

## 97B.1A Definitions.

When used in this chapter:

1. *"Abolished system"* means the Iowa old-age and survivors' insurance system repealed by sections 97.50 to 97.53.
2. *"Accumulated contributions"* means the total obtained as of any date, by accumulating each individual contribution by 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.
  - 2A. *"Accumulated employer contributions"* means 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.
3. *"Active member"* during a calendar year means a member who made contributions to the retirement system at any time during the calendar year and who:
  - a. Had not received or applied for a refund of the member's accumulated contributions for withdrawal or death, and
  - b. Had not commenced receiving a retirement allowance.
4. *"Actuarial equivalent"* means a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the system.
5. *"Beneficiary"* means the person or persons who are entitled to receive any benefits payable under this chapter at the death of a member, if the person or persons have been designated on a form provided by the system and filed with the system. If no such designation is in effect at the time of death of the member or if no person so designated is living at that time, then the beneficiary is the estate of the member.
6. *"Bona fide retirement"* means a retirement by a vested member which meets the requirements of section 97B.52A and in which the member is eligible to receive benefits under this chapter.
7. *"Contributions"* means the payments to the fund required herein, by the employer and by the members, to provide the benefits of the retirement system.
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 section may terminate membership under this chapter by informing the system in writing of the expiration of the member's term of office or by informing the system of the member's intent to terminate membership for employment as an elective official and establishing that the member has a bona fide termination of employment from all employment covered under

this chapter other than as an elective official and that the member has filed a completed application for benefits form with the system. 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 system 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 system 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) Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.

(7) 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.

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

(9) 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.

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

(11) Persons employed by a municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412.

*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, who are not full-time county employees.

(3) Employees hired for temporary employment of less than six consecutive months or one thousand forty hours in a calendar year. An employee who works for an employer for six or more consecutive months 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 184.

(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.

(9) Persons employed by the Iowa student loan liquidity corporation.

9. "*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 retirement 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 retirement system, although the employer contributions for those employees are made by the interstate agency.

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

11. "*First month of entitlement*" means the first month for which a member is qualified to receive retirement benefits under this chapter. Effective January 1, 1995, a member who meets all of the following requirements is qualified to receive retirement benefits under this chapter:

a. Has attained the minimum age for receipt of a retirement allowance under this chapter.

b. If the member has not attained seventy years of age, has terminated all employment covered under the chapter or formerly covered under the chapter pursuant to section 97B.42 in the month prior to the member's first month of entitlement.

c. Has filed a completed application for benefits with the system setting forth the member's intended first month of entitlement.

d. Has survived into the month for which the member's first retirement allowance is payable by the retirement system.

12. *"Inactive member"* with respect to future service means a member who at the end of a year had not made any contributions during the current year and who has not received a refund of the member's accumulated contributions.

13. *"Internal Revenue Code"* means the Internal Revenue Code as defined in section 422.3.

14. *"Member"* means an employee or a former employee who maintains the employee's or former employee's accumulated contributions in the retirement system. The former employee is not a member if the former employee has received a refund of the former employee's accumulated contributions.

14A. *"Member account"* means the account established for each member and includes the member's accumulated contributions and the member's share of the accumulated employer contributions as provided in section 97B.53. *"Member account"* does not mean the supplemental account for active members.

15. *"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 system shall combine all periods of service for which the member has made contributions.

16. *"Prior service"* means any service by an employee rendered at any time prior to July 4, 1953.

17. *"Regular service"* means service for an employer other than special service.

18. *"Retired member"* means a member who has applied for the member's retirement allowance and has survived into at least the first day of the member's first month of entitlement.

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

19A. *"Retirement system"* means the retirement plan as contained in this chapter or as duly amended.

20. *"Service"* means service under this chapter by an employee, except an elected official, 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 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 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 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, or other similar leave authorized by the employer for a period not to exceed twelve weeks in any calendar year.

d. Temporary or seasonal interruptions in service 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 and the employee returns to service at a school corporation or educational institution upon the end of the temporary or seasonal interruption.

However, effective July 1, 2004, *"service"* does not mean service for which an employee receives

remuneration from an employer for temporary employment during any quarter in which the employee is on an otherwise unpaid leave of absence that is not authorized under the federal Family and Medical Leave Act of 1993 or other similar leave. Remuneration paid by the employer for the temporary employment shall not be treated by the system as covered wages.

e. Employment with an employer prior to January 1, 1946, if the member is not receiving a retirement allowance based upon that employment.

21. "*Service*" for an elected official means the period of membership service for which contributions are made beginning on the date an elected official assumes office and ending on the expiration date of the last term the elected official serves, excluding all the intervening periods during which the elected official is not an elected official.

22. "*Special service*" means service for an employer while employed in a protection occupation as provided in section 97B.49B, and as a county sheriff or deputy sheriff as provided in section 97B.49C.

22A. "*Supplemental account for active members*" or "*supplemental account*" means the account established for each active member under section 97B.49H.

23. Reserved.

24. a. "*Three-year average covered wage*" means, for a member who retires prior to July 1, 2008, 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 system 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 system 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.

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

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

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

(3) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds fifty-five thousand dollars, the member's covered

wages averaged for the highest six years of the member's service or fifty-five thousand dollars, whichever is greater.

(4) For a member who retires on or after January 1, 2000, but before January 1, 2001, and whose three-year average covered wage at the time of retirement exceeds sixty-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or sixty-five thousand dollars, whichever is greater.

(5) For a member who retires on or after January 1, 2001, but before January 1, 2002, and whose three-year average covered wage at the time of retirement exceeds seventy-five thousand dollars, the member's covered wages averaged for the highest six years of the member's service or seventy-five thousand dollars, whichever is greater.

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

*c. "Three-year average covered wage"* means, for a member who retires on or after July 1, 2008, the greater of the member's covered wages averaged for a member's highest twelve consecutive quarters of service or the member's covered wages averaged for a member's highest three calendar years of service. The system shall adopt rules to implement this paragraph in accordance with the requirements of this chapter and the federal Internal Revenue Code.

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

(1) Prior to July 1, 1965, had attained the age of forty-eight and completed at least eight years of service.

(2) Between July 1, 1965, and June 30, 1973, had completed at least eight years of service.

(3) On or after July 1, 1973, has completed at least four years of service.

(4) Has attained the age of fifty-five. However, an inactive member who has not attained sufficient years of service eligibility to become vested and who has not attained the age of fifty-five as of July 1, 2005, shall not become vested upon the attainment of the age of fifty-five while an inactive member.

(5) On or after July 1, 1988, an inactive member who had accumulated, as of the date of the member's last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this subsection for qualifying as a vested member on that date of termination.

*b. "Active vested member"* means an active member who has attained sufficient membership service to achieve vested status.

*c. "Inactive vested member"* means an inactive member who was a vested member at the time of termination of employment.

26. *a. (1) "Wages"* means all remuneration for employment, including, but not limited to, any of the following:

(a) The cash value of wage equivalents not necessitated by the convenience of the employer. The fair market value of such wage equivalents shall be reported to the system by the employer.

(b) The remuneration paid to an employee before employee-paid contributions are made to plans qualified under sections 125, 129, 401, 403, 408, and 457 of the Internal Revenue Code. In addition, "*wages*" includes amounts that can be received in cash in lieu of employer-paid contributions to such plans, if the election is uniformly available and is not limited to highly compensated employees, as defined in section 414(q) of the Internal Revenue Code.

(c) For an elected official, other than a member of the general assembly, the total compensation received by the elected official, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances.

(d) For a member of the general assembly, the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary, exclusive of expense and travel allowances paid to a member of the general assembly except as otherwise provided in this subparagraph subdivision. Wages includes per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages also includes daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly, but does not include the portion of the daily allowance which exceeds the maximum established by law for members from Polk county.

(e) Payments for compensatory time earned that are received in lieu of taking regular work hours off and when paid as a lump sum. However, "*wages*" does not include payments made in a lump sum for compensatory time earned in excess of two hundred forty hours per year.

(f) Employee contributions required under section 97B.11 and picked up by the employer under section 97B.11A.

(2) "*Wages*" does not include any of the following:

(a) The cash value of wage equivalents necessitated by the convenience of the employer.

(b) Payments made for accrued sick leave or accrued vacation leave that are not being used to replace regular work hours, whether paid in a lump sum or in installments.

(c) Payments made as an incentive for early retirement or as payment made upon dismissal or severance from employment, or a special bonus payment intended as an early retirement incentive, whether paid in a lump sum or in installments.

(d) Employer-paid contributions that cannot be received by the employee in cash and that are made to, and any distributions from, plans, programs, or arrangements qualified under section 117, 120, 125, 129, 401, 403, 408, or 457 of the Internal Revenue Code.

(e) Employer-paid contributions for coverage under, or distributions from, an accident, health, or life insurance plan, program, or arrangement.

(f) Workers' compensation and unemployment compensation payments.

(g) Disability payments.

(h) Reimbursements of employee business expenses except for those expenses included as wages for a member of the general assembly.

(i) Payments for allowances made to an employee that are not included in an employee's federal taxable income except for those allowances included as wages for a member of the general assembly.

(j) Payments of damages, attorney fees, interest, and penalties made to satisfy a grievance, wage claim, or employment dispute.

(k) Payments for services as an independent contractor.

(l) Payments made by an entity that is not an employer under this chapter.

(m) Payments made in lieu of any employer-paid group insurance coverage.

*b. "Covered wages" means wages of a member during the periods of membership service as follows:*

(1) For the period from July 4, 1953, through December 31, 1953, and each calendar year from January 1, 1954, through December 31, 1963, wages not in excess of four thousand dollars.

(2) For each calendar year from January 1, 1964, through December 31, 1967, wages not in excess of four thousand eight hundred dollars.

(3) For each calendar year from January 1, 1968, through December 31, 1970, wages not in excess of seven thousand dollars, for each calendar year from January 1, 1971, through December 31, 1972, wages not in excess of seven thousand eight hundred dollars, and for each calendar year from January 1, 1973, through December 31, 1975, wages not in excess of ten thousand eight hundred dollars.

(4) For each calendar year from January 1, 1976, through December 31, 1983, wages not in excess of twenty thousand dollars.

(5) For each calendar year from January 1, 1984, through December 31, 1985, wages not in excess of twenty-one thousand dollars per year.

(6) For the calendar year from January 1, 1986, through December 31, 1986, wages not in excess of twenty-two thousand dollars.

(7) For the calendar year from January 1, 1987, through December 31, 1987, wages not in excess of twenty-three thousand dollars.

(8) For the calendar year beginning January 1, 1988, and ending December 31, 1988, wages not in excess of twenty-four thousand dollars.

(9) For the calendar year beginning January 1, 1989, and ending December 31, 1989, wages not in excess of twenty-six thousand dollars.

(10) For the calendar year beginning January 1, 1990, and ending December 31, 1990, wages not in excess of twenty-eight thousand dollars.

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

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

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

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

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

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

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

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

Effective July 1, 1992, "*covered wages*" does not include wages to a member on or after the effective date of the member's retirement, except as otherwise permitted by the system's administrative rules, unless the member is reemployed, as provided under section 97B.48A.

If a member is employed by more than one employer during a calendar year, the total amount of wages paid to the member by the several employers shall be included in determining the limitation on covered wages as provided in this lettered paragraph. If the amount of wages paid to a member by the member's several employers during a calendar year exceeds the covered wage limit, the amount of such excess shall not be subject to the contributions required by section 97B.11.

27. "*Years of prior service*" means the total of all periods of prior service of a member. In computing credit for prior service, service of less than a full quarter shall be rounded up to a full quarter. Where a member had prior service as a teacher, a full year of service shall be granted that member if the member had three quarters of service and a contract for employment for the following school year.

[C46, 50, § 97.197.5, 97.797.9, 97.12, 97.14, 97.18, 97.23, 97.45, 97.48; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 97B.41; 82 Acts, ch 1261, § 1317]

83 Acts, ch 101, § 10; 83 Acts, ch 186, § 10042, 10201; 84 Acts, ch 1285, § 48; 86 Acts, ch 1243, § 48; 87 Acts, ch 115, § 13; 87 Acts, ch 227, § 18; 88 Acts, ch 1242, § 2130; 90 Acts, ch 1240, § 1623; 92 Acts, ch 1201, § 2435; 93 Acts, ch 44, § 4; 94 Acts, ch 1183, §1622, 97; 95 Acts, ch 102, § 14; 96 Acts, ch 1034, § 3; 96 Acts, ch 1187, § 1122; 98 Acts, ch 1183, § 1824, 77, 82

C99, § 97B.1A

2000 Acts, ch 1077, §1020, 76; 2001 Acts, ch 61, §15; 2001 Acts, ch 68, §21, 24; 2002 Acts, ch 1135, §711, 38; 2003 Acts, ch 145, §171, 286; 2004 Acts, ch 1103, §412

## **Footnotes**

For additional definitions, see § 97B.1

Inclusion in definition of wages of certain allowable employer-paid contributions paid by eligible employers to eligible employees; 2000 Acts, ch 1171, §26

2002 amendment to subsection 8, paragraph b, subparagraph (2) takes effect April 26, 2002, and applies retroactively on and after January 1, 1995; 2002 Acts, ch 1135, §38