

CHAPTER 1187
PUBLIC RETIREMENT SYSTEMS
S.F. 2245

AN ACT relating to public retirement systems, making appropriations, and providing effective and retroactive applicability dates.

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

DIVISION I
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Section 1. Section 97B.4, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department, through the 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 in conformity with the requirements of this chapter, the applicable provisions of the Internal Revenue Code, and all other applicable federal and state laws. 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. 2. Section 97B.7, subsection 2, paragraph b, unnumbered paragraphs 1 through 3, Code 1995, are amended to read as follows:

To invest the portion of the retirement fund which in the judgment of the department is not needed for current payment of benefits under this chapter. The department shall execute the disposition and investment of moneys in the retirement fund in accordance with the investment policy and goal statement established by the investment board. In establishing the investment policy of the fund and the investment of the fund, the department and investment board shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital. Within the limitations of the standard prescribed in this section, the treasurer of state, the department, and the board may acquire and retain every kind of property and every kind of investment which persons of prudence, discretion, and intelligence acquire or retain for their own account.

The department and investment board shall give appropriate consideration to those facts and circumstances that the department and investment board know or should know are relevant to the particular investment or investment policy involved, including the role the investment plays in the total value of the retirement fund.

For the purposes of this paragraph, appropriate consideration includes, but is not limited to, a determination by the department and investment board that the particular investment or investment policy is reasonably designed to further the purposes of the retirement system, taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment or investment policy and consideration of the following factors as they relate to the retirement fund:

Sec. 3. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 5, Code 1995, is amended to read as follows:

Except as provided in section 97B.4, if there is loss to the fund, the treasurer, the department, and the board are not personally liable, and the loss shall be charged against the

retirement fund. There is appropriated from the retirement fund the amount required to cover a loss. Expenses incurred in the sale and purchase of securities belonging to the retirement fund shall be charged to the retirement fund, and there is appropriated from the retirement fund the amount required for the expenses incurred. Investment management expenses shall be charged to the investment income of the retirement fund, and there is appropriated from the retirement fund the amount required for the investment management expenses, subject to the limitations stated in this unnumbered paragraph. The amount appropriated for a fiscal year under this unnumbered paragraph shall not exceed ~~one-half~~ four-tenths of one percent of the market value of the retirement fund. The department shall report the investment management expenses for a fiscal year as a percent of the market value of the retirement fund in the annual report to the governor required in section 97B.4. A person who has signed a contract with the department for investment management purposes shall meet the requirements for doing business in Iowa sufficient to be subject to tax under rules of the department of revenue and finance.

Sec. 4. Section 97B.11, Code 1995, 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 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 five and seventy-five hundredths percent of the covered wages of the member.

If the total of the contributions to be deducted from the wages of a member and contributions picked up and paid by the employer shall not exceed one dollar for any calendar quarter, contributions shall not be deducted or paid concerning that member and the member shall not receive credit for membership service for that quarter.

Sec. 5. Section 97B.14, Code 1995, is amended to read as follows:

97B.14 CONTRIBUTIONS FORWARDED.

Contributions deducted from the wages of the member ~~or under section 97B.11 prior to January 1, 1995,~~ member contributions picked up by the employer under section 97B.11A beginning January 1, 1995, and the employer's contribution shall be forwarded to the department for recording and deposited with the treasurer of the state to the credit of the Iowa public employees' retirement fund. Contributions shall be remitted monthly, if total contributions by both employee and employer amount to one hundred dollars or more each month, and shall be otherwise paid in such manner, at such times and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the member, as may be prescribed by the department.

Sec. 6. Section 97B.15, Code 1995, is amended to read as follows:

97B.15 RULES, POLICIES, AND PROCEDURES.

The department may adopt rules under chapter 17A and establish procedures, not inconsistent with this chapter, which are necessary or appropriate to implement this chapter and shall adopt reasonable and proper rules to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the proofs and evidence in order to establish the right to benefits under this chapter. The department may adopt rules, and take action based on the rules, to conform the requirements for receipt of retirement benefits under this chapter to the mandates of applicable federal statutes and regulations.

Prior to the adoption of rules, the department may establish interim written policies and procedures, and take action based on the policies and procedures, to conform the requirements for receipt of retirement benefits under this chapter to the applicable requirements of federal law.

Sec. 7. Section 97B.17, unnumbered paragraph 1, Code 1995, 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. The records may be maintained in paper, magnetic, or electronic form, including optical disk storage. 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. 8. Section 97B.17, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provisions of chapter 22 to the contrary, the department's records may be released to any political subdivision, instrumentality, or other agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this paragraph. To obtain the records, the political subdivision, instrumentality, or agency shall, in writing, certify that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The department shall not be civilly or criminally liable for the release or rerelease of records in accordance with this paragraph.

Sec. 9. Section 97B.25, Code 1995, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the chief benefits officer and referred to in this chapter as a retirement benefits 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 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 as provided in section 97B.20A, the decision is final and benefits shall be paid or denied in accord with the decision. A retirement application shall not be amended or revoked by the member once the first retirement allowance is paid. A member's death during the first month of entitlement shall not invalidate an approved application.

Sec. 10. Section 97B.39, Code 1995, is amended to read as follows:

97B.39 RIGHTS NOT TRANSFERABLE - ~~NOT~~ OR SUBJECT TO LEGAL PROCESS - EXCEPTIONS.

The right of any person to any future payment under this chapter is not transferable or assignable, at law or in equity, and the moneys paid or payable or rights existing under this chapter are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter 97B shall not exceed the amount specified in 15 U.S.C. § 1673(b). The department shall comply with the provisions of a marital property order requiring the selection of a particular benefit option, designated beneficiary, or contingent annuitant if the selection is otherwise authorized by this chapter and the member has not received payment of the member's first retirement allowance. However, a marital property order shall not require the payment of benefits to an alternative payee prior to the member's retirement, prior to the date the member elects to receive a lump sum distribution of accumulated contributions pursuant to section 97B.53, or in an amount that exceeds the benefits the member would otherwise be eligible to receive pursuant to this chapter.

Sec. 11. Section 97B.41, subsection 2, Code Supplement 1995, is amended to read as follows:

2. "Accumulated contributions" means the total obtained as of any date, by accumulating each individual contribution by the member ~~at two percent with~~ interest plus interest dividends as provided in section 97B.70, for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years ~~at two percent interest plus the interest dividend rate calculated for the previous year, compounded annually, from the end of the calendar year in which such contribution was made to the first day of the month of such date~~ as provided in section 97B.70.

Sec. 12. Section 97B.41, subsection 8, paragraph b, subparagraph (6), Code Supplement 1995, is amended to read as follows:

(6) Employees hired for temporary employment of less than six months 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 or a university governed by the state board of regents without a continuing contract, whose teaching load does not exceed one-half time for two full semesters or three full quarters per calendar year.

Sec. 13. Section 97B.41, subsection 8, paragraph b, Code Supplement 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (20) Persons employed through any program described in section 15.225, subsection 1, and provided by the Iowa conservation corps.

Sec. 14. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Internal Revenue Code" means the Internal Revenue Code as defined in section 422.3.

Sec. 15. Section 97B.41, subsection 12, Code Supplement 1995, is amended to read as follows:

12. "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. In determining a member's period of membership service, the department shall combine all periods of service for which the member has made contributions. If the department has not maintained the accumulated contribution account of the member for a period of service, as provided pursuant to section 97B.53, subsection 6, the department shall credit the member for the service if the member submits satisfactory proof to the department that the member did make the contributions for the period of service and did not take a refund for the period of service. ~~However, the department shall not implement the amendments to this subsection, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this subsection and to section 97B.53, subsections 3 and 7, section 97B.53, subsection 6, unnumbered paragraph 1, and section 97B.70, by enacting a new subsection 4, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priorities of the system. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.41, subsection 12, Code Supplement 1993. As used in this subsection, unless the context otherwise requires, "other established priorities of the system" means that commencing January 1 following the most~~

~~recent annual actuarial valuation of the system, the department has increased the covered wage limitation from the previous year by three thousand dollars, in accordance with section 97B.41, subsection 20, paragraph "b", subparagraph (11), and that the department has implemented the amendments to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183.~~

Sec. 16. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Regular service" means service for an employer other than special service.

Sec. 17. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. "Retirement" means that period of time beginning when a member who has filed an approved application for a retirement allowance has survived into at least the first day of the member's first month of entitlement and ending when the member dies.

Sec. 18. Section 97B.41, subsection 15, paragraphs a and b, Code Supplement 1995, are amended to read as follows:

a. Service in the armed forces of the United States, if the employee was employed by the employer immediately prior to entry into the armed forces, and if the employee was released from service and returns to covered employment with the employer within twelve months of the date on which the employee has the right of release from service or within a longer period as ~~provided~~ required by the applicable laws of the United States.

b. Leave of absence or vacation authorized by the employer for a period not exceeding twelve months. A leave of absence authorized pursuant to the requirements of the federal Family and Medical Leave Act of 1993 is considered a leave of absence authorized by the employer.

Sec. 19. Section 97B.41, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 16A. "Special service" means service for an employer while employed in a protection occupation as provided in section 97B.49, subsection 16, paragraph "a", and as a county sheriff, deputy sheriff, or airport fire fighter as provided in section 97B.49, subsection 16, paragraph "b".

Sec. 20. Section 97B.41, subsection 18, Code Supplement 1995, is amended to read as follows:

18. a. "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 computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination 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.

b. Notwithstanding any other provisions of this subsection to the contrary, the three-year average covered wage shall be computed as follows for the following members:

(1) For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds forty-eight thousand dollars, the member's covered wages averaged for the highest four years of the member's service or forty-eight thousand dollars, whichever is greater.

(2) For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds fifty-two thousand dollars, the member's covered wages averaged for the highest five years of the member's service or fifty-two thousand dollars, whichever is greater.

(3) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds fifty-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or fifty-five thousand dollars, whichever is greater.

(4) For a member who retires on or after January 1, 2000, but before January 1, 2003, and whose three-year average covered wage at the time of retirement exceeds fifty-five thousand dollars, the member's covered wages averaged for the highest seven years of the member's service or fifty-five thousand dollars, whichever is greater.

For purposes of this paragraph, the highest years of the member's service shall be determined using calendar years and may be determined using one computed year calculated in the manner and subject to the restrictions provided in paragraph "a".

Sec. 21. Section 97B.41, subsection 20, paragraph b, subparagraph (11), unnumbered paragraphs 1 and 2, Code Supplement 1995, are amended by striking the unnumbered paragraphs and inserting in lieu thereof the following:

(1) For the calendar year beginning January 1, 1991, wages not in excess of thirty-one thousand dollars.

(11A) For the calendar year beginning January 1, 1992, wages not in excess of thirty-four thousand dollars.

(11B) For the calendar year beginning January 1, 1993, wages not in excess of thirty-five thousand dollars.

(11C) For the calendar year beginning January 1, 1994, wages not in excess of thirty-eight thousand dollars.

(11D) For the calendar year beginning January 1, 1995, wages not in excess of forty-one thousand dollars.

(11E) For the calendar year beginning January 1, 1996, wages not in excess of forty-four thousand dollars.

(11F) Commencing with the calendar year beginning January 1, 1997, and for each subsequent calendar year, wages not in excess of the amount permitted for that year under section 401(a)(17) of the Internal Revenue Code.

Sec. 22. Section 97B.41, subsection 20, paragraph b, subparagraph (11), unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in section 97B.49, subsection 16 or 17, the department shall establish the covered wages limitation which applies to members covered under section 97B.49, subsection 16 or 17, at the same level as is established under this subparagraph for other members of the system.

Sec. 23. Section 97B.42, unnumbered paragraph 1, Code 1995, 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 shall become a member upon the first day in which such employee is employed. The employee shall continue to be an active member so long as the employee continues in covered employment. The employee shall

cease to be an active member if the employee joins another retirement system in the state which is maintained in whole or in part by public contributions or payments and receives retirement credit for service in that other system for the same position previously covered under this chapter. If an employee joins another publicly maintained retirement system and ceases to be an active member under this chapter, the employee may elect to leave the employee's accumulated contributions in the retirement fund or receive a refund of the employee's accumulated contributions in the manner provided for members who are terminating covered employment pursuant to section 97B.53. However, if an employee joins another publicly maintained retirement system and leaves the employee's accumulated contributions in the retirement fund, the employee shall not be eligible to receive retirement benefits until the employee has a bona fide retirement from employment with a covered employer as provided in section 97B.52A, or until the employee would otherwise be eligible to receive benefits upon attaining the age of seventy years as provided in section 97B.46.

Sec. 24. Section 97B.42, unnumbered paragraph 4, Code 1995, is amended to read as follows:

Persons who are members of any other retirement system in the state which is maintained in whole or in part by public contributions other than persons who are covered under the provisions of chapter 97, Code 1950, as amended by the Fifty-fourth General Assembly on the date of the repeal of said chapter, under the provisions of sections 97.50 through 97.53 shall not become members under this chapter while still actively participating in that other retirement system unless the persons do not receive retirement credit for service in that other system for the position to be covered under this chapter.

Sec. 25. Section 97B.42, unnumbered paragraph 5, Code 1995, is amended to read as follows:

Nothing herein contained shall be construed to permit any ~~person in public employment to be an active member of~~ employer to make any public contributions or payments on behalf of an employee in the same position for the same period of time to both the Iowa public employees' retirement system and of any other retirement system in the state which is supported in whole or in part by public contributions or payments ~~except as heretofore provided~~.

Sec. 26. Section 97B.42, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, a "retirement system in the state which is maintained in whole or in part by public contributions or payments" shall not include a deferred compensation plan established under section 509A.12 or a tax-sheltered annuity qualified under section 403(b) of the Internal Revenue Code.

Sec. 27. Section 97B.48, subsection 1, Code 1995, is amended to read as follows:

1. Retirement allowances shall be paid monthly, except that an allowance of less than six hundred dollars a year may, at the member's option, be paid as a lump sum in an ~~actuarial equivalent~~ amount equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966. Receipt of the lump-sum payment by a member shall terminate any and all entitlement for the period of service covered of the member under this chapter.

Sec. 28. Section 97B.48A, subsection 1, Code 1995, is amended to read as follows:

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 not reached the member's sixty-fifth birthday and 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 reduced by fifty cents for each dollar the member earns over the limit provided in this subsection.~~ 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, or an amount equal to the amount of remuneration permitted for a calendar year for persons under sixty-five years of age before a reduction in federal Social Security retirement benefits is required, whichever is higher. 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 without a reduction after return to covered employment regardless of the amount of remuneration received.

If a member dies and the full amount of the reduction from retirement allowances required under this subsection has not been paid, the remaining amounts shall be deducted from the payments made, if any, to the member's designated beneficiary or contingent annuitant. If the member has selected an option under which remaining payments are not required or the remaining payments are insufficient to satisfy the full amount of the reduction from retirement allowances required under this subsection, the amount still unpaid shall be a claim against the member's estate.

Sec. 29. Section 97B.48A, subsection 4, Code 1995, is amended to read as follows:

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 as provided in section 97B.70, for all completed calendar years, compounded ~~annually as provided in section 97B.70,~~ on the covered wages earned by a retired member that are not used in the recalculation of the retirement allowance of a member.

Sec. 30. Section 97B.49, subsection 4, Code Supplement 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective January 1, 1997, for members who retired on or after July 1, 1953, and before July 1, 1990, with at least ten years of prior and membership service, the minimum monthly benefit payable at the normal retirement date for prior and membership service shall be two hundred dollars. The minimum monthly benefit payable shall be increased by ten dollars for each year of prior and membership service beyond ten years, up to a maximum of twenty additional years of prior and membership service. If benefits commenced on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50. If an optional allowance was selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit.

Sec. 31. Section 97B.49, subsection 5, paragraph b, Code Supplement 1995, is amended to read as follows:

b. For each active or inactive vested member retiring on or after July 1, 1990, with four or more complete years of service, a monthly benefit shall be computed which is equal to one-twelfth of an amount equal to ~~fifty-two percent~~ the applicable percentage multiplier of the three-year average covered wage multiplied by a fraction of years of service. The applicable percentage multiplier shall be the following:

(1) For active or inactive vested members retiring on or after July 1, 1990, but before July 1, 1991, fifty-two percent.

(2) For active or inactive vested members retiring on or after July 1, 1991, but before July 1, 1992, fifty-four percent.

(3) For active or inactive vested members retiring on or after July 1, 1992, but before July 1, 1993, fifty-six percent.

(4) For active or inactive vested members retiring on or after July 1, 1993, but before July 1, 1994, fifty-seven and four-tenths percent.

(5) For active or inactive vested members retiring on or after July 1, 1994, sixty percent.
The applicable percentage multiplier shall be subject to adjustments as provided in paragraphs "e" and "f".

~~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. However, commencing July 1, 1994, if the annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb an increase in the percentage multiplier in excess of two percent, the department shall increase the percentage multiplier for that year beyond two percent to the extent which the increase can be absorbed by the contribution rates in effect, not to exceed a maximum percentage multiplier of sixty percent. The increase in the percentage multiplier for a year applies only to the members retiring on or after July 1 of the respective year.~~

~~If the annual actuarial valuation of the retirement system in any year indicates that the full cost of the increase provided under this paragraph cannot be absorbed within the employer and employee contribution rates in effect under section 97B.11, the department shall reduce the increase to a level which the department determines can be so absorbed.~~

~~Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in subsection 16 or 17, the department shall establish apply the percentage multiplier which applies to members covered under subsection 16 or 17 at the same level as is established under this subsection for other members of the system, including any modification in the percentage multiplier as provided in paragraphs "e" and "f".~~

~~By November 15, 1995, the department shall set aside from other moneys in the retirement fund three million eight hundred sixty thousand dollars. The moneys set aside shall be from the funds generated by the employer and employee contributions in effect under section 97B.11 that exceed the amount necessary to fund the system's existing liabilities, as determined in the annual actuarial valuation of the system as of June 30, 1995. If the annual actuarial valuation indicates that the amount of the employer and employee contributions in excess of the amount necessary to fund existing liabilities is less than three million eight hundred sixty thousand dollars, the department shall set aside all funds that are available. The funds set aside shall not be used in determining the covered wage limitation pursuant to section 97B.41, subsection 20, paragraph "b", subparagraph (11), on January 1, 1996. However, any funds set aside which are not specifically dedicated to a purpose by the Seventy-sixth General Assembly shall be used in determining the covered wage limitation thereafter.~~

~~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. 32. Section 97B.49, subsection 5, Code Supplement 1995, is amended by adding the following new paragraph:*

NEW PARAGRAPH. *e. Notwithstanding any other provisions of this section to the contrary, for members retiring on or after July 1, 1997, and whose three-year average covered wage exceeds fifty-five thousand dollars, the monthly benefit shall be calculated by multiplying the sum of the following amounts by the fractions of years of service for that member.*

(1) For the first fifty-five thousand dollars of the member's three-year average covered wage, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection multiplied by fifty-five thousand dollars.

(2) For that portion of a member's three-year average covered wage that exceeds fifty-five thousand dollars but is less than or equal to sixty-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by ten percentage points, multiplied by that portion.

(3) For that portion of a member's three-year average covered wage that exceeds sixty-five thousand dollars but is less than or equal to seventy-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by fifteen percentage points, multiplied by that portion.

(4) For that portion of a member's three-year average covered wage that exceeds seventy-five thousand dollars but is less than or equal to eighty-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by twenty percentage points, multiplied by that portion.

(5) For that portion of a member's three-year average covered wage that exceeds eighty-five thousand dollars but is less than or equal to ninety-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by thirty percentage points, multiplied by that portion.

(6) For that portion of a member's three-year average covered wage that exceeds ninety-five thousand dollars, one-twelfth of an amount equal to the applicable percentage multiplier otherwise provided in this subsection, reduced by forty percentage points, multiplied by that portion.

The covered wage categories referred to in subparagraphs (1) through (6) of this paragraph and the fifty-five thousand dollar amount otherwise specified in this paragraph shall be increased by the department for each fiscal year, beginning July 1, 1998, by an amount that represents the increase in the consumer price index during the previous twelve-month period ending on June 30, as published annually in the federal register by the federal department of labor, bureau of labor statistics.*

Sec. 33. Section 97B.49, subsection 5, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For each active or inactive vested member retiring on or after July 1, 1996, the percentage multiplier of the three-year average covered wage used under subsections 5, 15, 16, and 17 to calculate the monthly retirement allowance shall be increased by one-fourth of one percentage point for each additional calendar quarter of membership service beyond the applicable years of service, not to exceed a total of five additional percentage points. For purposes of this paragraph, "the applicable years of service" shall be the following, based upon the service retirement allowance selected:

(1) For members receiving a retirement allowance for regular service under subsection 5 or 15, or receiving a combined retirement allowance under subsection 17, the applicable years of service is thirty.

(2) For members receiving a retirement allowance for service in a protection occupation under subsection 16, paragraph "a", the applicable years of service is twenty-five.

(3) For members receiving a retirement allowance for service as a sheriff, deputy sheriff, or airport fire fighter under subsection 16, paragraph "b", subparagraph (1) or (2), the applicable years of service is twenty-two.

Sec. 34. Section 97B.49, subsection 13, Code Supplement 1995, 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 1994 and the November 1995 1996 monthly benefit payments ~~payment~~ a retirement dividend equal to ~~one two hundred eighty-one~~ twenty-three percent of the monthly

*Item veto; see message at end of the Act

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 1994 and the November 1995~~ 1996 monthly benefit ~~payments~~ payment a retirement dividend equal to two hundred ~~thirty-six~~ ninety-two 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", "d", ~~or "f", or "g"~~, 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 1994 and the November 1995~~ 1996 monthly benefit ~~payments~~ payment a retirement dividend equal to ~~forty-nine~~ seventy-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 to the member's account, upon notification of the member's death. 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.~~

f. A member who retired from the system between July 1, 1986, and June 30, 1990, or a contingent annuitant or beneficiary of such a member, shall receive with the ~~November 1996 and the November 1997~~ monthly benefit ~~payments~~ payment a retirement dividend ~~in an amount determined by the general assembly 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.

Sec. 35. Section 97B.49, subsection 13, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Effective July 1, 1997, commencing with dividends payable in November 1997, and for each subsequent year, all members who retired prior to July 1, 1990, shall be eligible for annual dividend payments, payable in November of that year, pursuant to the requirements of this paragraph. The dividend payable in any given year shall be the sum of the dollar amount of the dividend payable in the previous November and the dividend adjustment.

The dividend adjustment for a given year shall be calculated by multiplying the total of the retiree's monthly benefit payments and the dividend payable to the retiree in the previous calendar year by the applicable percentage as determined by this paragraph. The applicable percentage shall be the least of the following percentages:

(1) The percentage representing eighty percent of the percentage increase in the consumer price index published in the federal register by the federal department of labor, bureau of labor statistics, that reflects the percentage increase in the consumer price index for the twelve-month period ending June 30 of the year that the dividend is to be paid.

(2) The percentage representing the percentage amount the actuary has certified, in the annual actuarial valuation of the system as of June 30 of the year in which the dividend is to be paid, that the fund can absorb without requiring an increase in the employer and employee contributions to the fund.

(3) Three percent.

The dividend determined pursuant to this paragraph shall not be used to increase the monthly benefit amount payable.

Sec. 36. Section 97B.49, subsection 15, paragraph b, Code Supplement 1995, is amended to read as follows:

b. For each active or inactive vested member retiring on or after July 1, 1990, and before July 1, 1996, who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety-two, a monthly benefit shall be computed which is equal to one-twelfth of the same percentage of the three-year average covered wage of the member as is provided in subsection 5.

Sec. 37. Section 97B.49, subsection 15, Code Supplement 1995, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. For each active or inactive vested member retiring on or after July 1, 1996, and before the implementation date provided in paragraph "d", subparagraph (2), who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds ninety, a monthly benefit shall be computed which is equal to one-twelfth of the same percentage of the three-year average covered wage of the member as is provided in subsection 5, multiplied by a fraction of years of service as is provided in subsection 5.

NEW PARAGRAPH. d. (1) For each active or inactive vested member retiring on or after the implementation date provided in subparagraph (2), who is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds eighty-eight, a monthly benefit shall be computed which is equal to one-twelfth of the same percentage of the three-year average covered wage of the member as is provided in subsection 5, multiplied by a fraction of years of service as is provided in subsection 5.

(2) The department shall implement this paragraph on July 1, 1997, or on the date that the department determines that the most recent annual actuarial valuation of the system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the costs of this paragraph, whichever is later. However, until this paragraph is implemented, the department shall not pay a dividend adjustment pursuant to subsection 13, paragraph "g".

Sec. 38. Section 97B.49, subsection 16, paragraph e, Code Supplement 1995, is amended to read as follows:

e. Annually, the department of personnel shall actuarially determine the cost of the additional benefits provided for members covered under paragraph "a" and the cost of the additional benefits provided for members covered under paragraph "b" as percents of the covered wages of the employees covered by this subsection. Sixty percent of the cost shall be paid by the employers of employees covered under this subsection and forty percent of the cost shall be paid by the employees. The employer and employee contributions required under this paragraph are in addition to the contributions paid under ~~section~~ sections 97B.11 and 97B.11A.

Sec. 39. Section 97B.49, subsection 16, Code Supplement 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. For the fiscal year commencing July 1, 1992, and each succeeding fiscal year, the department of public safety shall pay to the department of personnel from funds appropriated to the department of public safety, the amount necessary to pay the employer share of the cost of the additional benefits provided to a fire prevention inspector peace officer pursuant to paragraph "d", subparagraph (8).

Sec. 40. Section 97B.49, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 17. a. An active or inactive vested member, who is or has been employed in both special service and regular service, who retires on or after July 1, 1996, with four or more completed years of service and at the time of retirement is at least fifty-five years of age, may elect to receive, in lieu of the receipt of any other benefits under this section, a combined monthly retirement allowance equal to the sum of the following:

(1) One-twelfth of an amount equal to the applicable percentage multiplier established in subsection 5 of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this subparagraph shall be the actual years of service, not to exceed twenty-two, earned in a position described in subsection 16, paragraph "b", for which special service contributions were made, divided by twenty-two.

(2) One-twelfth of an amount equal to the applicable percentage multiplier established in subsection 5 of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this subparagraph shall be the actual years of service, not to exceed twenty-five, earned in a position described in subsection 16, paragraph "a", for which special service contributions were made, divided by twenty-five.

(3) One-twelfth of an amount equal to the applicable percentage multiplier established in subsection 5 of the member's three-year average covered wage multiplied by a fraction of years of service. The fraction of years of service for purposes of this subparagraph shall be the actual years of service, not to exceed thirty, for which regular service contributions were made, divided by thirty. However, any otherwise applicable age reduction for early retirement shall apply to the calculation under this subparagraph.

In calculating the fractions of years of service under subparagraphs (1) and (2), a member shall not receive special service credit for years of service for which the member and the member's employer did not make the required special service contributions to the department.

b. In calculating the combined monthly retirement allowance pursuant to paragraph "a", the sum of the fraction of years of service provided in paragraph "a", subparagraphs (1), (2), and (3), shall not exceed one. If the sum of the fractions of years of service would exceed one, the department shall deduct years of service first from the calculation under paragraph "a", subparagraph (3), and then from the calculation under paragraph "a", subparagraph (2), if necessary, so that the sum of the fractions of years of service shall equal one.

c. (1) In calculating the combined monthly retirement allowance pursuant to paragraph "a", for members retiring on or after July 1, 1997, whose three-year average covered wage exceeds fifty-five thousand dollars, each calculation under paragraph "a", subparagraphs (1), (2), and (3) of this subsection shall be subject to reduction, calculated in the manner provided in subsection 5, paragraph "e".

(2) In calculating the combined monthly retirement allowance pursuant to paragraph "a", and in determining the applicable percentage multiplier established in subsection 5, the member shall be entitled to an addition in the percentage multiplier in accordance with subsection 5, paragraph "f", only for those years of service in excess of thirty years. Any addition in the percentage multiplier shall be included in the calculations required under paragraph "a", subparagraphs (1), (2), and (3) of this subsection.

Sec. 41. Section 97B.50, subsection 2, Code 1995, is 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 federal Social Security Act, 42 U.S.C. § 423 et seq., and who has not reached the normal retirement date, shall receive 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, notwithstanding the requirements of subsection 4.

b. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., and who has not reached the normal retirement date, shall receive 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. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990, notwithstanding the requirements of subsection 4.

Sec. 42. Section 97B.51, subsection 3, Code Supplement 1995, is amended to read as follows:

3. A member who had elected to take the option stated in subsection 1 of this section may, at any time prior to retirement, revoke such an election by written notice to the department. A member shall not change or revoke an election once the first retirement allowance is paid.

Sec. 43. Section 97B.51, subsection 5, Code Supplement 1995, is amended to read as follows:

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 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~~ and shall be limited to the amount of the member's accumulated contributions. 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.

Sec. 44. Section 97B.51, subsection 6, Code Supplement 1995, is amended to read as follows:

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. When the member designates multiple beneficiaries, the present value of the remaining payments shall be paid in a lump sum to each beneficiary, either in equal shares to the beneficiaries, or if the member specifies otherwise in a written request, in the specified proportion. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

Sec. 45. Section 97B.52, subsection 1, Code Supplement 1995, is amended to read as follows:

1. If a member dies prior to the member's first month of entitlement, 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~~ the applicable denominator 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.

As used in this subsection, "applicable denominator" means the following, based upon the type of membership service in which the member served either on the date of death, or if the member died after terminating service, on the date of the member's last termination of service:

a. For regular service, the applicable denominator is thirty.

b. For service in a protection occupation, as defined in section 97B.49, subsection 16, paragraph "d", the applicable denominator is twenty-five.

c. For service as a sheriff, deputy sheriff, or airport fire fighter, as provided in section 97B.49, subsection 16, paragraph "b", the applicable denominator is twenty-two.

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

Sec. 46. Section 97B.52, subsection 3, paragraph b, Code Supplement 1995, 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 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~~ five years of the member's death.

The department shall reinstate a designated beneficiary's right to receive a death benefit beyond the five-year limitation if the designated beneficiary was the member's spouse at the time of the member's death and the distribution is required or permitted pursuant to Internal Revenue Code section 401(a)(9) and the applicable treasury regulations.

Sec. 47. Section 97B.52, subsection 5, Code Supplement 1995, is amended to read as follows:

5. Following written notification to the department, a beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would otherwise be entitled under sections 97B.51 and this section. Upon receipt of the waiver, the department shall pay ~~to the estate of the deceased member~~ the amount designated to be received by ~~the that beneficiary to the member's other surviving beneficiary or beneficiaries or to the estate of the deceased member, as elected by the beneficiary in the waiver. If the payments being waived are payable to the member's estate and an estate is not probated, the payments shall be paid to the deceased member's surviving spouse, or if there is no surviving spouse, to the member's heirs other than the beneficiary who waived the payments.~~

Sec. 48. Section 97B.52A, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A member who terminates covered employment but maintains an employment relationship with an employer that made contributions to the system on the member's behalf does not have a bona fide retirement until all employment, including employment which is not covered by this chapter, with such employer is terminated for at least thirty days. In order to receive retirement benefits, the member must file a completed application for benefits form with the department before returning to any employment with the same employer.

Sec. 49. Section 97B.53, subsection 3, Code Supplement 1995, is amended to read as follows:

3. The accumulated contributions of a terminated, vested member shall be credited with interest, including interest dividends, in the manner provided in section 97B.70. Interest and interest dividends shall be credited to the accumulated contributions of members who terminate service and subsequently become vested in accordance with section 97B.70. ~~However, the department shall not implement the amendments to this subsection or to subsection 6, unnumbered paragraph 1, or to subsection 7, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to these provisions of this section and the amendments to section 97B.41, subsection 12, and section 97B.70, by enacting a new subsection 4, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priorities of the system, as defined in section 97B.41, subsection 12. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.53, subsections 3 and 7, and section 97B.53, subsection 6, unnumbered paragraph 1, 1993 Code of Iowa.~~

Sec. 50. Section 97B.53B, subsection 1, paragraph c, subparagraph (4), Code 1995, is amended to read as follows:

(4) ~~A distribution~~ Annual distributions of less than two hundred dollars of taxable income.

Sec. 51. Section 97B.66, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

A vested or retired member who was a member of the teachers insurance and annuity association-college retirement equity fund at any time between July 1, 1967 and June 30, 1971 and who became a member of the system on July 1, 1971, upon submitting verification of service and wages earned during the applicable period of service under the teachers insurance and annuity association-college retirement equity fund, may make employer and employee contributions to the system based upon the covered wages of the member and the covered wages and the contribution rates in effect for all or a portion of that period of service and receive credit for membership service under this system equivalent to the applicable period of membership service in the teachers insurance and annuity association-college retirement equity fund for which the contributions have been made. In addition, a member making employer and employee contributions because of membership in the teachers insurance and annuity association-college retirement equity fund under this section who was a member of the system on June 30, 1967 and withdrew the member's accumulated contributions because of membership on July 1, 1967 in the teachers insurance and annuity association-college retirement equity fund, may make employee contributions to the system for all or a portion of the period of service under the system prior to July 1, 1967. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, ~~effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 2 contained in 1994 Iowa Acts, chapter 1183, shall be implemented,~~ for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, ~~as long as the increments represent full years and not a portion of a year~~ calendar quarters. ~~However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 2, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and unnumbered paragraph 2 and to section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established~~

~~priority of the system. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.66, unnumbered paragraphs 1 and 2, Code Supplement 1993. As used in this section, unless the context otherwise requires, "other established priority of the system" means that commencing January 1 following the most recent annual actuarial valuation of the system, the department has increased the covered wage limitation from the previous year by three thousand dollars, in accordance with section 97B.41, subsection 20, paragraph "b", subparagraph (1).~~

Sec. 52. Section 97B.66, unnumbered paragraph 2, Code Supplement 1995, is amended to read as follows:

The contributions paid by the vested or retired member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, by the member for the applicable period of service, and the employer contribution for the applicable period of service under the teachers insurance and annuity association-college retirement equity fund, that would have been or had been contributed by the vested or retired member and the employer, if applicable, plus interest on the contributions that would have accrued for the applicable period from the date the previous applicable period of service commenced under this system or from the date the service of the member in the teachers insurance and annuity association-college retirement equity fund commenced to the date of payment of the contributions by the member ~~equal to two percent plus the interest dividend rate applicable for each year as provided in section 97B.70.~~

Sec. 53. Section 97B.66, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

~~However, effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 54. Section 97B.68, subsection 1, Code 1995, is amended to read as follows:

1. ~~Effective July 1, 1988~~ 1996, a person who is a member of the federal civil service retirement program or the federal employee's retirement system is not eligible for membership in the Iowa public employees' retirement system for the same position, and this chapter does not apply to that employee. An employee whose membership in the federal civil service retirement program or the federal employee's retirement system is subsequently terminated shall immediately notify the employee's employer and the department of personnel of that fact, and the employee shall become subject to this chapter on the date the notification is received by the department.

Sec. 55. Section 97B.68, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Effective July 1, 1996, an employee who participates in the federal civil service retirement program or the federal employee's retirement system may be covered under this chapter if otherwise eligible. The employee shall not be covered under this chapter, however, unless the employee is not credited for service in the federal civil service retirement system or the federal employee's retirement system for the position to be covered under this chapter. This subsection shall not be construed to permit any employer to contribute on behalf of an employee for the same position and the same period of service to both the Iowa public employees' retirement system and either the federal civil service retirement program or the federal employee's retirement system.

Sec. 56. Section 97B.70, Code Supplement 1995, is amended to read as follows:

97B.70 INTEREST AND DIVIDENDS TO MEMBERS.

1. Interest For calendar years prior to January 1, 1997, interest at two percent per annum and interest dividends declared by the department shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions thereby.

1. a. The average rate of interest earned shall be determined upon the following basis:
- a. (1) Investment income shall include interest and cash dividends on stock.
 - b. (2) Investment income shall be accounted for on an accrual basis.
 - e. (3) Capital gains and losses, realized or unrealized, shall not be included in investment income.
 - d. (4) Mean assets shall include fixed income investments valued at cost or on an amortized basis, and common stocks at market values or cost, whichever is lower.
 - e. (5) The average rate of earned interest shall be the quotient of the investment income and the mean assets of the retirement fund.
2. b. The interest dividend shall be determined within sixty days after the end of each calendar year as follows:

The dividend rate for a calendar year shall be the excess of the average rate of interest earned for the year over the statutory two percent rate plus twenty-five hundredths of one percent. The average rate of interest earned and the interest dividend rate in percent shall be calculated to the nearest one hundredth, that is, to two decimal places. Interest and interest dividends calculated pursuant to this subsection shall be compounded annually.

2. For calendar years beginning January 1, 1997, a per annum interest rate at one percent above the interest rate on one-year certificates of deposit shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions. For purposes of this subsection, the interest rate on one-year certificates of deposit shall be determined by the department based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one-quarter of the annual interest rate to the sum of the accumulated contributions as of the end of the previous calendar quarter.

3. Interest and interest dividends shall be credited to the contributions of active members and inactive vested members until the first of the month coinciding with or next following the member's retirement date.

~~4. Effective upon the date that the department determines that this subsection shall be implemented, interest Interest and interest dividends shall be credited to the contributions of a person who leaves the contributions in the retirement fund upon termination from covered employment prior to achieving vested status, but who subsequently achieves vested status. The interest and interest dividends shall be credited to the contributions commencing either upon the date that the department determines that this subsection shall be implemented, or the date on which the person becomes a vested member, whichever is later. Interest and interest dividends shall cease upon the first of the month coinciding with or next following the person's retirement date. If the department no longer maintains the accumulated contribution account of the person pursuant to section 97B.53, but the person submits satisfactory proof to the department that the person did make the contributions, the department shall credit interest and interest dividends in the manner provided in this subsection. However, the department shall not implement this subsection, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the enactment of this subsection and the amendments to section 97B.41, subsection 12, section 97B.53, subsections 3 and 7, and section 97B.53, subsection 6, unnumbered paragraph 1, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priorities of the system, as defined in section 97B.41, subsection 12.~~

Sec. 57. Section 97B.72, unnumbered paragraphs 1 and 2, Code Supplement 1995, are amended to read as follows:

Persons who are members of the Seventy-first General Assembly or a succeeding general assembly who submit proof to the department of membership in the general assembly during any period beginning July 4, 1953, may make contributions to the system for all or

a portion of the period of service in the general assembly, and receive credit for the applicable period for which contributions are made. The contributions made by the member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, which would have been made if the member of the general assembly had been a member of the system during the applicable period. The proof of membership in the general assembly and payment of accumulated contributions shall be transmitted to the department. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, ~~effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 2 contained in 1994 Iowa Acts, chapter 1183, shall be implemented,~~ for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, ~~as long as the increments represent full years and not a portion of a year~~ calendar quarters. However, ~~the department shall not implement the amendments to this paragraph or unnumbered paragraph 2, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and unnumbered paragraph 2 and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.72, unnumbered paragraphs 1 and 2, Code Supplement 1993.~~

There is appropriated from moneys available to the general assembly under section 2.12 an amount sufficient to pay the contributions of the employer based on the period of service for which the members have paid accumulated contributions in an amount equal to the contributions which would have been made if the members of the general assembly who made employee contributions had been members of the system during the applicable period of service in the general assembly plus ~~two percent interest plus and interest dividends at the rate provided in section 97B.70~~ for all completed calendar years, and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years at ~~two percent interest plus the interest dividend rate calculated for the previous year, compounded annually, from the end of the calendar year in which contribution was made to the first day of the month of such date~~ as provided in section 97B.70.

Sec. 58. Section 97B.72, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

However, ~~effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 59. Section 97B.72A, subsection 1, Code Supplement 1995, is amended to read as follows:

1. ~~An active or~~ A vested or retired member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly. The contributions made by the member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, which would have been made if the member of the general assembly had been a member of the system during the applicable period of service in the general assembly. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or for portions of the period of service,

~~and, effective upon the date that the department determines that the amendments to this paragraph contained in 1994 Iowa Acts, chapter 1183, shall be implemented, if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, as long as the increments represent full years and not a portion of a year calendar quarters. The member of the system shall submit proof to the department of membership in the general assembly. The department shall credit the member with the period of membership service for which contributions are made. However, the department shall not implement the amendments to this paragraph, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.72A, subsection 1, unnumbered paragraph 1, Code Supplement 1993.~~

There is appropriated from the general fund of the state to the department an amount sufficient to pay the contributions of the employer based on the period of service of members of the general assembly for which the member paid accumulated contributions under this section. The amount appropriated is equal to the employer contributions which would have been made if the members of the system who made employee contributions had been members of the system during the period for which they made employee contributions plus two percent interest plus the interest dividend rate applicable at the rate provided in section 97B.70 for each year compounded annually as provided in section 97B.70.

Sec. 60. Section 97B.72A, subsection 2, Code Supplement 1995, is amended to read as follows:

2. ~~Effective January 1, 1994, however~~ However, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 61. Section 97B.73, unnumbered paragraph 1, Code 1995, is amended to read as follows:

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 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 system, 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 calendar quarters. ~~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~~ period of service transferred from the other public 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.

Sec. 62. Section 97B.73, unnumbered paragraph 6, Code 1995, is amended to read as follows:

However, ~~effective January 1, 1994~~, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 63. Section 97B.73A, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

A part-time county attorney may elect in writing to the department to make employee contributions to the system for the county attorney's previous service as a county attorney and receive credit for membership service in the system for the applicable period of service as a part-time county attorney for which employee contributions are made. The contributions paid by the member shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 2, for the applicable period of membership service. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, ~~effective upon the date that the department determines that the amendments to this paragraph contained in 1994 Iowa Acts, chapter 1183, shall be implemented~~, for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, ~~as long as the increments represent full years and not a portion of a year calendar quarters~~. A member who elects to make contributions under this section shall notify the applicable county board of supervisors of the member's election, and the county board of supervisors shall pay to the department the employer contributions that would have been contributed by the employer under section 97B.11 plus interest on the contributions that would have accrued if the county attorney had been a member of the system for the applicable period of service. ~~However, the department shall not implement the amendments to this paragraph, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.73A, unnumbered paragraph 1, Code Supplement 1993.~~

Sec. 64. Section 97B.73A, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

However, ~~effective January 1, 1994~~, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 65. Section 97B.74, unnumbered paragraphs 1 and 2, Code Supplement 1995, are amended to read as follows:

~~An active~~, A vested; or retired member who was a member of the system at any time on or after July 4, 1953, and who received a refund of the member's contributions for that period of membership service, may elect in writing to the department to make contributions

to the system for all or a portion of the period of membership service for which a refund of contributions was made, and receive credit for the period of membership service for which contributions are made. The contributions repaid by the member for such service shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 2, received by the member for the applicable period of membership service plus interest on the accumulated contributions for the applicable period from the date of receipt by the member to the date of repayment ~~equal to two percent plus~~ at the interest ~~dividend~~ rate provided in section 97B.70 applicable for each year compounded annually as provided in section 97B.70.

~~An active member must have at least one quarter's reportable wages on file and have membership service, including that period of membership service for which a refund of contributions was made, sufficient to give the member vested status. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 1 contained in 1994 Iowa Acts, chapter 1183, shall be implemented, for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, as long as the increments represent full years and not a portion of a year calendar quarters. However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 1, as enacted in 1994 Iowa Acts, chapter 1183, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to unnumbered paragraph 1 and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, and section 97B.73A, unnumbered paragraph 1, contained in 1994 Iowa Acts, chapter 1183, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.74, unnumbered paragraphs 1 and 2, Code Supplement 1993.~~

Sec. 66. Section 97B.74, unnumbered paragraph 4, Code Supplement 1995, is amended by striking the unnumbered paragraph.

Sec. 67. Section 97B.80, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Effective July 1, 1992, a vested or retired member, 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 all or a portion of the period of time of the active duty service, in increments of no greater than one year and not less than one or more calendar quarter quarters, 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, 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. 68. Section 97B.80, unnumbered paragraph 3, Code 1995, is amended to read as follows:

However, ~~effective January 1, 1994,~~ the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 69. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - DEVELOPMENT OF PROPOSALS FOR ESTABLISHING A DEFINED CONTRIBUTION OPTION AND FOR CONVERTING THE SYSTEM INTO A DEFINED CONTRIBUTION PLAN - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall develop a proposal concerning various alternatives for establishing a defined contribution option for members of the Iowa public employees' retirement system in addition to the current defined benefit plan and a proposal concerning various alternatives for converting the Iowa public employees' retirement system into a defined contribution plan by terminating the current defined benefit plan and establishing a defined contribution plan. On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains proposals for establishing a defined contribution option and for converting the Iowa public employees' retirement system into a defined contribution plan. The report shall also contain actuarial information concerning the costs of the proposals.

Sec. 70. STUDY OF PROPOSALS CONCERNING CONTRIBUTION RATES - IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall study proposals concerning various options for establishing equitable contribution rates for both employers and employees covered by the Iowa public employees' retirement system. In conducting the study, the division shall consider a proposal to provide that the employee and employer contribution rate be equal. On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains the results of the study and any proposal, or proposals, for establishing employer and employee contribution rates. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 71. STUDY OF PROPOSALS REGARDING DISABILITY RETIREMENT BENEFITS - IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM - REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall study proposals concerning various options for establishing disability retirement benefits for employees, or certain employees, covered by the Iowa public employees' retirement system. In conducting the study, the division shall consider a proposal to provide disability retirement benefits for sheriffs, deputy sheriffs, airport fire fighters, or members of a protection occupation in a manner similar to the disability retirement benefits provided under chapters 97A and 411. On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems

committee, which contains the results of the study and any proposal, or proposals, for establishing disability retirement benefits. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 72. STUDY OF PROPOSALS CONCERNING INCLUSION OF MEMBERS IN A PROTECTION OCCUPATION – IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM – REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall study proposals concerning various options for determining additional occupations of members who should be eligible for inclusion as members in a protection occupation as provided in section 97B.49, subsection 16, paragraph "d". On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains the results of the study and any proposal, or proposals, for establishing which occupations should qualify for inclusion in a protection occupation. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 73. STUDY CONCERNING ORGANIZATIONAL STRUCTURE OF THE IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM. The public retirement systems committee established in section 97D.4 shall study the feasibility of changing the organizational structure and governance of the Iowa public employees' retirement system. The committee shall consider the recommendations of the Buck Consultants Inc. report submitted to the Iowa public employees' retirement system in 1995, the Iowa public employees' retirement system division, and the department of personnel. The public retirement systems committee shall submit a report to the general assembly on or before January 31, 1998, containing its findings and recommendations.

Sec. 74. COMPREHENSIVE EXAMINATION OF PLAN DESIGN FOR THE IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM – REPORT. The Iowa public employees' retirement system division, in consultation with the public retirement systems committee established in section 97D.4, shall conduct a comprehensive examination of the plan design of the Iowa public employees' retirement system, pursuant to the principles established in chapter 97D, and make recommendations for plan improvement.

In conducting the examination, the division shall consider and develop recommendations concerning establishment of the following:

1. Objective actuarial standards to determine the funded status of the system, including recommended minimum standards to determine whether the system is fully funded, and to develop safeguards to ensure that the system remains fully funded based on those standards.

2. Equitable contribution rates for both employers and employees, to include consideration of proposals to provide for equal employer and employee contribution rates and proposals to increase or decrease contribution rates based on the funded status of the system.

3. Establishing a schedule for implementing the recommendations.

On or before September 1, 1997, the Iowa public employees' retirement system division shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains the results of the comprehensive examination and any proposal, or proposals, for improving plan design of the Iowa public employees' retirement system. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

DIVISION II TEACHERS' PENSION AND ANNUITY RETIREMENT SYSTEMS

Sec. 75. Section 12B.10, subsection 6, Code 1995, is amended by adding the following new paragraph e and relettering the subsequent paragraphs:

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

Sec. 76. Section 12B.10A, subsection 6, Code 1995, is amended by adding the following new paragraph e and relettering the subsequent paragraphs:

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

Sec. 77. Section 12B.10B, subsection 3, Code 1995, is amended by adding the following new paragraph e and relettering the subsequent paragraphs:

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

Sec. 78. Section 12B.10C, Code 1995, is amended by adding the following new subsection 4 and renumbering the subsequent subsections:

NEW SUBSECTION. 4. A pension and annuity retirement system governed by chapter 294.

Sec. 79. NEW SECTION. 294.10B RIGHTS NOT TRANSFERABLE – NOT SUBJECT TO LEGAL PROCESS.

The right of any person to any future payment under a pension and annuity retirement system established in this chapter shall not be transferable or assignable, at law or in equity, and shall not be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law, except for the purposes of enforcing child, spousal, or medical support obligations, or marital property orders. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against benefits due a person under such a retirement system shall not exceed the amount specified in 15 U.S.C. § 1673(b).

DIVISION III PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Sec. 80. Section 97A.5, subsection 9, Code 1995, is amended to read as follows:

9. ~~DUTIES OF COMMISSIONER OF INSURANCE ACTUARY.~~ The state commissioner of insurance actuary hired by the board of trustees shall be the technical advisor of the board of trustees on matters regarding the operation of the funds created by the provisions of this chapter and shall perform such other duties as are required in connection therewith.

Sec. 81. Section 97A.5, subsections 10 through 12, Code 1995, are amended to read as follows:

10. ~~TABLES – RATES. Immediately after the establishment of this system, the state commissioner of insurance shall make such investigation of anticipated interest earnings and of the mortality, service, and compensation experience of the members of the system as the actuary shall recommend and the board of trustees shall authorize recommends, and on the basis of such the investigation, the actuary shall recommend for adoption by the board of trustees such shall adopt the tables and such the rates as are required in subsection 11 of this section. The board of trustees shall adopt the rate of interest and tables, and certify rates of contributions to be used by the system.~~

11. ~~ACTUARIAL INVESTIGATION. In the year 1952, and at At least once in each two-year period thereafter, the state commissioner of insurance shall make an actuarial investigation in the mortality, service, and compensation experience of the members and beneficiaries of the system, and the interest and other earnings on the moneys and other assets of the system, and shall make a valuation of the~~

assets and liabilities of the funds of the system, and taking into account the results of ~~such~~ the investigation and valuation, the board of trustees shall:

a. Adopt for the system such interest rate, mortality and other tables as shall be deemed necessary;

b. Certify the rates of contribution payable by the state of Iowa in accordance with section 97A.8.

12. VALUATION. On the basis of ~~such~~ the rate of interest and ~~such~~ tables as adopted by the board of trustees ~~shall adopt, the state commissioner of insurance~~ the actuary hired by the board of trustees shall make an annual valuation of the assets and liabilities of the funds of the system created by this chapter.

Sec. 82. Section 97A.5, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 14. INVESTMENT CONTRACTS. The board of trustees may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the funds established in section 97A.8.

NEW SUBSECTION. 15. LIABILITY. The department, the board of trustees, and the treasurer of state are not personally liable for claims based upon an act or omission of the person performed in the discharge of the person's duties under this chapter, even if those actions or omissions violate the standards established in section 97A.7, except for acts or omissions which involve malicious or wanton misconduct.

Sec. 83. Section 97A.6, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. Any member in service may retire upon the member's written application to the board of trustees, setting forth at what time, not less than thirty nor more than ninety days subsequent to the execution and filing therefor, the member desires to be retired, provided, that the said member at the time so specified for retirement shall have attained the age of fifty-five and shall have completed twenty-two years or more of creditable service, and notwithstanding that, during such period of notification, the member may have separated from the service. However, a member may retire at fifty years of age and receive a reduced retirement allowance pursuant to subsection 2A.

Sec. 84. Section 97A.6, subsection 2, paragraph d, subparagraph (3), Code 1995, is amended to read as follows:

(3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, but before July 1, 1996, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 85. Section 97A.6, subsection 2, paragraph d, Code 1995, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) For a member who terminates service, other than by death or disability, on or after July 1, 1996, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added one and one-half percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 86. Section 97A.6, subsection 10, Code 1995, is amended to read as follows:

10. OPTIONAL ALLOWANCE. With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, in which event such a beneficiary shall be considered as an active member at the time of death, until the first

payment on account of any benefit becomes normally due, any beneficiary may elect to receive the beneficiary's benefit in a retirement allowance payable throughout life, or may elect to receive the actuarial equivalent at that time of the beneficiary's retirement allowance in a lesser retirement allowance payable throughout life with the provision that an amount in money not exceeding the amount of the beneficiary's accumulated contributions shall be immediately paid in cash to such member or some other benefit or benefits shall be paid either to the member or to such person or persons as the member shall nominate, provided such cash payment or other benefit or benefits, together with the lesser retirement allowance, shall be certified by the ~~state commissioner of insurance~~ actuary to be of equivalent actuarial value to the member's retirement allowance and shall be approved by the board of trustees; provided, that a cash payment to such member or beneficiary at the time of retirement of an amount not exceeding fifty percent of the member's or beneficiary's accumulated contributions shall be made by the board of trustees upon said member's or beneficiary's election.

Sec. 87. Section 97A.6, subsection 12, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Pension to surviving spouse and children of deceased pensioned members. In the event of the death of any member receiving a retirement allowance under the provisions of subsections 2, 2A, 4, or 6 of this section there shall be paid a pension:

Sec. 88. Section 97A.6, subsection 12, paragraph a, Code 1995, is amended to read as follows:

a. To the member's surviving spouse, equal to one-half the amount received by the deceased beneficiary, but in no instance less than an amount equal to ~~twenty~~ twenty-five percent of the monthly earnable compensation paid to an active member having the rank of senior patrol officer of the Iowa highway safety patrol, and in addition a monthly pension equal to the monthly pension payable under subsection 9, paragraph "c," of this section for each child under eighteen years of age or twenty-two years of age if applicable; or

Sec. 89. Section 97A.6, subsection 14, paragraph a, subparagraphs (1), (2), and (3), Code 1995, are amended to read as follows:

(1) ~~Twenty-five~~ Thirty percent for members receiving a service retirement allowance and for beneficiaries receiving a pension under subsection 9 of this section. ~~However, effective July 1, 1990, for members who retired before that date, thirty percent shall be the applicable percentage for members and beneficiaries under this subparagraph.~~

(2) ~~Twenty-five~~ Thirty percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance. ~~However, effective July 1, 1990, for members who retired before that date, thirty percent shall be the applicable percentage for members under this subparagraph.~~

(3) ~~Twelve and one-half~~ Fifteen percent for members with less than five years of membership service who are receiving an ordinary disability retirement allowance, and for beneficiaries receiving a pension under subsection 8 of this section. ~~However, effective July 1, 1990, for members who retired before that date, fifteen percent shall be the applicable percentage for members and beneficiaries under this subparagraph.~~

Sec. 90. Section 97A.6, subsection 14, paragraph d, Code 1995, is amended to read as follows:

d. A retired member eligible for benefits under the provisions of subsection 1 is not eligible for the annual readjustment of pensions provided in this subsection unless the member served at least twenty-two years ~~and attained the age of fifty-five years~~ prior to the member's termination of employment.

Sec. 91. Section 97A.6, Code 1995, is amended by adding the following new subsection: NEW SUBSECTION. 2A. EARLY RETIREMENT BENEFITS.

a. Notwithstanding the calculation of the service retirement allowance under subsection

2, beginning July 1, 1996, a member who has completed twenty-two years or more of creditable service and is at least fifty years of age, but less than fifty-five years of age, who has otherwise completed the requirements for retirement under subsection 1, may retire and receive a reduced service retirement allowance pursuant to this subsection. The service retirement allowance for a member less than fifty-five years of age shall be calculated in the manner prescribed in subsection 2, except that the percentage multiplier of the member's average final compensation used in the determination of the service retirement allowance shall be reduced by the board of trustees pursuant to paragraph "b".

b. On July 1, 1996, and on each July 1 thereafter, the board of trustees shall determine for the respective fiscal year the percent by which the percentage multiplier under subsection 2 shall be reduced for each month that a member's retirement date precedes the member's fifty-fifth birthday. The board of trustees shall make this determination based upon the most recent actuarial valuation of the system, the calculation of the actuarial cost for each month of retirement of a member prior to age fifty-five, and the premise that the provision of a service retirement allowance to a member who is less than fifty-five years of age will not result in any increase in cost to the system.

Sec. 92. Section 97A.7, subsection 2, Code 1995, is amended to read as follows:

2. The several funds created by this chapter may be invested in:

a. ~~Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof.~~

b. ~~In savings accounts or time deposits in Iowa banks approved as depositories by the executive council.~~

e. ~~In any investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b".~~

Sec. 93. Section 97A.8, subsection 1, paragraph b, Code 1995, is amended to read as follows:

b. On the basis of the rate of interest and of the mortality, interest, and other tables adopted by the board of trustees, ~~the state commissioner of insurance~~ board of trustees, upon the advice of the actuary hired by the board for that purpose, shall make each valuation required by this chapter and shall immediately after making such valuation, determine the "normal contribution rate". The normal 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 sum of 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 by the board of trustees, all reduced by the employee contribution made pursuant to this subsection. However, the normal rate of contribution shall not be less than seventeen percent. The normal rate of contribution shall be determined by ~~the state commissioner of insurance~~ board of trustees after each valuation.

Sec. 94. Section 97A.8, subsection 1, paragraph c, unnumbered paragraph 3, Code 1995, is amended by striking the unnumbered paragraph.

Sec. 95. Section 97A.8, subsection 1, paragraph f, subparagraph (8), Code 1995, is amended to read as follows:

(8) Notwithstanding any other provision of this chapter, beginning July 1, 1996, and each fiscal year thereafter, ~~the member's contribution rate shall be equivalent to the member's contribution rate provided under section 411.8, subsection 1, paragraph "f", for the statewide fire and police retirement system for the applicable fiscal year~~ an amount equal to the member's contribution rate times each member's compensation shall be paid to the pension accumulation fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be nine and thirty-five hundredths percent. However, the system shall increase 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, 1995, 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 eleven and three-tenths percent, sixty percent of the additional cost of such statutory changes shall be paid by the employer under paragraph "c" and forty percent of the additional cost shall be paid by employees under this paragraph.

Sec. 96. Section 97A.8, subsection 3, Code 1995, is amended to read as follows:

3. EXPENSE FUND. The expense fund shall be the fund to which shall be credited all money provided by the state of Iowa to pay the administration expenses of the system and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially the board of trustees shall estimate the amount of money necessary to be paid into the expense fund during the ensuing biennium to provide for the expense of operation of the system. Investment management expenses shall be charged to the investment income of the system and there is appropriated from the system an amount required for the investment management expenses. The board of trustees shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

For purposes of this subsection, investment management expenses are limited to the following:

- a. Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the board of trustees in administering this chapter.
- b. Fees and costs for safekeeping fund assets.
- c. Costs for performance and compliance monitoring, and accounting for fund investments.
- d. Any other costs necessary to prudently invest or protect the assets of the fund.

Sec. 97. Section 97A.12, Code 1995, is amended to read as follows:

97A.12 EXEMPTION FROM EXECUTION AND OTHER PROCESS OR ASSIGNMENT.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this chapter, and the moneys in the various funds created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or as in this chapter otherwise specifically provided in this chapter. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 98. NEW SECTION. 97A.17 OPTIONAL TRANSFERS WITH CHAPTER 411.

1. For purposes of this section unless the context otherwise requires:

- a. "Average accrued benefit" means the average of the amounts representing the present value of the accrued benefit earned by the member determined by the former system and the present value of the accrued benefit earned by the member determined by the current system.
- b. "Current system" means the eligible retirement system in which a person has commenced employment covered by the system after having terminated employment covered by the former system.
- c. "Eligible retirement system" means the system created under this chapter and the statewide fire and police retirement system established in chapter 411.
- d. "Former system" means the eligible retirement system in which a person has terminated employment covered by the system prior to commencing employment covered by the current system.

2. Commencing July 1, 1996, a vested member of an eligible retirement system who terminates employment covered by one eligible retirement system and, within sixty days, commences employment covered by the other eligible retirement system may elect to transfer the average accrued benefit earned from the former system to the current system. The member shall file an application with the current system for transfer of the average accrued benefit within ninety days of the commencement of employment with the current system.

3. Notwithstanding subsection 2, a vested member whose employment with the current system commenced prior to July 1, 1996, may elect to transfer the average accrued benefit earned under the former system to the current system by filing an application with the current system for transfer of the average accrued benefit on or before July 1, 1997.

4. Upon receipt of an application for transfer of the average accrued benefit, the current system shall calculate the average accrued benefit and the former system shall transfer to the current system assets in an amount equal to the average accrued benefit. Once the transfer of the average accrued benefit is completed, the member's service under the former system shall be treated as membership service under the current system for purposes of this chapter and chapter 411.

DIVISION IV STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 99. Section 400.8, subsection 1, Code 1995, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held in accordance with medical protocols established by the board of trustees of the fire and police retirement system established by section 411.5. The board of trustees may change the medical protocols at any time the board so determines. The commission shall conduct a medical examination of an applicant for the position of police officer, police matron, or fire fighter after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 100. Section 411.5, Code 1995, is amended by adding the following new subsection:
NEW SUBSECTION. 13. VOLUNTARY BENEFIT PROGRAMS. The board of trustees shall be responsible for the administration of the voluntary benefit programs established under section 411.40. The board may take any necessary action, including the adoption of rules, for purposes of administering the programs.

Sec. 101. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1995, is amended to read as follows:

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 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 member's 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 member's retirement allowance may be further modified, provided, that the new retirement allowance shall not exceed the amount of the retirement allowance adjusted by annual readjustments of pensions pursuant to subsection 12 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 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 12, paragraph "e", of this section for readjustment of pensions when a rank or position has been abolished by the board of trustees as though such rank or position had not been abolished and salary increases had been granted to such rank or position on the same basis as increases granted to other ranks and positions in the department.~~

Sec. 102. Section 411.6, subsection 12, paragraphs a through c, Code 1995, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. On each July 1, the monthly pensions authorized in this section payable to retired members and to beneficiaries shall be adjusted as provided in this subsection. An amount equal to the sum of one and one-half percent of the monthly pension of each retired member and beneficiary and the applicable incremental amount shall be added to the monthly pension of each retired member and beneficiary. The board of trustees shall report to the general assembly every six years, by September 15 of that year, beginning with September 15, 2001, on whether the provisions of this subsection continue to provide an equitable method for the annual readjustment of pensions payable under this chapter.

b. For purposes of this subsection, "applicable incremental amount" means the following amount for members receiving a pension under subsection 2, 4, or 6 and for beneficiaries receiving a pension under subsection 11:

(1) Fifteen dollars where the member's retirement date was less than five years prior to the effective date of the increase.

(2) Twenty dollars where the member's retirement date was at least five years, but less than ten years, prior to the effective date of the increase.

(3) Twenty-five dollars where the member's retirement date was at least ten years, but less than fifteen years, prior to the effective date of the increase.

(4) Thirty dollars where the member's retirement date was at least fifteen years, but less than twenty years, prior to the effective date of the increase.

(5) Thirty-five dollars where the member's retirement date was at least twenty years prior to the effective date of the increase.

c. For beneficiaries receiving a pension under subsection 8 or 9, the applicable incremental amount shall be determined as set forth in paragraph "b", except that the date of the member's death shall be substituted for the member's retirement date.

Sec. 103. Section 411.6, subsection 12, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A retired member eligible for benefits under this section and otherwise eligible for the readjustment of benefits provided in this subsection is not eligible for the readjustment unless the member was retired on or before the effective date of the readjustment.

Sec. 104. Section 411.13, Code 1995, is amended to read as follows:

411.13 EXEMPTION FROM EXECUTION AND OTHER PROCESS, OR ASSIGNMENT – EXCEPTIONS.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this chapter, and the moneys in the fire and police retirement fund created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or as in this chapter otherwise specifically provided in this chapter. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 105. **NEW SECTION.** 411.31 OPTIONAL TRANSFERS WITH CHAPTER 97A.

1. For purposes of this section, unless the context otherwise requires:

a. “Average accrued benefit” means the average of the amounts representing the present value of the accrued benefit earned by the member determined by the former system and the present value of the accrued benefit earned by the member determined by the current system.

b. “Current system” means the eligible retirement system in which a person has commenced employment covered by the system after having terminated employment covered by the former system.

c. “Eligible retirement system” means the system created under this chapter and the Iowa department of public safety peace officers’ retirement, accident, and disability system established in chapter 97A.

d. “Former system” means the eligible retirement system in which a person has terminated employment covered by the system prior to commencing employment covered by the current system.

2. Commencing July 1, 1996, a vested member of an eligible retirement system who terminates employment covered by one eligible retirement system and, within sixty days, commences employment covered by the other eligible retirement system may elect to transfer the average accrued benefit earned from the former system to the current system. The member shall file an application with the current system for transfer of the average accrued benefit within ninety days of the commencement of employment with the current system.

3. Notwithstanding subsection 2, a vested member whose employment with the current system commenced prior to July 1, 1996, may elect to transfer the average accrued benefit earned under the former system to the current system by filing an application with the current system for transfer of the average accrued benefit on or before July 1, 1997.

4. Upon receipt of an application for transfer of the average accrued benefit, the current system shall calculate the average accrued benefit and the former system shall transfer to the current system assets in an amount equal to the average accrued benefit. Once the transfer of the average accrued benefit is completed, the member’s service under the former system shall be treated as membership service under the current system for purposes of this chapter and chapter 97A.

Sec. 106. Section 411.37, subsection 2, Code 1995, is amended to read as follows:

2. The board shall include in the transition plan or other transition documents, provisions to facilitate continuity under sections 411.20, 411.21, and 411.30 ~~and a recommendation for an equitable process for determining earnable compensation changes when calculating adjustments to pensions under section 411.6, subsection 12, to be submitted to the general assembly meeting in 1991.~~

Sec. 107. Section 411.38, subsection 1, paragraph b, unnumbered paragraph 1, Code 1995, is amended to read as follows:

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. If the actuary of the statewide system determines that the assets transferred by a terminated system are insufficient to fully fund the accrued liabilities of the terminated system as determined by the actuary as of January 1, 1992, the participating city shall pay to the statewide system an amount equal to the unfunded liability plus interest for the period beginning January 1, 1992, and ending with the date of payment or the date of entry into an amortization agreement pursuant to this section. Interest on the unfunded liability shall be computed at a rate equal to the greater of the actuarial interest rate assumption on investments of the moneys in the fund or the actual investment earnings of the fund for the applicable calendar year. The participating city may enter into an agreement with the statewide system to make additional annual contributions sufficient to amortize the unfunded accrued liability of the terminated system. The terms of an amortization agreement shall be based upon the recommendation of the actuary of the statewide system, and the agreement shall do each of the following:

Sec. 108. NEW SECTION. 411.40 VOLUNTARY BENEFIT PROGRAMS.

The board of trustees may establish voluntary benefit programs for members subject to the following conditions:

1. The voluntary benefit programs may provide benefits including, but not limited to, retiree health benefits, long-term care, and life insurance.
2. Participation in the voluntary benefit programs by members shall be voluntary.
3. Contributions to the voluntary benefit programs shall be paid entirely by each participating member by means of payroll deduction. Cities employing members participating in voluntary benefit programs shall forward the amounts deducted to the board of trustees for deposit in the voluntary benefit fund.
4. The voluntary benefit programs and the voluntary benefit fund shall be administered under the direction of the board of trustees for the exclusive benefit of members paying contributions as provided in subsection 3.
5. The assets of the voluntary benefit programs shall be credited to the voluntary benefit fund, which is hereby created. The voluntary benefit fund shall include contributions deposited in accordance with subsection 3, and any interest and earnings on the contributions. The board of trustees shall annually establish an investment policy to govern the investment and reinvestment of the assets in the voluntary benefit fund. The voluntary benefit fund created under this section and the fire and police retirement fund created under section 411.8 shall not be used to subsidize any portion of the liabilities of the other fund.
6. The board of trustees shall include in its annual budget the amount of money necessary during the following year to provide for the expense of operation of the voluntary benefit programs. The operating expenses shall be paid from the voluntary benefit fund under the direction of the board of trustees.

DIVISION V JUDICIAL RETIREMENT SYSTEM

Sec. 109. Section 602.9111, Code 1995, is amended to read as follows:

602.9111 INVESTMENT OF FUND.

So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under this article shall be invested by the treasurer of state in

~~bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof or in any investments authorized for the Iowa public employees' retirement system in section 97B.7, subsection 2, paragraph "b", and the earnings therefrom shall be credited to said the fund. The treasurer of state may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the judicial retirement fund.~~

Investment management expenses shall be charged to the investment income of the fund and there is appropriated from the fund an amount required for the investment management expenses. The court administrator shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

For purposes of this section, investment management expenses are limited to the following:

a. Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the treasurer of state in administering the fund.

b. Fees and costs for safekeeping fund assets.

c. Costs for performance and compliance monitoring, and accounting for fund investments.

d. Any other costs necessary to prudently invest or protect the assets of the fund. The state court administrator and the treasurer of state, and their employees, are not personally liable for claims based upon an act or omission of the person performed in the discharge of the person's duties concerning the judicial retirement fund, except for acts or omissions which involve malicious or wanton misconduct.

DIVISION VI EFFECTIVE AND APPLICABILITY PROVISIONS

Sec. 110. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The section of this Act which amends section 97B.49, subsection 16, by enacting a new paragraph "m", being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

2. The section of this Act which amends section 411.6, subsection 12, paragraphs "a" through "c", takes effect July 1, 1997.

Approved May 10, 1996, except the item which I hereby disapprove and which is designated as Section 32 in its entirety. My reasons for vetoing the item are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 2245, an Act relating to public retirement systems, making appropriations, and providing effective and retroactive applicability dates.

Senate File 2245 is therefore approved on this date with the following exception, which I hereby disapprove.

I am unable to approve the item designated as Section 32, in its entirety. This provision is unnecessary and discriminatory. The Legislature appropriately removed the covered wage ceiling for all members in the IPERS system. However, this provision permanently reduces

the value credited to members' salary increments above a set arbitrary amount. In doing so, it unnecessarily discriminates against those members by prohibiting them from receiving full value of their wages in the calculation of their retirement benefits.

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 Senate File 2245 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1188

UNECONOMICAL TESTAMENTARY TRUSTS

H.F. 2500

AN ACT providing for the modification or termination of certain testamentary trusts by the court.

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

Section 1. **NEW SECTION.** 633.699A MODIFICATION OR TERMINATION OF UNECONOMICAL TESTAMENTARY TRUST.

1. On petition by a trustee or beneficiary, and after notice to all interested parties as determined by the court, if the court determines that the fair market value of a testamentary trust has become so low in relation to the cost of administration that continuation of the trust under its existing terms will defeat or substantially impair the accomplishment of its purposes, the court may, in its discretion, order termination of the trust, modification of the trust, or appointment of a new trustee.

a. If the court orders the termination of the trust, disposition of all property shall be made according to the will provisions that address the disposition of the property in the event the trust is terminated. However, if the will does not address the disposition of the property in the event the trust is terminated, the court shall determine the disposition of the trust property, according to what the court determines would be most consistent with the trustor's original intent.

b. The existence of a trust provision restraining transfer of the beneficiary's interest does not prevent application of this subsection.

2. In the case of a charitable testamentary trust, the attorney general shall be considered an interested party under this section. This section shall not be construed to limit intervention by the attorney general according to section 633.303.

Approved May 15, 1996