

SENATE FILE 348
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SSB 1199)

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

A BILL FOR

1 An Act relating to the duties and responsibilities of the state
2 board of regents and the institutions under its control and
3 providing for the nonreversion of funds.

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

5 **SENATE FILE 348**

6 **S-3021**

1 Amend Senate File 348 as follows:

2 1. Page 3, by striking lines 30 through 34.

3 2. Page 6, line 12, by striking the words

4 "~~twenty-five~~ one hundred" and inserting the following:

5 "twenty-five".

6 3. By renumbering as necessary.

By DARYL BEALL

DAVID JOHNSON

S-3021 FILED MARCH 15, 2005

SENATE FILE 348

S-3022

1 Amend Senate File 348 as follows:

2 1. By striking page 5, line 21 through page 6,
3 line 5.

4 2. By renumbering as necessary.

By DAVID JOHNSON

DARYL BEALL

S-3022 FILED MARCH 15, 2005

SF 348

1 Section 1. Section 11.2, subsection 2, Code 2005, is
2 amended to read as follows:

3 2. a. In conjunction with the audit of the state board of
4 regents required under this section, the auditor of state or a
5 certified public accountant as provided in paragraph "g", in
6 accordance with generally accepted auditing standards, shall
7 perform audit testing on the state board of regents'
8 investments. The auditor, or the certified public accountant,
9 shall report to the state board of regents concerning
10 compliance with state law and state board of regents'
11 investment policies. The state board of regents is
12 responsible for remedying any reported noncompliance with its
13 own policy or practices.

14 b. The state board of regents shall make available to the
15 auditor of state and treasurer of state, or a certified public
16 accountant as provided in paragraph "g", the most recent
17 annual report of any investment entity or investment
18 professional employed by an institution governed by the board.

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

33 d. The audit under this section shall not be certified
34 until the most recent annual reports of any investment entity
35 or investment professional employed by an institution governed

1 by the state board of regents are reviewed by the auditor of
2 state or by a certified public accountant as provided in
3 paragraph "g".

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

16 f. As used in this subsection, "investment entity" and
17 "investment professional" exclude a bank, savings and loan
18 association, or credit union when acting as an approved
19 depository pursuant to chapter 12C.

20 g. Notwithstanding subsection 1, examinations of the books
21 and accounts of the state board of regents shall be made as
22 determined by the state board of regents either by the auditor
23 of state or by a certified public accountant, certified in the
24 state of Iowa. If the auditor of state makes the examination,
25 the auditor shall be reimbursed by the state board of regents
26 except as provided in paragraph "h".

27 If employing a certified public accountant for purposes of
28 this section, the state board of regents shall utilize
29 procedures that include a request for proposals. If utilizing
30 the auditor of state instead of a certified public accountant,
31 the state board of regents shall notify the auditor of state
32 by June 1 of the year to be audited. If the state board of
33 regents fails to notify the auditor of state of the decision
34 to use the auditor of state, the auditor of state may perform
35 the audit required in this section only if provisions are not

1 made by the state board of regents to contract for the audit.

2 h. In addition to the powers and duties under other
3 provisions of the Code, the auditor of state may at any time
4 cause to be made a complete or partial reaudit of the
5 financial condition and transactions of the state board of
6 regents, if one of the following conditions exists:

7 (1) The auditor of state has probable cause to believe
8 such action is necessary in the public interest because of a
9 material deficiency in an audit of the state board of regents
10 filed with the auditor of state or because of a substantial
11 failure of the audit to comply with the standards and
12 procedures established and published by the auditor of state.

13 (2) The auditor of state receives from an employee of the
14 state board of regents a written request for a complete or
15 partial reaudit of the state board of regents.

16 An audit performed as provided in this paragraph "h" shall
17 be paid from the proper public funds available in the office
18 of the auditor of state. In the event the audited state board
19 of regents recovers damages from a person performing a
20 previous audit due to negligent performance of that audit or
21 breach of the audit contract, the auditor of state shall be
22 entitled to reimbursement on an equitable basis for funds
23 expended from any recovery made by the state board of regents.

24 Sec. 2. Section 11.5B, subsection 5, Code 2005, is amended
25 by striking the subsection.

26 Sec. 3. Section 12B.10C, Code 2005, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 10. The state board of regents governed
29 by chapter 262.

30 Sec. 4. Section 73A.1, subsection 2, Code 2005, is amended
31 to read as follows:

32 2. "Municipality" as used in this chapter means township,
33 school corporation, and state fair board~~7-and-state-board-of~~
34 regents.

35 Sec. 5. Section 262.9, subsection 7, Code 2005, is amended

1 to read as follows:

2 ~~7. With the approval of the executive council,~~ acquire
3 Acquire real estate for the proper uses of said institutions
4 under its control, and dispose of real estate belonging to
5 ~~said the~~ institutions when not necessary for their purposes.
6 ~~A~~ The disposal of ~~such~~ real estate shall be made upon such
7 terms, conditions, and consideration as the board may
8 recommend ~~and subject to the approval of the executive~~
9 ~~council.~~ If real estate subject to sale hereunder has been
10 purchased or acquired from appropriated funds, the proceeds of
11 such sale shall be deposited with the treasurer of state and
12 credited to the general fund of the state. There is hereby
13 appropriated from the general fund of the state a sum equal to
14 the proceeds so deposited and credited to the general fund of
15 the state to the state board of regents, ~~which with the prior~~
16 ~~approval of the executive council,~~ may be used to purchase
17 other real estate and buildings, and for the construction and
18 alteration of buildings and other capital improvements. All
19 transfers shall be by state patent in the manner provided by
20 law. The board is also authorized to grant easements for
21 rights-of-way over, across, and under the surface of public
22 lands under its jurisdiction when in the board's judgment such
23 easements are desirable and will benefit the state of Iowa.

24 Sec. 6. Section 262.9, subsection 15, unnumbered paragraph
25 2, Code 2005, is amended by striking the unnumbered paragraph.

26 Sec. 7. Section 262.9, Code 2005, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 30. In its discretion, employ or retain
29 attorneys or counsel for all matters for which legal services
30 are desired. This subsection shall supersede the provisions
31 of section 13.7.

32 Sec. 8. Section 262.10, unnumbered paragraph 1, Code 2005,
33 is amended to read as follows:

34 No sale or purchase of real estate shall be made save upon
35 the order of the board, made at a regular meeting, or one

1 called for that purpose, and then in such manner and under
2 such terms as the board may prescribe ~~and-only-with-the~~
3 ~~approval-of-the-executive-council~~. No member of the board or
4 any of its committees, offices or agencies nor any officer of
5 any institution, shall be directly or indirectly interested in
6 such purchase or sale.

7 Sec. 9. Section 262.28, Code 2005, is amended to read as
8 follows:

9 262.28 APPROPRIATIONS -- MONTHLY INSTALLMENTS --
10 NONREVERSION.

11 1. All appropriations made payable annually to each of the
12 institutions under the control of the board of regents shall
13 be paid in twelve equal monthly installments on the last day
14 of each month on order of ~~said~~ the board.

15 2. Notwithstanding section 8.33, moneys appropriated to
16 the board of regents or to an institution under the control of
17 the board which are unencumbered and unobligated at the close
18 of the fiscal year for which they were appropriated shall not
19 revert but shall remain available for expenditure for the same
20 purposes in the succeeding fiscal year.

21 Sec. 10. Section 262.33A, Code 2005, is amended to read as
22 follows:

23 262.33A FIRE AND ENVIRONMENTAL SAFETY -- REPORT --
24 EXPENDITURES.

25 It is the intent of the general assembly that each
26 institution of higher education under the control of the state
27 board of regents shall, in consultation with the state fire
28 marshal, identify and correct all critical fire and
29 environmental safety deficiencies. ~~The-state-fire-marshal~~
30 ~~shall-report-annually-to-the-joint-subcommittee-on-education~~
31 ~~appropriations:--The-report-shall-include,--but-is-not-limited~~
32 ~~to,--the-identified-deficiencies-in-fire-and-environmental~~
33 ~~safety-at-the-institutions,--and-plans-for-correction-of-the~~
34 ~~deficiencies-and-for-compliance-with-this-section.~~ Commencing
35 July 1, 1993, each institution under the control of the state

1 board of regents shall expend annually for fire safety and
2 deferred maintenance at least the amount budgeted for these
3 purposes for the fiscal year beginning July 1, 1992, in
4 addition to any moneys appropriated from the general fund for
5 these purposes in succeeding years.

6 Sec. 11. Section 262.34, Code 2005, is amended to read as
7 follows:

8 262.34 IMPROVEMENTS -- ADVERTISEMENT FOR BIDS --
9 DISCLOSURES -- PAYMENTS.

10 1. When the estimated cost of construction, repairs, or
11 improvement of buildings or grounds under charge of the state
12 board of regents exceeds twenty-five one hundred thousand
13 dollars, the board shall advertise for bids for the
14 contemplated improvement or construction and shall let the
15 work to the lowest responsible bidder. However, if in the
16 judgment of the board bids received are not acceptable, the
17 board may reject all bids and proceed with the construction,
18 repair, or improvement by a method as the board may determine.
19 All plans and specifications for repairs or construction,
20 together with bids on the plans or specifications, shall be
21 filed by the board and be open for public inspection. All
22 bids submitted under this section shall be accompanied by a
23 deposit of money, a certified check, or a credit union
24 certified share draft in an amount as the board may prescribe.

25 2. A bidder awarded a contract shall disclose the names of
26 all subcontractors, who will work on the project being bid,
27 within forty-eight hours after the award of the contract. If
28 a subcontractor named by a bidder awarded a contract is
29 replaced, or if the cost of work to be done by a subcontractor
30 is reduced, the bidder shall disclose the name of the new
31 subcontractor or the amount of the reduced cost.

32 3. Payments made by the board for the construction of
33 public improvements shall be made in accordance with the
34 provisions of chapter 573 except that:

35 a. Payments may be made without retention until ninety-

1 five percent of the contract amount has been paid. The
2 remaining five percent of the contract amount shall be paid as
3 provided in section 573.14, except that:

4 (1) At any time after all or any part of the work is
5 substantially completed in accordance with paragraph "c", the
6 contractor may require the release of all or part of the
7 retainage owed. Such request shall be accompanied by a waiver
8 of claim rights under the provisions of chapter 573 from any
9 person, firm, or corporation who has, under contract with the
10 principal contractor or with subcontractors performed labor,
11 or furnished materials, service, or transportation in the
12 construction of that portion of the work for which release of
13 the retainage is requested.

14 (2) Upon receipt of the request, the board shall release
15 all or part of the unpaid funds. Retainage that is approved
16 as payable shall be paid at the time of the next monthly
17 payment or within thirty days, whichever is sooner. If
18 partial retainage is released pursuant to a contractor's
19 request, no retainage shall be subsequently held based on that
20 portion of the work. If within thirty days of when payment
21 becomes due the board does not release the retainage due,
22 interest shall accrue on the retainage amount due as provided
23 in section 573.14 until that amount is paid.

24 (3) If at the time of the request for the retainage there
25 are remaining or incomplete minor items, an amount equal to
26 two hundred percent of the value of each remaining or
27 incomplete item, as determined by the board's authorized
28 contract representative, may be withheld until such item or
29 items are completed.

30 (4) An itemization of the remaining or incomplete items,
31 or the reason that the request for release of the retainage
32 was denied, shall be provided to the contractor in writing
33 within thirty calendar days of the receipt of the request for
34 release of retainage.

35 b. For purposes of this section, "authorized contract

1 representative" means the architect or engineer who is in
2 charge of the project and chosen by the board to represent its
3 interests, or if there is no architect or engineer, then such
4 other contract representative or officer as designated in the
5 contract documents as the party representing the board's
6 interest regarding administration and oversight of the
7 project.

8 c. For purposes of this section, "substantially completed"
9 means the first date on which any of the following occurs:

10 (1) Completion of the project or when the work has been
11 substantially completed in general accordance with the terms
12 and provisions of the contract.

13 (2) The work or the portion designated is sufficiently
14 complete in accordance with the requirements of the contract
15 so the board can occupy or utilize the work for its intended
16 purpose.

17 (3) The project is certified as having been substantially
18 completed by either of the following:

19 (a) The architect or engineer authorized to make such
20 certification.

21 (b) The contracting authority representing the board.

22 4. Each contractor or subcontractor shall withhold
23 retainage, if at all, in the same manner as retainage is
24 withheld from the contractor or subcontractor; and each
25 subcontractor shall pass through all retainage payments to
26 lower tier subcontractors in accordance with the provisions of
27 chapter 573.

28 Sec. 12. Section 262.57, unnumbered paragraph 1, Code
29 2005, is amended to read as follows:

30 To pay all or any part of the cost of carrying out any
31 project at any institution the board is authorized to borrow
32 money and to issue and sell negotiable bonds or notes and to
33 refund and refinance bonds or notes heretofore issued or as
34 may be hereafter issued for any project or for refunding
35 purposes at a lower rate, the same rate or a higher rate or

1 rates of interest and from time to time as often as the board
2 shall find it to be advisable and necessary so to do. Such
3 bonds or notes may be sold by said board at public sale in the
4 manner prescribed by chapter 75 but if the board shall find it
5 to be advantageous and in the public interest to do so, such
6 bonds or notes may be sold by the board at private sale
7 without published notice of any kind and without regard to the
8 requirements of chapter 75 in such manner and upon such terms
9 as may be prescribed by the resolution authorizing the same,
10 ~~but such bonds or notes shall in any event be sold upon terms~~
11 ~~of not less than par plus accrued interest.~~ Bonds or notes
12 issued to refund other bonds or notes heretofore or hereafter
13 issued by the board for residence hall or dormitory purposes
14 at any institution, including dining or other facilities and
15 additions, or heretofore or hereafter issued for refunding
16 purposes, may either be sold in the manner hereinbefore
17 specified and the proceeds thereof applied to the payment of
18 the obligations being refunded, or the refunding bonds or
19 notes may be exchanged for and in payment and discharge of the
20 obligations being refunded, and a finding by the board in the
21 resolution authorizing the issuance of such refunding bonds or
22 notes that the bonds or notes being refunded were issued for a
23 purpose specified in this division and constitute binding
24 obligations of the board shall be conclusive and may be relied
25 upon by any holder of any refunding bond or note issued under
26 the provisions of this division. The refunding bonds or notes
27 may be sold or exchanged in installments at different times or
28 an entire issue or series may be sold or exchanged at one
29 time. Any issue or series of refunding bonds or notes may be
30 exchanged in part or sold in parts in installments at
31 different times or at one time. The refunding bonds or notes
32 may be sold or exchanged at any time on, before, or after the
33 maturity of any of the outstanding notes, bonds or other
34 obligations to be refinanced thereby and may be issued for the
35 purpose of refunding a like or greater principal amount of

1 bonds or notes, except that the principal amount of the
2 refunding bonds or notes may exceed the principal amount of
3 the bonds or notes to be refunded to the extent necessary to
4 pay any premium due on the call of the bonds or notes to be
5 refunded or to fund interest in arrears or about to become
6 due.

7 Sec. 13. Section 262.78, subsection 6, Code 2005, is
8 amended by striking the subsection.

9 Sec. 14. Section 262A.5, unnumbered paragraph 1, Code
10 2005, is amended to read as follows:

11 The board is authorized to borrow money under this chapter,
12 and the board may issue and sell negotiable bonds to pay all
13 or any part of the cost of carrying out any project at any
14 institution and may refund and refinance bonds issued for any
15 project or for refunding purposes at the same rate or at a
16 higher or lower rate or rates of interest. Bonds issued under
17 the provisions of this chapter shall be sold by said board at
18 public sale on the basis of sealed proposals received pursuant
19 to a notice specifying the time and place of sale and the
20 amount of bonds to be sold which shall be published at least
21 once not less than seven days prior to the date of sale in a
22 newspaper published in the state of Iowa and having a general
23 circulation in said state. The provisions of chapter 75 shall
24 not apply to bonds issued under authority contained in this
25 ~~chapter, but such bonds shall be sold upon terms of not less~~
26 ~~than par plus accrued interest.~~ Bonds issued to refund other
27 bonds issued under the provisions of this chapter may either
28 be sold in the manner hereinbefore specified and the proceeds
29 thereof applied to the payment of the obligations being
30 refunded, or the refunding bonds may be exchanged for and in
31 payment and discharge of the obligations being refunded. The
32 refunding bonds may be sold or exchanged in installments at
33 different times or an entire issue or series may be sold or
34 exchanged at one time. Any issue or series of refunding bonds
35 may be exchanged in part or sold in parts in installments at

1 different times or at one time. The refunding bonds may be
2 sold or exchanged at any time on, before, or after the
3 maturity of any of the outstanding bonds or other obligations
4 to be refinanced thereby and may be issued for the purpose of
5 refunding a like or greater principal amount of bonds, except
6 that the principal amount of the refunding bonds may exceed
7 the principal amount of the bonds to be refunded to the extent
8 necessary to pay any premium due on the call of the bonds to
9 be refunded or to fund interest in arrears or which is to
10 become due.

11 Sec. 15. Section 266.39F, subsection 2, unnumbered
12 paragraph 2, Code 2005, is amended to read as follows:

13 The provisions of section 262.9, subsection 7, ~~and-section~~
14 ~~262-107~~, shall not apply to the sale of any portion of land to
15 be sold in accordance with this section or to the use of the
16 proceeds from the sale of the land.

17 Sec. 16. Section 573.14, unnumbered paragraph 2, Code
18 2005, is amended to read as follows:

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

1 determined by the period of time during which interest
2 accrues, and shall be ~~the same as the rate of interest that is~~
3 ~~in effect under section 12C-67~~, calculated as the prime rate
4 plus one percent per year as of the day interest begins to
5 accrue, ~~for a deposit of public funds for a comparable period~~
6 ~~of time~~. This paragraph does not abridge any of the rights
7 set forth in section 573.16. Except as provided in sections
8 573.12 and 573.16, interest shall not accrue on funds retained
9 by the public corporation to satisfy the provisions of this
10 section regarding claims on file. This chapter does not apply
11 if the public corporation has entered into a contract with the
12 federal government or accepted a federal grant which is
13 governed by federal law or rules that are contrary to the
14 provisions of this chapter. For purposes of this unnumbered
15 paragraph, "prime rate" means the prime rate charged by banks
16 on short-term business loans, as determined by the board of
17 governors of the federal reserve system and published in the
18 federal reserve bulletin.

19 Sec. 17. Sections 262.29, 262.64A, 262.67, 262A.3,
20 262A.6A, 263A.11, 265.6, and 473.12, Code 2005, are repealed.

21 EXPLANATION

22 This bill amends many Code provisions relating to the
23 duties and responsibilities of the state board of regents and
24 the institutions under its control, including the following:
25 Code section 11.2, which requires the auditor of state to
26 examine the books and accounts of every department of the
27 state at least once each year and requires the auditor further
28 to perform audit testing on the state board of regents'
29 investments, is amended by the bill. The bill amends the Code
30 section to allow the examination to be conducted by the
31 auditor of state or by certified public accountants, as
32 determined by the board. The Code section is also amended to
33 permit the auditor of state to cause to be made a complete or
34 partial reaudit of the financial condition and transactions of
35 the board under conditions specified in the bill.

1 Code section 11.5B, requiring state agencies to reimburse
2 the auditor of state for performing agency audits, is amended
3 to exempt the state board of regents from the requirement.

4 Code section 12B.10C, relating to the inclusion in public
5 funds custodial agreements of any provisions necessary to
6 prevent loss of public funds, is amended to exempt the state
7 board of regents.

8 Code section 73A.1, which provides the definitions for the
9 Code chapter that regulates public contracts and bonds, is
10 amended to eliminate a reference to the state board of regents
11 from the definition of "municipality", releasing the board
12 from the regulatory provisions of the chapter.

13 Code section 262.9, which lists the powers and duties of
14 the state board of regents, and Code section 262.10, which
15 relates to the sale or purchase of real estate by the board,
16 are amended to authorize the board to acquire or sell real
17 estate without the approval of the executive council. Code
18 section 266.39F is amended to strike a reference to Code
19 section 262.10. Section 262.9 is also amended to permit the
20 board to employ or retain attorneys for all legal matters and
21 to strike obsolete language.

22 Code section 262.28, which relates to the payment of annual
23 appropriations to the regents institutions, is amended to
24 permit the institutions to retain, rather than revert to the
25 general fund of the state, any moneys that remain at the close
26 of the fiscal year. The moneys must be used for the same
27 purposes for which they were appropriated.

28 Code section 262.33A, which states legislative intent that
29 the regents institutions consult with the state fire marshal
30 to identify and correct all critical fire and environmental
31 safety deficiencies, is amended to eliminate the requirement
32 that the state fire marshal report annually to the joint
33 subcommittee on education appropriations the identified
34 deficiencies in fire and environmental safety at the
35 institutions, and plans for correction of the deficiencies.

1 Code section 262.34, relating to the estimated costs
2 threshold at which the board must advertise for bids for the
3 construction, repair, or improvement of buildings or grounds,
4 is amended to raise the threshold from \$25,000 to \$100,000;
5 and to make changes relating to payments made, and the
6 retainage of payments, by the board for the construction of
7 public improvements.

8 Code section 262.57, relating to bonds or notes the board
9 is authorized to sell to pay all or any part of the cost of
10 carrying out any project at any regents institution, and Code
11 section 262A.5, relating to authorization for the board to
12 issue and sell negotiable bonds and to refund and refinance
13 bonds to carry out any project in its institutions, are
14 amended to eliminate language that requires that the bonds or
15 notes be sold upon terms of not less than par plus accrued
16 interest.

17 Code section 262.78, which provides for the establishment
18 of a center for agricultural health and safety at the
19 university of Iowa, is amended to eliminate the requirement
20 that the center submit an annual report of its activities to
21 the governor, the secretary of the senate, and the chief clerk
22 of the house of representatives annually.

23 The bill also repeals the following:

24 Code section 262.29, which requires all claims for the
25 actual necessary expenses of the board and of its committees,
26 offices, agencies, and employees to be filed with and allowed
27 by the director of the department of administrative services.

28 Code section 262.64A, relating to self-liquidating
29 dormitories, and Code section 263A.11, relating to medical and
30 hospital buildings at the university of Iowa, both of which
31 require that the board determine, in consultation with the
32 legislative services agency, the financial information to be
33 included in line item budget information for projects funded
34 by the issuance of bonds or notes, and that the board submit
35 the information to the general assembly quarterly.

1 Code section 262.67, which requires the board to have the
2 approval of the executive council in order to grant easements
3 for rights-of-way over, across, and under the surface of
4 public lands under its jurisdiction. The bill moves the
5 language authorizing the board to grant easements to Code
6 section 262.9, which lists the board's powers and duties.

7 Code section 262A.3, which requires the board to annually
8 prepare and submit to the general assembly for approval or
9 rejection a proposed five-year building program for each
10 institution, including an estimate of the maximum amount of
11 bonds the board expects to issue during each year of the
12 ensuing biennium.

13 Code section 262A.6A, relating to the Iowa college super
14 savings plan, which requires the board to issue capital
15 appreciation bonds designed to be marketed primarily to Iowans
16 to facilitate savings for future higher education costs.

17 Code section 265.6, which provides that if the board has
18 established a laboratory school, it shall receive aid under
19 the state school foundation program for each pupil enrolled in
20 the laboratory school.

21 Code section 473.12, which requires the board to cause to
22 be performed comprehensive engineering analyses of facilities
23 under its control by June 30, 1989; to implement economically
24 feasible energy conservation measures identified in the
25 analyses; and to annually report to the department of natural
26 resources the status of all energy conservation. The Code
27 section also permits the department to use funds in the state
28 of Iowa facilities improvement corporation to reduce the
29 board's cost of financing the implementation of the energy
30 conservation measures if the department requires, and the
31 board completes, an energy management plan.

32 Code section 573.14, which relates to a fund for the
33 payment of claims for materials furnished and labor performed
34 on the improvement by a public corporation, is amended to
35 change the manner in which interest is calculated on the

1 amount unpaid.

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SENATE FILE 348

S-3034

1 Amend Senate File 348 as follows:
2 1. Page 6, line 24, by inserting after the word
3 "prescribe." the following: "In preparing the
4 estimated cost in accordance with this subsection, a
5 project shall not be divided into several projects in
6 order to avoid the requirement that the board
7 advertise for bids. If the project is divided into
8 several projects for bidding purposes, the public
9 bidding process shall be followed if the sum of those
10 several projects exceeds the bid threshold requirement
11 of this subsection."

By DAVID JOHNSON
DARYL BEALL

S-3034 FILED MARCH 16, 2005

Danielson Co-chair
Ward co-chair
Horn
Wieck

SSB# 1199

Succeeded By State Government
SF/HF 348

SENATE FILE _____

BY (PROPOSED COMMITTEE ON STATE

GOVERNMENT BILL BY

CO-CHAIRPERSONS HORN and McKIBBEN)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the duties and responsibilities of the state
2 board of regents and the institutions under its control and
3 providing for the nonreversion of funds.

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

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TLSB 2364XC 81

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1 Section 1. Section 8D.9, subsection 2, paragraph a, Code
2 2005, is amended to read as follows:

3 a. A private or public agency, other than the state board
4 of regents and its institutions, which certifies to the
5 commission pursuant to subsection 1 that the agency is a part
6 of or intends to become a part of the network shall use the
7 network for all video, data, and voice requirements of the
8 agency unless the private or public agency petitions the
9 commission for a waiver and one of the following applies:

10 Sec. 2. Section 8D.9, subsection 2, Code 2005, is amended
11 by adding the following new paragraph:

12 NEW PARAGRAPH. c. The state board of regents and its
13 institutions, which are a part of the network, may use the
14 network for any or all video, data, and voice requirements of
15 the board and its institutions.

16 Sec. 3. Section 8D.10, Code 2005, is amended to read as
17 follows:

18 8D.10 REPORT OF SAVINGS BY STATE AGENCIES.

19 A state agency which is a part of the network shall
20 annually provide a written report to the general assembly
21 certifying the identified savings associated with the state
22 agency's use of the network. The report submitted by the
23 state board of regents and the institutions under its control
24 shall also include the identified excess costs associated with
25 use of the network by the board and its institutions. The
26 report shall be delivered on or before January 15 for the
27 previous fiscal year of the state agency.

28 Sec. 4. Section 11.2, subsection 2, Code 2005, is amended
29 to read as follows:

30 2. a. In conjunction with the audit of the state board of
31 regents required under this section, the auditor of state or a
32 certified public accountant as provided in paragraph "g", in
33 accordance with generally accepted auditing standards, shall
34 perform audit testing on the state board of regents'
35 investments. The auditor, or the certified public accountant,

1 shall report to the state board of regents concerning
2 compliance with state law and state board of regents'
3 investment policies. The state board of regents is
4 responsible for remedying any reported noncompliance with its
5 own policy or practices.

6 b. The state board of regents shall make available to the
7 auditor of state and treasurer of state, or a certified public
8 accountant as provided in paragraph "g", the most recent
9 annual report of any investment entity or investment
10 professional employed by an institution governed by the board.

11 c. All contracts or agreements with an investment entity
12 or investment professional employed by an institution governed
13 by the state board of regents shall require the investment
14 entity or investment professional employed by an institution
15 governed by the state board of regents to notify in writing
16 the state board of regents within thirty days of receipt of
17 all communication from an independent auditor or the auditor
18 of state or any regulatory authority of the existence of a
19 material weakness in internal control structure, or regulatory
20 orders or sanctions against the investment entity or
21 investment professional, with regard to the type of services
22 being performed under the contracts or agreements. This
23 provision shall not be limited or avoided by another
24 contractual provision.

25 d. The audit under this section shall not be certified
26 until the most recent annual reports of any investment entity
27 or investment professional employed by an institution governed
28 by the state board of regents are reviewed by the auditor of
29 state or by a certified public accountant as provided in
30 paragraph "g".

31 e. The review of the most recent annual report to
32 shareholders of an open-end management investment company or
33 an unincorporated investment company or investment trust
34 registered with the federal securities and exchange commission
35 under the federal Investment Company Act of 1940, 15 U.S.C. §

1 80(a), pursuant to 17 C.F.R. § 270.30d-1 or the review, by the
2 person performing the audit, of the most recent annual report
3 to shareholders, call reports, or the findings pursuant to a
4 regular examination under state or federal law, to the extent
5 the findings are not confidential, of a bank, savings and loan
6 association, or credit union shall satisfy the review
7 requirements of this paragraph.

8 f. As used in this subsection, "investment entity" and
9 "investment professional" exclude a bank, savings and loan
10 association, or credit union when acting as an approved
11 depository pursuant to chapter 12C.

12 g. Notwithstanding subsection 1, examinations of the books
13 and accounts of the state board of regents shall be made as
14 determined by the state board of regents either by the auditor
15 of state or by a certified public accountant, certified in the
16 state of Iowa. If the auditor of state makes the examination,
17 the auditor shall be reimbursed by the state board of regents
18 except as provided in paragraph "h".

19 If employing a certified public accountant for purposes of
20 this section, the state board of regents shall utilize
21 procedures that include a request for proposals. If utilizing
22 the auditor of state instead of a certified public accountant,
23 the state board of regents shall notify the auditor of state
24 by June 1 of the year to be audited. If the state board of
25 regents fails to notify the auditor of state of the decision
26 to use the auditor of state, the auditor of state may perform
27 the audit required in this section only if provisions are not
28 made by the state board of regents to contract for the audit.

29 h. In addition to the powers and duties under other
30 provisions of the Code, the auditor of state may at any time
31 cause to be made a complete or partial reaudit of the
32 financial condition and transactions of the state board of
33 regents, if one of the following conditions exists:

34 (1) The auditor of state has probable cause to believe
35 such action is necessary in the public interest because of a

1 material deficiency in an audit of the state board of regents
2 filed with the auditor of state or because of a substantial
3 failure of the audit to comply with the standards and
4 procedures established and published by the auditor of state.

5 (2) The auditor of state receives from an employee of the
6 state board of regents a written request for a complete or
7 partial reaudit of the state board of regents.

8 An audit performed as provided in this paragraph "h" shall
9 be paid from the proper public funds available in the office
10 of the auditor of state. In the event the audited state board
11 of regents recovers damages from a person performing a
12 previous audit due to negligent performance of that audit or
13 breach of the audit contract, the auditor of state shall be
14 entitled to reimbursement on an equitable basis for funds
15 expended from any recovery made by the state board of regents.

16 Sec. 5. Section 11.5B, subsection 5, Code 2005, is amended
17 by striking the subsection.

18 Sec. 6. Section 12B.10C, Code 2005, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 10. The state board of regents governed
21 by chapter 262.

22 Sec. 7. Section 73A.1, subsection 2, Code 2005, is amended
23 to read as follows:

24 2. "Municipality" as used in this chapter means township,
25 school corporation, and state fair board, ~~and state board of~~
26 regents.

27 Sec. 8. Section 262.9, subsection 7, Code 2005, is amended
28 to read as follows:

29 ~~7. With the approval of the executive council, acquire~~
30 Acquire real estate for the proper uses of said institutions
31 under its control, and dispose of real estate belonging to
32 said the institutions when not necessary for their purposes.
33 A The disposal of such real estate shall be made upon such
34 terms, conditions, and consideration as the board may
35 recommend ~~and subject to the approval of the executive~~

1 council. If real estate subject to sale hereunder has been
2 purchased or acquired from appropriated funds, the proceeds of
3 such sale shall be deposited with the treasurer of state and
4 credited to the general fund of the state. There is hereby
5 appropriated from the general fund of the state a sum equal to
6 the proceeds so deposited and credited to the general fund of
7 the state to the state board of regents, ~~which, with the prior~~
8 ~~approval of the executive council,~~ may be used to purchase
9 other real estate and buildings, and for the construction and
10 alteration of buildings and other capital improvements. All
11 transfers shall be by state patent in the manner provided by
12 law. The board is also authorized to grant easements for
13 rights-of-way over, across, and under the surface of public
14 lands under its jurisdiction when in the board's judgment such
15 easements are desirable and will benefit the state of Iowa.

16 Sec. 9. Section 262.9, subsection 15, unnumbered paragraph
17 2, Code 2005, is amended by striking the unnumbered paragraph.

18 Sec. 10. Section 262.9, Code 2005, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 30. In its discretion, employ or retain
21 attorneys or counsel for all matters for which legal services
22 are desired. This subsection shall supersede the provisions
23 of section 13.7.

24 Sec. 11. Section 262.10, unnumbered paragraph 1, Code
25 2005, is amended to read as follows:

26 No sale or purchase of real estate shall be made save upon
27 the order of the board, made at a regular meeting, or one
28 called for that purpose, and then in such manner and under
29 such terms as the board may prescribe ~~and only with the~~
30 ~~approval of the executive council.~~ No member of the board or
31 any of its committees, offices or agencies nor any officer of
32 any institution, shall be directly or indirectly interested in
33 such purchase or sale.

34 Sec. 12. Section 262.28, Code 2005, is amended to read as
35 follows:

1 262.28 APPROPRIATIONS -- MONTHLY INSTALLMENTS --

2 NONREVERSION.

3 1. All appropriations made payable annually to each of the
4 institutions under the control of the board of regents shall
5 be paid in twelve equal monthly installments on the last day
6 of each month on order of said the board.

7 2. Notwithstanding section 8.33, moneys appropriated to
8 the board of regents or to an institution under the control of
9 the board which are unencumbered and unobligated at the close
10 of the fiscal year for which they were appropriated shall not
11 revert but shall remain available for expenditure for the same
12 purposes in the succeeding fiscal year.

13 Sec. 13. Section 262.33A, Code 2005, is amended to read as
14 follows:

15 262.33A FIRE AND ENVIRONMENTAL SAFETY -- REPORT --
16 EXPENDITURES.

17 It is the intent of the general assembly that each
18 institution of higher education under the control of the state
19 board of regents shall, in consultation with the state fire
20 marshal, identify and correct all critical fire and
21 environmental safety deficiencies. ~~The state fire marshal~~
22 ~~shall report annually to the joint subcommittee on education~~
23 ~~appropriations. The report shall include, but is not limited~~
24 ~~to, the identified deficiencies in fire and environmental~~
25 ~~safety at the institutions, and plans for correction of the~~
26 ~~deficiencies and for compliance with this section.~~ Commencing
27 July 1, 1993, each institution under the control of the state
28 board of regents shall expend annually for fire safety and
29 deferred maintenance at least the amount budgeted for these
30 purposes for the fiscal year beginning July 1, 1992, in
31 addition to any moneys appropriated from the general fund for
32 these purposes in succeeding years.

33 Sec. 14. Section 262.34, Code 2005, is amended to read as
34 follows:

35 262.34 IMPROVEMENTS -- ADVERTISEMENT FOR BIDS --

1 DISCLOSURES -- PAYMENTS.

2 1. When the estimated cost of construction, repairs, or
3 improvement of buildings or grounds under charge of the state
4 board of regents exceeds twenty-five one hundred thousand
5 dollars, the board shall advertise for bids for the
6 contemplated improvement or construction and shall let the
7 work to the lowest responsible bidder. However, if in the
8 judgment of the board bids received are not acceptable, the
9 board may reject all bids and proceed with the construction,
10 repair, or improvement by a method as the board may determine.
11 All plans and specifications for repairs or construction,
12 together with bids on the plans or specifications, shall be
13 filed by the board and be open for public inspection. All
14 bids submitted under this section shall be accompanied by a
15 deposit of money, a certified check, or a credit union
16 certified share draft in an amount as the board may prescribe.

17 2. A bidder awarded a contract shall disclose the names of
18 all subcontractors, who will work on the project being bid,
19 within forty-eight hours after the award of the contract. If
20 a subcontractor named by a bidder awarded a contract is
21 replaced, or if the cost of work to be done by a subcontractor
22 is reduced, the bidder shall disclose the name of the new
23 subcontractor or the amount of the reduced cost.

24 3. Payments made by the board for the construction of
25 public improvements shall be made in accordance with the
26 provisions of chapter 573 except that:

27 a. Payments may be made without retention until ninety-
28 five percent of the contract amount has been paid. The
29 remaining five percent of the contract amount shall be paid as
30 provided in section 573.14, except that:

31 (1) At any time after all or any part of the work is
32 substantially completed in accordance with paragraph "b", the
33 contractor may require the release of all or part of the
34 retainage owed. Such request shall be accompanied by a waiver
35 of claim rights under the provisions of chapter 573 from any

1 person, firm, or corporation who has, under contract with the
2 principal contractor or with subcontractors performed labor,
3 or furnished materials, service, or transportation in the
4 construction of that portion of the work for which release of
5 the retainage is requested.

6 (2) Upon receipt of the request, the board shall release
7 all or part of the unpaid funds. Retainage that is approved
8 as payable shall be paid at the time of the next monthly
9 payment or within thirty days, whichever is sooner. If
10 partial retainage is released pursuant to a contractor's
11 request, no retainage shall be subsequently held based on that
12 portion of the work. If within thirty days of when payment
13 becomes due the board does not release the retainage due,
14 interest shall accrue on the retainage amount due as provided
15 in section 573.14 until that amount is paid.

16 (3) If at the time of the request for the retainage there
17 are remaining or incomplete minor items, an amount equal to
18 two hundred percent of the value of each remaining or
19 incomplete item, as determined by the board's authorized
20 contract representative, may be withheld until such item or
21 items are completed.

22 (4) An itemization of the remaining or incomplete items,
23 or the reason that the request for release of the retainage
24 was denied, shall be provided to the contractor in writing
25 within thirty calendar days of the receipt of the request for
26 release of retainage.

27 b. For purposes of this section, "authorized contract
28 representative" means the architect or engineer who is in
29 charge of the project and chosen by the board to represent its
30 interests, or if there is no architect or engineer, then such
31 other contract representative or officer as designated in the
32 contract documents as the party representing the board's
33 interest regarding administration and oversight of the
34 project.

35 c. For purposes of this section, "substantially completed"

1 means the first date on which any of the following occurs:

2 (1) Completion of the project or when the work has been
3 substantially completed in general accordance with the terms
4 and provisions of the contract.

5 (2) The work or the portion designated is sufficiently
6 complete in accordance with the requirements of the contract
7 so the board can occupy or utilize the work for its intended
8 purpose.

9 (3) The project is certified as having been substantially
10 completed by either of the following:

11 (a) The architect or engineer authorized to make such
12 certification.

13 (b) The contracting authority representing the board.

14 (4) Each contractor or subcontractor shall withhold
15 retainage, if at all, in the same manner as retainage is
16 withheld from the contractor or subcontractor; and each
17 subcontractor shall pass through all retainage payments to
18 lower tier subcontractors in accordance with the provisions of
19 chapter 573.

20 Sec. 15. Section 262.57, unnumbered paragraph 1, Code
21 2005, is amended to read as follows:

22 To pay all or any part of the cost of carrying out any
23 project at any institution the board is authorized to borrow
24 money and to issue and sell negotiable bonds or notes and to
25 refund and refinance bonds or notes heretofore issued or as
26 may be hereafter issued for any project or for refunding
27 purposes at a lower rate, the same rate or a higher rate or
28 rates of interest and from time to time as often as the board
29 shall find it to be advisable and necessary so to do. Such
30 bonds or notes may be sold by said board at public sale in the
31 manner prescribed by chapter 75 but if the board shall find it
32 to be advantageous and in the public interest to do so, such
33 bonds or notes may be sold by the board at private sale
34 without published notice of any kind and without regard to the
35 requirements of chapter 75 in such manner and upon such terms

1 as may be prescribed by the resolution authorizing the same
2 ~~but such bonds or notes shall in any event be sold upon terms~~
3 ~~of not less than par plus accrued interest.~~ Bonds or notes
4 issued to refund other bonds or notes heretofore or hereafter
5 issued by the board for residence hall or dormitory purposes
6 at any institution, including dining or other facilities and
7 additions, or heretofore or hereafter issued for refunding
8 purposes, may either be sold in the manner hereinbefore
9 specified and the proceeds thereof applied to the payment of
10 the obligations being refunded, or the refunding bonds or
11 notes may be exchanged for and in payment and discharge of the
12 obligations being refunded, and a finding by the board in the
13 resolution authorizing the issuance of such refunding bonds or
14 notes that the bonds or notes being refunded were issued for a
15 purpose specified in this division and constitute binding
16 obligations of the board shall be conclusive and may be relied
17 upon by any holder of any refunding bond or note issued under
18 the provisions of this division. The refunding bonds or notes
19 may be sold or exchanged in installments at different times or
20 an entire issue or series may be sold or exchanged at one
21 time. Any issue or series of refunding bonds or notes may be
22 exchanged in part or sold in parts in installments at
23 different times or at one time. The refunding bonds or notes
24 may be sold or exchanged at any time on, before, or after the
25 maturity of any of the outstanding notes, bonds or other
26 obligations to be refinanced thereby and may be issued for the
27 purpose of refunding a like or greater principal amount of
28 bonds or notes, except that the principal amount of the
29 refunding bonds or notes may exceed the principal amount of
30 the bonds or notes to be refunded to the extent necessary to
31 pay any premium due on the call of the bonds or notes to be
32 refunded or to fund interest in arrears or about to become
33 due.

34 Sec. 16. Section 262.78, subsection 6, Code 2005, is
35 amended by striking the subsection.

1 Sec. 17. Section 262A.5, unnumbered paragraph 1, Code
2 2005, is amended to read as follows:

3 The board is authorized to borrow money under this chapter,
4 and the board may issue and sell negotiable bonds to pay all
5 or any part of the cost of carrying out any project at any
6 institution and may refund and refinance bonds issued for any
7 project or for refunding purposes at the same rate or at a
8 higher or lower rate or rates of interest. Bonds issued under
9 the provisions of this chapter shall be sold by said board at
10 public sale on the basis of sealed proposals received pursuant
11 to a notice specifying the time and place of sale and the
12 amount of bonds to be sold which shall be published at least
13 once not less than seven days prior to the date of sale in a
14 newspaper published in the state of Iowa and having a general
15 circulation in said state. The provisions of chapter 75 shall
16 not apply to bonds issued under authority contained in this
17 ~~chapter, but such bonds shall be sold upon terms of not less~~
18 ~~than par plus accrued interest.~~ Bonds issued to refund other
19 bonds issued under the provisions of this chapter may either
20 be sold in the manner hereinbefore specified and the proceeds
21 thereof applied to the payment of the obligations being
22 refunded, or the refunding bonds may be exchanged for and in
23 payment and discharge of the obligations being refunded. The
24 refunding bonds may be sold or exchanged in installments at
25 different times or an entire issue or series may be sold or
26 exchanged at one time. Any issue or series of refunding bonds
27 may be exchanged in part or sold in parts in installments at
28 different times or at one time. The refunding bonds may be
29 sold or exchanged at any time on, before, or after the
30 maturity of any of the outstanding bonds or other obligations
31 to be refinanced thereby and may be issued for the purpose of
32 refunding a like or greater principal amount of bonds, except
33 that the principal amount of the refunding bonds may exceed
34 the principal amount of the bonds to be refunded to the extent
35 necessary to pay any premium due on the call of the bonds to

1 be refunded or to fund interest in arrears or which is to
2 become due.

3 Sec. 18. Section 266.39F, subsection 2, unnumbered
4 paragraph 2, Code 2005, is amended to read as follows:

5 The provisions of section 262.9, subsection 7, and ~~section~~
6 ~~262-107~~, shall not apply to the sale of any portion of land to
7 be sold in accordance with this section or to the use of the
8 proceeds from the sale of the land.

9 Sec. 19. Section 573.14, unnumbered paragraph 2, Code
10 2005, is amended to read as follows:

11 The public corporation shall order payment of any amount
12 due the contractor to be made in accordance with the terms of
13 the contract. Except as provided in section 573.12 for
14 progress payments, failure to make payment pursuant to this
15 section, of any amount due the contractor, within forty days,
16 unless a greater time period not to exceed fifty days is
17 specified in the contract documents, after the work under the
18 contract has been completed and if the work has been accepted
19 and all required materials, certifications, and other
20 documentations required to be submitted by the contractor and
21 specified by the contract have been furnished the awarding
22 public corporation by the contractor, shall cause interest to
23 accrue on the amount unpaid to the benefit of the unpaid
24 party. Interest shall accrue during the period commencing the
25 thirty-first day following the completion of work and
26 satisfaction of the other requirements of this paragraph and
27 ending on the date of payment. The rate of interest shall be
28 determined by the period of time during which interest
29 accrues, and shall be ~~the same as the rate of interest that is~~
30 ~~in effect under section 12E-67~~ calculated as the prime rate
31 plus one percent per year as of the day interest begins to
32 ~~accrue, for a deposit of public funds for a comparable period~~
33 ~~of time.~~ This paragraph does not abridge any of the rights
34 set forth in section 573.16. Except as provided in sections
35 573.12 and 573.16, interest shall not accrue on funds retained

1 by the public corporation to satisfy the provisions of this
2 section regarding claims on file. This chapter does not apply
3 if the public corporation has entered into a contract with the
4 federal government or accepted a federal grant which is
5 governed by federal law or rules that are contrary to the
6 provisions of this chapter. For purposes of this unnumbered
7 paragraph, "prime rate" means the prime rate charged by banks
8 on short-term business loans, as determined by the board of
9 governors of the federal reserve system and published in the
10 federal reserve bulletin.

11 Sec. 20. Sections 262.29, 262.64A, 262.67, 262A.3,
12 262A.6A, 263A.11, 265.6, and 473.12, Code 2005, are repealed.

13 EXPLANATION

14 This bill amends many Code provisions relating to the
15 duties and responsibilities of the state board of regents and
16 the institutions under its control, including the following:

17 Code section 8D.9, concerning the use of the Iowa
18 communications network (ICN) by authorized users, is amended
19 to allow, rather than require, the state board of regents and
20 its institutions to use the ICN for their video, data, and
21 voice requirements.

22 Code section 8D.10, requiring state agencies to report
23 annually savings associated with the ICN to the general
24 assembly, is amended to require the reports submitted by the
25 board and its institutions include the identified excess costs
26 associated with the use of the network.

27 Code section 11.2, which requires the auditor of state to
28 examine the books and accounts of every department of the
29 state at least once each year and requires the auditor further
30 to perform audit testing on the state board of regents'
31 investments, is amended by the bill. The bill amends the Code
32 section to allow the examination to be conducted by the
33 auditor of state or by certified public accountants, as
34 determined by the board. The Code section is also amended to
35 permit the auditor of state to cause to be made a complete or

1 partial reaudit of the financial condition and transactions of
2 the board under conditions specified in the bill.

3 Code section 11.5B, requiring state agencies to reimburse
4 the auditor of state for performing agency audits, is amended
5 to exempt the state board of regents from the requirement.

6 Code section 12B.10C, relating to the inclusion in public
7 funds custodial agreements of any provisions necessary to
8 prevent loss of public funds, is amended to exempt the state
9 board of regents.

10 Code section 73A.1, which provides the definitions for the
11 Code chapter that regulates public contracts and bonds, is
12 amended to eliminate a reference to the state board of regents
13 from the definition of "municipality", releasing the board
14 from the regulatory provisions of the chapter.

15 Code section 262.9, which lists the powers and duties of
16 the state board of regents, and Code section 262.10, which
17 relates to the sale or purchase of real estate by the board,
18 are amended to authorize the board to acquire or sell real
19 estate without the approval of the executive council. Code
20 section 266.39F is amended to strike a reference to Code
21 section 262.10. Section 262.9 is also amended to permit the
22 board to employ or retain attorneys for all legal matters and
23 to strike obsolete language.

24 Code section 262.28, which relates to the payment of annual
25 appropriations to the regents institutions, is amended to
26 permit the institutions to retain, rather than revert to the
27 general fund of the state, any moneys that remain at the close
28 of the fiscal year. The moneys must be used for the same
29 purposes for which they were appropriated.

30 Code section 262.33A, which states legislative intent that
31 the regents institutions consult with the state fire marshal
32 to identify and correct all critical fire and environmental
33 safety deficiencies, is amended to eliminate the requirement
34 that the state fire marshal report annually to the joint
35 subcommittee on education appropriations the identified

1 deficiencies in fire and environmental safety at the
2 institutions, and plans for correction of the deficiencies.

3 Code section 262.34, relating to the estimated costs
4 threshold at which the board must advertise for bids for the
5 construction, repair, or improvement of buildings or grounds,
6 is amended to raise the threshold from \$25,000 to \$100,000;
7 and to make changes relating to payments made, and the
8 retainage of payments, by the board for the construction of
9 public improvements.

10 Code section 262.57, relating to bonds or notes the board
11 is authorized to sell to pay all or any part of the cost of
12 carrying out any project at any regents institution, and Code
13 section 262A.5, relating to authorization for the board to
14 issue and sell negotiable bonds and to refund and refinance
15 bonds to carry out any project in its institutions, are
16 amended to eliminate language that requires that the bonds or
17 notes be sold upon terms of not less than par plus accrued
18 interest.

19 Code section 262.78, which provides for the establishment
20 of a center for agricultural health and safety at the
21 university of Iowa, is amended to eliminate the requirement
22 that the center submit an annual report of its activities to
23 the governor, the secretary of the senate, and the chief clerk
24 of the house of representatives annually.

25 The bill also repeals the following:

26 Code section 262.29, which requires all claims for the
27 actual necessary expenses of the board and of its committees,
28 offices, agencies, and employees to be filed with and allowed
29 by the director of the department of administrative services.

30 Code section 262.64A, relating to self-liquidating
31 dormitories, and Code section 263A.11, relating to medical and
32 hospital buildings at the university of Iowa, both of which
33 require that the board determine, in consultation with the
34 legislative services agency, the financial information to be
35 included in line item budget information for projects funded

1 by the issuance of bonds or notes, and that the board submit
2 the information to the general assembly quarterly.

3 Code section 262.67, which requires the board to have the
4 approval of the executive council in order to grant easements
5 for rights-of-way over, across, and under the surface of
6 public lands under its jurisdiction. The bill moves the
7 language authorizing the board to grant easements to Code
8 section 262.9, which lists the board's powers and duties.

9 Code section 262A.3, which requires the board to annually
10 prepare and submit to the general assembly for approval or
11 rejection a proposed five-year building program for each
12 institution, including an estimate of the maximum amount of
13 bonds the board expects to issue during each year of the
14 ensuing biennium.

15 Code section 262A.6A, relating to the Iowa college super
16 savings plan, which requires the board to issue capital
17 appreciation bonds designed to be marketed primarily to Iowans
18 to facilitate savings for future higher education costs.

19 Code section 265.6, which provides that if the board has
20 established a laboratory school, it shall receive aid under
21 the state school foundation program for each pupil enrolled in
22 the laboratory school.

23 Code section 473.12, which requires the board to cause to
24 be performed comprehensive engineering analyses of facilities
25 under its control by June 30, 1989; to implement economically
26 feasible energy conservation measures identified in the
27 analyses; and to annually report to the department of natural
28 resources the status of all energy conservation. The Code
29 section also permits the department to use funds in the state
30 of Iowa facilities improvement corporation to reduce the
31 board's cost of financing the implementation of the energy
32 conservation measures if the department requires, and the
33 board completes, an energy management plan.

34 Code section 573.14, which relates to a fund for the
35 payment of claims for materials furnished and labor performed

1 on the improvement by a public corporation, is amended to
2 change the manner in which interest is calculated on the
3 amount unpaid.

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