

c. The renter or lessee is aware that the dealer will immediately take the aircraft when a buyer is found.

If an aircraft exempt under this subsection is used for any purpose other than leasing or renting, or the conditions in paragraphs "a", "b", and "c" are not continuously met, the dealer claiming the exemption under this subsection is liable for the tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price.

Sec. 7. Section 328.22, Code 1997, is repealed.

Approved May 6, 1998

CHAPTER 1183

PUBLIC RETIREMENT SYSTEMS AND RELATED PROVISIONS

H.F. 2496

AN ACT relating to public retirement systems, and providing effective, implementation, and applicability dates.

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

DIVISION I

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

Section 1. Section 97A.6, subsection 2, paragraph d, subparagraph (4), Code 1997, is amended to read as follows:

(4) For a member who terminates service, other than by death or disability, on or after July 1, 1996, but before July 1, 1998, 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. 2. Section 97A.6, subsection 2, paragraph d, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) For a member who terminates service, other than by death or disability, on or after July 1, 1998, 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 ten additional years of service.

Sec. 3. Section 97A.6, subsection 4, Code 1997, is amended to read as follows:

4. ALLOWANCE ON ORDINARY DISABILITY RETIREMENT.

a. Upon retirement for ordinary disability prior to July 1, 1998, a member shall receive an ordinary disability retirement allowance which shall consist of a pension which shall equal fifty percent of the member's average final compensation unless either of the following conditions exist:

a- (1) If the member has not had five or more years of membership service, the member shall receive a disability pension equal to one-fourth of the member's average final compensation.

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

b. Upon retirement for ordinary disability on or after July 1, 1998, a member who has five or more years of membership service shall receive a disability retirement allowance in an amount equal to the greater of fifty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member had attained fifty-five years of age. A member who has less than five years of membership service shall receive a pension equal to one-fourth of the member's average final compensation.

Sec. 4. Section 97A.6, subsection 6, paragraph b, Code 1997, is amended to read as follows:

b. Upon retirement for accidental disability on or after July 1, 1990, but before July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation. However, if the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the retirement allowance that the member would receive under subsection 2 if the member were fifty-five years of age or the disability retirement allowance calculated under this paragraph.

Sec. 5. Section 97A.6, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Upon retirement for accidental disability on or after July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension in an amount equal to the greater of sixty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member has attained fifty-five years of age.

Sec. 6. Section 97A.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1997, 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 net retirement allowance and one and one-half times the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of the retirement allowance shall be reduced to an amount ~~which together with~~ such that the member's net retirement allowance plus the amount earned by the member shall equal one and one-half times the amount of the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should the member's earning capacity be later changed, the amount of the retirement allowance may be further modified, provided that the new retirement allowance shall not exceed the amount of the retirement allowance originally granted adjusted by annual readjustments of pensions pursuant to subsection 14 of this section nor an amount which would cause the member's net retirement allowance, when added to the amount earned by the beneficiary, ~~equals to 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. 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 14, paragraph "c", of this section for readjustment of pensions when a rank or position has been abolished. If the salary scale associated with a member's rank at retirement is changed after the member retires, earnable compensation for purposes of this section shall be based upon the salary an active member currently would receive at the same rank and with seniority equal to that of the retired member at the time of retirement. For purposes of this paragraph, "net retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the beneficiary for health insurance or similar health care coverage for the beneficiary and the beneficiary's dependents from the amount of the member's retirement allowance paid for that year pursuant to this chapter. The beneficiary shall submit sufficient documentation to the board of trustees to permit the system to determine the member's net retirement allowance for the applicable year.

Sec. 7. APPLICABILITY. Section 6 of this Act, amending section 97A.6, subsection 7, paragraph "a", is applicable to amounts earned by a beneficiary after December 31, 1997.

DIVISION II IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sec. 8. Section 97.51, subsection 8, Code 1997, is amended to read as follows:

8. Effective July 1, 1980, a person receiving benefits, or who becomes eligible to receive benefits, on or after July 1, 1980, under this chapter, shall receive the monthly increase in benefits provided in section ~~97B.49, subsection 11~~ 97B.49G, subsection 3, paragraph "a".

There is appropriated from the general fund of the state to the Iowa old-age and survivors' insurance liquidation fund from funds not otherwise appropriated an amount sufficient to finance the provisions of this subsection.

Sec. 9. Section 97B.8, unnumbered paragraph 1, Code 1997, is amended to read as follows:

A board is established to be known as the "Investment Board of the Iowa Public Employees' Retirement System", referred to in this chapter as the "board", whose duties are to establish policy for the department in matters relating to the investment of the trust funds of the Iowa public employees' retirement system. At least annually the board shall review the investment policies and procedures used by the department under section 97B.7, subsection 2, paragraph "b", and shall hold a public meeting on the investment policies and investment performance of the fund. Following its review and the public meeting, the board shall establish an investment policy and goal statement which shall direct the investment activities of the department. The development of the investment policy and goal statement and its subsequent execution shall be performed cooperatively between the board and the department. In addition to the reasons provided in section 21.5, subsection 1, the board may hold a closed session pursuant to the requirements of section 21.5 of that portion of an investment board meeting in which financial or commercial information is provided to or discussed by the board if the board determines that disclosure of such information could result in a loss to the system or to the provider of the information.

Sec. 10. Section 97B.9, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Regardless of any potentially applicable statute of limitations, if the department finds that the employee or employer, or both, have erroneously underpaid contributions, the employer shall pay the employer's share of contributions and interest and the interest assessed to the employee's share of contributions. The employee shall pay the employee's share of contributions to the employer, who shall then remit them to the department. For purposes of section 1526 of the federal Taxpayer Relief Act of 1997, eligible participants, as defined by section 1526, may make payments of contributions under this section without regard to the limitations of section 415(c)(1) of the federal Internal Revenue Code.

Sec. 11. Section 97B.10, Code 1997, is amended to read as follows:

97B.10 ~~REFUNDS CREDITING OF ERRONEOUS CONTRIBUTIONS.~~

1. ~~If the department finds the employee or employer, or both, have erroneously paid contributions, including the payment of contributions prior to an individual's valid decision to elect out of coverage under this chapter on or after January 1, 1999, pursuant to section 97B.42A, the department shall make an adjustment, compromise, or settlement and make a refund of shall credit such payments to the employee or employer, or both, as it finds just and equitable appropriate party. Refunds so made shall be charged to the fund to which the erroneous collections have been credited and shall be paid to the employee or employer, or both, without interest.~~

2. ~~A claim of an employee or employer for a refund credit for erroneously paid contributions shall be made within three years of date of payment. However, the department may make refund payments issue a credit to employees or employers after the expiration of the three-year deadline if the department finds that the payment of the refund issuing the credit is just and equitable.~~

3. ~~Except as provided in this subsection, interest shall not be paid on credits issued pursuant to this section. However, if a credit for contributions paid prior to an individual's decision to elect out of coverage pursuant to section 97B.42A is issued, accumulated interest and interest on dividends as provided in section 97B.70 shall apply. In addition, the department may, at any time, apply accumulated interest and interest dividends as provided in section 97B.70 on any credits issued under this section if the department finds that the crediting of interest is just and equitable.~~

Sec. 12. Section 97B.11, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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.

Sec. 13. Section 97B.13, Code 1997, is amended to read as follows:

97B.13 NO INCOME TAX DEDUCTION.

For the purposes of the state income tax, the contribution required by this chapter shall not be allowed as a deduction to the taxpayer in computing the taxpayer's net income for any year in which such ~~tax~~ contribution is deducted from the taxpayer's wages.

Sec. 14. Section 97B.17, unnumbered paragraph 1,* Code 1997, 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:

1. Records containing social security numbers.
2. ~~Records listing designated beneficiaries.~~
3. Records specifying amounts accumulated in members' active accounts.
4. ~~3.~~ Records containing names, ~~or~~ addresses, ~~and amounts of monthly benefits to which of members or their beneficiaries are entitled.~~
5. ~~4.~~ Records containing names, addresses, and amounts of lump sum refund payments to ~~terminated~~ members or their beneficiaries.
5. Records containing financial or commercial information that relates to the investment

* "and subsections 1 through 5," also probably intended

of system funds if the disclosure of such information could result in a loss to the system or to the provider of the information.

Sec. 15. Section 97B.19, Code 1997, is amended to read as follows:
97B.19 REVISION FOR ERROR.

~~If, prior to the expiration of six months following the delivery of such the statement provided in section 97B.18, it is brought to the attention of the department that any entry of such wages in such its records is erroneous, or that any item of such wages has been omitted from the records, the department may correct such the entry or include such the omitted item in its records, as the case may be. Written notice of any revision of any such entry which is adverse to the interest of any individual shall be given to such the individual in any case where such the individual has previously been notified by the department of the amount of wages and of the period of payments shown by such the entry. Upon request in writing made prior to the expiration of six months immediately following the giving of the statement provided for in section 97B.18, the department shall afford any individual, or after the individual's death shall afford the individual's beneficiary or any other person so entitled in the judgment of the department, reasonable notice and opportunity for hearing with respect to any entry or alleged omission of wages of such the individual in such record, or any revision of any such entry. If a hearing is held, the department shall make findings of fact and a decision based upon the evidence adduced at such the hearing and shall revise its records accordingly. Judicial review of action of the department under this section and section 97B.20 may be sought in accordance with the terms of the Iowa administrative procedure Act and section 97B.29.~~

Sec. 16. Section 97B.25, Code 1997, 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, If the claim is valid, the retirement benefits specialist shall send a notification to the member stating the option the member has selected pursuant to sections 97B.49A through 97B.49G, as applicable, or section 97B.51, the month with respect to which benefits shall commence, and the monthly benefit amount payable, and the maximum duration. The If the claim is invalid, 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. 17. Section 97B.40, Code 1997, is amended to read as follows:
97B.40 FRAUD.

~~1. Whoever, A person shall be guilty of a fraudulent practice if the person makes, or causes to be made, any false statement or representation for the purpose of causing an increase in any payment authorized to be made under this chapter, ~~or~~ for the purpose of causing any payment to be made where no payment is authorized under this chapter, ~~shall willfully make or cause to be made any~~ for the purpose of obtaining confidential information from the department, or for any other unlawful purpose related to this chapter.~~

~~2. For purposes of this section, "any false statement or representation" includes the following:~~

~~a. Any false statement or representation willfully made or caused to be made as to the amount of any wages paid or received for the period during which earned or unpaid, knowing it to be false ~~or whoever makes or causes to be made any.~~~~

b. Any false statement of a material fact made or caused to be made knowing it to be false in any application for any payment under this chapter, or whoever willfully makes or causes to be made any.

c. Any false statement, representation, affidavit, or document willfully made, presented, or caused to be made in connection with such an application for any payment under this chapter knowing them it to be false, shall be guilty of a fraudulent practice.

d. Any unauthorized use of any security devices, such as personal identification codes, utilized for the purpose of accessing information from the department.

Sec. 18. Section 97B.41, subsection 6, Code 1997, is amended to read as follows:

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

Sec. 19. Section 97B.41, subsection 8, Code 1997, is amended by striking the subsection and inserting in lieu thereof the following:

8. "Employee" means an individual who is employed as defined in this chapter for whom coverage under this chapter is mandatory.

a. "Employee" shall also include any of the following individuals who do not elect out of coverage under this chapter pursuant to section 97B.42A:

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

(2) Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa. A member of the general assembly covered under this chapter may terminate membership under this chapter by informing the department in writing of the member's intent to terminate membership.

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

(3) Nonvested employees of drainage and levee districts.

(4) Employees of a community action program determined to be an instrumentality of the state or a political subdivision.

(5) Magistrates.

(6) Persons employed under the federal Job Training Partnership Act of 1982, Pub. L. No. 97-300.

(7) Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.

(8) Persons employed as city managers, or as city administrators performing the duties of city managers, under a form of city government listed in chapter 372 or chapter 420.

(9) Members of the state transportation commission, the board of parole, and the state health facilities council.

(10) Employees appointed by the state board of regents who do not elect coverage in a retirement system qualified by the state board of regents that meets the criteria of section 97B.2.

(11) Persons employed by the board of trustees for the statewide fire and police retirement system established in section 411.36.

b. "Employee" does not mean the following individuals:

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

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

(3) Employees hired for temporary employment of less than six months or one thousand 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.

(4) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants, and specialists in their field of specialized knowledge or skill.

(5) Employees of the Iowa dairy industry commission established under chapter 179, the Iowa beef cattle producers association established under chapter 181, the Iowa pork producers council established under chapter 183A, the Iowa turkey marketing council established under chapter 184A, the Iowa soybean promotion board established under chapter 185, the Iowa corn promotion board established under chapter 185C, and the Iowa egg council established under chapter 196A.

(6) Judicial hospitalization referees appointed under section 229.21.

(7) Employees of an area agency on aging, if as of July 1, 1994, the agency provides for participation by all of its employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code.

(8) Persons employed through any program described in section 84A.7 and provided by the Iowa conservation corps.

8A. "Employer" means the state of Iowa, the counties, municipalities, agencies, public school districts, all political subdivisions, and all of their departments and instrumentalities, including area agencies on aging, other than those employing persons as specified in subsection 8, paragraph "b", subparagraph (7), and joint planning commissions created under chapter 28E or 28I.

If an interstate agency is established under chapter 28E and similar enabling legislation in an adjoining state, and an employer had made contributions to the system for employees performing functions which are transferred to the interstate agency, the employees of the interstate agency who perform those functions shall be considered to be employees of the employer for the sole purpose of membership in the system, although the employer contributions for those employees are made by the interstate agency.

Sec. 20. Section 97B.41, subsection 14, Code 1997, is amended to read as follows:

14. "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.~~

Sec. 21. Section 97B.41, subsection 19, Code 1997, is amended to read as follows:

19. "Service" means ~~uninterrupted~~ service under this chapter by an employee, except an elected official, ~~from the date the employee last entered employment of the employer until~~

~~the date the employee's employment shall be terminated by death, retirement, resignation or discharge; provided, however, the service of any employee shall not be deemed to be interrupted by for which the employee is paid covered wages. Service shall also mean the following:~~

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

~~b. Leave of absence or vacation authorized by the employer prior to July 1, 1998, for a period not exceeding twelve months and ending no later than July 1, 1999.~~

~~c. 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, or other similar leave authorized by the employer for a period not to exceed twelve weeks in any calendar year.~~

~~e. The termination at the end of the school year of the contract of employment of an employee in the public schools of the state of Iowa, provided the employee enters into a further contract of employment in the public schools of the state of Iowa for the next succeeding school year.~~

~~d. Temporary or seasonal interruptions in service such as service of school bus drivers, schoolteachers under regular contract, interim teachers or substitute teachers, instructors at Iowa state university of science and technology, the state university of Iowa, or university of northern Iowa, employees in state schools or hospital dormitories, other positions for employees of a school corporation or educational institution when the temporary suspension of service does not terminate the period of employment of the employee, or temporary employees of the general assembly and the employee returns to service at a school corporation or educational institution upon the end of the temporary or seasonal interruption.~~

Sec. 22. Section 97B.41, subsection 21, Code 1997, is amended to read as follows:

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

Sec. 23. Section 97B.41, subsection 23, paragraph a, Code 1997, is amended to read as follows:

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. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

Sec. 24. Section 97B.41, subsection 25, paragraph b, subparagraph (17), unnumbered paragraph 2, Code 1997, 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~~ 97B.49B, 97B.49C, 97B.49D, or 97B.49G, the department shall establish the covered wages limitation which applies to members covered under section ~~97B.49, subsection 16 or 17~~ 97B.49B, 97B.49C, 97B.49D, or 97B.49G, at the same level as is established under this subparagraph for other members of the system.

Sec. 25. Section 97B.42A, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

97B.42A OPTIONAL EXCLUSION FROM MEMBERSHIP.

1. Commencing January 1, 1999, a person who is newly hired in a position as an employee, as defined in section 97B.1A,* subsection 8, paragraph "a", shall be covered under this chapter unless the person files an application with appropriate documentation to the department within sixty days of employment in the position to affirmatively elect out of coverage. A decision to elect out of coverage under this chapter is irrevocable upon approval from the system.

2. If a person elects out of coverage pursuant to this section, the period of time from the date on which the person was newly hired until the date the person's election out of coverage is effective shall not constitute service for purposes of coverage under this chapter. In addition, a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10.

3. A person who is employed in a position as an employee as defined in section 97B.1A,* subsection 8, paragraph "a", on January 1, 1999, and who has not elected coverage under this chapter prior to that date and is not an active member of another retirement system in the state which is maintained in whole or in part by public contributions or payments, shall begin coverage under the system on January 1, 1999, unless the person files an application with appropriate documentation with the department to elect out of coverage on or before January 1, 2000. If a person elects out of coverage, the period of time from January 1, 1999, until the date the person's election out of coverage is effective shall not constitute service for purposes of coverage under this chapter and a wage adjustment shall be processed for the person based on any contributions collected pursuant to this chapter during that period of time and shall be credited pursuant to section 97B.10. A decision to elect out of coverage under this chapter pursuant to this section is irrevocable upon approval from the department.

4. A person who becomes a member of the system pursuant to subsection 3, or who is a member of the system, may purchase credit, pursuant to section 97B.73, for one or more quarters of service prior to January 1, 1999, in which the person was employed in a position as described in section 97B.1A,* subsection 8, paragraph "a", but was not a member of the system.

Sec. 26. Section 97B.43, unnumbered paragraph 2, Code 1997, is amended to read as follows:

Any person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947, and who is not eligible for prior service credit under other provisions of this section, is entitled to a credit for years of prior service in the determination of the retirement allowance payment under this chapter, provided the public employee makes application to the department of personnel for credit for prior public service, accompanied by verification of the person's claim as the department may require. The person's allowance for prior service credits shall be computed in the same manner as otherwise provided in this section, but shall not exceed the sum of four hundred fifty dollars nor be less than three hundred

* See §82 herein

dollars per annum. Any such person is entitled to receive retirement allowances computed as provided by this chapter, effective from the date of application to the department, provided such application is approved. However, beginning July 1, 1975, the amount of such person's retirement allowance payment received during June 1975, as computed under this section shall be increased by two hundred percent and the allowance for prior service credits shall not exceed one thousand three hundred fifty dollars nor be less than nine hundred dollars per annum. Effective July 1, 1987, there is appropriated for each fiscal year from the Iowa public employees' retirement fund created in section 97B.7 to the department of personnel an amount sufficient to fund the retirement allowance increases paid under this paragraph. Effective July 1, 1980, a person with a record of thirty years as a public employee in the state of Iowa prior to July 1, 1947, receiving retirement allowances under this chapter shall receive the monthly increase in benefits provided in section ~~97B.49, subsection 11~~ 97B.49G, subsection 3, paragraph "a".

Sec. 27. Section 97B.45, subsections 1, 2, 3, and 4, Code 1997, are amended to read as follows:

1. The first of the month in which a member attains the age of sixty-five years if the member has not completed ~~thirty~~ twenty years of membership service.

2. The first of the month in which the member attains the age of sixty-two years if the member has completed ~~thirty~~ twenty years of membership service.

3. The first of any month in which the member has completed ~~thirty~~ twenty years of membership service if the member has attained the age of sixty-two years but is not yet sixty-five years of age.

4. The first of any month in which ~~a member meets the membership service and age requirements to retire under section 97B.49, subsection 15~~ the member 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.

Sec. 28. Section 97B.46, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 29. Section 97B.46, subsection 3, Code 1997, is amended to read as follows:

3. A member remaining in service after attaining the age of seventy years is entitled to receive a retirement allowance under ~~section 97B.49~~ sections 97B.49A through 97B.49H, as applicable, commencing with payment for the calendar month within which the written notice is submitted to the department, except that if the member fails to submit the notice on a timely basis, retroactive payments shall be made for no more than six months immediately preceding the month in which the written notice is submitted.

Sec. 30. Section 97B.48, subsection 3, Code 1997, is amended to read as follows:

3. As of the first of the month in which a member attains the age of seventy years, the department shall provide written notification to the member that the member may commence receiving a retirement allowance regardless of the member's employment status. Upon termination from employment of a member receiving a retirement allowance pursuant to this subsection, the member is entitled to have the member's monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member's first month of entitlement.

Sec. 31. Section 97B.48, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Payment of a member's retirement allowance pursuant to sections 97B.49A through 97B.49H shall commence no later than the required beginning date specified under section 401(a)(9) of the federal Internal Revenue Code regardless of whether

the member has submitted the appropriate notice to receive an allowance. If the lump sum actuarial equivalent under section 97B.48, subsection 1, could have been selected by the member, payments shall be made in a lump sum rather than as a monthly allowance.

NEW SUBSECTION. 5. In the event that all, or any portion, of the retirement allowance payable to a member pursuant to subsection 4 shall remain unpaid solely by reason of the inability of the department to locate the member, the amounts payable shall be forfeited. If the member is located after the amounts payable are forfeited, the amounts payable shall be restored.

Sec. 32. Section 97B.48A, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If 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 reduced by fifty cents for each dollar the member earns over the limit provided in this subsection. However, employment is not full-time employment until the member receives remuneration in an amount in excess of ~~seven~~ twelve 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.

Sec. 33. Section 97B.48A, subsection 3, Code 1997, is amended to read as follows:

3. Upon a retirement after reemployment, a retired member may have the retired member's retirement allowance redetermined under this section or section ~~97B.49 or 97B.48, 97B.49A through 97B.49H, 97B.50, or 97B.51,~~ whichever is applicable, based upon the addition of credit for the years of membership service of the employee after reemployment, the covered wage during reemployment, and the age of the employee after reemployment. The member shall receive a single retirement allowance calculated from both periods of membership service, one based on the initial retirement and one based on the second retirement following reemployment. If the total years of membership service and prior service of a member who has been reemployed equals or exceeds thirty, the years of membership service on which the original retirement allowance was based may be reduced by a fraction of the years of service equal to the number of years by which the total years of membership service and prior service exceeds thirty divided by thirty, if this reduction in years of service will increase the total retirement allowance of the member. The additional retirement allowance calculated for the period of reemployment shall be added to the retirement allowance calculated for the initial period of membership service and prior service, adjusted as provided in this subsection. The retirement allowance calculated for the initial period of membership service and prior service shall not be adjusted for any other factor than years of service. The retired member shall not receive a retirement allowance based upon more than a total of thirty years of service. Effective July 1, 1998, a redetermination of a retirement allowance as authorized by this subsection for a retired member whose combined service exceeds the applicable years of service for that member as provided in sections 97B.49A through 97B.49G shall have the determination of the member's reemployment benefit based upon the percentage multiplier as determined for that member as provided in sections 97B.49A through 97B.49G.

Sec. 34. Section 97B.48A, subsection 4, Code 1997, 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 interest plus interest dividends as provided in section 97B.70, for all completed calendar years, compounded 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. 35. NEW SECTION. 97B.49A MONTHLY PAYMENTS OF ALLOWANCE — GENERAL CALCULATION.

1. DEFINITIONS. For the purposes of this section:

a. "Applicable percentage" means sixty percent or, for each active or inactive vested member retiring on or after July 1, 1996, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of membership and prior service beyond thirty years of service, not to exceed a total of five additional percentage points.

b. "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

2. ENTITLEMENT TO MONTHLY ALLOWANCE. Each member, upon retirement on or after the member's normal retirement date, is entitled to receive a monthly retirement allowance determined under this section. For an inactive vested member the monthly retirement allowance shall be determined on the basis of this section and section 97B.50 as they are in effect on the date of the member's retirement.

3. CALCULATION OF MONTHLY ALLOWANCE. For each active or inactive vested member retiring on or after July 1, 1994, 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 the applicable percentage of the three-year average coverage* wage multiplied by a fraction of years of service. However, if benefits under this section commence on an early retirement date, the amount of the benefit shall be reduced in accordance with section 97B.50.

4. ALTERNATIVE CALCULATIONS.

a. For each active member employed before January 1, 1976, and retiring on or after January 1, 1976, and for each member who was a vested member before January 1, 1976, with four or more complete years of service, a formula benefit shall be determined equal to the larger of the benefit determined under this paragraph and paragraph "b" of this subsection, as applicable, the benefit determined under subsection 3, or the benefit determined under section 97B.49G, subsection 1. The amount of the monthly formula benefit for each such active or vested member who retired on or after January 1, 1976, shall be equal to one-twelfth of one and fifty-seven hundredths percent per year of membership service multiplied by the member's average annual covered wages. In no case shall the amount of monthly formula benefit accrued for membership service prior to July 1, 1967, be less than the monthly annuity at the normal retirement date determined by applying the sum of the member's accumulated contributions, the member's employer's accumulated contributions on or before June 30, 1967, and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the department with due regard to the benefits payable from such accumulated contributions under sections 97B.52 and 97B.53.

b. For each member employed before January 1, 1976, who has qualified for prior service credit in accordance with the first paragraph of section 97B.43, a formula benefit shall be determined equal to the larger of the benefit determined under this paragraph, and paragraph "a" of this subsection, as applicable, the benefit determined under subsection 3, or the benefit determined under section 97B.49G, subsection 1. The amount of the monthly formula benefit under this paragraph shall be equal to eight-tenths of one percent per year of prior service credit multiplied by the monthly rate of the member's total remuneration not in excess of three thousand dollars annually during the twelve consecutive months of the member's prior service for which that total remuneration was the highest. An additional three-tenths of one percent of the remuneration not in excess of three thousand dollars annually shall be payable for prior service during each year in which the accrued liability for benefit payments created by the abolished system is funded by appropriation from the Iowa public employees' retirement fund.

c. For each active and vested member retiring with less than four complete years of service and who therefore cannot have a benefit determined under the formula benefit of paragraph "a" or "b" of this subsection, subsection 3, or section 97B.49G, subsection 1, a monthly annuity for membership service shall be determined by applying the member's accumulated

* The word "covered" probably intended

contributions and the employer's matching accumulated contributions as of the effective retirement date and any retirement dividends standing to the member's credit on or before December 31, 1966, to the annuity tables in use by the department according to the member's age and contingent annuitant's age, if applicable.

Sec. 36. NEW SECTION. 97B.49B PROTECTION OCCUPATION.

1. DEFINITIONS. For purposes of this section:

a. "Applicable percentage" means sixty percent or, for each active or inactive vested member retiring on or after July 1, 1996, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-five years of service, not to exceed a total of five additional percentage points.

b. "Eligible service" means membership and prior service in a protection occupation. In addition, for a member with membership and prior service in a protection occupation described in paragraph "d", subparagraph (2), eligible service includes membership and prior service as a sheriff, deputy sheriff, or airport fire fighter as defined in section 97B.49C.

c. "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of eligible service in a protection occupation divided by twenty-five years.

d. "Protection occupation" includes all of the following:

(1) A conservation peace officer employed under section 456A.13.

(2) A marshal in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411.

(3) A correctional officer or correctional supervisor employed by the Iowa department of corrections, and any other employee of that department whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility. The Iowa department of corrections and the personnel division of the department of personnel shall jointly determine which job classifications are covered under this subparagraph.

(4) An airport safety officer employed under chapter 400 by an airport commission in a city of one hundred thousand population or more.

(5) An employee of the state department of transportation who is designated as a "peace officer" by resolution under section 321.477, but only if the employee retires on or after July 1, 1990. For purposes of this subparagraph, service as a traffic weight officer employed by the highway commission prior to the creation of the state department of transportation or as a peace officer employed by the Iowa state commerce commission prior to the creation of the state department of transportation shall be included in computing the employee's years of membership service.

(6) A fire prevention inspector peace officer employed by the department of public safety prior to July 1, 1994, who does not elect coverage under the Iowa department of public safety peace officers' retirement, accident, and disability system, as provided in section 97B.42B.

2. CALCULATION OF MONTHLY ALLOWANCE. Notwithstanding other provisions of this chapter, a member who is or has been employed in a protection occupation who retires on or after July 1, 1994, 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 benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in a protection occupation multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

3. ADDITIONAL CONTRIBUTIONS.

a. Annually, the department of personnel shall actuarially determine the cost of the additional benefits provided for members covered under this section as a percentage of the covered wages of the employees covered by this section. Sixty percent of the cost shall be paid by the employers of employees covered under this section 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 sections 97B.11 and 97B.11A.

b. (1) For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, there is appropriated from the state fish and game protection fund to the department of personnel the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph "d", subparagraph (1).

(2) Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each applicable city shall pay to the department of personnel the amount necessary to pay the employer share of the cost of the additional benefits provided to employees of that city covered under subsection 1, paragraph "d", subparagraphs (2) and (4).

(3) For the fiscal year commencing July 1, 1988, and each succeeding fiscal year, the department of corrections shall pay to the department of personnel from funds appropriated to the Iowa department of corrections, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph "d", subparagraph (3).

(4) For the fiscal year commencing July 1, 1990, and each succeeding fiscal year, the state department of transportation shall pay to the department of personnel, from funds appropriated to the state department of transportation from the road use tax fund and the primary road fund, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph "d", subparagraph (5).

(5) 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 subsection 1, paragraph "d", subparagraph (6).

(6) For the fiscal year commencing July 1, 1994, and each succeeding fiscal year, each judicial district department of correctional services shall pay to the department of personnel from funds appropriated to that judicial district department of correctional services, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under subsection 1, paragraph "d", subparagraph (7).

Sec. 37. NEW SECTION. 97B.49C SHERIFFS, DEPUTY SHERIFFS, AND AIRPORT FIRE FIGHTERS.

1. DEFINITIONS. For purposes of this section:

a. "Airport fire fighter" means an airport fire fighter employed by the military division of the department of public defense.

b. "Applicable percentage" means the greater of the following percentages:

(1) Sixty percent.

(2) For each active or inactive vested member retiring on or after July 1, 1996, and before July 1, 1998, sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service, not to exceed a total of five additional percentage points.

(3) For each active or inactive vested member retiring on or after July 1, 1998, sixty percent plus, if applicable, an additional three-eighths of one percentage point for each additional calendar quarter of eligible service beyond twenty-two years of service, not to exceed a total of twelve additional percentage points.

c. "Deputy sheriff" means a deputy sheriff appointed pursuant to section 341.1 prior to July 1, 1981, or section 331.903 on or after July 1, 1981.

d. "Eligible service" means membership and prior service as an airport fire fighter, sheriff, and deputy sheriff under this section. In addition, eligible service includes membership and prior service as a marshal in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411, and as an airport fire fighter prior to July 1, 1994.

e. "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of eligible service under this section divided by twenty-two years.

f. "Sheriff" means a county sheriff as defined in section 39.17.

2. CALCULATION OF MONTHLY ALLOWANCE. Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff, deputy sheriff, or airport fire fighter on or after July 1, 1994, 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 benefits as calculated pursuant to section 97B.49A or 97B.49D, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in eligible service multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

3. ADDITIONAL CONTRIBUTIONS.

a. Annually, the department of personnel shall actuarially determine the cost of the additional benefits provided for members covered under this section as a percentage of the covered wages of the employees covered by this section. Sixty percent of the cost shall be paid by the employers of employees covered under this section 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 sections 97B.11 and 97B.11A. However, the cost of including service as an airport fire fighter prior to July 1, 1994, as eligible service under this section shall not affect the contribution rates calculated and paid by the member or the employer under this section.

b. (1) Annually, during each fiscal year commencing with the fiscal year beginning July 1, 1988, each county shall pay to the department of personnel the amount necessary to pay the employer share of the cost of the additional benefits provided to sheriffs and deputy sheriffs.

(2) For the fiscal year commencing July 1, 1994, and each succeeding fiscal year, there is appropriated from the general fund of the state to the department of personnel, from funds not otherwise appropriated, an amount necessary to pay the employer share of the cost of the additional benefits provided to airport fire fighters under this section.

Sec. 38. NEW SECTION. 97B.49D HYBRID FORMULA.

1. 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 a monthly retirement allowance as calculated pursuant to sections 97B.49A through 97B.49C, a combined monthly retirement allowance equal to the sum of the following:

a. One-twelfth of an amount equal to the applicable percentage 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 paragraph 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 paragraph.

b. One-twelfth of an amount equal to the applicable percentage 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 paragraph shall be the actual years of service, not to exceed twenty-five, earned in a position described in section 97B.49B, for which special service contributions were made, divided by twenty-five. In calculating the fractions of years of service under the paragraph, 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.

c. One-twelfth of an amount equal to the applicable percentage 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 paragraph shall be the actual years of service, not to exceed twenty-two, earned in a position described in section 97B.49C, for which special service

contributions were made, divided by twenty-two. In calculating the fractions of years of service under this paragraph, 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.

2. In calculating the combined monthly retirement allowance pursuant to subsection 1, the sum of the fraction of years of service provided in subsection 1, paragraphs "a", "b", and "c", 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 subsection 1, paragraph "a", and then from the calculation under subsection 1, paragraph "b", if necessary, so that the sum of the fractions of years of service shall equal one.

3. In calculating the combined monthly retirement allowance pursuant to subsection 1, the applicable percentage shall be sixty percent plus, if applicable, an additional one-fourth of one percentage point for each additional calendar quarter of membership service in service as described in subsection 1, paragraph "a", "b", or "c", beyond thirty years of service, not to exceed a total of five additional percentage points. Any addition in the percentage multiplier shall be included in the calculations required under this section.

Sec. 39. NEW SECTION. 97B.49E MINIMUM BENEFITS.

1. For each active member retiring on or after June 30, 1973, and who has completed ten or more years of membership service, the total amount of monthly benefit payable at the normal retirement date for prior service and membership service shall not be less than fifty dollars per month. If benefits commence on an early retirement date, the amount of benefit shall be reduced in accordance with section 97B.50. If an optional allowance is selected under section 97B.51, the amount payable shall be the actuarial equivalent of the minimum benefit. An employee who is in employment on a school year or academic year basis, will be considered to be an active member as of June 30, 1973, if the employee completes the 1972-1973 school year or academic year.

2. 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. 40. NEW SECTION. 97B.49F RETIREMENT DIVIDENDS.

1. COST OF LIVING DIVIDEND.

a. 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, and all beneficiaries and contingent annuitants of such members, shall be eligible for annual dividend payments, payable in November of that year, pursuant to the requirements of this subsection. 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. A dividend determined pursuant to this subsection shall not be used to increase the monthly benefit amount payable. In no event shall the dividend payable be less than twenty-five dollars.

b. (1) The dividend adjustment for a given year shall be calculated by multiplying the total of the retiree's, beneficiary's, or contingent annuitant's monthly benefit payments and the dividend payable to the retiree, beneficiary, or contingent annuitant, in the previous calendar year by the applicable percentage as determined by this paragraph.

(2) The applicable percentage shall be the least of the following percentages:

(a) 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.

(b) 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.

(c) Three percent.

c. If a member dies on or after November 1, but before payment of a dividend is made in that month, the full amount of the retirement dividend for that year shall be paid in the member's name upon notification of the member's death.

2. FAVORABLE EXPERIENCE DIVIDEND.

a. Commencing January 1, 1999, all members who retired on or after July 1, 1990, and who have been retired for at least one year as of the date the dividend is payable, or a beneficiary or contingent annuitant of such a member, shall be eligible to receive a favorable experience dividend, payable on the last business day in January of each year pursuant to the requirements of this subsection.

b. A favorable experience dividend reserve account, hereafter called the "reserve account", is established within the retirement fund. Moneys credited to the reserve account shall be used by the department for the purpose of providing a favorable experience dividend pursuant to this subsection.

c. Moneys shall be credited to the reserve account in the retirement fund as follows:

(1) On or before January 15, 1999, there shall be credited to the reserve account an amount that the system's actuary determines is sufficient to pay the maximum favorable experience dividend for each of the next following five years, based on reasonable actuarial assumptions.

(2) Beginning with the annual actuarial valuation of the system as of June 30, 1999, and for each annual actuarial valuation of the system thereafter, there shall be credited to the reserve account on each applicable January 15 following an actuarial valuation, an amount that represents that portion of the favorable actuarial experience, if any, that the system's actuary determines shall be credited to the reserve account pursuant to rules adopted by the department.

(3) The portion of the favorable actuarial experience, if any, that is not initially credited to the reserve account pursuant to subparagraph (2), but which, if applied to the retirement fund, would result in the actuarial valuation of assets exceeding the actuarial accrued liability of the system based on the most recent annual actuarial valuation of the system, shall be credited to the reserve account.

(4) As used in this paragraph, "favorable actuarial experience" means the difference, if positive, between the anticipated and actual experience of the system's actuarial assets and liabilities as measured by the system's actuary in the most recent annual actuarial valuation of the system pursuant to rules adopted by the department.

d. The favorable experience dividend is calculated by multiplying the total of the monthly benefit payments of the retiree, beneficiary, or contingent annuitant for the previous calendar year, by the number of complete years the member has been retired or would have been retired if living as of the date the dividend is payable, and by the applicable percentage. For purposes of this paragraph, the applicable percentage is the percentage, not to exceed three percent, that the department determines shall be applied in calculating the favorable experience dividend if the department determines that the reserve account is sufficiently funded to make a distribution. In making its determination, the department shall consider, but not be limited to, the amounts credited to the reserve account, the distributions from the reserve account made in previous years, the likelihood of future credits to and distributions from the reserve account, and the distributions paid under subsection 1.

Sec. 41. NEW SECTION. 97B.49G MONTHLY PAYMENTS OF ALLOWANCE — MISCELLANEOUS PROVISIONS.

1. MONTHLY PAYMENTS OF ALLOWANCE — PERCENTAGE MULTIPLIER.

a. For each active or inactive vested member retiring on or after July 1, 1986, and before July 1, 1994, 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 the applicable percentage multiplier of the three-year average covered wage multiplied by a fraction of years of service.

b. The applicable percentage multiplier for purposes of this subsection shall be the following:

(1) For active or inactive vested members retiring on or after July 1, 1986, but before July 1, 1990, fifty percent.

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

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

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

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

(6) For active or inactive vested members retiring on or after July 1, 1994, sixty percent.

c. For purposes of this subsection, fraction of years of service means a number, not to exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

2. EXTRA PAYMENTS ON ALLOWANCE — PRE-1976 RETIREES.

a. On January 1, 1976, for each member who retired before January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for December 1975 is increased by ten percent for the first calendar year or portion of a calendar year the member was retired, and by an additional five percent for each calendar year after the first calendar year the member was retired through the calendar year beginning January 1, 1975. The total increase shall not exceed one hundred percent. Effective July 1, 1987, there is appropriated for each fiscal year from the Iowa public employees' retirement fund created in section 97B.7 to the department of personnel from funds not otherwise appropriated an amount sufficient to fund the monthly retirement allowance increases paid under this paragraph.

The benefit increases granted to members retired under the system on January 1, 1976, shall be granted only on January 1, 1976, and shall not be further increased for any year in which the member was retired after the calendar year beginning January 1, 1975.

b. Effective July 1, 1978, for each member who retired from the system prior to January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1978 is increased as follows:

(1) For the first ten years of service, fifty cents per month for each complete year of service.

(2) For the eleventh through the twentieth years of service, two dollars per month for each complete year of service.

(3) For the twenty-first through the thirtieth years of service, three dollars per month for each complete year of service.

Effective July 1, 1979, the increases granted to members under this subparagraph shall be paid to contingent annuitants and to beneficiaries.

3. EXTRA PAYMENTS ON ALLOWANCE.

a. Effective July 1, 1980, for each member who retired from the system prior to January 1, 1976, and for each member who retired from the system on or after January 1, 1976, under section 97B.49A, subsection 4, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1980 is increased as follows:

(1) For the first ten years of service, fifty cents per month for each complete year of service.

(2) For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

(3) For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

(4) The amount of monthly increase payable to a member under this paragraph is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section or section 97B.49A, as applicable.

However, effective July 1, 1980, the monthly retirement allowance attributable to membership service and prior service of a member, contingent annuitant, and beneficiary shall not be less than five dollars times the number of complete years of service of the member, not to exceed thirty, reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52, compared to the full monthly retirement benefit provided in this section or section 97B.49A, as applicable.

b. Effective beginning July 1, 1982, for each member who retired from the system prior to January 1, 1976, and for each member who retired from the system on or after January 1, 1976, under section 97B.49A, subsection 4, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1982 is increased as follows:

(1) For the first ten years of service, fifty cents per month for each complete year of service.

(2) For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

(3) For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

(4) The amount of monthly increase payable to a member under this paragraph is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section or section 97B.49A, as applicable.

c. Beginning January 1, 1999, for each member who retired from the system prior to July 1, 1986, the amount of regular monthly retirement allowance attributable to membership and prior service that was payable to the member, or the beneficiary or contingent annuitant of the member, for December 1998 shall be increased by fifteen percent.

d. Beginning January 1, 1999, for each member who retired from the system on or after July 1, 1986, but before July 1, 1990, the amount of regular monthly retirement allowance attributable to membership and prior service that was payable to the member, or the beneficiary or contingent annuitant of the member, for December 1998 shall be increased by seven percent.

4. NORMAL RETIREMENT DATES. A retired member shall be deemed to have retired on the member's normal retirement date, and retirement benefits calculated shall not be reduced pursuant to section 97B.50, if the member meets any of the following requirements:

a. The member is an active or inactive vested member retiring on or after July 1, 1988, and before July 1, 1990, who is at least fifty-five years of age and has completed at least thirty years of membership service and prior service, 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.

b. The member is an 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.

c. The member is an active or inactive vested member retiring on or after July 1, 1996, and before July 1, 1997, 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.

d. The member is an active or inactive vested member retiring on or after July 1, 1986, and before January 1, 1999, who is at least sixty-two years of age and who has completed thirty years of membership service.

5. DIVIDENDS — NOVEMBER 1996.

a. 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 1996 monthly benefit payment a retirement dividend equal to two hundred 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.

b. 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 1996 monthly benefit payment a retirement dividend equal to two hundred twenty-three 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. 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 1996 monthly benefit payment a retirement dividend equal to 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.

d. 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 monthly benefit payment a retirement dividend equal to twenty-four percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

e. Notwithstanding the determination of the amount of a retirement dividend under this subsection, a retirement dividend shall not be less than twenty-five dollars.

6. CONSERVATION PEACE OFFICER — JULY 1986 - JULY 1988.

a. Notwithstanding other provisions of this chapter, a member who is or has been employed as a conservation peace officer under section 456A.13 and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a conservation peace officer, may elect to receive, in lieu of the receipt of any benefits under subsection 1 or section 97B.49A, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a conservation peace officer, with benefits payable during the member's lifetime.

b. A conservation peace officer who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a conservation peace officer, multiplied by a fraction of years of service as a conservation peace officer. For the purpose of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service as a conservation peace officer, divided by twenty-five years. On or after July 1, 1986, but before July 1, 1988, if the conservation peace officer has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the conservation peace officer's retirement precedes the date on which the conservation peace officer attains sixty years of age.

The annual contribution necessary to pay for the additional benefits provided in this paragraph shall be paid by the employer and employee in the same proportion that employer and employee contributions are made under section 97B.11.

c. There is appropriated from the state fish and game protection fund to the department of personnel an actuarially determined amount calculated by the Iowa public employees' retirement system sufficient to pay for the additional benefits to conservation peace officers provided by this subsection, as a percentage, in paragraph "a" and for the employer portion of the benefits provided in paragraph "b". The amount is in addition to the contribution paid by the employer under section 97B.11. The cost of the benefits relating to conservation peace officers within the fish and game division of the department of natural resources shall be paid from the state fish and game protection fund and the cost of the benefits relating to the other conservation peace officers of the department shall be paid from the general fund.

7. PEACE OFFICER — JULY 1986 - JULY 1988.

a. Notwithstanding other provisions of this chapter, a member who is or has been employed as a peace officer and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a peace officer, may elect to receive, in lieu of the benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a peace officer, with benefits payable during the member's lifetime.

A peace officer who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a peace officer multiplied by the fraction of years of service as a peace officer. For the purpose of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service as a peace officer, divided by twenty-five years. On or after July 1, 1984, but before July 1, 1988, if the peace officer has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the peace officer's retirement precedes the date on which the peace officer attains sixty years of age.

For the purpose of this subsection, membership service as a peace officer means service under this system as any or all of the following:

- (1) As a county sheriff as defined in section 39.17.
- (2) As a deputy sheriff appointed pursuant to section 341.1, Code 1981, or section 331.903.
- (3) As a marshal or police officer in a city not covered under chapter 400.

b. Each county and applicable city and employee eligible for benefits under this subsection shall annually contribute an amount determined by the department of personnel, as a percentage of covered wages, to be necessary to pay for the additional benefits provided by this subsection. The annual contribution in excess of the employer and employee contributions required by this chapter shall be paid by the employer and the employee in the same proportion that employer and employee contributions are made under section 97B.11. The additional percentage of covered wages shall be calculated separately by the department for service under paragraph "a", subparagraphs (1) and (2), and for service under paragraph "a", subparagraph (3), and each shall be an actuarially determined amount for that type of service which, if contributed throughout the entire period of active service, would be sufficient to provide the pension benefit provided in this subsection.

8. CORRECTIONAL OFFICER — JULY 1986 - JULY 1988.

a. Notwithstanding sections of this chapter relating to eligibility for and determination of retirement benefits, a vested member who is or has been employed as a correctional officer by the Iowa department of corrections and who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least thirty years of membership service as a correctional officer, may elect to receive, in lieu of the receipt of benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a correctional officer, with benefits payable during the member's lifetime.

b. The Iowa department of corrections and the department of personnel shall jointly determine the applicable merit system job classifications of correctional officers.

c. The Iowa department of corrections shall pay to the department of personnel, from funds appropriated to the Iowa department of corrections, an actuarially determined amount sufficient to pay for the additional benefits provided in this subsection. The amount is in addition to the employer contributions required in section 97B.11.

9. AIRPORT FIRE FIGHTER — JULY 1986 - JULY 1988.

a. Notwithstanding other provisions of this chapter, a member who is or has been employed by the office of disaster services as an airport fire fighter who retires on or after July 1, 1986, and before July 1, 1988, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as an airport fire fighter, may elect to receive, in lieu of the receipt of any benefits under subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as an airport fire fighter, with benefits payable during the member's lifetime.

b. An airport fire fighter who retires on or after July 1, 1986, and before July 1, 1988, and has not completed twenty-five years of membership service as required under this subsection is eligible to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as an airport fire fighter multiplied by a fraction of years of service as an airport fire fighter. For the purpose of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service as an airport fire fighter, divided by twenty-five years. On or after July 1, 1986, but before July 1, 1988, if the airport fire fighter has not reached sixty years of age at retirement, the monthly retirement allowance shall be reduced by five-tenths of one percent per month for each month that the airport fire fighter's retirement precedes the date on which the airport fire fighter attains sixty years of age.

c. The employer and each employee eligible for benefits under this subsection shall annually contribute an actuarially determined amount specified by the department, as a percentage of covered wages, that is necessary to pay for the additional benefits provided by this subsection. The annual contribution in excess of the employer and employee contributions required in section 97B.11 shall be paid by the employer and the employee in the same proportion that the employer and employee contributions are made under section 97B.11.

d. There is appropriated from the general fund of the state to the department from funds not otherwise appropriated an amount sufficient to pay the employer share of the cost of the additional benefits provided in this subsection.

10. PROTECTION OCCUPATION — JULY 1988 - JULY 1994.

a. For purposes of this subsection:

(1) "Applicable percentage" means the applicable percentage multiplier defined in subsection 1, paragraph "b", that applies on the date a member retires and becomes eligible to receive a monthly allowance as calculated pursuant to this subsection.

(2) "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service in a protection occupation divided by twenty-five years.

b. Notwithstanding other provisions of this chapter, a member who is or has been employed in a protection occupation who retires on or after July 1, 1988, and before July 1, 1994, 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 benefits as calculated pursuant to subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed in a protection occupation multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

11. SHERIFFS AND DEPUTY SHERIFFS — JULY 1988 - JULY 1994.

a. For purposes of this subsection:

(1) "Applicable percentage" means the applicable percentage multiplier as described in

subsection 1, paragraph "b", that applies on the date a member retires and becomes eligible to receive a monthly allowance as calculated pursuant to this subsection.

(2) "Fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service as a sheriff or deputy sheriff divided by twenty-two years.

b. Notwithstanding other provisions of this chapter, a member who retires from employment as a sheriff or deputy sheriff on or after July 1, 1988, and before July 1, 1994, 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 benefits as calculated pursuant to subsection 1 or section 97B.49A, subsection 4, as applicable, a monthly retirement allowance equal to one-twelfth of an amount equal to the applicable percentage of the three-year average covered wage as a member who has been employed as a sheriff or deputy sheriff multiplied by a fraction of years of service, with benefits payable during the member's lifetime.

Sec. 42. NEW SECTION. 97B.49H ACTIVE MEMBER SUPPLEMENTAL ACCOUNTS.

1. There is established, for each active member, a supplemental account consisting of amounts credited to the account as provided in this section which shall be held and used for the exclusive benefit of the member pursuant to the requirements of this section.

2. Amounts shall be credited to a supplemental account of each active member pursuant to the requirements of this section following a determination by the system's actuary during the most recent annual actuarial valuation that the system does not have an unfunded accrued liability. For purposes of this section, the system does not have an unfunded accrued liability if the actuarial accrued liability of the system based on the actuarial cost method used by the actuary does not exceed the actuarial value of assets of the system as of the valuation date.

3. The department shall annually determine the amount to be credited to the supplemental accounts of active members. The amount to be credited shall be calculated by multiplying the member's covered wages for the applicable wage reporting period by the supplemental rate. For purposes of this subsection, the supplemental rate is the difference, if positive, between the combined employee and employer statutory contribution rates in effect under section 97B.11 and the normal cost rate of the system as determined by the system's actuary in the most recent annual actuarial valuation of the system. The credits shall be made at least quarterly during the calendar year following a determination that the system does not have an unfunded accrued liability. The normal cost rate, calculated according to the actuarial cost method used, is the percent of pay allocated to each year of service that is necessary to fund projected benefits over all members' service with the system.

4. Amounts credited to a member's supplemental account shall be credited with interest quarterly pursuant to section 97B.70, subsection 2.

5. Amounts credited to a member's supplemental account shall be distributed as follows:

a. If a member terminates covered employment and files an application for a refund under section 97B.53, the member shall receive in a lump sum payment, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account.

b. If a member dies prior to retirement, the member's beneficiary shall receive in a lump sum payment, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account.

c. Upon retirement, the member shall receive in a lump sum payment or in an annuity, in addition to any other payment provided by this chapter, all amounts credited to the member's supplemental account.

Sec. 43. IMPLEMENTATION DATE. New section 97B.49H, establishing an active member supplemental account, shall not be implemented until the Iowa public employees' retirement system receives approval to implement this new section from the federal internal revenue service.

Sec. 44. NEW SECTION. 97B.49I QUALIFIED BENEFITS ARRANGEMENT.

The department, by rule, may establish and maintain a qualified benefits arrangement under section 415(m) of the federal Internal Revenue Code. The amount of any annual benefit that would be payable pursuant to this chapter but for the limitation imposed by section 415 of the federal Internal Revenue Code shall be paid from a qualified benefits arrangement established and maintained pursuant to this section.

Sec. 45. Section 97B.50, Code 1997, is amended to read as follows:
97B.50 EARLY RETIREMENT.

1. Except as otherwise provided in this section, a vested member, upon retirement prior to the normal retirement date other than that specified in section 97B.45, subsection 4, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in ~~section 97B.49, subsections 1, 4, and 5, sections 97B.49A, 97B.49E, and 97B.49G,~~ sections 97B.49A through 97B.49G, reduced as follows:

a. For a member who is less than sixty-two years of age, by twenty-five hundredths of one percent per month for each month that the early retirement date precedes the normal retirement date.

b. For a member who is at least sixty-two years of age and who has not completed ~~thirty~~ twenty years of membership service and prior service, by twenty-five hundredths of one percent per month for each month that the early retirement date precedes the normal retirement date.

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~~ sections 97B.49A through 97B.49G, as applicable, 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~~ sections 97B.49A through 97B.49G, as applicable, 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.

3. A member who is at least sixty-two years of age and less than sixty-five years of age, and who has completed ~~thirty~~ twenty or more years of membership service and prior service, shall receive ~~full~~ benefits under ~~section 97B.49~~ sections 97B.49A through 97B.49G, as applicable, determined as if the member had attained sixty-five years of age.

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

*Sec. 46. NEW SECTION. 97B.50A DISABILITY BENEFITS FOR SPECIAL SERVICE MEMBERS.

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

a. "Member" means a vested member who is classified as a special service member under section 97B.1A, subsection 21, at the time of the alleged disability.

b. "Net disability retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the member for health insurance or similar health care coverage for the member and the member's dependents from the amount of the member's disability retirement allowance paid for that year pursuant to this section.

c. "Reemployment comparison amount" means an amount equal to the current covered wages of an active special service member at the same position on the salary scale within the rank or position the member held at the time the member received a disability retirement allowance pursuant to this section. If the rank or position held by the member at the time of retirement pursuant to this section is abolished, the amount shall be computed by the department as though the rank or position had not been abolished and salary increases had been granted on the same basis as granted to other ranks or positions by the former employer of the member. The reemployment comparison amount shall not be less than the three-year average covered wage of the member.

2. IN-SERVICE DISABILITY RETIREMENT ALLOWANCE.

a. A member who is injured in the performance of the member's duties, and otherwise meets the requirements of this subsection shall receive an in-service disability retirement allowance under the provisions of this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation as the natural and proximate result of an injury, disease, or exposure occurring or aggravated while in the actual performance of duty shall be eligible to retire under this subsection, provided that the medical board shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. The department shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's membership in the system first commenced on or after July 1, 1999, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the department that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service position held by the member immediately prior to the application for disability benefits.

c. Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain, exposure, or the inhalation of noxious fumes, poison, or gases. However, if a person's membership in the system first commenced on or after July 1, 1999, and the heart disease or disease of the lungs or respiratory tract would not exist, but for a medical condition that was known to exist on the date that membership commenced, the presumption established in this paragraph shall not apply.

d. Upon retirement for an in-service disability as provided by this subsection, a member shall receive the greater of a monthly in-service disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly in-service disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of sixty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

3. ORDINARY DISABILITY RETIREMENT ALLOWANCE.

a. A member who otherwise meets the requirements of this subsection shall receive an

ordinary disability retirement allowance under the provisions of this subsection, in lieu of a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable.

b. Upon application of a member, a member who has become totally and permanently incapacitated for duty in the member's special service occupation shall be eligible to retire under this subsection, provided that the medical board shall certify that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. The department shall make the final determination, based on the medical evidence received, of a member's total and permanent disability. However, if a person's membership in the system first commenced on or after July 1, 1999, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the department that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same or comparable special service position held by the member immediately prior to the application for disability benefits.

c. Upon retirement for an ordinary disability as provided by this subsection, a member shall receive the greater of a monthly ordinary disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly ordinary disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

4. **WAIVER OF ALLOWANCE.** A member receiving a disability retirement allowance under this section may file an application to receive benefits pursuant to section 97B.50, subsection 2, in lieu of receiving a disability retirement allowance under the provisions of this section, if the member becomes eligible for benefits under section 97B.50, subsection 2. An application to receive benefits pursuant to section 97B.50, subsection 2, shall be filed with the department within sixty days of becoming eligible for benefits pursuant to that section or the member shall be ineligible to elect coverage under that section. On the first of the month following the month in which a member's application is approved by the department, the member's election of coverage under section 97B.50, subsection 2, shall become effective and the member's eligibility to receive a disability retirement allowance pursuant to this section shall cease. Benefits payable pursuant to section 97B.50, subsection 2, shall be calculated using the option choice the member selected for payment of a disability retirement allowance pursuant to this section. An application to elect coverage under section 97B.50, subsection 2, is irrevocable upon approval by the department.

5. **OFFSET TO ALLOWANCE.** Notwithstanding any provisions to the contrary in state law, or any applicable contract or policy, any amounts which may be paid or payable by the employer under the provisions of any workers' compensation, unemployment compensation, or other law to a member, and any disability payments the member receives pursuant to the federal Social Security Act, 42 U.S.C. § 423 et seq., shall be offset against and payable in lieu of any retirement allowance payable pursuant to this section on account of the same disability.

6. **REEXAMINATION OF MEMBERS RETIRED ON ACCOUNT OF DISABILITY.**

a. Once each year during the first five years following the retirement of a member under this section, and once in every three-year period thereafter, the department may, and upon the member's application shall, require any member receiving an in-service or ordinary disability retirement allowance who has not yet attained the age of fifty-five years to undergo a medical examination as arranged by the medical board. The examination shall be made by the medical board or by an additional physician or physicians designated by the board. If any member receiving an in-service or ordinary disability retirement allowance who has not attained the age of fifty-five years refuses to submit to the medical examination, the

allowance may be discontinued until the member's withdrawal of the refusal, and should the member's refusal continue for one year, all rights in and to the member's disability retirement allowance shall be revoked by the department.

b. If a member is determined under paragraph "a" to be no longer eligible for in-service or ordinary disability benefits, all benefits paid under this section shall cease. The member shall be eligible to receive benefits calculated under section 97B.49B or 97B.49C, as applicable, when the member reaches age fifty-five.

7. REEMPLOYMENT.

a. If a member receiving a disability retirement allowance is returned to covered employment, the member's disability retirement allowance shall cease, the member shall again become an active member, and shall contribute thereafter at the same rate payable by similarly classified members. If a member receiving a disability retirement allowance returns to special service employment, then the period of time the member received a disability retirement allowance shall constitute eligible service as defined in section 97B.49B, subsection 1, or section 97B.49C, subsection 1, as applicable. Upon subsequent retirement, the member's retirement allowance shall be calculated as provided in section 97B.48A.

b. (1) If a member receiving a disability retirement allowance is engaged in a gainful occupation that is not covered employment, the member's disability retirement allowance shall be reduced, if applicable, as provided in this paragraph.

(2) If the member is engaged in a gainful occupation paying more than the difference between the member's net disability retirement allowance and one and one-half times the reemployment comparison amount for that member, then the amount of the member's disability retirement allowance shall be reduced to an amount such that the member's net disability retirement allowance plus the amount earned by the member shall equal one and one-half times the reemployment comparison amount for that member.

(3) The member shall submit sufficient documentation to the system to permit the system to determine the member's net disability retirement allowance and earnings from a gainful occupation that is not covered employment for the applicable year.

(4) This paragraph does not apply to a member who is at least fifty-five years of age and would have completed a sufficient number of years of service if the member had remained in active special service employment. For purposes of this subparagraph, a sufficient number of years of service shall be twenty-five for a special service member as described in section 97B.49B or twenty-two years of service for a special service member as described in section 97B.49C.

8. DEATH BENEFITS. A member who is receiving an in-service or ordinary disability retirement allowance under this section shall be treated as having elected a lifetime monthly retirement allowance with death benefits payable under section 97B.52, subsection 2, unless the member elects an optional form of benefit provided under section 97B.51, which shall be actuarially equivalent to the lifetime monthly retirement allowance provided under this section.

9. MEDICAL BOARD. The system shall designate a medical board to be composed of three physicians from the university of Iowa hospitals and clinics who shall arrange for and pass upon the medical examinations required under the provisions of this section and shall report in writing to the department the conclusions and recommendations upon all matters duly referred to the medical board. Each report of a medical examination under this section shall include the medical board's findings as to the extent of the member's physical impairment. Except as required by this section, each report shall be confidential and shall be maintained in accordance with the federal Americans with Disabilities Act, and any other state or federal law containing requirements for confidentiality of medical records.

10. LIABILITY OF THIRD PARTIES — SUBROGATION.

a. If a member receives an injury for which benefits are payable under this section, and if the injury is caused under circumstances creating a legal liability for damages against a third party other than the system, the member or the member's legal representative may maintain

an action for damages against the third party. If a member or a member's legal representative commences such an action, the plaintiff member or representative shall serve a copy of the original notice upon the system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the system, and the following rights and duties ensue:

(1) The system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the system, with legal interest, except that the plaintiff member's attorney fees may be first allowed by the district court.

(2) The system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the system is liable. In order to continue and preserve the lien, the system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

b. If a member fails to bring an action for damages against a third party within thirty days after the system requests the member in writing to do so, the system is subrogated to the rights of the member and may maintain the action against the third party, and may recover damages for the injury to the same extent that the member may recover damages for the injury. If the system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

(1) A sum sufficient to repay the system for the amount of such benefits actually paid by the system up to the time of the entering of the judgment.

(2) A sum sufficient to pay the system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits, for which the system is liable, but the sum is not a final adjudication of the future payment which the member is entitled to receive.

(3) Any balance shall be paid to the member.

c. Before a settlement is effective between a system and a third party who is liable for any injury, the member must consent in writing to the settlement; and if the settlement is between the member and a third party, the system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which either the employer of the member or the system is located must consent in writing to the settlement.

d. For purposes of subrogation under this section, a payment made to an injured member or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury to the member, shall be considered paid as damages because the injury was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

11. A member retired under this section, in order to be eligible for continued receipt of retirement benefits, shall submit to the department any documentation the department may reasonably request which will provide information needed to determine payments to the member under this section.

12. The expenses incurred in the administration of this section by the system shall be paid through additional contributions as determined pursuant to section 97B.49B, subsection 3, or section 97B.49C, subsection 3, as applicable.

13. APPLICABILITY — RETROACTIVITY.

a. This section applies to a member who becomes disabled on or after July 1, 1999, and also applies to a member who becomes disabled prior to July 1, 1999, if the member has not terminated special service employment as of June 30, 1999.

b. To qualify for benefits under this section, a member must file a completed application with the department within one year of the member's termination of employment. A member eligible for a disability retirement allowance under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the completed application for receipt of a disability retirement allowance under this section is approved.

14. **RULES.** *The department shall adopt rules pursuant to chapter 17A specifying the application procedure for members pursuant to this section.**

Sec. 47. Section 97B.51, subsection 2, Code 1997, is amended to read as follows:

2. The election by a member of the an option stated under ~~subsection 1~~ of this section or in sections 97B.49A through 97B.49G, shall be null and void if the member dies prior to the member's first month of entitlement.

Sec. 48. Section 97B.51, subsection 3, Code 1997, is amended to read as follows:

3. A member who had elected to take ~~the an~~ option stated in ~~subsection 1~~ of this section or in sections 97B.49A through 97B.49G, as applicable, 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. 49. Section 97B.51, subsection 5, Code 1997, 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 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~~ 97B.49A or 97B.49G, as applicable. A member may designate a different beneficiary if the original named beneficiary predeceases the member.

Sec. 50. Section 97B.52, subsection 1, paragraphs b and c, Code 1997, are amended to read as follows:

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

Sec. 51. Section 97B.52, subsection 2, Code 1997, is amended to read as follows:

2. If a member dies on or after the first day of the member's first month of entitlement, the excess, if any, of the accumulated contributions by the member as of said date, over the total gross monthly retirement allowances received by the member under the retirement system will be paid to the member's beneficiary unless the retirement allowance is then being paid in accordance with section ~~97B.48A~~ 97B.48 or with section 97B.51, subsection 1, 4, 5, or 6.

Sec. 52. Section 97B.52, subsection 3, paragraph b, Code 1997, is amended to read as follows:

b. If a death benefit is due and payable, interest shall continue to accumulate through the ~~month~~ quarter preceding the ~~month~~ quarter 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.

4. 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 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.

In the event that all, or any portion, of the death benefit payable to the member's designated beneficiary, heirs at law, or estate, shall remain unpaid solely by reason of the inabil-

* Item veto; see message at end of the Act

ity of the system to locate the payee, the amount payable shall be forfeited after the time for making a claim has run. However, if the appropriate payee is located after the death benefit is forfeited, the benefit shall be restored.

Sec. 53. Section 97B.52, subsection 4, Code 1997, is amended by striking the subsection.

Sec. 54. Section 97B.52, subsection 5, Code 1997, 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 section 97B.51, subsections 5 and 6, and this section. Upon receipt of the waiver, the department shall pay the amount designated to be received by 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. 55. Section 97B.52A, subsection 1, Code 1997, is amended to read as follows:

1. ~~Effective January 1, 1995, a~~ A member has a bona fide retirement when the member terminates all employment covered under the chapter or formerly covered under the chapter pursuant to section 97B.42, files a completed application for benefits form with the department, survives into the month for which benefits are first payable, and meets the following applicable requirement:

a. For a member whose first month of entitlement is prior to July 1, 1998, the member does not return to covered employment as defined in this chapter until the member has qualified for no fewer than four calendar months of retirement benefits.

b. For a member whose first month of entitlement is July 1998 or later, the member does not return to any employment with a covered employer until the member has qualified for no fewer than four calendar months of retirement benefits.

Sec. 56. Section 97B.52A, subsection 3, Code 1997, is amended to read as follows:

3. A member whose first month of entitlement is before July 1998 and 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. 57. Section 97B.53, subsection 1, Code 1997, is amended to read as follows:

1. Upon the termination of employment with the employer prior to retirement other than by death of a member, the accumulated contributions by the member and, for a vested member, the accumulated employer contributions for the vested member at the date of the termination may be paid to the member upon application, except as provided in subsections 2, 5, and 6. For the purpose of this subsection, the "accumulated employer contributions" is an amount equal to the total obtained as of any date, by accumulating each individual contribution by the employer for the member 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, compounded as provided in section 97B.70 multiplied by a fraction of years of service for that member as defined in section 97B.49A, 97B.49B, or 97B.49C.

Sec. 58. Section 97B.53, subsection 2, Code 1997, is amended to read as follows:

2. If a vested member's employment is terminated prior to the member's retirement, other than by death, the member may receive a monthly retirement allowance commencing on the

first day of the month in which the member attains the age of sixty-five years, if the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of the month in which the member attains the age of fifty-five or any month thereafter prior to the date the member attains the age of sixty-five years, and continuing on the first day of each month thereafter during the member's lifetime, provided the member does not receive prior to the date the member's retirement allowance is to commence a refund of accumulated contributions under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either ~~section 97B.49~~ sections 97B.49A through 97B.49G, or in section 97B.50, whichever is applicable.

Sec. 59. Section 97B.53, subsection 3, Code 1997, is amended to read as follows:

3. The accumulated contributions account 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.~~

Sec. 60. Section 97B.53, subsection 6, Code 1997, is amended to read as follows:

6. ~~A member who terminates employment before the member is vested and who does not claim and receive a refund of the member's accumulated contributions within ten years of the date of termination shall, if the member makes claim for a refund more than ten years after the date of termination, be required to submit proof satisfactory to the department of the member's entitlement to the refund. Interest and interest dividends on the accumulated contributions shall only be credited if provided in accordance with section 97B.70. The department is under no obligation to maintain the accumulated contribution accounts of such former members for more than ten years after their dates of termination. The system is under no obligation to maintain the accumulated contribution account of a member who terminates covered employment prior to December 31, 1998, if the member was not vested at the time of termination.~~ A person who made contributions to the abolished system, who is entitled to a refund in accordance with the provisions of this chapter, and who has not claimed and received such a refund prior to January 1, 1964, shall, if the person makes a claim for refund after January 1, 1964, be required to submit proof satisfactory to the department of the person's entitlement to the refund. The department is under no obligation to maintain the contribution accounts of such persons after January 1, 1964.

Sec. 61. Section 97B.70, subsection 3, Code 1997, is amended to read as follows:

3. ~~Interest and interest dividends shall be credited to the accumulated contributions accounts of active members, and inactive vested members, and, effective January 1, 1999, to inactive nonvested members, until the first of the month coinciding with or next following the member's retirement date quarter prior to the quarter in which the member's first retirement allowance is paid or in which the member is issued a refund under section 97B.53, or in which a death benefit is issued.~~

Sec. 62. Section 97B.70, subsection 4, Code 1997, is amended to read as follows:

4. ~~Interest Prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions account 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 returns to covered employment. The Upon return to covered employment but prior to January 1, 1999, interest and interest dividends shall be credited to the accumulated contributions account of the person commencing upon the date on which the person becomes a vested member has covered wages.~~

5. ~~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 this chapter, 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 4.

Sec. 63. Section 97B.72, Code 1997, is amended to read as follows:

97B.72 MEMBERS OF GENERAL ASSEMBLY — APPROPRIATION.

1. 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 as provided by this section 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 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 calendar quarters.

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, the member shall make contributions in an amount 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. There is appropriated from moneys available to the general assembly under section 2.12 an amount sufficient to pay the contributions pursuant to this paragraph, 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 interest 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, compounded as provided in section 97B.70.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to forty percent of the actuarial cost of the service purchase. There is also appropriated from moneys available to the general assembly under section 2.12 an amount sufficient to pay sixty percent of the actuarial cost of the service purchase by a member pursuant to this paragraph. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. 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. 64. Section 97B.72A, Code 1997, is amended to read as follows:

97B.72A FORMER LEGISLATIVE SERVICE — APPROPRIATION.

1. 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 if contributions are made for portions of the period of service, the contributions shall be in increments of one or more 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.

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, 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. 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 pursuant to this paragraph.~~ 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 interest at the rate provided in section 97B.70 for each year compounded as provided in section 97B.70.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to forty percent of the actuarial cost of the service purchase. There is also appropriated from the general fund of the state to the department an amount sufficient to pay sixty percent of the actuarial cost of the service purchase by a member pursuant to this paragraph. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

~~2.~~ 3. 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. 65. Section 97B.73, Code 1997, is amended to read as follows:

97B.73 MEMBERS FROM OTHER PUBLIC SYSTEMS.

1. A vested or retired member who has one or more full calendar years of covered wages 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 as provided by this section 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 calendar quarters. 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 period of service transferred from the other public system. ~~The~~

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, the contribution payable, representing both employee and employer contributions, 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, 97B.49B, 97B.49C, and 97B.49 97B.49G 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.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to the actuarial cost of the service purchase. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

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

~~Notwithstanding any provision of this section to the contrary, effective July 1, 1994, a vested or retired member must have membership service within the current calendar year in order to make contributions in any manner provided by this section.~~

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

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

6. Effective July 1, 1998, a purchase of service made in accordance with this section by a retired reemployed member shall be applied to either the member's original retirement allowance, or to the member's reemployment service, whichever is more beneficial to the member. If applied to a member's original retirement allowance, or to the member's reemployment service after the retirement allowance payments for such service begin, the member is eligible to receive retroactive adjustment payments for no more than six months prior to completion of the purchase.

7. 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. 66. Section 97B.73A, Code 1997, is amended to read as follows:

97B.73A PART-TIME COUNTY ATTORNEYS.

1. 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 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 calendar quarters.

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, 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 who elects to make contributions ~~under this section pursuant to this paragraph~~ 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.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to forty percent of the actuarial cost of the service purchase. Upon notification of the applicable county board of supervisors of the member's election, the county board of supervisors shall pay to the department an amount sufficient to pay sixty percent of the actuarial cost of the service purchase by a member pursuant to this paragraph. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

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

4. 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. 67. Section 97B.74, Code 1997, is amended to read as follows:

97B.74 REINSTATEMENT AS A VESTED MEMBER (BUY-BACK).

1. 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, at the interest rate provided in section 97B.70 applicable for each year compounded as provided in section 97B.70.

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 if contributions are made for portions of the period of service, the contributions shall be in increments of one or more calendar quarters.

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, the contributions to be 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, at the interest rate provided in section 97B.70 applicable for each year compounded as provided in section 97B.70.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to the actuarial cost of the service purchase. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

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

Sec. 68. Section 97B.80, Code Supplement 1997, is amended to read as follows:

97B.80 VETERAN'S CREDIT.

1. Effective July 1, 1992, a vested or retired member, who has one or more full calendar years of covered wages and 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 one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made.

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, the contributions to be paid, representing both employer and employee contributions, shall be 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, 97B.49B, 97B.49C, and 97B.49G. 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.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to the actuarial cost of the service purchase. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. 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 pursuant to 10 U.S.C. § 12731 - 12739. 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.

~~Notwithstanding any provision of this section to the contrary, effective July 1, 1994, a vested or retired member must have membership service within the current calendar year in order to make contributions in any manner provided by this section.~~

4. Effective July 1, 1998, a purchase of service made in accordance with this section by a retired reemployed member shall be applied to either the member's original retirement allowance, or to the member's reemployment service, whichever is more beneficial to the

member. If applied to the member's original retirement allowance, or to the member's reemployment service after the retirement allowance payments for such service begin, the member is eligible to receive retroactive adjustment payments for no more than six months prior to completion of the purchase.

5. 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. 69. NEW SECTION. 97B.81 LEAVES OF ABSENCE.

1. A vested member on an approved leave of absence which does not constitute service as defined in section 97B.1A,* subsection 19, which is granted on or after July 1, 1998, may make contributions to the system for all or a portion of the leave of absence, and shall receive service credit for the period of time for which the contributions are made.

2. The contributions required to be made for purposes of this section shall be determined as follows:

a. For a member making contributions for a purchase of additional service prior to July 1, 1999, the contributions to be paid, representing both employer and employee contributions, shall be based upon the member's covered wages for the most recent full calendar year in which the member had covered wages at the applicable rates in effect for that calendar year under sections 97B.11, 97B.49B, 97B.49C, and 97B.49G. 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.

b. For a member making contributions for a purchase of additional service on or after July 1, 1999, the member shall make contributions in an amount equal to the actuarial cost of the service purchase. For purposes of this paragraph, the actuarial cost of the service purchase is an amount determined by the department in accordance with actuarial tables, as reported to the department by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of additional service.

3. A member shall not be entitled to purchase the service credit, however, if the member is entitled to receive a retirement benefit from another public retirement system for the same period of time. A member entitled to a benefit from another public system must waive, on a form provided by the Iowa public employees' retirement system, all rights to a retirement benefit under the other public system before receiving credit in this system for any period of service in the other public system. The waiver must be accepted by the other public system.

4. However, the department shall ensure that the member, in exercising an option provided by 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. 70. Section 97D.3, subsection 2, Code 1997, is amended to read as follows:

2. Upon a favorable vote in the referendum and notwithstanding sections 97A.3 and 411.3, all persons newly hired as peace officers, as defined in section 97A.1, police officers, and fire fighters after July 1, 1991, shall be members of the Iowa public employees' retirement system under chapter 97B, rather than members of retirement systems under chapters 97A and 411. Such members shall have federal social security coverage in addition to coverage under the Iowa public employees' retirement system and shall have the same benefits as county sheriffs and deputy sheriffs under section ~~97B.49, subsection 16, paragraph "b"~~ 97B.49C or 97B.49G, as applicable.

Sec. 71. Section 509A.13A, subsection 1, paragraph b, subparagraph (2), Code 1997, is amended to read as follows:

(2) The eligible retired state employee has received retirement benefits under the retirement system established in chapter 97B ~~based upon any of the following:~~

~~(a) Meeting the requirements for receiving retirement benefits pursuant to chapter 97B based upon having attained at least sixty-two years of age and upon having completed at least thirty years of membership service.~~

* See §82 herein

~~(b) Meeting the requirements for receiving benefits under section 97B.49, subsection 16, without a reduction for years of service pursuant to section 97B.49, subsection 16, paragraph "e".~~

Sec. 72. Section 602.1611, subsection 3, Code 1997, is amended to read as follows:

3. Magistrates ~~may elect to~~ shall be members of the Iowa public employees' retirement system ~~upon filing in writing with the department of personnel unless the magistrate elects out of coverage under the Iowa public employees' retirement system~~ as provided in section 97B.41, subsection 8, paragraph "b," subparagraph (8) 97B.42A.

Sec. 73. Section 602.1115, subsection 2, Code 1997, is amended to read as follows:

2. To commence coverage under the judicial retirement system pursuant to article 9, part 1, effective July 1, 1984, but to become an inactive member of the Iowa public employees' retirement system pursuant to chapter 97B and remain eligible for benefits under ~~section 97B.49~~ sections 97B.49A through 97B.49H for the period of membership service under chapter 97B.

Sec. 74. Section 724.6, subsection 2, Code 1997, is amended to read as follows:

2. Notwithstanding subsection 1, fire fighters, as defined in section 411.1, subsection 9, airport fire fighters included under section ~~97B.49, subsection 16, paragraph "b", subparagraph (2)~~ 97B.49C, emergency rescue technicians, and emergency medical care providers, as defined in section 147A.1, shall not, as a condition of employment, be required to obtain a permit under this section. However, the provisions of this subsection shall not apply to a person designated as an arson investigator by the chief fire officer of a political subdivision.

Sec. 75. Sections 97B.12 and 97B.20, Code 1997, are repealed.

Sec. 76. Section 97B.49, Code Supplement 1997, is repealed.

Sec. 77. EFFECTIVE DATE — APPLICABILITY.

a. Section 19, amending section 97B.41, subsection 8, is effective January 1, 1999, and is applicable to persons hired on and after that date.

b. The portion of section 27 that amends section 97B.45, subsections 1, 2, and 3, and section 45, amending section 97B.50, are effective January 1, 1999, and apply to members retiring on or after January 1, 1999.

Sec. 78. EFFECTIVE DATE. Section 57 of this Act, amending section 97B.53, subsection 1, takes effect July 1, 1999.

Sec. 79. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 71 of this Act, amending section 509A.13A, subsection 1, paragraph "b", being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1994, and is applicable on and after that date.

Sec. 80. EFFECTIVE DATE. Section 46 of this Act, creating new section 97B.50A, takes effect July 1, 1999.

Sec. 81. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — ELIGIBILITY FOR RETIREMENT ALLOWANCE.

1. Notwithstanding any provision of chapter 97B to the contrary, a person designated by an eligible member of the Iowa public employees' retirement system as a contingent annuitant eligible to receive an optional allowance pursuant to Iowa Code section 97B.51 but who did not receive an allowance as a contingent annuitant pursuant to the requirements of section 97B.51 (Code 1991 or 1993, as applicable) shall be entitled to receive an optional allowance and an applicable lump-sum payment pursuant to that election commencing with the first month following a determination by the Iowa public employees' retirement system that the requirements of this section are met. For purposes of this section, "an

applicable lump-sum payment” means an amount representing the monthly allowances that would have been paid had the person designated as a contingent annuitant been eligible to receive an optional allowance immediately following the death of the eligible member.

2. For purposes of this section, an eligible member of the Iowa public employees’ retirement system means a member who meets all of the following requirements:

a. The member submitted a valid application for retirement benefits between January 1, 1992, and January 1, 1995.

b. The member was otherwise eligible to receive a retirement allowance pursuant to section 97B.51, subsection 1, Code 1991 or 1993, as applicable, but died prior to the department of personnel issuing payment of the member’s first retirement allowance.

c. The member survived into the month for which the member’s first retirement allowance would have been payable.

3. The person designated as a contingent annuitant shall file a valid application with the Iowa public employees’ retirement system for an allowance pursuant to this section prior to June 30, 1999.

4. A person designated as a contingent annuitant who elects to receive an allowance pursuant to this section shall, prior to receiving an allowance pursuant to this section, make arrangements with the Iowa public employees’ retirement system to repay any death benefits paid by the system to the person.

Sec. 82. CODE EDITOR DIRECTIVES. The Code editor is directed to renumber Iowa Code section 97B.41 to Iowa Code section 97B.1A. Sections 97A.3, 97B.1, 97B.42B, 97B.43, 97B.66, 97B.68, 97B.72, 97B.72A, 97B.73A, 97B.74, 411.3, 411.30, and 602.11115, Code 1997, are amended by striking from the sections the reference “97B.41” and inserting in lieu thereof the reference “97B.1A”.

Sec. 83. STUDY OF STATEWIDE DEFERRED COMPENSATION PROGRAM. The Iowa public employees’ retirement system division shall continue its study of the possible establishment of a statewide deferred compensation plan for active members of the Iowa public employees’ retirement system. In conducting its study, the division shall seek input, through surveys or other similar methods, from affected employees and employers concerning the establishment of a statewide deferred compensation plan to be administered by the Iowa public employees’ retirement system division. The division shall submit a report concerning the results of its study to the general assembly on or before January 1, 1999, and shall include its findings and recommendations.

Sec. 84. STUDY OF ESTABLISHMENT OF A BENEFITS ADVISORY BOARD. The public employees’ retirement system division shall study the possible establishment of a benefits advisory board and shall make recommendations concerning the establishment of a benefits advisory board. The study shall consider the duties to be assigned to a potential benefits advisory board, the membership of the board and the manner of selecting members to the board, and the authority of the board concerning any recommendations it may be empowered to make concerning benefits to be provided to members of the Iowa public employees’ retirement system. The division shall submit a report concerning the results of its study to the general assembly on or before January 8, 1999, and shall include its findings and any recommended proposal or proposals.

Sec. 85. STUDY OF INCLUSION OF ADJUNCT INSTRUCTORS IN MEMBERSHIP OF THE IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM. The Iowa public employees’ retirement system division shall conduct a study concerning the issue of whether adjunct instructors employed by a community college or regents university should be allowed to become members of the Iowa public employees’ retirement system. In conducting its study, the division shall seek input from affected employees and employers concerning the possible inclusion of adjunct instructors in the retirement system. On or before September 1,

1999, 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 its findings and recommendations concerning this issue.

DIVISION III
STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 86. Section 411.6, subsection 2, paragraph d, subparagraph (3), Code 1997, 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, 1998, and who does not withdraw the member's contributions pursuant to section 411.23, 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. 87. Section 411.6, subsection 2, paragraph d, Code 1997, 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, 1998, and who does not withdraw the member's contributions pursuant to section 411.23, 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. 88. Section 411.6, subsection 4, Code 1997, is amended to read as follows:

4. ALLOWANCE ON ORDINARY DISABILITY RETIREMENT.

a. Upon retirement for ordinary disability prior to July 1, 1998, a member shall receive an ordinary disability retirement allowance which shall consist of a pension which shall equal fifty percent of the member's average final compensation unless either of the following conditions exist:

a- (1) If the member has not had five or more years of membership service the member shall receive a pension equal to one-fourth of the member's average final compensation.

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

b. Upon retirement for ordinary disability on or after July 1, 1998, a member who has five or more years of membership service shall receive a disability retirement allowance in an amount equal to the greater of fifty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member had attained fifty-five years of age. A member who has less than five years of membership service shall receive a pension equal to one-fourth of the member's average final compensation.

Sec. 89. Section 411.6, subsection 6, paragraph b, Code 1997, is amended to read as follows:

b. Upon retirement for accidental disability on or after July 1, 1990, but before July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension equal to sixty percent of the member's average final compensation. However, if the member has had twenty-two or more years of membership service, the member shall receive a disability retirement allowance that is equal to the greater of the retirement allowance that the member would receive under subsection 2 if the member was fifty-five years of age or the disability retirement allowance calculated under this paragraph.

Sec. 90. Section 411.6, subsection 6, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Upon retirement for accidental disability on or after July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension in an amount equal to the greater of sixty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member has attained fifty-five years of age.

Sec. 91. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1997, 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 net 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 such~~ that the member's net retirement allowance plus 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 would cause the member's net retirement allowance, when added to the amount earned by the beneficiary, equals to equal 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 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. For purposes of this paragraph, "net retirement allowance" means the amount determined by subtracting the amount paid during the previous calendar year by the beneficiary for health insurance or similar health care coverage for the beneficiary and the beneficiary's dependents from the amount of the member's retirement allowance paid for that year pursuant to this chapter. The beneficiary shall submit sufficient documentation to the system to permit the system to determine the member's net retirement allowance for the applicable year.

Sec. 92. Section 411.6, subsection 10, Code 1997, is amended to read as follows:

10. Pensions offset by compensation benefits. Any amounts which may be paid or payable by the said cities under the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death, shall be offset against and payable in lieu of any benefits payable under the provisions of this chapter on account of the same disability or death. In addition, any amounts payable to a member as unemployment compensation under the provisions of chapter 96 based on unemployment from membership service for a member receiving an ordinary disability benefit or an accidental disability benefit pursuant to this chapter shall be offset against and payable in lieu of any benefits payable under the provisions of this chapter for an ordinary disability or an accidental disability.

Sec. 93. Section 411.9, Code 1997, is amended to read as follows:

411.9 MILITARY SERVICE EXCEPTIONS.

1. A member who is absent while serving in the armed services of the United States or its allies and is discharged or separated from the armed services under honorable conditions shall have the period or periods of absence while serving in the armed services, not in excess of four years unless any period in excess of four years is at the request and for the convenience of the federal government, included as part of the member's period of service in the department. The member shall not continue the contributions required of the member under section 411.8 during the period of military service, if the member, within one year after the member has been discharged or separated under honorable conditions from military service, returns and resumes duties in the department, and if the member is declared physically capable of resuming duties upon examination by the medical board. A period of absence may exceed four years at the request and for the convenience of the federal government.

2. Notwithstanding any provisions of this chapter to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with section 414(u) of the federal Internal Revenue Code.

Sec. 94. Section 411.15, Code 1997, is amended to read as follows:

411.15 HOSPITALIZATION AND MEDICAL ATTENTION.

Cities shall provide hospital, nursing, and medical attention for the members of the police and fire departments of the cities, when injured while in the performance of their duties as members of such department, and shall continue to provide hospital, nursing, and medical attention for injuries or diseases incurred while in the performance of their duties for members receiving a retirement allowance under section 411.6, subsection 6, ~~and the~~. Cities may provide the hospital, nursing, and medical attention required by this section through the purchase of insurance, by self-insuring the obligation, or through payment of moneys into a local government risk pool established for the purpose of covering the costs associated with the requirements of this section. The cost of providing the hospital, nursing, and medical attention required by this section shall be paid from moneys held in a trust and agency fund established pursuant to section 384.6, or out of the appropriation for the department to which the injured person belongs or belonged; provided that any amounts received by the injured person under the workers' compensation law of the state, or from any other source for such specific purposes, shall be deducted from the amount paid by the city under the provisions of this section.

Sec. 95. Section 411.22, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

If a member receives an injury for which benefits are payable under section 411.6, subsection 3 or 5, or section 411.15 and if the injury is caused under circumstances creating a legal liability for damages against a third party other than the retirement system, the member or the member's legal representative may maintain an action for damages against the third party. If a member or a member's legal representative commences such an action, the plaintiff member or representative shall serve a copy of the original notice upon the retirement system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the retirement system, and the following rights and duties ensue:

Sec. 96. Section 411.22, subsection 3, Code 1997, is amended to read as follows:

3. Before a settlement is effective between a the retirement system and a third party who is liable for an injury, the member must consent in writing to the settlement; and if the settlement is between the member and a third party, the retirement system must consent in writing to the settlement; or on refusal to consent, in either case, the district court in the county in which either the city ~~and~~ or the retirement system ~~are~~ is located must consent in writing to the settlement.

Sec. 97. NEW SECTION. 411.24 PAYMENT TO REPRESENTATIVE PAYEE.

1. ADULTS. When it appears to the system that the interest of an applicant entitled to a payment would be served, certification of payment may be made, regardless of the legal competence or incompetence of the individual entitled to the payment, either for direct payment to the applicant, or for the applicant's use and benefit to a representative of an applicant. Payments under this section shall be made in accordance with rules adopted by the board.

2. MINORS. Payments on behalf of minors shall be made in accordance with rules adopted by the board.

3. FINALITY. Any payments made under the provisions of this section shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

Sec. 98. Section 411.36, subsection 1, paragraph c, Code 1997, is amended to read as follows:

c. ~~The city treasurers of~~ A city treasurer, city financial officer, or city clerk involved with the financial matters of the city from four participating cities, one of whom is from a city having a population of less than forty thousand, and three of whom are from cities having a population of forty thousand or more. ~~The city treasurers~~ members authorized pursuant to this paragraph shall be appointed by the governing body of the Iowa league of cities.

Sec. 99. APPLICABILITY. Section 91 of this Act, amending section 411.6, subsection 7, paragraph "a", is applicable to amounts earned by a beneficiary after December 31, 1997.

DIVISION IV JUDICIAL RETIREMENT SYSTEM

Sec. 100. Section 602.1611, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Commencing July 1, 1998, associate juvenile judges and associate probate judges, who are appointed on a full-time basis, are members of the judicial retirement system established in article 9, part 1, and are not members of the public employees' retirement system established in chapter 97B, except as provided in section 602.11116.

Sec. 101. Section 602.9107, subsection 1, Code 1997, is amended to read as follows:

1. The annual annuity of a judge under this system is an amount equal to three percent of the judge's average annual basic salary for the judge's last three years as a judge of one or more of the courts included in this article, multiplied by the judge's years of service as a judge of one or more of the courts for which contributions were made to the system. However, an annual annuity shall not exceed an amount equal to ~~fifty percent~~ a specified percentage of the basic annual salary which the judge is receiving at the time the judge becomes separated from service. Forfeitures shall not be used to increase the annuities a judge or survivor would otherwise receive under the system.

For judges who retire and receive an annuity prior to July 1, 1998, the specified percentage shall be fifty percent.

For judges who retire and receive an annuity on or after July 1, 1998, the specified percentage shall be fifty-two percent.

Sec. 102. NEW SECTION. 602.9107B MINIMUM ANNUITY BENEFIT.

A judge, or a survivor of a judge, who retired before July 1, 1977, and who is receiving an annuity pursuant to this article, shall, commencing with an annuity paid on or after July 1, 1998, be paid a minimum monthly annuity payment of five hundred dollars.

Sec. 103. NEW SECTION. 602.11116 ASSOCIATE JUVENILE JUDGES AND ASSOCIATE PROBATE JUDGES — RETIREMENT.

If a full-time associate juvenile judge or full-time associate probate judge is a member of the Iowa public employees' retirement system on June 30, 1998, the associate juvenile judge

or associate probate judge shall elect, by informing the state court administrator by June 30, 1998, one of the following retirement benefit options to be effective July 1, 1998:

1. To remain a member under the Iowa public employees' retirement system pursuant to chapter 97B.

2. To commence membership under the judicial retirement system pursuant to article 9, part 1, effective July 1, 1998, but to become an inactive member of the Iowa public employees' retirement system pursuant to chapter 97B and remain eligible for benefits under sections 97B.49A through 97B.49H, as applicable, for the period of membership service under chapter 97B.

3. To commence membership under the judicial retirement system pursuant to article 9, part 1, retroactive to the date the associate juvenile judge or associate probate judge became an associate juvenile judge or associate probate judge, and to cease to be a member of the Iowa public employees' retirement system, effective July 1, 1998. The department of personnel shall transmit by January 1, 1999, to the state court administrator for deposit in the judicial retirement fund the associate juvenile judge's or associate probate judge's accumulated contributions as defined in section 97B.41, subsection 2, for the judge's period of membership service as an associate juvenile judge or associate probate judge. Before July 1, 2000, or at retirement previous to that date, an associate juvenile judge or associate probate judge who becomes a member of the judicial retirement system pursuant to this subsection shall contribute to the judicial retirement fund an amount equal to the difference between four percent of the associate juvenile judge's or associate probate judge's total salary received for the entire period of service before July 1, 1998, as an associate juvenile judge or associate probate judge, and the associate juvenile judge's or associate probate judge's accumulated contributions transmitted by the department of personnel to the state court administrator pursuant to this subsection. The associate juvenile judge's or associate probate judge's contribution shall not be limited to the amount specified in section 602.9104, subsection 1. The state court administrator shall credit an associate juvenile judge or associate probate judge with service under the judicial retirement system for the period of service for which contributions at the four percent level are made.

Sec. 104. EFFECTIVE DATE. Sections 100 and 103 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 105. JUDICIAL RETIREMENT SYSTEM — LEGISLATIVE INTENT. It is the intent of the general assembly that the specified maximum percentage multiplier for purposes of calculating a retirement annuity for a judge pursuant to section 602.9107 be increased in the manner provided in this section. The maximum percentage multiplier shall be increased beyond fifty-two percent in increments of not more than two percentage points every two years based upon whether the most recent actuarial valuation of the system indicates that the system can afford the increase. The maximum percentage multiplier shall not exceed sixty percent.

DIVISION V GENERAL PROVISIONS

Sec. 106. NEW SECTION. 29.2A AIRPORT FIRE FIGHTERS — MAXIMUM AGE.

The maximum age for a person to be employed as an airport fire fighter by the military division of the department of public defense is sixty-five years of age.

Sec. 107. Section 80.36, Code 1997, is amended to read as follows:

80.36 MAXIMUM AGE.

The maximum age for a person to be employed as a peace officer in the ~~divisions of highway safety, uniformed force and radio communications, criminal investigation and bureau of identification, and drug law enforcement~~ department of public safety is sixty-five years of age.

Sec. 108. Section 97D.1, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Avoid enacting further benefit enhancements that fail to preserve or enhance intergenerational equity amongst all employees covered by the retirement system.

Sec. 109. Section 294.12, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section, the plan provisions of a pension and annuity retirement system of a school district established under this chapter regarding the determination and distribution of benefits upon termination of the retirement system shall be effective if the school district has received a favorable determination letter from the federal internal revenue service as to the qualified status of such retirement system under applicable provisions of the Internal Revenue Code.

Sec. 110. Section 321.477, Code 1997, is amended to read as follows:

321.477 EMPLOYEES AS PEACE OFFICERS — MAXIMUM AGE.

The department may designate by resolution certain of its employees upon each of whom there is hereby conferred the authority of a peace officer to control and direct traffic and weigh vehicles, and to make arrests for violations of the motor vehicle laws relating to the operating authority, registration, size, weight, and load of motor vehicles and trailers and registration of a motor carrier's interstate transportation service with the department. The maximum age for a person employed as a peace officer pursuant to this section is sixty-five years of age.

Sec. 111. Section 330A.8, subsection 16, Code 1997, is amended to read as follows:

16. To designate employees upon whom are conferred all the powers of a peace officer as defined in section 801.4. The maximum age for a person designated as a peace officer pursuant to this subsection is sixty-five years of age.

Sec. 112. Section 331.903, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The maximum age for a person to be employed as a deputy sheriff appointed pursuant to this section is sixty-five years of age.

Sec. 113. Section 362.10, Code 1997, is amended to read as follows:

362.10 POLICE OFFICERS AND FIRE FIGHTERS.

The maximum age for a police officer, marshal, or fire fighter employed for police duty or the duty of fighting fires is sixty-five years of age. This section shall not apply to volunteer fire fighters.

Sec. 114. Section 456A.13, Code 1997, is amended to read as follows:

456A.13 OFFICERS AND EMPLOYEES — PEACE OFFICER STATUS.

The director shall employ the number of assistants, including a professionally trained state forester, that are necessary to carry out the duties imposed on the commission; and, under the same conditions, the director shall appoint the number of full-time officers and supervisory personnel that are necessary to enforce all laws of the state and rules and regulations of the commission. The full-time officers and supervisory personnel have the same powers that are conferred by law on peace officers in the enforcement of all laws of the state of Iowa and the apprehension of violators. A person appointed as a full-time officer shall be at least twenty-one years of age, ~~but not more than sixty five years of age,~~ on the date of appointment and shall not be employed as a full-time officer after attaining the age of sixty-five. "Full-time officer" means any person appointed by the director to enforce the laws of this state.

Sec. 115. COMPREHENSIVE EXAMINATION OF PLAN DESIGN — PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM, THE STATE-WIDE FIRE AND POLICE RETIREMENT SYSTEM, AND MEMBERS OF SPECIAL CLASSIFICATIONS WITHIN THE IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — REPORT.

1. The chief benefits officer of the Iowa public employees' retirement system, the executive director of the statewide fire and police retirement system, and the director of the financial division of the department of public safety for the public safety peace officers' retirement, accident, and disability system, hereafter "the systems' representatives", shall coordinate, in consultation with the public retirement systems committee established pursuant to section 97D.4, a comprehensive examination of the plan designs concerning the public retirement systems established in chapter 97A, chapter 411, and the provisions of chapter 97B governing special classifications, pursuant to the principles established in chapter 97D, and make recommendations concerning plan design improvement for each of the retirement systems.

2. In coordinating and conducting the examination required by this section, the systems' representatives shall consult, and make periodic reports to, the public retirement systems committee. In addition, the systems' representatives shall hire, subject to the prior approval of the public retirement systems committee, a consultant to facilitate the conducting of the examination.

3. In conducting the examination, the systems' representatives shall consider and examine, but not be limited to, the following:

a. Consideration of appropriate benefit enhancements to each retirement system. Consideration of benefit enhancements shall take into account the availability of enhanced disability benefits for members of each retirement system under examination and the applicability of federal social security benefits for members of certain retirement systems under examination.

b. Consideration of establishing a benefit structure pertaining to each retirement system under examination, which takes into account the applicability or inapplicability of federal social security contributions and benefits for the members of each applicable retirement system, and which provides comparable and equitable benefits for members of each system upon retirement. In addition, the examination shall include consideration of transferring certain groups of employees from one system to another.

c. Review of the functions of each retirement system under examination and consideration of how to perform those functions in an efficient manner that meets the needs of the members of each retirement system.

d. Establishment of equitable contribution rates for both employers and employees, including consideration of the mechanism to establish the contribution rates.

e. Consideration of establishing a uniform actuarial reporting method for all retirement systems under consideration to assist the public retirement systems committee in examining the relative financial condition of each retirement system.

f. Consideration of the member service needs of both active and retired members of each retirement system under examination shall be made in examining each item for consideration in this subsection.

g. Consideration of any applicable federal and state legal requirements concerning public retirement systems, to include consideration of the obligations currently established for qualified plans under the federal Internal Revenue Code.

4. In conducting the examination, the systems' representatives shall solicit from active and retired members of each of the retirement systems subject to the comprehensive examination written comments concerning issues to be considered by the consultant, prior to the hiring of the consultant, and written comments on the results of the examination.

5. On or before November 2, 1998, the systems' representatives 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 the plan design of any or all of the public retirement systems examined pursuant to this section. The report shall include discussion and recommendations concerning the items for consideration listed in subsection 3.

Approved May 8, 1998, except the items which I hereby disapprove and which are designated as Section 46 in its entirety; and Section 80 in its entirety. My reasons for vetoing these items 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 House File 2496, an Act relating to public retirement systems, and providing effective, implementation, and applicability dates.

House File 2496 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Sections 46 and 80, in their entirety. These items provide a disability benefits system and the accompanying benefits, effective July 1, 1999, for special service members of the Iowa Public Employees' Retirement System (IPERS). Special service members are primarily those in protection occupations such as correctional officers and other law enforcement personnel at the state and local level. This new benefit system would allow these members to receive long-term disability benefits in the event a work-related disability prevents the member from continuing to work in the public safety field in which the member was originally employed. The new system would be in addition to the social security disability benefits and workers' compensation benefits currently available to these employees.

This new system was advanced in an effort to provide a disability system to IPERS special service members comparable with that available to the Statewide Fire and Police Retirement System and the Public Safety Peace Officers' Retirement, Accident, and Disability System. However, members of those other systems are not eligible for social security benefits, nor in the case of the Statewide Fire and Police Retirement System are members eligible for workers' compensation benefits. This legislation would in effect cause the benefits of IPERS special service members to leapfrog those available to other law enforcement personnel and firefighters in the state. Thus, while advanced as promoting parity among the systems, the change may instead create greater disparities among the systems.

Recognizing the drawbacks associated with an ad hoc approach to parity improvements, in Section 115 of this bill the General Assembly has wisely directed a comprehensive review be undertaken of all three systems to determine a benefit structure that would provide comparable and equitable benefits to members of each system. I believe it would be premature to approve additional benefit enhancements before this study is completed. Because the expanded disability benefits provided in this bill would not take effect until July 1, 1999, should the upcoming comparability study indicate the appropriateness of this expansion for IPERS special service members, the legislation could be acted upon again next session and still take effect at the time originally planned. In other words, there would be no impact on members, yet there would be the advantage of a full understanding about the appropriateness and ramifications of this change.

A specific provision about which I am particularly concerned is the presumption that any heart or lung disease is work related. Even if a special service member had smoked cigarettes

for twenty or thirty years, should this individual become disabled as a result of heart or lung disease, it would be presumed to be work related and the officer would be entitled to receive full benefits. It is well known that heavy tobacco use is a major cause of emphysema, lung cancer, and heart disease, and our public policy should not be expected to support nor condone it.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2496 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1184
APPELLATE COURT JUDGES
H.F. 2471

AN ACT concerning the number of supreme court justices and court of appeals judges, and including a contingent effective date.

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

Section 1. Section 602.4101, subsection 1, Code 1997, is amended to read as follows:

1. The supreme court consists of ~~nine~~ seven justices. A majority of the justices sitting constitutes a quorum, but less fewer than three justices is not a quorum.

Sec. 2. Section 602.5102, subsection 1, Code 1997, is amended to read as follows:

1. The court of appeals consists of ~~six~~ nine judges; three judges of the court of appeals constitute a quorum.

Sec. 3. **TRANSITION TO SEVEN-MEMBER SUPREME COURT.** Notwithstanding section 602.4101, the supreme court shall consist of eight or nine justices until the number of justices is reduced to seven, by attrition, commencing with any vacancy in the supreme court occurring on or after July 1, 1999. For purposes of this subsection, "vacancy" means the death, resignation, or removal of a justice on the supreme court, or the expiration of a term as a justice on the supreme court following a failure to file a declaration of candidacy pursuant to section 46.20 or a failure to be retained in office pursuant to a judicial election.

Sec. 4. **CONTINGENT EFFECTIVE DATE.** This Act takes effect on July 1, 1999, if an appropriation to the judicial department for the fiscal year beginning July 1, 1999, provides for the authorization and funding of nine judges of the court of appeals.

Approved May 13, 1998