purchase no more than five percent of the investment  
46 portfolio shall be invested in the securities of a  
47 single issuer.

48 d. Commercial paper or other short-term corporate  
49 debt that matures within one hundred eighty days and  
50 that is rated within the two highest classifications,

S-5707

S-5707

Page 2

1 as established by at least one of the standard rating  
2 services approved by the superintendent of banking by  
3 rule adopted pursuant to chapter 17A, provided that at  
4 the time of purchase no more than five percent of all  
5 amounts invested in commercial paper and other short-  
6 term corporate debt shall be invested in paper and  
7 debt rated in the second highest classification, and  
8 provided further that at the time of purchase no more  
9 than ten percent of the investment portfolio shall be  
10 in investments authorized by this paragraph and that  
11 at the time of purchase no more than five percent of  
12 the investment portfolio shall be invested in the  
13 securities of a single issuer."

14 4. Page 7, line 13, by inserting after the figure  
15 "270.2a-7" the following: ", the portfolio of which  
16 is limited to the types of investments authorized by  
17 paragraphs "a" through "e".

18 5. Page 7, line 18, by inserting after the word  
19 "that" the following: "the portfolio of the joint  
20 investment trust is limited to the types of  
21 investments authorized by paragraphs "a" through "e",  
22 and provided further that".

By DERRYL MCLAREN  
HARRY SLIFE  
JIM KERSTEN

S-5707 FILED APRIL 15, 1992  
WITHDRAWN (p. 1430)

## SENATE FILE 2036

S-5715

1 Amend the House Amendment, S-5531, to Senate File  
2 2036, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 6, by striking lines 5 through 14 and  
5 inserting the following:

6 "c. Prime bankers' acceptances that mature within  
7 two hundred seventy days and that are eligible for  
8 purchase by a federal reserve bank, provided that at  
9 the time of purchase no more than thirty percent of  
10 the investment portfolio of the treasurer of state or  
11 any other state agency shall be in investments  
12 authorized by this paragraph and that at the time of  
13 purchase no more than five percent of the investment  
14 portfolio shall be invested in the securities of a  
15 single issuer.

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

33 2. Page 6, line 30, by inserting after the figure  
34 "270.2a-7" the following: ", the portfolio of which  
35 is limited to the types of investments authorized by  
36 paragraphs "a" through "e".

37 3. By striking page 6, line 43, through page 7,  
38 line 2, and inserting the following:

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

48 d. Commercial paper or other short-term corporate  
49 debt that matures within two hundred seventy days and  
50 that is rated within the two highest classifications,

S-5715

-1-



S-5715

Page 2

1 as established by at least one of the standard rating  
 2 services approved by the superintendent of banking by  
 3 rule adopted pursuant to chapter 17A, provided that at  
 4 the time of purchase no more than five percent of all  
 5 amounts invested in commercial paper and other short-  
 6 term corporate debt shall be invested in paper and  
 7 debt rated in the second highest classification, and  
 8 provided further that at the time of purchase no more  
 9 than ten percent of the investment portfolio shall be  
 10 in investments authorized by this paragraph and that  
 11 at the time of purchase no more than five percent of  
 12 the investment portfolio shall be invested in the  
 13 securities of a single issuer."

14 4. Page 7, line 13, by inserting after the figure  
 15 "270.2a-7" the following: ", the portfolio of which  
 16 is limited to the types of investments authorized by  
 17 paragraphs "a" through "e".

18 5. Page 7, line 18, by inserting after the word  
 19 "that" the following: "the portfolio of the joint  
 20 investment trust is limited to the types of  
 21 investments authorized by paragraphs "a" through "e",  
 22 and provided further that".

By DERRYL MCLAREN  
 HARRY SLIFE

S-5715 FILED APRIL 15, 1992

ADOPTED (p 1430)

*Reconsidered, discussed*

*A-Adopted, B-lost 4/16 (p 1458)*

## SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2036

E-5952

1 Amend the House Amendment, S-5531, to Senate File  
2 2036, as amended, passed, and reprinted by the Senate,  
3 as follows:

4 1. Page 1, line 32, by striking the word  
5 "orders," and inserting the following: "orders".

6 2. Page 1, line 43, by striking the word  
7 "submission" and inserting the following: "review".

8 3. Page 2, line 15, by striking the word "As" and  
9 inserting the following: "(2) As".

10 4. Page 3, lines 2 and 3, by striking the words  
11 "complaints, orders," and inserting the following:  
12 "orders".

13 5. Page 3, lines 10 and 11, by striking the words  
14 "investment entity" and "investment professional"  
15 exclude" and inserting the following: "outside  
16 person excludes".

17 6. By striking page 3, line 46, through page 4,  
18 line 25.

19 7. Page 5, by inserting after line 1 the  
20 following:

21 "\_\_\_\_. Page 6, by inserting after line 32 the  
22 following:

23 "Sec. \_\_\_\_ . Section 22.1, unnumbered paragraph 1,  
24 Code Supplement 1991, is amended to read as follows:

25 As used in this chapter, "public records" includes  
26 all records, documents, tape, or other information,  
27 stored or preserved in any medium, of or belonging to  
28 this state or any county, city, township, school  
29 corporation, political subdivision, nonprofit  
30 corporation other than a county or district fair or  
31 agricultural society, whose facilities or indebtedness  
32 are supported in whole or in part with property tax  
33 revenue and which is licensed to conduct pari-mutuel  
34 wagering pursuant to chapter 99D, or tax-supported  
35 district in this state, or any branch, department,  
36 board, bureau, commission, council, or committee of  
37 any of the foregoing.

38 "Public records" also includes all records relating  
39 to the investment of public funds including but not  
40 limited to investment policies, instructions, trading  
41 orders, or contracts, whether in the custody of the  
42 public body responsible for the public funds or a  
43 fiduciary or other third party.

44 Sec. \_\_\_\_ . Section 22.1, unnumbered paragraph 3,  
45 Code Supplement 1991, is amended to read as follows:

46 The term "lawful custodian" means the government  
47 body currently in physical possession of the public  
48 record. The custodian of a public record in the  
49 physical possession of persons outside a government  
50 body is the government body owning that record. The

E-5952

E-5952

Page 2

1 records relating to the investment of public funds are  
2 the property of the public body responsible for the  
3 public funds. Each government body shall delegate to  
4 particular officials or employees of that government  
5 body the responsibility for implementing the  
6 requirements of this chapter and shall publicly  
7 announce the particular officials or employees to whom  
8 responsibility for implementing the requirements of  
9 this chapter has been delegated. "Lawful custodian"  
10 does not mean an automated data processing unit of a  
11 public body if the data processing unit holds the  
12 records solely as the agent of another public body,  
13 nor does it mean a unit which holds the records of  
14 other public bodies solely for storage.

15 Sec. \_\_\_\_ . NEW SECTION. 22.13 PUBLIC FUNDS  
16 INVESTMENT RECORDS IN CUSTODY OF THIRD PARTIES.

17 1. The records of investment transactions made by  
18 or on behalf of a public body are public records and  
19 are the property of the public body whether in the  
20 custody of the public body or in the custody of a  
21 fiduciary or other third party.

22 2. If such records of public investment  
23 transactions are in the custody of a fiduciary or  
24 other third party, the public body shall obtain from  
25 the fiduciary or other third party records requested  
26 pursuant to section 22.2.

27 3. If a fiduciary or other third party with  
28 custody of public investment transactions records  
29 fails to produce public records within a reasonable  
30 period of time as requested by the public body, the  
31 public body shall make no new investments with or  
32 through the fiduciary or other third party and shall  
33 not renew existing investments upon their maturity  
34 with or through the fiduciary or other third party.  
35 The fiduciary or other third party shall be liable for  
36 the penalties imposed under section 22.6 due to the  
37 acts or omissions of the fiduciary or other third  
38 party and any other remedies available under statute,  
39 common law, or contract."

40 8. Page 5, line 18, by inserting after the word  
41 "professionals" the following: "as described in  
42 section 11.2, subsection 2".

43 9. Page 6, by striking lines 5 through 14 and  
44 inserting the following:

45 "c. Prime bankers' acceptances that mature within  
46 two hundred seventy days and that are eligible for  
47 purchase by a federal reserve bank, provided that at  
48 the time of purchase no more than thirty percent of  
49 the investment portfolio of the treasurer of state or  
50 any other state agency shall be in investments

H-5952

-2-

H-5952

Page 3

1 authorized by this paragraph and that at the time of  
2 purchase no more than five percent of the investment  
3 portfolio shall be invested in the securities of a  
4 single issuer.

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

22 10. By striking page 6, line 43, through page 7,  
23 line 2, and inserting the following:

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

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

49 11. Page 7, line 38, by striking the word  
50 "officers" and inserting the following: "officers".

H-5952

-3-

H-5952

Page 4

1 12. Page 7, by striking lines 44 and 45 and  
2 inserting the following:

3 "d. Investments by the state board of regents.

4 However, investments by the state board of regents or  
5 institutions governed by the state board of regents  
6 are limited to the following:

7 (1) Those investments set out in section 452.10,  
8 subsection 4.

9 (2) The common fund for nonprofit organizations.

10 (3) Common stocks.

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

14 13. Page 8, by inserting after line 2 the  
15 following:

16 "\_\_\_\_. Page 14, line 10, by striking the figure  
17 "452.10B" and inserting the following: "452.10C".

18 14. Page 8, line 14, by striking the word  
19 "officers" and inserting the following: "officers".

20 15. Page 8, by striking lines 20 and 21 and  
21 inserting the following:

22 "d. The state board of regents. However,  
23 investments by the state board of regents or  
24 institutions governed by the state board of regents  
25 are limited to the following:

26 (1) Those investments set out in section 452.10,  
27 subsection 4.

28 (2) The common fund for nonprofit organizations.

29 (3) Common stocks.

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

33 16. Page 9, line 4, by inserting after the word  
34 "state" the following: ", in consultation with the  
35 attorney general,".

36 17. Page 10, by striking lines 13 through 17 and  
37 inserting the following:

38 "\_\_\_\_. Page 22, by striking lines 21 through 28  
39 and inserting the following: "The market value of the  
40 required collateral shall be at least ten percent of  
41 the average amount of the excess of total public funds  
42 over total federally insured public funds on deposit  
43 in the bank during the preceding year. The average  
44 amount of the excess shall be determined by adding the  
45 amounts of excess if any for all public funds deposit  
46 accounts as they existed on the date in each calendar  
47 quarter used in preparing the report of condition and  
48 income for submission to the federal government,  
49 adding the subtotals for the four calendar quarters,  
50 and dividing that total by four. The calculation of

H-5952

-4-

H-5952

Page 5

1 the minimum market value of required collateral shall  
2 be made before January 31 of each year.""  
3 18. Page 10, by inserting before line 18 the  
4 following:  
5 "\_\_\_\_. Page 22, line 29, by inserting after the  
6 word "rules" the following: "pursuant to chapter  
7 17A"."  
8 19. Page 12, by inserting after line 36 the  
9 following:  
10 "\_\_\_\_. Page 24, by inserting after line 34 the  
11 following:  
12 "Sec. \_\_\_\_ . The guidelines under section 4 of this  
13 Act shall be made available by February 1, 1993.""  
14 20. By renumbering, relettering, or redesignating  
15 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5952 FILED APRIL 16, 1992

*House concurred 4/17 (p. 1626)*

MILLER, U.  
SZYMONIAK  
RITTMER

SSB 2003.1

LOCAL GOVERNMENT *Law*

SENATE FILE 2036  
BY (PROPOSED COMMITTEE ON  
LOCAL GOVERNMENT BILL  
BY CHAIRPERSON MILLER)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act establishing requirements for joint investments of funds  
2 by the state and political subdivisions of the state,  
3 including the state board of regents, and providing that such  
4 investments shall be regulated by the treasurer of state and  
5 the commissioner of insurance, and providing an effective  
6 date.

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

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23

1 Section 1. Section 11.2, Code 1991, is amended by adding  
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. The audits of the state board of  
4 regents required under this section shall include a  
5 determination of whether investments by the state board of  
6 regents comply with state law. The audits shall also include  
7 a determination of whether all contracts with third parties  
8 acting as a depository institution for funds of, or acting in  
9 a fiduciary capacity for, the state board of regents or a  
10 regents institution contain all terms required by state law.

11 Sec. 2. Section 11.6, subsection 1, Code Supplement 1991,  
12 is amended by adding the following new unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. An examination under this  
14 subsection shall include a determination of whether a  
15 governmental subdivision is complying with state law in its  
16 investments of funds and a determination of whether all  
17 contracts with third parties acting as a depository  
18 institution for funds of, or acting in a fiduciary capacity  
19 for, the governmental subdivision contain all terms required  
20 by state law.

21 Sec. 3. Section 11.6, subsection 4, Code Supplement 1991,  
22 is amended by adding the following new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. An examination under this  
24 subsection shall include a determination of whether a  
25 governmental subdivision is complying with state law in its  
26 investments of funds and a determination of whether all  
27 contracts with third parties acting as a depository  
28 institution for funds of, or acting in a fiduciary capacity  
29 for, the governmental subdivision contain all terms required  
30 by state law.

31 Sec. 4. Section 12.1, Code 1991, is amended by adding the  
32 following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. The treasurer is responsible for  
34 reporting on the investment activities of all political  
35 subdivisions with third parties, and shall make



1 recommendations as deemed necessary to the general assembly  
2 and the governor on modification in the investing authority of  
3 political subdivisions. The treasurer shall require each  
4 political subdivision to report to the treasurer the amount of  
5 investments with third parties outstanding and each new third-  
6 party investment. The treasurer shall adopt rules and  
7 establish forms for administering this provision. Each  
8 political subdivision shall provide all the information  
9 required by the treasurer under this provision.

10 Sec. 5. Section 12.8, unnumbered paragraph 1, Code  
11 Supplement 1991, is amended to read as follows:

12 The treasurer of state shall invest or deposit, subject to  
13 chapter 12A and as provided by law, any of the public funds  
14 not currently needed for operating expenses and shall do so  
15 upon receipt of monthly notice from the director of revenue  
16 and finance of the amount not so needed. In the event of loss  
17 on redemption or sale of securities invested as prescribed by  
18 law, and if the transaction is reported to the executive  
19 council, neither the treasurer nor director of revenue and  
20 finance is personally liable but the loss shall be charged  
21 against the funds which would have received the profits or  
22 interest of the investment and there is appropriated from the  
23 funds the amount so required. Joint investments of funds  
24 shall be subject to section 452.10A.

25 Sec. 6. NEW SECTION. 12.62 INVESTMENTS BY POLITICAL  
26 SUBDIVISIONS -- ASSISTANCE.

27 The treasurer of state shall adopt rules for providing  
28 information and assistance to political subdivisions seeking  
29 to invest funds of the political subdivision. The treasurer  
30 or the treasurer's designee shall provide information and  
31 assistance to a political subdivision at the request of the  
32 political subdivision, including but not limited to  
33 information regarding the statutory requirements for  
34 investments by the political subdivision and technical  
35 assistance to enable the political subdivision to invest its

1 funds in accordance with state law. However, the fact that  
2 information and assistance are provided under this section to  
3 a political subdivision shall not make the state, the  
4 treasurer of state, or the treasurer's designee liable to a  
5 political subdivision in any manner for any loss, damage, or  
6 expense incurred by the political subdivision as a result of  
7 an investment.

8 Sec. 7. Section 262.14, subsection 3, unnumbered paragraph  
9 1, Code 1991, is amended to read as follows:

10 Any portion of the funds may be invested by the board.

11 Joint investments of funds shall be subject to section  
12 452.10A. In the investment of the funds, the board shall  
13 exercise the judgment and care, under the circumstances then  
14 prevailing, which persons of prudence, discretion and  
15 intelligence exercise in their own affairs as provided in  
16 section 633.123, subsection 1.

17 Sec. 8. Section 279.29, unnumbered paragraph 2, Code 1991,  
18 is amended to read as follows:

19 Pending audit and allowance of claims under this section,  
20 the board shall invest moneys of the corporation to the extent  
21 practicable, and the board may provide for the joint  
22 investment of moneys with one or more school corporations  
23 pursuant to a joint investment agreement. Joint investments  
24 of funds shall be subject to section 452.10A.

25 Sec. 9. Section 302.11, Code 1991, is amended to read as  
26 follows:

27 302.11 SCHOOL FUND ACCOUNTS -- AUDIT OF LOSSES.

28 The director of revenue and finance shall keep the  
29 permanent school fund accounts in books provided for that  
30 purpose, separate and distinct from the revenue books. The  
31 auditor of state shall audit losses to the permanent school or  
32 university fund caused by the defalcation, mismanagement, or  
33 fraud of the agents or officers controlling and managing the  
34 fund, or caused in connection with a joint investment with a  
35 third party. The auditor of state shall adopt rules for those

1 officers as necessary to ascertain the losses.

2 Sec. 10. Section 331.555, subsection 6, Code 1991, is  
3 amended to read as follows:

4 6. The treasurer shall keep all funds invested to the  
5 extent practicable and may invest the funds jointly with one  
6 or more counties, judicial district departments of  
7 correctional services, cities, or city utilities pursuant to a  
8 joint investment agreement. Joint investments of funds shall  
9 be subject to section 452.10A.

10 Sec. 11. Section 384.21, Code 1991, is amended to read as  
11 follows:

12 384.21 JOINT INVESTMENT OF FUNDS.

13 A city or a city utility board shall keep all funds  
14 invested to the extent practicable and may invest the funds  
15 jointly with one or more cities, utility boards, judicial  
16 district departments of correctional services, or counties  
17 pursuant to a joint investment agreement. Joint investments  
18 of funds shall be subject to section 452.10A.

19 Sec. 12. NEW SECTION. 452.10A INVESTMENT OF PUBLIC FUNDS  
20 -- STANDARDS AND PROCEDURES.

21 1. In addition to investment standards and requirements  
22 otherwise provided by law, the investment of public funds by  
23 political subdivisions or their agencies pursuant to any law  
24 which authorizes the investment of public funds shall meet the  
25 requirements and standards for investments specified in this  
26 section, except where specifically otherwise provided. It is  
27 the intent of this section to promote the exercise of care in  
28 investing public funds which persons of discretion and  
29 intelligence exercise in the management of their own affairs,  
30 not with a purpose of speculation, but with regard to the  
31 permanent disposition of funds considering the probable income  
32 as well as the probable safety of capital. The primary goals  
33 of investment prudence shall be based in the following order  
34 of priority:

35 a. Safety of principal is the first priority.

1 b. Maintaining the necessary liquidity to match expended  
2 liabilities is the second priority.

3 c. Obtaining a reasonable return is the third priority.

4 2. The joint investment of public funds by political  
5 subdivisions or their agencies shall be subject to the  
6 following:

7 a. As used in this section, "operating funds" mean those  
8 funds which will be expended during a current budget year or  
9 within twelve months of receipt. Operating funds must be  
10 identified and separated as distinguished from all other funds  
11 available for investment.

12 b. Operating funds may only be jointly invested in  
13 investments which mature within three hundred sixty-five days  
14 and which are authorized by law for the investing agencies or  
15 subdivisions.

16 c. The weighted average maturity of all operating fund  
17 investments shall not exceed ninety days.

18 d. In order to ensure that joint operating fund  
19 investments can be liquidated without risk of principal loss,  
20 the market value of such investments must not be permitted to  
21 fluctuate by more than one-half of one percent from the  
22 amortized cost thereof. If such fluctuations occur, actions  
23 must be taken promptly to maintain the principal value of such  
24 investments.

25 e. The trading of securities in which any operating funds  
26 are invested for the purpose of speculation and the  
27 realization of short-term trading profits are prohibited.  
28 Only investments having maturities consistent with the needs  
29 and use of the investing agencies or subdivisions shall be  
30 made.

31 f. Political subdivisions shall approve written investment  
32 policies which incorporate the guidelines specified in this  
33 section and any other provisions deemed necessary to  
34 adequately safeguard invested public funds.

35 g. This section shall not be construed to supersede

1 chapter 453.

2 Sec. 13. NEW SECTION. 502.613 JOINT INVESTMENTS WITH  
3 POLITICAL SUBDIVISIONS.

4 The administrator shall regulate and supervise companies  
5 jointly investing or managing funds for political  
6 subdivisions. The administrator shall adopt rules regarding  
7 reasonable fees for institutions acting as custodians of funds  
8 or transferring funds for political subdivisions involved in  
9 joint investments and other rules necessary to administer this  
10 section.

11 Sec. 14. Section 905.6, subsection 4, Code Supplement  
12 1991, is amended to read as follows:

13 4. Prepare all budgets and fiscal documents, and certify  
14 for payment all expenses and payrolls lawfully incurred by the  
15 district department. The director may invest funds which are  
16 not needed for current expenses, jointly with one or more  
17 cities, city utilities, or counties pursuant to a joint  
18 investment agreement. Joint investments of funds shall be  
19 subject to section 452.10A.

20 Sec. 15. EFFECTIVE DATE. This Act, being deemed of  
21 immediate importance, takes effect upon enactment.

22 EXPLANATION

23 This bill requires an audit of governmental subdivisions or  
24 the state board of regents to contain an audit of the  
25 contracts with third parties holding funds or acting in a  
26 fiduciary capacity for those political subdivisions required  
27 to be audited under section 11.6 or for the state board of  
28 regents. The bill also provides that the treasurer of state  
29 shall report on joint investments of, and shall adopt rules to  
30 provide information and assistance regarding investment law  
31 requirements and other matters to, political subdivisions  
32 desiring to invest funds. The bill further provides that the  
33 commissioner of insurance, as the administrator for the  
34 securities law, shall regulate companies jointly investing or  
35 managing funds of political subdivisions and shall establish

1 rules governing what is a reasonable fee for an institution to  
2 charge as a custodian of funds or to transfer funds for  
3 political subdivisions involved in joint investments.

4 The bill also establishes guidelines to protect funds  
5 invested jointly by the state and political subdivisions,  
6 including the treasurer of state's office and the state board  
7 of regents.

8 This bill takes effect upon enactment and may include a  
9 state mandate as defined in section 25B.3.

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SENATE FILE 2036

AN ACT

RELATING TO REGULATING THE INVESTMENT OF PUBLIC FUNDS AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 11.2, Code 1991, is amended to read as follows:

11.2 ANNUAL SETTLEMENTS.

1. The auditor of state shall annually, and oftener more often if deemed necessary, make a full settlement between the state and all state officers and departments and all persons receiving or expending state funds, and shall annually make a complete audit of the books and accounts of every department of the state.

Provided, that the accounts, records, and documents of the treasury department shall be audited daily.

Provided further, that a preliminary audit of the educational institutions and the state fair board shall be made periodically, at least quarterly, to check the monthly reports submitted to the director of revenue and finance as required by section 421.31, subsection 4 and that a final audit of such state agencies shall be made at the close of each fiscal year.

2. In conjunction with the audit of the state board of regents required under this section, the auditor of state, in accordance with generally accepted auditing standards, shall

perform audit testing on the state board of regents' investments. The auditor shall report to the state board of regents concerning compliance with state law and state board of regents' investment policies. The state board of regents is responsible for remedying any reported noncompliance with its own policy or practices.

The state board of regents shall make available to the auditor of state and treasurer of state the most recent annual report of any investment entity or investment professional employed by an institution governed by the board.

All contracts or agreements with an investment entity or investment professional employed by an institution governed by the state board of regents shall require the investment entity or investment professional employed by an institution governed by the state board of regents to notify in writing the state board of regents within thirty days of receipt of all communication from an independent auditor or the auditor of state or any regulatory authority of the existence of a material weakness in internal control structure, or regulatory orders or sanctions against the investment entity or investment professional, with regard to the type of services being performed under the contracts or agreements. This provision shall not be limited or avoided by another contractual provision.

The audit under this section shall not be certified until the most recent annual reports of any investment entity or investment professional employed by an institution governed by the state board of regents are reviewed by the auditor of state.

The review of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. § 270.30d-1 or the review, by the

person performing the audit, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this paragraph.

As used in this subsection, "investment entity" and "investment professional" exclude a bank, savings and loan association, or credit union when acting as an approved depository pursuant to chapter 45J.

Sec. 2. Section 11.6, subsection 1, Code Supplement 1991, is amended to read as follows:

1. a. The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of all school funds, the certified annual financial report, and the certified enrollment as provided in section 257.11. Examinations of community colleges shall include an audit of eligible and noneligible contact hours as defined in section 286A.2. Eligible and noneligible contact hours and the certified enrollment shall be certified to the department of management.

Subject to the exceptions and requirements of subsection 2 and subsection 4, paragraph "c", examinations shall be made as

determined by the governmental subdivision either by the auditor of state or by certified public accountants, certified in the state of Iowa, and they shall be paid from the proper public funds of the governmental subdivision.

b. (1) In conjunction with the audit of the governmental subdivision required under this section, the person performing the audit shall also perform tests for compliance with the investment policy of a reasonable number of investment transactions in relation to the total investments and quantity of transactions in the period audited. The results of the compliance testing shall be reported in accordance with generally accepted auditing standards. The person performing the audit may also make recommendations for changes to investment policy or practices. The governmental subdivision is responsible for the remedy of reported noncompliance with its policy or practices.

(2) As part of its audit, the governmental subdivision is responsible for obtaining and providing to the person performing the audit the audited financial statements and related report on internal control structure of outside persons, performing any of the following during the period under audit for the governmental subdivision:

- (a) Investing public funds.
- (b) Advising on the investment of public funds.
- (c) Directing the deposit or investment of public funds.
- (d) Acting in a fiduciary capacity for the governmental subdivision.

The audit under this section shall not be certified until all material information required by this subparagraph is reviewed by the person performing the audit.

(3) The review by the person performing the audit of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal



Investment Company Act of 1940, 15 U.S.C. § 80(a), pursuant to 17 C.F.R. § 270.30d-1 or the review, by the person performing the audit, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this paragraph.

(4) All contracts or agreements with outside persons performing any of the functions listed in subparagraph (2) shall require the outside person to notify in writing the governmental subdivision within thirty days of receipt of all communication from the person performing the audit or any regulatory authority of the existence of a material weakness in internal control structure, or regulatory orders or sanctions against the outside person, with regard to the type of services being performed under the contracts or agreements. This provision shall not be limited or avoided by another contractual provision.

(5) As used in this subsection, "outside person" excludes a bank, savings and loan association, or credit union when acting as an approved depository pursuant to chapter 453.

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

(7) If during the course of an audit of a joint investment trust organized pursuant to chapter 28E, the auditor determines the existence of a material weakness in the internal control structure or a material violation of the internal control structure, the auditor shall report the determination to the joint investment trust which shall notify

the administrator in writing within twenty-four hours, and provide a copy of the notification to the auditor. The auditor shall provide, within twenty-four hours of the receipt of the copy of the notice, written acknowledgement of the receipt to the administrator. If the joint investment trust does not make the notification within twenty-four hours, or the auditor does not receive a copy of the notification within twenty-four hours, the auditor shall immediately notify the administrator in writing of the material weakness in the internal control structure or the material violation of the internal control structure.

Sec. 3. Section 11.6, subsection 4, Code Supplement 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An examination under this subsection shall include a determination of whether investments by the governmental subdivision are authorized by state law.

Sec. 4. Section 11.6, subsection 7, Code Supplement 1991, is amended to read as follows:

7. The auditor of state shall make guidelines available to the public setting forth accounting and auditing standards and procedures and audit and legal compliance programs to be applied in the examination of the governmental subdivisions of the state, which shall require a review of the internal control structure and specify testing of transactions for compliance. The guidelines shall include a requirement that the certified public accountant immediately notify the auditor of state regarding any suspected embezzlement or theft. The auditor shall also provide standard reporting formats for use in reporting the results of an examination of a governmental subdivision.

Sec. 5. NEW SECTION. 12.02 INVESTMENTS BY AGENCIES AND POLITICAL SUBDIVISIONS -- TECHNICAL INFORMATION AND ASSISTANCE.

The treasurer of state shall adopt rules pursuant to chapter 17A for providing technical information and assistance to political subdivisions, the state board of regents, instrumentalities, and agencies of the state authorized to invest funds which are seeking to invest public funds. The treasurer or the treasurer's designee shall provide technical information and assistance to a political subdivision, the state board of regents, instrumentality, or agency of the state authorized to invest funds at the request of the political subdivision, the state board of regents, instrumentality, or agency of the state authorized to invest funds, including but not limited to technical information regarding the statutory requirements for investments by the political subdivision, the state board of regents, instrumentality, or agency and technical assistance to enable the political subdivision, the state board of regents, instrumentality, or agency to invest funds in accordance with state law. However, the fact that information and assistance are provided under this section to a political subdivision, the state board of regents, instrumentality, or agency authorized to invest funds shall not make the state, the treasurer of state, or the treasurer's designee liable to a political subdivision, the state board of regents, instrumentality, or agency of the state in any manner for any loss, damage, or expense incurred by the political subdivision, the state board of regents, instrumentality, or agency as a result of an investment.

Sec. 6. Section 22.1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

As used in this chapter, "public records" includes all records, documents, tape, or other information, stored or preserved in any medium, of or belonging to this state or any county, city, township, school corporation, political subdivision, nonprofit corporation other than a county or district fair or agricultural society, whose facilities or

indebtedness are supported in whole or in part with property tax revenue and which is licensed to conduct pari-mutuel wagering pursuant to chapter 99D, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing.

"Public records" also includes all records relating to the investment of public funds including but not limited to investment policies, instructions, trading orders, or contracts, whether in the custody of the public body responsible for the public funds or a fiduciary or other third party.

Sec. 7. Section 22.1, unnumbered paragraph 3, Code Supplement 1991, is amended to read as follows:

The term "lawful custodian" means the government body currently in physical possession of the public record. The custodian of a public record in the physical possession of persons outside a government body is the government body owning that record. The records relating to the investment of public funds are the property of the public body responsible for the public funds. Each government body shall delegate to particular officials or employees of that government body the responsibility for implementing the requirements of this chapter and shall publicly announce the particular officials or employees to whom responsibility for implementing the requirements of this chapter has been delegated. "Lawful custodian" does not mean an automated data processing unit of a public body if the data processing unit holds the records solely as the agent of another public body, nor does it mean a unit which holds the records of other public bodies solely for storage.

Sec. 8. NEW SECTION. 22.13 PUBLIC FUNDS INVESTMENT RECORDS IN CUSTODY OF THIRD PARTIES.

1. The records of investment transactions made by or on behalf of a public body are public records and are the property of the public body whether in the custody of the

public body or in the custody of a fiduciary or other third party.

2. If such records of public investment transactions are in the custody of a fiduciary or other third party, the public body shall obtain from the fiduciary or other third party records requested pursuant to section 22.2.

3. If a fiduciary or other third party with custody of public investment transactions records fails to produce public records within a reasonable period of time as requested by the public body, the public body shall make no new investments with or through the fiduciary or other third party and shall not renew existing investments upon their maturity with or through the fiduciary or other third party. The fiduciary or other third party shall be liable for the penalties imposed under section 22.6 due to the acts or omissions of the fiduciary or other third party and any other remedies available under statute, common law, or contract.

Sec. 9. Section 28E.5, subsection 2, Code 1991, is amended to read as follows:

2. The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. However, if the agreement establishes a separate legal or administrative entity, the entity shall, when investing funds, comply with the provisions of sections 452.10 and 452.10A through 452.10C and other applicable law.

Sec. 10. Section 262.14, subsection 3, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board shall have a written investment policy, the goal of which is to provide for the financial health of the institutions governed by the board. The board shall establish investment practices that preserve principal, provide for liquidity sufficient for anticipated needs, and maintain purchasing power of investable assets of

the board and its institutions. The policy shall also include a list of authorized investments, maturity guidelines, procedures for selecting and approving investment managers and other investment professionals as described in section 11.2, subsection 2, and provisions for regular and frequent oversight of investment decisions by the board, including audit. The board shall make available to the auditor of state and treasurer of state the most recent annual report of any investment entity or investment professional employed by an institution governed by the board. The investment policy shall cover investments of endowment and nonendowment funds.

Sec. 11. Section 279.29, unnumbered paragraph 2, Code 1991, is amended to read as follows:

Pending audit and allowance of claims under this section, the board shall invest moneys of the corporation to the extent practicable, and the board may provide for the joint investment of moneys with one or more school corporations pursuant to a joint investment agreement. All investments of funds shall be subject to sections 452.10 and 452.10A and other applicable law.

Sec. 12. Section 302.11, Code 1991, is amended to read as follows:

302.11 SCHOOL FUND ACCOUNTS -- AUDIT OF LOSSES.

The director of revenue and finance shall keep the permanent school fund accounts in books provided for that purpose, separate and distinct from the revenue books. The auditor of state shall audit losses to the permanent school or university fund caused by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the fund. The auditor of state shall adopt rules pursuant to chapter 17A for those officers as necessary to ascertain the losses.

Sec. 13. Section 331.303, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. Approve the written investment policy for the county required under section 452.10B.

Sec. 14. Section 331.555, subsection 6, Code 1991, is amended to read as follows:

6. The treasurer shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more counties, judicial district departments of correctional services, cities, or city utilities pursuant to a joint investment agreement. All investments of funds shall be subject to sections 452.10 and 452.10A and other applicable law.

Sec. 15. Section 384.21, Code 1991, is amended to read as follows:

384.21 JOINT INVESTMENT OF FUNDS.

A city or a city utility board shall keep all funds invested to the extent practicable and may invest the funds jointly with one or more cities, utility boards, judicial district departments of correctional services, or counties pursuant to a joint investment agreement. All investments of funds shall be subject to sections 452.10 and 452.10A and other applicable law.

Sec. 16. Section 452.10, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

452.10 PUBLIC FUNDS INVESTMENT STANDARDS.

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 453. 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 453.

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.

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 employee 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 453.

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 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 the effective date of this Act, 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).

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 220.

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 section 452.10, 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. Investments by the statewide fire and police retirement system governed by chapter 411.

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

Sec. 17. NEW SECTION. 452.10A PUBLIC INVESTMENT MATURITY AND PROCEDURAL LIMITATIONS.

1. The investment of public funds which are operating funds by a political subdivision shall be subject to the following:

a. As used in this section, "operating funds" means those funds which are reasonably expected to be expended during a current budget year or within fifteen months of receipt.

b. Operating funds must be identified and distinguished from all other funds available for investment.

c. Operating funds may only be invested in investments which mature within three hundred ninety-seven days or less and which are authorized by law for the investing public entity.

2. All investments of public funds by political subdivisions shall be subject to the following:

a. Each investment must be authorized by applicable law and the written investment policy of the political subdivision.

b. Each political subdivision whose investments involve the use of a public funds custodial agreement, as defined in section 452.10C, shall comply with rules adopted pursuant to section 452.10C relating to those investments. All contracts providing for the investment of public funds shall be in writing and shall contain a provision requiring that all investments shall be made in accordance with the laws of this state.

c. A contract for the investment or deposit of public funds shall not provide for compensation of an agent or fiduciary based upon investment performance.

3. A treasurer of a political subdivision may invest funds of the political subdivision or agency that are not operating funds in investments having maturities longer than three hundred and ninety-seven days.

4. As used in this section, "public funds" means all funds that are public funds within the meaning of section 453.1, subsection 2, paragraph "b", except state funds invested by the treasurer of state.

5. This section shall not be construed to supersede any provision of this chapter or of chapter 453.

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

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

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

c. The Iowa finance authority governed by chapter 220.

d. 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 section 452.10, 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. The statewide fire and police retirement system governed by chapter 411.

f. The judicial retirement system governed by chapter 602, article 9.

7. A joint investment trust organized pursuant to chapter 28E whose primary function is to invest public funds shall report to the general assembly not later than January 1 of each year the amount of any trust royalty, residual payment, administrative or service fee, or other fee paid by the trust, the services performed for the fee, and the person receiving the fee.

Sec. 18. NEW SECTION. 452.10B WRITTEN INVESTMENT POLICIES.

1. Political subdivisions shall approve written investment policies which incorporate the guidelines specified in section 452.10, sections 452.10A through 452.10C, and any other provisions deemed necessary to adequately safeguard invested public funds.

2. The written investment policy required by section 452.10 shall be delivered to all of the following:

a. The governing body or officer of the public entity to which the policy applies.

b. All depository institutions or fiduciaries for public funds of the public entity.

c. The auditor of the public entity.

3. The following entities are not subject to this section:

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

- b. The Iowa public employees' retirement system governed by chapter 97B.
- c. The Iowa finance authority governed by chapter 220.
- d. The state board of regents governed by chapter 262.
- e. The statewide fire and police retirement system governed by chapter 411.
- f. The judicial retirement system governed by chapter 602, article 9.

Sec. 19. NEW SECTION. 452.10C REGULATION OF PUBLIC FUNDS CUSTODIAL AGREEMENTS.

The treasurer of state, in consultation with the attorney general, shall adopt rules under chapter 17A requiring the inclusion in public funds custodial agreements of any provisions necessary to prevent loss of public funds.

As used in this section, "public funds custodial agreement" means any contractual arrangement pursuant to which one or more persons, including but not limited to, investment advisors, investment companies, trustees, agents and custodians, are authorized to act as a custodian of or to designate another person to act as a custodian of public funds or any security or document of ownership or title evidencing public funds investments other than custodial agreements between 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 a custodian bank.

As used in this section "public funds" means public funds as defined in section 453.1. However, this section does not apply to public funds that are invested under the provisions of a resolution or indenture for the issuance of bonds, notes, certificates, warrants, or other evidences of indebtedness. To the extent that a provision of this section conflicts with federal law, it shall be construed to avoid the conflict.

The following entities are not subject to this section:

- 1. The public safety peace officers' retirement system governed by chapter 97A.
- 2. The Iowa public employees' retirement system governed by chapter 97B.
- 3. Investments by the Iowa finance authority governed by chapter 220.
- 4. The statewide fire and police retirement system governed by chapter 411.
- 5. The judicial retirement system governed by chapter 602, article 9.

Sec. 20. Section 453.1, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. "~~Depository~~" means a bank ~~or any office of a bank whose accounts are insured by the federal deposit insurance corporation; or,~~ a savings and loan ~~association or a savings bank or any branch of a savings and loan association or savings bank whose accounts are insured by the federal savings and loan insurance corporation,~~ or a credit union ~~insured by the national credit union administration in which public funds are deposited under this chapter.~~

Sec. 21. Section 453.1, subsection 2, Code 1991, is amended by adding the following new paragraphs:

NEW PARAGRAPH. 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.

NEW PARAGRAPH. 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.

NEW PARAGRAPH. 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.

NEW PARAGRAPH. f. "Financial institution" means a bank, savings and loan, or a credit union.

Sec. 22. Section 453.1, subsection 1, Code 1991, is amended to read as follows:

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

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

b. If a depository is a bank, ~~credit union; or an office of a bank or credit union;~~ then the public deposits in those depositories the bank shall be secured pursuant to sections 453.22 through 453.21, 453.23, and 453.24.

Sec. 23. Section 453.9, Code Supplement 1991, is amended by striking the section and inserting in lieu thereof the following:

453.9 INVESTMENT OF SINKING FUNDS -- BOND PROCEEDS.

The treasurer of state and all other state agencies authorized to invest funds and the treasurer or other designated financial officer of each political subdivision may invest the proceeds of public bonds or obligations and funds being accumulated for the payment of principal and interest or reserves in investments set out in section 452.10, subsection 4, paragraphs "a" through "g", section 452.10, subsection 5, paragraphs "a" through "g", an investment contract, or tax-exempt bonds. The investment shall be as defined and permitted by section 148 of the Internal Revenue Code and applicable regulations under that section. An investment contract or tax exempt bonds shall be 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.

Sec. 24. Section 453.15, Code 1991, is amended to read as follows:

453.15 RESTRICTION ON REQUIRING COLLATERAL.

A local government shall not require a pledge of collateral for that portion of the local government's deposits in a ~~depository institution~~ savings and loan or credit union that is covered by insurance of a federal agency or instrumentality ~~including the federal deposit insurance corporation; the federal savings and loan insurance corporation; or the national credit union administration.~~

Sec. 25. Section 453.16, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Before a deposit of public funds is made by a public officer with a ~~depository institution~~ savings and loan or credit union in excess of the amount federally insured by ~~federal deposit insurance or federal savings and loan insurance; and before the investment of public funds in investments authorized in section 452.10 which either are not obligations of or guaranteed by the United States government or any of its agencies; are in excess of the amount insured by federal deposit insurance or federal savings and loan insurance; or are investments by the treasurer of state specifically authorized by section 452.10 to be made as additional investments under section 97B.77 subsection 2; paragraph "b",~~ the public officer shall obtain security for the deposit or investment by one or more of the following:

Sec. 26. Section 453.16, subsection 1, paragraph a, Code 1991, is amended to read as follows:

a. The ~~depository institution~~ savings and loan or credit union may give to the public officer a corporate surety bond of a surety corporation approved by the treasury department of the United States and authorized to do business in this state, which bond shall be in an amount equal to the public funds on

deposit at any time. The bond shall be conditioned that the deposit shall be paid promptly on the order of the public officer making the deposit and shall be approved by the officer making the deposit.

Sec. 27. Section 453.16, subsection 1, paragraph b, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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

Sec. 28. Section 453.16, subsection 1, paragraph b, subparagraph (4), Code 1991, is amended to read as follows:

(4) To the extent of the guarantee, loans, obligations, or nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality of the United States of America or the U.S. central credit union, and the rating of the U.S. central credit union remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 29. Section 453.16, subsection 1, paragraph b, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Investments in 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), which is operated in accordance with 17 C.F.R. § 270.2a-7.

Sec. 30. Section 453.16, subsection 2, Code 1991, is amended to read as follows:

2. If public funds are secured by both the assets of a depository-institution savings and loan or credit union and a bond of a surety company, the assets and bond shall be held as security for a rateable proportion of the deposit on the basis of the market value of the assets and of the total amount of the surety bonds.

Sec. 31. Section 453.17, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A depository-institution savings and loan or credit union which receives public funds shall pledge securities owned by it as required by this chapter in one of the following methods:

Sec. 32. Section 453.17, subsection 1, paragraph c, Code 1991, is amended to read as follows:

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

Sec. 33. Section 453.17, subsections 3 and 4, Code 1991, are amended to read as follows:

3. All deposits of securities, other than deposits of securities with the appropriate public officer, shall have a joint custody receipt taken for the securities with one copy delivered to the public officer and one copy delivered to the depository-institution savings and loan or credit union. A depository-institution savings and loan or credit union pledging securities with a public officer may cause the securities to be examined in the officer's office to show the securities are placed with the officer as collateral security and are not transferable except upon the conditions provided in this chapter.

4. Upon written request from the appropriate public officer but not less than quarterly, a depository-institution savings and loan or credit union shall report the par value and the market value of any pledged collateral and the total deposits of public funds of that officer in the depository institution savings and loan or credit union.

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

453.18 CONDITION OF SECURITY.

The condition of the surety bond or the deposit of securities, instruments, or a joint custody receipt, must be that the depository-institution savings and loan or credit union will promptly pay to the parties entitled public funds, including any interest on the funds, in its custody upon lawful demand and, when required by law, pay the funds to the public officer who made the deposit.

Sec. 35. Section 453.19, subsections 3 and 4, Code 1991, are amended to read as follows:

3. In the event of substitution or exchange of securities, the holder or custodian of the securities shall, on the same day, forward by certified mail, return receipt requested, to the public officer and the depository-institution savings and loan or credit union, a receipt specifically describing and identifying both the substituted securities and those released and returned to the depository-institution savings and loan or credit union.

4. The public officer which deposits public funds with a depository-institution savings and loan or credit union shall require, if the market value of the securities deposited with or for the benefit of the officer falls below one hundred ten percent of the deposit liability to the public officer, the deposit of additional security to bring the total market value of the security to one hundred ten percent of the amount of public funds held by the depository savings and loan or credit union.

Sec. 36. NEW SECTION. 453.21 REQUIRED COLLATERAL -- BANKS.

1. A depository that is a bank shall pledge the required collateral securities to the treasurer of state by depositing before January 31 of each year the collateral securities in restricted accounts of the treasurer of state, including but not limited to pledge-custody accounts, at a federal reserve bank, a trust department of another commercial bank, or with another financial institution which has been designated by the treasurer of state that is not owned or controlled directly or indirectly by the same depository or holding company. The bank shall deliver to the treasurer of state a security agreement which provides the treasurer of state with a valid and perfected security interest in the required collateral. The market value of the required collateral shall be at least ten percent of the average amount of the excess of total public funds over total federally insured public funds on deposit in the bank during the preceding year. The average amount of the excess shall be determined by adding the amounts of excess if any for all public funds deposit accounts as they existed on the date in each calendar quarter used in preparing the report of condition and income for submission to the federal government, adding the subtotals for the four calendar quarters, and dividing that total by four. The calculation of the minimum market value of required collateral shall be made before January 31 of each year.

2. The treasurer of state shall adopt the following rules pursuant to chapter 17A:

- a. Providing for valuation of collateral if the market value of a security is not readily determinable.
- b. Establishing reporting requirements.
- c. Establishing procedures for substituting different securities consistent with subsection 3.
- d. Establishing administrative procedures necessary to implement this chapter and other rules as may be necessary to accomplish the purposes of this chapter.

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

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

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

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

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

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

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

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

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

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

h. Investments in 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), which is operated in accordance with 17 C.F.R. § 270.2a-7.

Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure public deposits under paragraph "a", include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), the portfolio of which is limited to the United States government obligations described in paragraph "a", if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

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

Sec. 37. Section 453.23, subsection 1, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The acceptance of public funds by a depository pursuant to this chapter constitutes consent by the depository to assessments by the treasurer of state in accordance with this chapter.

Sec. 38. Section 453.23, subsection 2, Code 1991, is amended to read as follows:

2. The depository and the security given for the public funds in its hands are liable for payment if the depository fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order or certificates of deposit, or any public funds entrusted to it if in failing to pay the depository acts contrary to the terms of an agreement between the depository and the public body treasurer or, if the depository fails to pay an assessment, by the treasurer of state when due.

Sec. 39. Section 453.23, subsection 1, paragraph d, subparagraph (1), Code 1991, is amended to read as follows:

(1) If the loss was incurred in a bank, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the funds are balance

in that sinking fund is inadequate to cover pay the entire loss, then the treasurer shall ~~make~~ obtain the additional amount needed by making an assessment against other banks who hold whose public funds deposits exceed deposit insurance coverage. ~~The A bank's~~ assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors by a percentage that represents the ~~that~~ bank's proportional share of the average of uninsured public funds deposits held by all banks ~~during the preceding twelve month period ending on the last day of the month immediately preceding the month as of the reporting date under section 453.21 immediately preceding the date~~ the depository was closed. Each bank shall pay its assessment to the treasurer within three business days after it receives notice of assessment. If a bank fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that bank. If the securities pledged by that bank are inadequate to pay the assessment, the treasurer of state shall make additional assessments as may be necessary against other banks which hold uninsured public funds to satisfy any unpaid assessment. Any additional assessments shall be determined, collected, and satisfied in the same manner as the first assessment. If a bank fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a bank is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based on the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. Idle balances in the fund ~~are to~~ shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter ~~will~~ shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

Sec. 40. Section 453.23, subsection 3, paragraph d, subparagraph (2), Code 1991, is amended to read as follows:

(2) If the loss was incurred in a credit union, then any further payments to cover the loss will come from the state sinking fund for public deposits in credit unions. If the funds are inadequate to cover the entire loss, then the treasurer shall make an assessment against other credit unions who hold public funds. The assessment shall be determined by multiplying the total amount of the remaining loss to public depositors by a percentage that represents the average of public funds deposits held by all credit unions during the preceding twelve month period ending on the last day of the month immediately preceding the month the depository was closed. Each credit union shall pay its assessment to the treasurer within three business days after it receives notice of assessment. ~~if a credit union fails to pay its assessment when due, the treasurer shall satisfy the assessment by selling securities pledged by that credit union. If a credit union fails to pay its assessment when due, the treasurer of state shall initiate a lawsuit to collect the assessment. If a credit union is found to have failed to pay the assessment as required by this subparagraph, the court shall order it to pay the assessment, court costs, reasonable attorney's fees based upon the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state's office.~~ Idle balances in the fund are to be invested by the treasurer with earnings credited to the fund. Fees paid by credit unions for administration of this chapter will be credited to the fund and the treasurer may deduct actual costs of administration from the fund.

Sec. 41. NEW SECTION. 502.701 PUBLIC JOINT INVESTMENT TRUSTS.

1. A joint investment trust organized pursuant to chapter 28E for the purposes of joint investment of public funds is

subject to the jurisdiction and authority of the administrator, including all requirements of this chapter, except the registration provisions of section 502.201 and 502.218.

2. The administrator may make examinations within or without the state, of the business and records of each joint investment trust, at the times and in the scope as the administrator determines. The administrator shall have the authority to contract for outside professional services in the conduct of examinations. The examinations may be made without prior notice to the joint investment trust or the trust's investment advisor. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to the examination shall be paid by the joint investment trusts whose business is examined. For the purpose of avoiding unnecessary duplication of examinations, the administrator may cooperate with other regulatory authorities.

Sec. 42. Section 453.22, Code 1991, is repealed.

Sec. 43. The guidelines under section 4 of this Act shall be made available by February 1, 1993.

Sec. 44. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment. The requirements for adoption of rules, written investment policies, audit standards, and other administrative duties shall be implemented as soon as possible but not later than September 1, 1992.

Section 16 of this Act does not apply to an investment made prior to the effective date of this Act. A joint investment trust organized pursuant to chapter 28E existing prior to the effective date of this Act, shall fully comply with this Act, on and after the effective date of this Act, including but not limited to complying with the requirement in section 452.10, subsection 5, paragraph "g", that it be operated in accordance with 17 C.F.R. § 270.2a-7, except that such a joint investment

trust shall have until July 1, 1993, to become rated or registered as required by section 452.10, subsection 5, paragraph "g".

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MICHAEL E. GRONSTAL  
President of the Senate

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ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2036, Seventy-fourth General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved *C. Ellis 28*, 1992

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TERRY E. BRANSTAD  
Governor