

Sec. 7. Section 802.3, Code 1991, is amended to read as follows:

802.3 FELONY — AGGRAVATED OR SERIOUS MISDEMEANOR.

1. In all cases, except those enumerated in subsection 2 and in sections 802.1 and 802.2, an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

2. An indictment or information for sexual exploitation by a counselor or therapist under section 709.15 shall be found within five years of the date the victim was last treated by the counselor or therapist.

Approved May 4, 1992

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## CHAPTER 1200

### REPEAL OF SEED CAPITAL TAX CREDIT

*H.F. 2478*

**AN ACT** relating to the repeal of the seed capital tax credit and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 422.33, subsection 8, Code Supplement 1991, is amended by striking the subsection.

Sec. 2. Section 422.11C, Code Supplement 1991, is repealed.

Sec. 3. 1990 Iowa Acts, chapter 1196, sections 8 and 9, are repealed.

Sec. 4. Sections 1 and 2 of this Act take effect January 1, 1996, for tax years beginning on or after that date and all credits allowed prior to that date shall continue until their expiration.

Approved May 4, 1992

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## CHAPTER 1201

### PUBLIC RETIREMENT SYSTEMS

*H.F. 2450*

**AN ACT** relating to public retirement systems and administration and benefits of the Iowa public employees' retirement system, including penalties, making an appropriation, and providing effective and retroactive applicability dates.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 97.51, Code 1991, is amended by adding the following new subsection:  
**NEW SUBSECTION. 10.** Effective July 1, 1992, a person receiving benefits, on or after July 1, 1992, under this chapter, shall receive a monthly increase in benefits of ten dollars per month. A person who becomes eligible for benefits under chapter 97, Code 1950, on or after July 1, 1992, shall receive the ten dollar increase.

There is appropriated annually from the general fund of the state to the Iowa old-age and survivors' insurance liquidation fund from funds not otherwise appropriated an amount sufficient to pay the benefit increases provided in this subsection.

Sec. 2. Section 97A.6, subsections 3 through 5, Code Supplement 1991, are amended to read as follows:

3. **ORDINARY DISABILITY RETIREMENT BENEFIT.** Upon the application of a member in service or of the commissioner of public safety, any member shall be retired by the board of trustees, not less than thirty and not more than ninety days next following the date of filing such application, on an ordinary disability retirement allowance, provided, that the medical board after a medical examination of such member shall certify that said member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

4. **ALLOWANCE ON ORDINARY DISABILITY RETIREMENT.** Upon retirement for ordinary disability a member shall receive an ordinary disability retirement allowance which shall consist of a pension which shall equal fifty percent of the member's average final compensation ~~except~~ if unless either of the following conditions exist:

a. If the member has not had five or more years of membership service, the member shall receive a disability pension equal to one-fourth of the member's average final compensation.

b. If the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the benefit that the member would receive under subsection 2 if the member were fifty-five years of age or the disability pension otherwise calculated under this subsection.

5. **ACCIDENTAL DISABILITY BENEFIT.**

a. Upon application of a member in service or of the commissioner of public safety, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury, disease or exposure occurring or aggravated while in the actual performance of duty at some definite time and place shall be retired by the board of trustees, provided, that the medical board shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

b. Should a member in service become incapacitated for duty as a natural and proximate result of an injury, disease, or exposure incurred or aggravated while in the actual performance of duty at some definite time or place, the member shall, upon being found to be temporarily incapacitated following an examination by the board of trustees, be entitled to receive the member's fixed pay and allowances until re-examined by the board and found to be fully recovered or permanently disabled.

c. Disease under this section shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases. However, if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph shall not apply.

Sec. 3. Section 97A.6, subsection 6, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Upon retirement for accidental disability on or after July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation. However, if the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the retirement allowance that the member would receive

under subsection 2 if the member were fifty-five years of age or the disability retirement allowance calculated under this paragraph.

Sec. 4. Section 97A.6, subsection 7, paragraphs a and b, Code Supplement 1991, are amended to read as follows:

a. Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over and would have completed twenty-two years of service if the beneficiary had remained in active service, be engaged in a gainful occupation paying more than the difference between the member's retirement allowance and one and one-half times the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of the retirement allowance shall be reduced to an amount which together with the amount earned by the member shall equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should the member's earning capacity be later changed, the amount of the retirement allowance may be further modified, provided, that the new retirement allowance shall not exceed the amount of the retirement allowance originally granted adjusted by annual readjustments of pensions pursuant to subsection ~~15~~ 14 of this section nor an amount which, when added to the amount earned by the beneficiary, equals one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have the member's retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit on the amount of income which can be earned in a gainful occupation shall be computed in the same manner as provided in subsection ~~15~~ 14, paragraph "d," "c", of this section for readjustment of pensions when a rank or position has been abolished. If the salary scale associated with a member's rank at retirement is changed after the member retires, earnable compensation for purposes of this section shall be based upon the salary an active member currently would receive at the same rank and with seniority equal to that of the retired member at the time of retirement.

A beneficiary retired under the provisions of this paragraph in order to be eligible for continued receipt of retirement benefits shall no later than May 15 of each year submit to the board of trustees a copy of the beneficiary's state income tax return for the preceding year.

Retroactive to July 1, 1976, the limitations on pay of a member engaged in a gainful occupation who is retired under accidental disability prescribed in this paragraph shall not apply to a member who retired before July 1, 1976.

b. Should a disability beneficiary under age fifty-five be restored to active service at a compensation not less than the disability beneficiary's average final compensation, the disability beneficiary's retirement allowance shall cease, the disability beneficiary shall again become a member and shall contribute thereafter at the same rate ~~paid prior to disability payable by other members of comparable rank, seniority, and age,~~ and former service on the basis of which the disability beneficiary's service was computed at the time of retirement shall be restored to full force and effect ~~and upon~~. Upon subsequent retirement the disability beneficiary shall be credited with all service as a member, and also with the period of disability retirement.

Sec. 5. Section 97A.6, subsection 9, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

If, upon the receipt of evidence and proof that the death of a member in service was the natural and proximate result of an accident, disease, or exposure occurring or aggravated at some definite time and place while the member was in the actual performance of duty, the board of trustees shall decide that death was so caused in the performance of duty there shall be paid, in lieu of the ordinary death benefit provided in subsection 8 of this section, to the

member's estate or to such person having an insurable interest in the member's life as the member shall have nominated by written designation duly executed and filed with the board of trustees:

Sec. 6. Section 97B.1, subsection 2, paragraph a, Code 1991, is amended by striking the paragraph.

Sec. 7. Section 97B.4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department, through the ~~administrator~~ chief investment officer and chief benefits officer, shall administer this chapter. The department may adopt, amend, or rescind rules, employ persons, execute contracts with outside parties, make expenditures, require reports, make investigations, and take other action it deems necessary for the administration of the system. The rules shall be effective upon compliance with chapter 17A. Not later than the fifteenth day of December of each year, the department shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make recommendations for amendments to this chapter. The report shall include a balance sheet of the moneys in the Iowa public employees' retirement fund.

Sec. 8. Section 97B.5, Code 1991, is amended to read as follows:

97B.5 STAFF.

Subject to other provisions of this chapter, the department may employ personnel as necessary for the administration of the system, including but not limited to a chief investment officer and a chief benefits officer. The maximum number of full-time equivalent employees specified by the general assembly for the department for administration of the system for a fiscal year shall not be reduced by any authority other than the general assembly. The staff shall be appointed pursuant to chapter 19A. The department shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for an elective public office. The department may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter, chapter 97C, and chapter 12A. The department may execute contracts with investment advisors, consultants, and managers outside state government in the administration of this chapter and chapter 12A. The department may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

Sec. 9. Section 97B.6, Code 1991, is amended to read as follows:

97B.6 OLD RECORDS.

The department may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the department and are deemed by the director ~~and state records commission~~ to be no longer necessary to the proper administration of this chapter. ~~Such~~ The destruction or disposition shall be made only by order of the director. Records of deceased members of the system may be destroyed ten years after the later of the final payment made to a third party on behalf of the member or the death of the member. Any moneys received from the disposition of ~~such~~ these records shall be deposited to the credit of the public employees' retirement fund subject to rules ~~promulgated~~ adopted by the department.

Sec. 10. Section 97B.7, subsection 3, Code 1991, is amended to read as follows:

3. All moneys which are paid or deposited into this fund are hereby appropriated and made available to the department to be used only for the purposes herein for the exclusive benefit of the members and their beneficiaries or contingent annuitants as provided in this chapter:

a. To be used by the department for the payment of retirement claims for benefits under this chapter, ~~or such other purposes as may be authorized by the general assembly~~.

b. To be used by the department to pay refunds provided for in this chapter.

c. To be used for the costs of administering the retirement system. If as a result of action under section 8.31, the governor has reduced the moneys appropriated from the Iowa public

employees' retirement system fund to the department of personnel for salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system for a fiscal year, it is the intent of the general assembly that the amount by which the appropriation has been reduced should be transferred from that fund to the department of personnel for salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system for that fiscal year.

Sec. 11. Section 97B.8, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A board is established to be known as the "Investment Board of the Iowa Public Employees' Retirement System", referred to in this chapter as the "board", whose duties are to establish policy for the department in matters relating to the investment of the trust funds of the Iowa public employees' retirement system. At least annually the board shall review the investment policies and procedures used by the department under section 97B.7, subsection 2, paragraph "b", and shall hold a public meeting on the investment policies and investment performance of the fund. Following its review and the public meeting, the board shall establish an investment policy and goal statement which shall direct the investment activities of the department. The development of the investment policy and goal statement and its subsequent execution shall be performed cooperatively between the board and the department. ~~In accordance with section 97B.3, the board shall recommend to the director a set of candidates for selection as the administrator.~~

Sec. 12. Section 97B.8, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

The board consists of nine members. Six of the members shall be appointed by the governor. One member shall be an executive of a domestic life insurance company, one an executive of a state or national bank operating within the state of Iowa, one an executive of a ~~major~~ an industrial corporation located within the state of Iowa, and three shall be members of the system, one of whom ~~shall be~~ is an active member who is an employee of a school district, area education agency, or merged area, one of whom ~~shall be~~ is an active member who is not an employee of a school district, area education agency, or merged area, and one of whom is a retired member of the system. The president of the senate, after consultation with the majority leader and the minority leader of the senate, shall appoint one member from the membership of the senate and the speaker of the house of representatives shall appoint one member from the membership of the house. The two members appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and the speaker of the house of representatives and the two active members of the system appointed by the governor are ex officio members of the board. The director of the department of personnel is an ex officio, nonvoting member of the board.

Sec. 13. Section 97B.10, Code 1991, is amended to read as follows:  
97B.10 REFUNDS.

~~In any case in which~~ If the department finds the employee or employer has, or both, have erroneously paid contributions thereon which have been erroneously paid, and has filed application for an adjustment thereof, the department shall make such an adjustment, compromise, or settlement and make such a refund of such payments to the employee or employer, or both, as it finds just and equitable in the premises. Refunds so made shall be charged to the fund to which the erroneous collections have been credited and shall be paid to the claimant employee or employer, or both, without interest. Any A claim of an employee or employer for such a refund shall be made within three years of date of payment and not thereafter. However, the department may make refund payments to employees or employers after the expiration of the three-year deadline if the department finds that the payment of the refund is just and equitable.

Sec. 14. Section 97B.11, Code 1991, is amended to read as follows:

**97B.11 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.**

Each employer shall deduct from the wages of each member of the system a contribution in the amount of ~~three and six-tenths percent of the covered wages paid by the employer through June 30, 1979, and commencing July 1, 1979 in the amount of three and seven-tenths percent of the covered wages paid by the employer, until the member's termination or retirement from employment, whichever is earlier. The contributions of the employer shall be in the amount of three and one-half percent of the covered wages of the member for service through December 31, 1975, and in the amount of five and twenty-five hundredths percent of the covered wages of the member for service commencing July 1, 1977, through June 30, 1979, and in the amount of five and seventy-five hundredths percent of the covered wages of the member for service commencing July 1, 1979.~~

Sec. 15. Section 97B.17, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The department shall establish and maintain records of each member, including but not limited to, the amount of wages of each member, the contribution of each member with interest, and interest dividends credited, ~~and these.~~ These records are the basis for the compilation of the retirement benefits provided under this chapter. The following records maintained under this chapter containing personal identifiable information are not public records for the purposes of chapter 22:

Sec. 16. Section 97B.18, Code 1991, is amended to read as follows:

**97B.18 STATEMENT OF ACCUMULATED CREDIT.**

After the expiration of each calendar year and prior to July 1 of the succeeding year, the department shall furnish each member with a statement of the member's accumulated contributions and benefit credits accrued under this chapter up to the end of ~~such that~~ calendar year and additional information the department deems useful to a member. ~~The department may furnish an estimate of such the credits as of the projected normal retirement date of the member under section 97B.45. The department shall mail such the statement to each employer not later than June 30 of the succeeding calendar year. The employer shall distribute such the statements to its employees, and the records of the department as shown by said the statement as to the wages of such each individual member for such a year and the periods of payment shall be conclusive for the purpose of this chapter, except as hereinafter otherwise provided in this chapter.~~

Effective for the calendar year beginning January 1, 1994, the department may transmit the statements directly to the members in lieu of mailing them to the employers.

**Sec. 17. NEW SECTION. 97B.20A APPEAL PROCEDURE.**

Members and third-party payees may appeal any decision made by the department that affects their rights under this chapter. The appeal shall be filed with the department within thirty days after the notification of the decision was mailed to the party's last known mailing address, or the decision of the department is final. If the party appeals the decision of the department, the department shall conduct an internal review of the decision and the chief benefits officer shall notify the individual who has filed the appeal in writing of the department's decision. The individual who has filed the appeal may file an appeal of the department's final decision with the department under chapter 17A by notifying the department of the appeal in writing within thirty days after the notification of its final decision was mailed to the party's last known mailing address. Once notified, the department shall forward the appeal to the department of inspections and appeals.

**Sec. 18. NEW SECTION. 97B.20B HEARING BY ADMINISTRATIVE LAW JUDGE.**

If an appeal is filed and is not withdrawn, an administrative law judge in the department of inspections and appeals, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or reverse the decision of the department. The hearing shall be recorded by mechanical means and a transcript of the hearing shall be made. The transcript shall then be made available for use by the employment appeal board and by the courts at subsequent

judicial review proceedings under the Iowa administrative procedure Act, if any. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons. The decision is final unless, within thirty days after the date of notification or mailing of the decision, review by the employment appeal board is initiated pursuant to section 97B.27.

Sec. 19. Section 97B.22, Code 1991, is amended to read as follows:

**97B.22 WITNESSES AND EVIDENCE.**

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this chapter, or relative to any other matter within its jurisdiction hereunder ~~under this chapter, the department or appeal referee shall have the power to administrative law judge may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the commission department.~~ Attendance of witnesses and production of evidence at the designated place of such the hearing, investigation, or other proceedings may be required from any political subdivision in the state. Subpoenas of the department shall be served by anyone authorized by it (1) by delivering a copy thereof of the subpoena to the individual named therein in it, or (2) by certified mail addressed to such the individual at the individual's last known dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the state of Iowa. In the discharge of the duties imposed by this chapter, the chairperson or an appeal referee department or an administrative law judge and any duly authorized representative or member of the department shall have power to may administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with the administration of this chapter.

Sec. 20. Section 97B.23, Code 1991, is amended to read as follows:

**97B.23 PENALTY FOR CONTUMACY NONCOMPLIANCE.**

In case of ~~contumacy by, or refusal to obey a subpoena duly served upon any person, any district court of the state of Iowa for the district in which said the person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the department, shall have jurisdiction to may issue an order requiring such that person to appear and give testimony, or to appear and produce evidence, or both. Any failure to obey such the order of the court may be punished by said the court as contempt thereof.~~

Sec. 21. Section 97B.25, Code 1991, is amended to read as follows:

**97B.25 APPLICATIONS FOR BENEFITS.**

A representative designated by the administrator and referred to in this chapter as a retirement benefits deputy specialist, shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid and if valid, the month with respect to which benefits shall commence, the monthly benefit amount payable, and the maximum duration. The deputy retirement benefits specialist shall promptly notify the applicant and any other interested party of the decision and the reasons. Unless the applicant or other interested party, within thirty calendar days after the notification was mailed to the applicant's or party's last known address, files an appeal ~~to an administrative law judge in the department of inspections and appeals as provided in section 97B.20A,~~ the decision is final and benefits shall be paid or denied in accord with the decision.

Sec. 22. Section 97B.34, Code 1991, is amended to read as follows:

**97B.34 PAYMENT TO INCOMPETENTS REPRESENTATIVES.**

When it appears to the department that the interest of an applicant entitled to a payment would be served ~~thereby~~, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled ~~thereto~~ to the payment, either for direct payment to ~~such the~~ applicant, or for the applicant's use and benefit to a relative or some other ~~person~~ representative of an applicant. The department may adopt rules under chapter 17A for making payments to a representative of an applicant if the department determines that it can sufficiently safeguard the member's rights under this chapter.

**Sec. 23. NEW SECTION. 97B.34A PAYMENT TO MINORS.**

The department may make payments to a minor, as defined in section 599.1, as follows:

1. If the total sum to be paid to the minor is less than ten thousand dollars, the funds may be paid to an adult as custodian for the minor. The custodian must complete the proper forms as determined by the department.

2. If the total sum to be paid to the minor is equal to or more than ten thousand dollars, the funds must be paid to a court-established conservator. The department shall not make payment until the conservatorship has been established and the department has received the appropriate documentation.

3. Interest shall be paid on the funds, at a rate determined by the department, until disbursement of the funds.

If the department makes payments to a minor pursuant to this section, the department may make payments directly to the person when the person attains the age of eighteen or is declared to be emancipated by a court of competent jurisdiction.

Sec. 24. Section 97B.41, subsection 1, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

"Wages" means all remuneration for employment, including the cash value of remuneration paid in a medium other than cash, but not including the cash value of remuneration paid in a medium other than cash as necessitated by the convenience of the employer. The amount agreed upon by the employer and employee for remuneration paid in a medium other than cash shall be reported to the department by the employer and is conclusive of the value of the remuneration. ~~However, remuneration which does not equal or exceed the sum of three hundred dollars in a calendar quarter shall be excluded.~~ "Wages" does not include special lump sum payments made as payment for accrued sick leave or accrued vacation or payments made as an incentive for early retirement or as payments made upon dismissal, severance, or a special bonus payment. Wages for an elected official means the salary received by an elected official, exclusive of expense and travel allowances.

Sec. 25. Section 97B.41, subsection 1, paragraph b, subparagraph (12), Code 1991, is amended to read as follows:

(12) Effective July 1, ~~1988~~ 1992, covered wages does not include wages to a member on or after the effective date of the member's retirement unless the member is reemployed, as provided under section ~~97B.48, subsection 3~~ 97B.48A.

Sec. 26. Section 97B.41, subsection 2, Code 1991, is amended to read as follows:

2. "Employment for any calendar quarter" means any service performed under an employer-employee relationship ~~under the provisions of this chapter if the remuneration equals or exceeds three hundred dollars for which wages are reported in the calendar quarter.~~ For the purposes of this chapter, elected officials are deemed to be in employment for all quarters of the elected officials' respective terms of office, even if the elected officials have selected a method of payment of wages which results in the elected officials not being credited with wages every quarter of a year.

Sec. 27. Section 97B.41, subsection 3, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:



"Employer" means the state of Iowa, the counties, municipalities, and agencies, public school districts, and all of the political subdivisions, and all of their departments and instrumentalities, including joint planning commissions created under the provisions of chapter 281.

Sec. 28. Section 97B.41, subsection 3, paragraph b, unnumbered paragraph 1, and subparagraphs (1), (2), (3), (4), (5), and (7), Code 1991, are amended to read as follows:

"Employee" means any an individual who is in employment employed as defined in this chapter, except:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions, unless the elective official makes an application to the department to be covered under this chapter. An elective official who made an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the expiration of the member's termination term of office. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

(1A) Individuals who are enrolled as students and whose primary occupations are as students who are incidentally employed by employers.

(1B) Graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 8.

(2) Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa, unless such members or employees ~~shall~~ make an application to the department to be covered under the provisions of this chapter. A member of the general assembly ~~or temporary employee of the general assembly~~ who made an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the member's ~~or temporary employee's~~ termination intent to terminate.

Temporary employees of the general assembly who have elected coverage under this chapter may terminate membership by sending written notification to the department of their separation from service.

(3) ~~Employees Nonvested employees of drainage and levee districts not vested, unless such drainage and levee districts shall those employees make an application to the department to be covered under the provisions of this chapter. However, any drainage or levee district which has made contributions against which no application for benefits has been made shall be entitled to withdraw all such contributions by making application to the department prior to December 31, 1969. Each drainage or levee district which withdraws its contributions shall refund to its employees contributions deducted from their wages.~~

(4) ~~Employees hired for temporary employment of less than six months or less duration or one thousand and forty hours in a calendar year. An employee who works for an employer for six or more months in a calendar year or who works for an employer for more than one thousand forty hours in a calendar year is not a temporary employee under this subparagraph. Adjunct instructors are temporary employees for the purposes of this chapter. As used in this section, unless the context otherwise requires, "adjunct instructors" means instructors employed by a community college without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.~~

(5) ~~Employees of a community action programs program, determined to be an instrumentality of the state or a political subdivision, unless such the employees elect by filing an application with the department to be covered under the provisions of this chapter and the department has approved the election. Coverage will begin when the election has been approved by the department.~~

(7) ~~Persons employed under the federal Job Training Partnership Act of 1982, Pub. L. No. 97-300, unless these employees make an application to the department to be covered under this chapter and the department has approved the election. Coverage will begin when the election has been approved by the department.~~

Sec. 29. Section 97B.41, subsection 3, paragraph b, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (16) Persons employed by the board of trustees for the statewide fire and police retirement system established in section 411.36, unless these employees make an application to the department to be covered under this chapter and the department has approved the election. Coverage will begin when the election has been approved by the department.

Sec. 30. Section 97B.41, subsection 7, Code 1991, is amended to read as follows:

7. "Member" means an employee or a former employee ~~required to become a member of the system by sections 97B.42 and 97B.43 who maintains the employee's or former employee's accumulated contributions in the system. The former employee is not a member if the former employee has received a refund of the former employee's accumulated contributions.~~

Sec. 31. Section 97B.41, subsection 10, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

"Vested member" means a member ~~who meets who has attained through age or sufficient years of service eligibility to receive monthly retirement benefits upon the member's retirement. A vested member must meet one of the following requirements:~~

Sec. 32. Section 97B.41, subsection 11, Code 1991, is amended to read as follows:

11. "Retired member" means a member who has applied for and commenced receiving the member's retirement allowance. ~~A member has not established a bona fide retirement if the member accepts other employment as defined in this section before qualifying for at least one calendar month's retirement benefits under this chapter.~~

Sec. 33. Section 97B.41, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. "Bona fide retirement" means a retirement by a vested member which meets the requirements of section 97B.52A, subsection 1, and in which the member is eligible to receive benefits under this chapter.

Sec. 34. Section 97B.41, subsections 16 and 17, Code 1991, are amended to read as follows:

16. "Beneficiary" means the person or persons who are entitled to receive any benefits payable under this chapter at the death of a member payable under this chapter who has or, if the person or persons have been designated in writing by the member on a form provided by the department and filed with the department, or if. If no such designation is in effect at the time of death of the member or if no person so designated is living at that time, then the beneficiary shall be is the estate of the member.

17. "Membership service" means service rendered by a member after July 4, 1953. Years of membership service shall be counted to the complete quarter calendar year. However, membership service for a calendar year shall not include more than four quarters.

Sec. 35. Section 97B.41, subsection 19, Code 1991, is amended to read as follows:

19. "Three-year average covered wage" means a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the third year by combining the wages from the highest quarter or quarters not being used in the selection of the two highest years with the final quarter or quarters of the member's service to create a full year. However, the department shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service.

Sec. 36. Section 97B.42, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Each employee whose employment commences after July 4, 1953, or who has not qualified for credit for prior service rendered prior to July 4, 1953, or any publicly elected official of the state or any of its political subdivisions, ~~other than individuals who are students and who devote their time and efforts chiefly to their studies, rather than to incidental employment,~~ shall become a member upon the first day in which such employee is employed. The employee shall continue to be a member so long as the employee continues in public employment ~~except that the.~~ The employee shall cease to be a member if after making said election the employee joins another retirement system in the state which is maintained in whole or in part by public contributions or payments which has been in operation prior to July 4, 1953, and was subsequently liquidated and may have thereafter been re-established. However, the participation in such other retirement system shall be voluntary and shall not be a condition for continuance of employment.

Sec. 37. Section 97B.42, unnumbered paragraph 5, Code 1991, is amended to read as follows:

Notwithstanding any other provision of this section, commencing July 1, 1994, a member who is employed by a community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system, if the board of directors of the community college has approved the alternative system pursuant to section 280A.23. ~~However, a vested member who elects to participate in the alternative benefits system does not have a right to withdraw funds from the member's Iowa public employees' retirement system account prior to retirement or termination of covered employment A member employed by a community college who elects coverage under an alternative retirement benefits system may withdraw the member's accumulated contributions effective when coverage under the alternative benefits system commences.~~ The department shall cooperate with the boards of directors of the community colleges to facilitate the implementation of this unnumbered paragraph provision.

Sec. 38. Section 97B.43, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Each member in service on July 4, 1953, who made contributions under the abolished system, and who has not applied for and qualified for benefit payments under the abolished system, shall receive credit for years of prior service in the determination of retirement allowance payments ~~under any of the provisions of this chapter, provided (1) such if the member elects to become a member on or before October 1, 1953, (2) such the member has not made application for a refund of such the part of the member's contributions under the abolished system as is which are payable under the provisions of sections 97.50 to 97.53, and (3) such the member gives written authorization prior to October 1, 1953, to the commission to credit to the retirement fund the amount of the member's contribution which would be subject to a claim for refund. The amount so credited shall, after such transfer, be considered as a contribution to the system made as of July 4, 1953, by the member and shall be included as such in the determination of the amount of any accumulated contributions payable under this chapter in the event of the death prior to retirement or termination of employment of the member, but shall not be included in the accumulated contributions of the member in the determination of the amount of any retirement allowance payable under this chapter moneys payable under this chapter. Provided, however~~ However, an employee who was under a contract of employment as a teacher in the public schools of the state of Iowa at the end of the school year 1952-1953, or any person covered by the provisions of paragraph "c" or "d", of subsection 13, of section 97B.41, shall be considered as in service as of July 4, 1953, if they were members of the abolished system.

Sec. 39. Section 97B.44, Code 1991, is amended to read as follows:

**97B.44 BENEFICIARY.**

Each member shall designate on a form to be furnished by the department a beneficiary for any death benefits payable hereunder under this chapter on the death of such the member. Such The designation may be changed from time to time by the member by filing a new designation with the department. The designation of a beneficiary is not applicable if the member receives a refund of all contributions of the member. If a member who has received a refund of contributions returns to employment, the member shall file a new designation with the department.

If a member has not designated a beneficiary on a form furnished by the department, or if there are no surviving designated beneficiaries of a member, death benefits payable under this chapter shall be paid to the member's estate.

Sec. 40. Section 97B.48, subsection 2, Code 1991, is amended to read as follows:

2. The first monthly payment of a normal retirement allowance shall be paid as of the normal retirement effective date, which date shall be the later of the normal retirement date or the first day of the sixth calendar month preceding the month in which written notice of normal retirement is submitted to the department. Written notice under this section may consist of submission of a completed estimate request form, a completed application for retirement form, or a letter from the member requesting information on retirement benefits, whichever is received first by the department. However, a letter requesting information on benefits or submission of a completed estimate request form is only valid for six months following the date of its receipt by the department, unless during that six-month period the department receives a completed application for retirement form from the member. A retirement allowance may only be provided retroactively for a single six-month period. Payment of an early retirement allowance or an allowance for retirement after the normal retirement date shall be paid as of the effective date of retirement subject to the provisions of section 97B.45, 97B.46, or 97B.47. The payments shall be continued thereafter for the lifetime of the retired member except as provided in subsection 3 section 97B.48A.

Sec. 41. Section 97B.48, subsection 3, Code 1991, is amended by striking the subsection and inserting in lieu thereof the following:

3. As of the first of the month in which a member attains the age of seventy years, the member may commence receiving a retirement allowance regardless of the member's employment status.

**Sec. 42. NEW SECTION. 97B.48A REEMPLOYMENT.**

1. If, after the first day of the month in which the member attains the age of fifty-five years and until the member's sixty-fifth birthday, a member who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be suspended for as long as the member remains in employment for the remainder of that calendar year. However, effective January 1, 1992, employment is not full-time employment until the member receives remuneration in an amount in excess of seven thousand four hundred forty dollars for a calendar year. Effective the first of the month in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance after return to covered employment regardless of the amount of remuneration received.

2. Effective January 1, 1991, a retired member of any age may receive a retirement allowance after return to covered employment, regardless of the amount of remuneration received, if the covered employment consists of holding an elective office.

3. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section 97B.49 or 97B.50, whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The member shall receive a single retirement allowance calculated from both periods of membership service, one based on the initial retirement and

one based on the second retirement following reemployment. If the total years of membership service and prior service of a member who has been reemployed equals or exceeds thirty, the years of membership service on which the original retirement allowance was based may be reduced by a fraction of the years of service equal to the number of years by which the total years of membership service and prior service exceeds thirty divided by thirty, if this reduction in years of service will increase the total retirement allowance of the member. The additional retirement allowance calculated for the period of reemployment shall be added to the retirement allowance calculated for the initial period of membership service and prior service, adjusted as provided in this subsection. The retirement allowance calculated for the initial period of membership service and prior service shall not be adjusted for any other factor than years of service. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service.

4. The department shall pay to the member the accumulated contributions of the member and to the employer the employer contributions, plus two percent interest plus interest dividends for all completed calendar years, compounded annually, on the covered wages earned by a retired member that are not used in the recalculation of the retirement allowance of a member.

Sec. 43. Section 97B.49, subsection 5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Commencing July 1, 1991, the department shall increase the percentage multiplier of the three-year average covered wage by an additional two percent each July 1 until reaching sixty percent of the three-year average covered wage if the annual actuarial valuation of the retirement system indicates for that year that the cost of this increase in the percentage of the three-year average covered wage used in computing retirement benefits can be absorbed within the employer and employee contribution rates in effect under section 97B.11. The two percent increase in the percentage multiplier for a year applies only to the members retiring on or after July 1 of the respective year.

Sec. 44. Section 97B.49, subsection 5, Code 1991, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. In accordance with sections 97D.1 and 97D.4, it is the intent of the general assembly that once the goal of sixty percent of the three-year average covered wage is attained for a percentage multiplier, the department shall submit to the public retirement systems committee a plan for future benefit enhancements. This plan shall include, but is not limited to, continuation in the increase in the covered wage ceiling until reaching fifty-five thousand dollars for a calendar year, providing for annual adjustments in the annual dividends paid to retired members as provided in section 97B.49, subsection 13, and providing for the indexing of terminated vested members' earned benefits at a rate of three percent per year calculated from the date of termination from covered employment until the date of retirement.

Sec. 45. Section 97B.49, subsection 13, Code 1991, is amended to read as follows:

13. a. A member who retired from the system between January 1, 1976, and June 30, 1982, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1990~~ 1992 and the November ~~1991~~ 1993 monthly benefit payments a retirement dividend equal to one hundred forty percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

b. Each member who retired from the system between July 4, 1953, and December 31, 1975, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1990~~ 1992 and the November ~~1991~~ 1993 monthly benefit payments a retirement dividend equal to one hundred eighty percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

c. Notwithstanding the determination of the amount of a retirement dividend under paragraph "a", "b", or "d", a retirement dividend shall not be less than twenty-five dollars.

d. A member who retired from the system between July 1, 1982, and June 30, 1986, or a contingent annuitant or beneficiary of such a member, shall receive with the November 1990 1992 and the November 1991 1993 monthly benefit payments a retirement dividend equal to twenty-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

e. If the member dies on or after July 1 of the dividend year but before the payment date, the full amount of the retirement dividend for that year shall be paid to the designated beneficiary. If there is no beneficiary designated by the member, the department shall pay the dividend to the member's estate. The beneficiary, or the representative of the member's estate, must apply for the dividend within two years after the dividend is payable or the dividend is forfeited.

Sec. 46. Section 97B.49, subsection 16, paragraph a, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The years of membership service required under this paragraph include membership service as a sheriff or deputy sheriff and membership service as an employee in a protection occupation under paragraph "d", subparagraph (2).

Sec. 47. Section 97B.49, subsection 16, paragraph d, Code 1991, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) A fire prevention inspector peace officer employed by the department of public safety.

Sec. 48. Section 97B.50, subsection 1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

Except as otherwise provided in this section, a vested member, upon retirement prior to the normal retirement date, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in subsections 1, 4, and 5 of section 97B.49 reduced as follows:

Sec. 49. Section 97B.50, subsections 2 and 4, Code Supplement 1991, are amended to read as follows:

2. a. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the United States Social Security Act (42 U.S.C.), as amended to July 1, 1978, and who has not reached the normal retirement date, shall receive ~~full~~ benefits under section 97B.49 and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time after July 4, 1953. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990.

b. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the United States Railroad Retirement Act (45 U.S.C. § 231 et seq.), and who is eligible for early retirement but has not reached the normal retirement date, shall receive ~~full~~ benefits under section 97B.49 and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time since July 4, 1953. ~~However, eligible~~ Eligible members are entitled to the

receipt of retroactive adjustment payments for no more than six months immediately preceding the month after back to July 1, 1990, in which written notice was submitted to the department.

Effective July 1, 1990, for members terminating on or after July 4, 1953, a member who terminates covered employment due to disability and commences receiving disability benefits pursuant to the United States Railroad Retirement Act (45 U.S.C. § 231 et seq.), who has not attained the age of fifty-five years, is eligible to receive benefits under section 97B.49, reduced by twenty-five hundredths of one percent for each month that the retirement date precedes the first day of the month in which the member attains the age of fifty-five. However, the benefits shall be suspended during any period in which the member returns to covered employment. Eligible members are entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month after July 1, 1990, in which written notice was submitted to the department.

4. A vested member eligible for a retirement allowance adjusted under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice of retirement was submitted to the department.

Sec. 50. Section 97B.51, subsections 2, 5, and 6, Code 1991, are amended to read as follows:

2. The election by a member or the contingent annuitant of the option stated under subsection 1 of this section shall be null and void if the member dies prior to retirement the department issuing payment of the member's first retirement allowance.

5. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance will shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar increments, and the amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable under section 97B.49, subsection 1 or 5. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

6. A member may elect to receive a decreased retirement allowance during the member's lifetime with provision that in event of the member's death during the first one hundred twenty months of retirement, monthly payments of the member's decreased retirement allowance shall be made to the member's beneficiary until a combined total of one hundred twenty monthly payments have been made to the member and the member's beneficiary. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

Sec. 51. Section 97B.52, subsections 1 and 2, Code 1991, are amended to read as follows:

1. If a member dies prior to the date the member's first retirement allowance is payable under issued by the system, the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by thirty shall be paid to the member's beneficiary in a lump sum payment. However, a lump sum payment made to a beneficiary under this subsection due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984, under this subsection as it appeared in the 1983 Code.

Effective July 1, 1978, a method of payment under this subsection filed with the department by a member does not apply.

2. If a member dies after the date the member's first retirement allowance is payable under issued by the retirement system, the excess, if any, of the accumulated contributions by the member as of said date, over the total monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with subsection 1, 4, 5, or 6 of section 97B.51.

Sec. 52. Section 97B.52, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. If a death benefit is due and payable, interest shall continue to accumulate through the month preceding the month in which payment is made to the designated beneficiary, heirs

at law, or to the estate unless the payment of the death benefit is delayed because of a dispute between alleged heirs, in which case the benefit due and payable shall be placed in a noninterest bearing escrow account until the beneficiary is determined in accordance with this section. In order to receive the death benefit, the beneficiary, heirs at law, or the estate, or any other third-party payee, must apply to the department within two years of the member's death.

Sec. 53. Section 97B.52, subsection 4, Code 1991, is amended to read as follows:

4. If the department cannot locate the beneficiary within eighteen months following the member's death and receipt of verification that a certified letter with return receipt requested, addressee only, has been ~~delivered~~ mailed to the beneficiary, the department shall pay to the estate of the deceased member the amount otherwise designated to be received by the beneficiary. If a beneficiary is known to exist but cannot be notified, the department shall not pay the death benefits to the estate.

Sec. 54. Section 97B.52, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If a member has not filed a designation of beneficiary with the department, the death benefit is payable to the member's estate. If no designation has been filed and an estate is not probated, the death benefit shall be paid to the surviving spouse, if any. If no designation has been filed, no estate has been probated, and there is no surviving spouse, the death benefit shall be paid to the heirs. Otherwise, the death benefit shall remain in the fund.

Sec. 55. NEW SECTION. 97B.52A ELIGIBILITY FOR BENEFITS — BONA FIDE RETIREMENT.

1. A member has a bona fide retirement when the member terminates employment and remains out of employment for at least one hundred twenty consecutive days, files an application for benefits form with the department, and does not return to employment as defined in this chapter until the member has qualified for no fewer than four calendar month's retirement benefits.

2. A member may commence receiving retirement benefits under this chapter upon satisfying eligibility requirements and remaining out of covered employment for one calendar month. However, a retired member who commences receiving a retirement allowance but returns to employment before the expiration of the one hundred twenty consecutive day period, does not have a bona fide retirement and any retirement allowance received by such a member must be returned to the system together with interest earned on the retirement allowance calculated at a rate determined by the department. Until the member has repaid the retirement allowance and interest, the department may withhold any future retirement allowance for which the member may qualify.

Sec. 56. Section 97B.53, Code 1991, is amended to read as follows:

97B.53 TERMINATION OF EMPLOYMENT — REFUND OPTIONS.

~~All rights to all benefits under Membership in the retirement system, and all rights to the benefits under the system, will cease upon a member's termination of employment with the employer prior to the member's retirement, other than by death, except as provided hereafter; and upon receipt by the member of the member's accumulated contributions.~~

1. ~~Upon the termination of employment with the employer prior to retirement other than by death of a member, the accumulated contributions by the member at the date of such the termination will may be paid to such the member upon application, except as may be provided in subsection subsections 2, subsection 5, and subsection 6 of this section.~~

2. If a vested member's employment is terminated prior to the member's retirement, other than by death, the member ~~shall~~ may receive a monthly retirement allowance commencing on the first day of the month in which the member attains the age of sixty-five years, if the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of the month in which the member attains the age of fifty-five or any month thereafter prior to the date the member attains the age of sixty-five years, and continuing



on the first day of each month thereafter during the member's lifetime, provided the member does not receive prior to the date the member's retirement allowance is to commence a refund of accumulated contributions under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either section 97B.49 or in section 97B.50, whichever is applicable.

3. The accumulated contributions of a terminated, vested member who is entitled to the benefits of subsection 2 of this section shall be credited with interest, including interest dividends.

4. A terminated, vested member who is entitled to the benefits of subsection 2 of this section shall have the right, prior to the commencement of the member's retirement allowance, to receive a refund of the member's accumulated contributions, and in the event of the death of the member prior to the commencement of the member's retirement allowance and prior to the receipt of any such refund the benefits of subsection 1 of section 97B.52 shall be paid. No member shall be entitled to any refund based upon any credit for prior service as determined under the provisions of section 97B.43 or for any portion of any contribution made by an employer unless otherwise provided by this chapter.

5. A member has not terminated employment if the member accepts other covered employment in the state of Iowa under which the member is eligible to membership in the Iowa public employees' retirement system, within thirty days after the member has left public employment.

5A. Within sixty days after a member has been issued payment for a refund of the member's accumulated contributions, the member may repay the accumulated contributions plus interest that would have accrued, as determined by the department, and receive credit for membership service for the period covered by the refund payment.

5B. Any A member who does not withdraw the member's accumulated contributions upon termination of employment may at any time request the return of the member's accumulated contributions, but if the member receives such a return of contributions the member shall be deemed to have waived all claims for any other benefits and membership rights from the fund.

6. Any A member who terminates employment before the member is entitled to the benefits of subsection 2 of this section vested and who does not claim and receive a refund of the member's accumulated contributions within five years of the date of termination shall, in event if the member makes claim for such a refund more than five years after the date of termination, be required to submit proof satisfactory to the department of the member's entitlement to such the refund, but in no case shall interest be allowed upon the accumulated contributions for any period in which the member is not an employee. The department shall be is under no obligation to maintain the accumulated contribution accounts of such former members for more than five years after their dates of termination.

Any A person who made contributions to the abolished system, who is entitled to a refund in accordance with the provisions of this chapter, and who has not claimed and received such a refund prior to January 1, 1964, shall, in event if the person makes a claim for such refund after January 1, 1964, be required to submit proof satisfactory to the department of the person's entitlement to such the refund. The department shall be is under no obligation to maintain the contribution accounts of such persons after January 1, 1964.

7. Any member whose employment is terminated after one year of employment but before the member has accumulated four or more years of employment, either under the provisions of this chapter or as a result of prior service credits, may elect to leave the member's accumulated contributions in the retirement fund. In the event the member returns to public employment at any time within four years after this termination of employment, the member shall be entitled to resume membership in the system with the same credits for prior service and accumulated contributions that the member had earned when the member's original employment was terminated. No interest shall be credited on the member's accumulated contributions nor on the member's employer's accumulated contributions during the period from the time of the member's termination of employment to the member's resumption of employment.

Any member who has resumed employment under the provisions of this subsection shall not be eligible for any second period of absence from membership as a result of termination of service.

8. If an employee hired to fill a permanent position terminates the employee's employment within six months from the date of employment, the employer may file a claim with the department for a refund of the funds contributed to the department by the employer for the employee.

~~9. The department shall refund employee and employer contributions on the covered wages earned by a retired member that are not used in the recomputation of monthly benefits of that member.~~

Sec. 57. Section 97B.58, Code 1991, is amended to read as follows:

**97B.58 INFORMATION FURNISHED BY EMPLOYER.**

To enable the department to perform its functions, the employer shall, upon the request of and in the manner provided by the department, supply full and timely information to the department of all matters relating to the pay of all members, date of birth, their retirement, death, or other cause for termination of employment, and ~~such~~ other pertinent facts as the department may require in the manner provided by the department.

Sec. 58. Section 97B.66, unnumbered paragraph 3, Code 1991, is amended by striking the unnumbered paragraph.

Sec. 59. Section 97B.73, Code 1991, is amended to read as follows:

**97B.73 MEMBERS FROM OTHER PUBLIC SYSTEMS.**

A vested or retired member who was in public employment comparable to employment covered under this chapter in another state or in the federal government, or who was a member of another public retirement system in this state, including but not limited to the teachers insurance annuity association-college retirement equities fund, but who was not retired under that system, upon submitting verification of membership and service in the other public retirement system to the department, including proof that the member has no further claim upon a retirement benefit from that other public system, may make employer and employee contributions to the system either for the entire period of service in the other public retirement system and, or for partial service in the other public system in increments of one or more years, as long as the increments represent full years and not a portion of a year. The member may also make one lump sum contribution to the system which represents the entire period of service in the other public system, even if the period of time exceeds one year or includes a portion of a year. If the member wishes to transfer only a portion of the service value of another public system to this system and the other public system allows a partial withdrawal of a member's system credits, the member shall receive credit for membership service in this system equivalent to the number of years of service in transferred from the other public retirement system. The contribution payable shall be based upon the member's covered wages for the most recent full calendar year at the applicable rates in effect for that calendar year under sections 97B.11 and 97B.49 and multiplied by the member's years of service in other public employment. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the department by an inflation factor to reflect changes in the economy since the covered wages were earned.

This section is applicable to a vested or retired member who was a member of a public retirement system established in sections 294.8, 294.9, and 294.10 but was not retired under that system.

A member vested under entitled to a benefit from another public system must waive, on a form provided by the Iowa public employees' retirement system, all rights to a retirement benefit under ~~that~~ the other public system before receiving credit in this system for ~~those~~ the years of service in the other public system. The waiver must be accepted by the other public system.

Effective July 1, 1988, a member eligible for an increased retirement allowance because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which written notice was submitted to the department.

Sec. 60. Section 97B.80, Code 1991, is amended to read as follows:

97B.80 VETERAN'S CREDIT.

Effective July 1, ~~1990~~ 1992, a vested or retired member ~~with reportable wages in the most recent calendar year~~, who at any time served on active duty in the armed forces of the United States, upon submitting verification of the dates of the active duty service, may make employer and employee contributions to the system based upon the member's covered wages for the most recent full calendar year in which the member had reportable wages at the applicable rates in effect for that year under sections 97B.11 and 97B.49, for the period of time of the active duty service, in ~~one-year increments but not to exceed four years of no greater than one year and not less than one calendar quarter~~, and receive credit for membership service and prior service for the period of time for which the contributions are made. However, the member may not make contributions in an increment of less than one year more than once. The member may also make one lump sum contribution to the system which represents the period of time of the active duty service, even if the period of time exceeds one year. If the member's most recent covered wages were earned prior to the most recent calendar year, the member's covered wages shall be adjusted by the department by an inflation factor to reflect changes in the economy. The department shall adjust benefits for a six-month period prior to the date the member pays contributions under this section if the member is receiving a retirement allowance at the time the contribution payment is made. Verification of active duty service and payment of contributions shall be made to the department. However, a member is not eligible to make contributions under this section if the member is receiving, or is eligible to receive, or may in the future be eligible to receive retirement pay from the United States government for active duty in the armed forces, except for retirement pay granted by the United States government under retired pay for nonregular service (10 U.S.C. § 1331, et seq.). A member receiving retired pay for nonregular service who makes contributions under this section shall provide information required by the department documenting time periods covered under retired pay for nonregular service.

Sec. 61. Section 294.15, unnumbered paragraphs 1 and 2, Code 1991, are amended to read as follows:

A person attaining the age of sixty-five who was an employee, holding a valid teaching certificate, in the public schools of this state with a record of service of twenty-five years or more, including a maximum of five years' out-of-state service followed by at least ten years' service in this state prior to retirement and who retired prior to July 4, 1953, may receive, effective July 1, ~~1984~~ 1992, retirement allowance payments from the state of Iowa equal to two hundred ~~twenty thirty~~ dollars per month. An amount necessary to meet this requirement shall be added to the retirement allowance payments, if any, now being received from the state of Iowa by individuals covered under this section. No such person shall receive retirement benefits from the state of more than two hundred ~~twenty thirty~~ dollars per month. The word "employee" as used in this section includes persons who were state superintendents, county superintendents, or deputy county superintendents.

However, a person receiving retirement allowance payments under this section may elect in writing to the department of personnel to continue to receive two hundred dollars or two hundred twenty dollars per month.

Sec. 62. Section 411.1, subsection 11, Code Supplement 1991, is amended by striking the subsection and inserting in lieu thereof the following:

11. "Earnable compensation" or "compensation earnable" shall mean the annual compensation which a member receives for services rendered as a police officer or fire fighter in the course of employment with a participating city. However, the term "earnable compensation"

or "compensation earnable" shall not include amounts received for overtime compensation, meal or travel expenses, uniform allowances, fringe benefits, severance pay, or any amount received upon termination or retirement in payment for accumulated sick leave or vacation. Contributions made by a member from the member's earnable compensation to a plan of deferred compensation shall be included in earnable compensation. Other contributions made to a plan of deferred compensation shall not be included except to the extent provided in rules adopted by the board of trustees pursuant to section 411.5, subsection 3.

Sec. 63. Section 411.5, subsection 6, Code Supplement 1991, is amended to read as follows:

6. RECORDS — REPORTS. The board of trustees shall keep a record of all its proceedings, which record shall be open to public inspection. It shall submit an annual report to the governor, the general assembly, and the city council of each participating city concerning the financial condition of the retirement system, its current and future liabilities, and the actuarial valuation of the system. The board of trustees shall submit a certified audit report prepared by a certified public accountant to the auditor of state annually. The system shall comply with the filing fee requirement of section 11.6, subsection 10.

Sec. 64. Section 411.6, subsection 2, paragraphs a through c, Code Supplement 1991, are amended to read as follows:

a. Upon retirement from service, prior to July 1, 1990, a member shall receive a The service retirement allowance which for a member who terminates service, other than by death or disability, prior to July 1, 1990, shall consist of a pension given by the city which equals fifty percent of the member's average final compensation.

b. Upon retirement from service on or after July 1, 1990, but before July 1, 1992, a member shall receive a The service retirement allowance which for a member who terminates service, other than by death or disability, on or after July 1, 1990, but before July 1, 1992, shall consist of a pension which equals fifty-four percent of the member's average final compensation.

c. Commencing July 1, 1992, for members who terminate service, other than by death or disability, on or after that date, the system shall increase the percentage multiplier of the member's average final compensation by an additional two percent each July 1 until reaching sixty percent of the member's average final compensation. The applicable percentage multiplier shall be the rate in effect on the date of the member's termination from service.

Sec. 65. Section 411.6, subsection 3, Code Supplement 1991, is amended to read as follows:

3. ORDINARY DISABILITY RETIREMENT BENEFIT. Upon application to the system, of a member in service or of the chief of the police or fire departments, respectively, any member shall be retired by the system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

Sec. 66. Section 411.6, subsection 4, Code Supplement 1991, is amended to read as follows:

4. Allowance on ordinary disability retirement. Upon retirement for ordinary disability a member shall receive an ordinary disability retirement allowance which shall consist of a pension which shall equal fifty percent of the member's average final compensation except if unless either of the following conditions exist:

a. If the member has not had five or more years of membership service the member shall receive a pension equal to one-fourth of the member's average final compensation.

b. If the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the benefit that the member would receive under subsection 2 if the member were fifty-five years of age or the disability pension otherwise calculated under this subsection.

Sec. 67. Section 411.6, subsection 5, Code Supplement 1991, is amended to read as follows:

5. ACCIDENTAL DISABILITY BENEFIT.

a. Upon application to the system, of a member in service or of the chief of the police or fire departments, respectively, any member who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system, if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced.

b. If a member in service or the chief of the police or fire departments becomes incapacitated for duty as a natural or proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time or place or while acting, pursuant to order, outside the city by which the member is regularly employed, the member, upon being found to be temporarily incapacitated following a medical examination as directed by the ~~system~~ city, is entitled to receive the member's full pay and allowances from the city's general fund until re-examined as directed by the ~~system~~ city and found to be fully recovered or until the city determines that the member is likely to be permanently disabled. The board of trustees of the statewide system has no jurisdiction over these matters until the city determines that the disability is likely to be permanent.

c. Disease under this section shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases. However, if a person's membership in the system first commenced on or after July 1, 1992, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph shall not apply.

Sec. 68. Section 411.6, subsection 6, paragraph b, Code Supplement 1991, is amended to read as follows:

b. Upon retirement for accidental disability on or after July 1, 1990, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation. However, if the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the retirement allowance that the member would receive under subsection 2 if the members were fifty-five years of age or the disability retirement allowance calculated under this paragraph.

Sec. 69. Section 411.6A, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

411.6A OPTIONAL RETIREMENT BENEFITS.

1. In lieu of the payment of a service retirement allowance under section 411.6, subsection 2, and the payment of a pension to the spouse of a deceased pensioned member under section 411.6, subsection 11, a member may select an option provided under this section. The board of trustees shall adopt rules under section 411.5, subsection 3, providing the optional forms of payment that may be selected by the member. The optional forms of payment may provide adjustments to the amount of the retirement allowance paid to the member, may alter the pension amount and period of payment to the member's spouse after the death of the member, and may provide for payments to a designated recipient other than the member's spouse for a designated period of time or an unlimited period of time.

2. Prior to the member's retirement and as a part of the application for a service retirement allowance, the member shall elect, in writing, either the benefits provided under section 411.6, subsections 2 and 11, or one of the optional forms adopted by the board of trustees. If the member is married at the time of application and the member elects an optional form, the member's spouse must consent in writing to the optional form selected and to the receipt of payments to a designated recipient, if applicable. Upon acceptance by a member of an initial retirement benefit paid in accordance with the election under this section, the election of the member is irrevocable.

3. The optional forms of payment determined by the board of trustees under this section, shall be the actuarial equivalent of the amount of retirement benefits payable to the member and the member's spouse pursuant to section 411.6, subsections 2 and 11. The actuarial equivalent shall be based upon the actuarial assumptions adopted for this purpose pursuant to section 411.5. Election of an optional form adopted by the board of trustees shall not affect the benefits, if any, payable to the member's child or children pursuant to section 411.6, subsection 11.

Sec. 70. Section 411.8, subsection 1, paragraph f, subparagraph (8), and unnumbered paragraphs 2 and 3, Code Supplement 1991, are amended to read as follows:

(8) Beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted, multiplied by four-tenths, or nine and one-tenth percent, whichever is greater. However, the system shall increase this percentage for its members the member's contribution rate as necessary to cover any increase in cost to the system resulting from statutory changes which are enacted by any session of the general assembly meeting after January 1, 1991, if the increase cannot be absorbed within the contribution rates otherwise established pursuant to this paragraph, but subject to a maximum employee contribution rate of eleven and three-tenths percent. After the employee contribution reaches the maximum rate specified in this subparagraph eleven and three-tenths percent, sixty percent of the additional cost of such statutory changes shall be paid by employers under paragraph "c" and forty percent of the additional cost shall be paid by employees under this paragraph.

Beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the fund from the earnable compensation of the member.

The total amount to be contributed by the member shall be determined by the actuary after each valuation.

Sec. 71. Section 411.38, subsection 2, Code 1991, is amended to read as follows:

2. Transfer from each terminated city fire or police retirement system to the statewide system amounts sufficient to cover the accrued liabilities of that terminated system as determined by the actuary of the statewide system. The actuary of the statewide system shall redetermine the accrued liabilities of the terminated systems as necessary to take into account additional amounts payable by the city which are attributable to errors or omissions which occurred prior to January 1, 1992, or to matters pending as of January 1, 1992.

Sec. 72. NEW SECTION. 602.9107A OPTIONAL RETIREMENT AND DECREASED ANNUITY.

1. Notwithstanding section 602.9106, a judge who is fifty-five years of age or older and who has served at least twenty consecutive years as a judge of one or more of the courts included in this article shall be entitled to receive a decreased annuity.

2. The amount of the decreased annuity shall be the actuarial equivalent of the amount of the annuity payable to judges pursuant to section 602.9107, subsections 1 and 2. A judge shall make an election request in writing to the state court administrator prior to retirement in order to receive an annuity pursuant to this section. A judge may revoke the election prior to retirement by providing a written request to the state court administrator.

3. The decreased annuity provided in this section shall be in lieu of the annuities and refunds provided for in sections 602.9107, 602.9108, 602.9115, 602.9204, 602.9208, and 602.9209.

Sec. 73. Section 602.9204, Code 1991, is amended to read as follows:

**602.9204 ANNUITY OF SENIOR JUDGE AND RETIRED SENIOR JUDGE.**

A senior judge or a retired senior judge shall not be paid a salary. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the current basic salary, as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed fifty percent of the current basic salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to three percent of the basic salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed fifty percent of the basic salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. In addition, if a senior judge is under sixty-five years of age at the time the judge becomes a senior judge, the state shall pay the state's share of the senior judge's medical insurance premium until the judge attains age sixty-five.

As used in this section, unless the context otherwise requires, "basic salary cap" means the basic salary, at the end of the twelve-month period during which the senior judge or retired senior judge attained seventy-eight years of age, of the office in which the person last served as a judge before retirement as a judge or senior judge.

\*Sec. 74. Section 602.9204, Code 1991, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** *Effective with the fiscal year commencing July 1, 1993, and for each subsequent fiscal year, there is appropriated annually from the general fund of the state to the judicial retirement fund from funds not otherwise appropriated an amount sufficient to pay the annual costs of this part 2 of chapter 602, article 9, the Iowa senior judge Act, which shall include the costs of all additional benefits paid as a result of the Iowa senior judge Act.\**

**Sec. 75. MEMBERSHIP IN FIRE AND POLICE RETIREMENT SYSTEMS.**

1. As used in this section, unless the context otherwise requires, "qualified member" means a person who meets each of the following conditions:

a. Was a member of the retirement system established in chapter 411 with four or more but fewer than fifteen years of membership service as of July 1, 1989.

b. Terminated employment with the city which employed the member as of July 1, 1989, before the member attained the age of fifty-five and twenty-two years of service.

c. Was subsequently employed as a police officer or fire fighter as of July 1, 1990, by a city which attained a population of eight thousand or more as a result of the federal census

\*Item veto; see message at end of the Act

conducted in 1990 and which was not a participating city subject to this chapter on July 1, 1990, and has not subsequently joined the statewide system established in chapter 411.

2. Notwithstanding any other provision of law to the contrary, a qualified member shall receive benefits under chapter 411 pursuant to this section. Unless in conflict with this section, the provisions of chapter 411 pertaining to members shall also pertain to qualified members. Upon attaining retirement age, a qualified member shall receive a service retirement allowance of one twenty-second of the retirement allowance the qualified member would have received if the qualified member had qualified for full benefits pursuant to section 411.6, subsection 1, paragraph "a", 1989 Code of Iowa, for each year of service the qualified member had served.

3. A qualified member must submit an application for coverage pursuant to this section to the board of trustees for membership in the system no later than September 1, 1992. The board of trustees shall notify the city which employed the member as of July 1, 1989, that it must transfer to the board of trustees an amount sufficient to cover the accrued liability of the member, including interest on the accrued liability from December 31, 1991, through the date of payment. The participating city shall transfer that amount to the statewide system.

Sec. 76. SENIOR JUDGES — IMPLEMENTATION. Notwithstanding the amendments to section 602.9204 contained in section 73 of this Act, all judges whose names are entered on the roster of senior judges pursuant to section 602.9203, subsection 3, as of June 30, 1992, and all persons who are retired senior judges as of June 30, 1992, shall continue to receive an annuity calculated pursuant to section 602.9204, 1991 Code of Iowa, and shall not be subject to the amendments to that section contained in this Act. This Act shall not be construed in a manner which reduces benefits to persons who participated as senior judges prior to July 1, 1992.

Sec. 77. Sections 97B.3, 97B.26, and 97B.71, Code 1991, are repealed.

Sec. 78. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The portion of this Act which amends section 97B.41, subsection 3, paragraph "b", by adding a new subparagraph (16), being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1992.

2. The portion of this Act which amends section 97B.50, subsection 2, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1990.

3. The section of this Act which amends section 411.6, subsection 2, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1992.

4. The section of this Act which amends section 411.38, subsection 2, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1992.

*Approved April 30, 1992, except the item which I hereby disapprove and which is designated as Section 74 in its entirety. My reason for vetoing the item is delineated in the item veto message pertaining to this Act to the Speaker of the House this same date, a copy of which is attached hereto.*

TERRY E. BRANSTAD, Governor



Dear Mr. Speaker:

I hereby transmit House File 2450, an Act relating to public retirement systems and administration and benefits of the Iowa public employees' retirement system, including penalties, making an appropriation, and providing effective and retroactive applicability dates.

House File 2450 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 74, in its entirety. This section would establish a standing unlimited appropriation for the Iowa Senior Judge Act. Given the pending action of the General Assembly to eliminate many standing unlimited appropriations in order to regain control of government spending, it is inconsistent and inappropriate to establish a new standing unlimited appropriation. Because there is an imperative need to remove automatic appropriations from the general fund budget, I am unable to approve this item.

For the above reason, I hereby respectfully disapprove this item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2450 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, *Governor*

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## CHAPTER 1202

### STRUCTURED FINES PILOT PROGRAM

*S.F. 2241*

**AN ACT** establishing a structured fines pilot program and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. STRUCTURED FINES PILOT PROGRAM — DEPARTMENT OF HUMAN RIGHTS, DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING. The general assembly hereby finds that the structured fines system of imposing fines has been successfully utilized in several countries of Europe and in the states of New York and Arizona. The general assembly further finds that a fine imposed as a criminal sanction should be proportionate to the severity of the offense and should equally impact individuals of differing financial resources, and that the sentencing of a criminal defendant pursuant to a structured fines program, in which fine amounts for some or all offenses are calculated and imposed according to the nature of the offense and the offender's financial resources, is not contrary to any existing provision of law. The general assembly further finds that the implementation of a structured fines pilot program within this state could serve as a test for a fairer method of dispensing criminal justice and could increase the overall amount of criminal fines collected from offenders, reduce the volume of delinquent and unpaid fines, reduce the number of offenders sentenced to formal probation, and help to alleviate the overcrowded conditions at the penal institutions within the state.

The department of human rights, division of criminal and juvenile justice planning is authorized to participate in a federal discretionary grant program to test the structured fines concept in counties and judicial districts also wishing to participate in the pilot program. Sections 2 through 5 of this Act shall apply only within those counties and judicial districts agreeing with the department of human rights, division of criminal and juvenile justice planning to participate in this pilot program from enactment of this Act through June 30, 1993.