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STATE GOVERNMENT

HOUSE FILE

2216

BY LARSON

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
 Approved \_\_\_\_\_

**A BILL FOR**

1 An Act creating a defined contribution pension option for  
 2 employees covered by the Iowa public employees' retirement  
 3 system and providing an effective date.

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

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HF 2216

1 Section 1. Section 97B.1, subsection 2, Code 1999, is  
2 amended by adding the following new subsection:

3 NEW SUBSECTION. cc. "Optional plan" means the Iowa public  
4 employees' defined contribution plan created in chapter 97E.

5 Sec. 2. Section 97B.1A, unnumbered paragraph 1, Code 1999,  
6 is amended to read as follows:

7 When used in this chapter and chapter 97E unless the  
8 context requires otherwise:

9 Sec. 3. Section 97B.1A, subsection 8, unnumbered paragraph  
10 1, Code 1999, is amended to read as follows:

11 "Employee" means as provided in this subsection:

12 aa. "Employee" includes an individual who is employed as  
13 defined in this chapter for whom coverage under this chapter  
14 is mandatory and who has not elected out of coverage under  
15 this chapter and elected coverage under the optional plan  
16 pursuant to section 97B.42A.

17 Sec. 4. Section 97B.42A, Code 1999, is amended by adding  
18 the following new subsection:

19 NEW SUBSECTION. 1A. Commencing on July 1, 2003, a person  
20 who is newly hired in a position as an employee, as defined in  
21 section 97B.1A, subsection 8, paragraph "aa" or "a", shall be  
22 covered under this chapter unless the person complies with the  
23 requirements of subsection 1 to elect out of coverage, if  
24 applicable, or the person files an application with  
25 appropriate documentation to the department within sixty days  
26 of employment in the position to affirmatively elect out of  
27 coverage under this chapter and elect coverage under the  
28 optional plan created in chapter 97E. A decision to elect out  
29 of coverage under this chapter is irrevocable upon approval  
30 from the system.

31 Sec. 5. Section 97B.42A, Code 1999, is amended by adding  
32 the following new subsection:

33 NEW SUBSECTION. 3A. A person who is employed in a  
34 position as an employee and who is covered under the system in  
35 this chapter on July 1, 2003, and who is not an active member

1 of another retirement system in the state which is maintained  
2 in whole or in part by public contributions or payments, shall  
3 remain in coverage under the system on and after July 1, 2003,  
4 unless the person files an application with appropriate  
5 documentation with the department to elect out of coverage  
6 under this chapter and into coverage under the optional plan  
7 within one year from July 1, 2003. If a person elects out of  
8 coverage, the department shall deem the election a termination  
9 of employment for purposes of section 97B.53 and the  
10 department shall transfer funds from the retirement fund to  
11 the member's retirement account in the optional plan created  
12 pursuant to chapter 97E in an amount equal to the accumulated  
13 contributions of the member, and, for a vested member, the  
14 accumulated employer contributions, as of the date of election  
15 as provided in section 97B.53, subsection 1. A decision to  
16 elect out of coverage under this chapter pursuant to this  
17 section is irrevocable upon approval from the department.

18 Sec. 6. Section 97B.42A, Code 1999, is amended by adding  
19 the following new subsection:

20 NEW SUBSECTION. 5. An employee shall not simultaneously  
21 be a member of the optional plan created in chapter 97E and  
22 the Iowa public employees' retirement system and must, if  
23 coverage is otherwise mandatory under chapter 97B, be a member  
24 of either the optional plan created in chapter 97E or the  
25 system. A period of service shall not be credited to both the  
26 optional plan created in chapter 97E and the system.

27 Sec. 7. Section 97B.42A, Code 1999, is amended by adding  
28 the following new subsection:

29 NEW SUBSECTION. 6. Notwithstanding any provision of this  
30 section to the contrary, a member of the system who is subject  
31 to a qualified order for the purpose of enforcing child,  
32 spousal, or medical support obligations or marital property  
33 orders pursuant to section 97B.39, shall not be eligible to  
34 transfer to the optional plan created in chapter 97E unless  
35 the order is modified to apply under the optional plan created

1 in chapter 97E.

2 Sec. 8. NEW SECTION. 97E.1 PLAN CREATED -- DEFINITIONS.

3 1. The "Iowa public employees' defined contribution  
4 retirement plan" is created. The plan is within the  
5 department of personnel.

6 2. As used in this chapter unless the context requires  
7 otherwise:

8 a. "Defined benefit system" means the Iowa public  
9 employees' retirement system created in chapter 97B.

10 b. "Department" means the department of personnel.

11 c. "Member" means an employee who has elected coverage  
12 under the plan and who has a retirement account in the defined  
13 contribution plan.

14 d. "Plan" or "defined contribution plan" means the Iowa  
15 public employees' defined contribution retirement plan created  
16 in this chapter.

17 e. "Plan choice rate" means the amount of the employer  
18 contribution as a percentage of payroll of members of the  
19 defined contribution plan that is allocated to the defined  
20 benefit system pursuant to section 97E.9 and that is adjusted  
21 by the department pursuant to section 97E.10 to actuarially  
22 fund the unfunded liabilities and the normal cost rate changes  
23 in the defined benefit plan resulting from employee selection  
24 of the defined contribution plan pursuant to section 97B.42A.

25 Sec. 9. NEW SECTION. 97E.2 DEFINED CONTRIBUTION PLAN  
26 ESTABLISHED -- ASSETS TO BE HELD IN TRUST -- CONTRACTED  
27 SERVICES.

28 1. The department shall establish within the public  
29 employees' retirement system a defined contribution plan in  
30 accordance with this chapter. The plan must be established as  
31 a pension plan for the exclusive benefit of members and their  
32 beneficiaries and as a "qualified plan" pursuant to section  
33 401(a) of the Internal Revenue Code and its implementing  
34 regulations. Retirement accounts must be established for each  
35 member of the defined contribution plan. Assets of the plan

1 must be held in trust. The plan is established in addition to  
2 any retirement, pension, deferred compensation, or other  
3 benefit plan administered by the state or a political  
4 subdivision.

5 2. The department shall contract for plan administration  
6 and use a competitive bidding process when contracting for  
7 consulting, educational, investment, recordkeeping, or other  
8 services for the plan.

9 3. The department shall contract for a qualified  
10 consultant to assist in preparation of the request for bid or  
11 request for proposal for plan services.

12 Sec. 10. NEW SECTION. 97E.3 PLAN GOALS.

13 In implementing and administering the defined contribution  
14 plan, the department shall consider the following goals for  
15 the plan:

16 1. The impact to employers of changes to administrative  
17 processes in order to establish the plan that is minimized to  
18 the extent possible.

19 2. The administrative structure for the plan is configured  
20 in an economical and efficient manner.

21 3. Administration and services for the plan are contracted  
22 out to the extent possible, but that the department shall  
23 provide for the diligent oversight of the contracts.

24 4. Reasonable participant services are provided for and  
25 that fees are commensurate with the services.

26 5. Lines of communication and responsibilities are clearly  
27 established so that employers or their personnel and payroll  
28 officers do not advise members about plan choices or  
29 investment alternatives.

30 6. Employers are encouraged to provide paid time for  
31 employees to attend educational programs sponsored by the  
32 department.

33 Sec. 11. NEW SECTION. 97E.4 DEPARTMENT POWERS AND DUTIES  
34 -- RULEMAKING.

35 1. The department has the powers and shall perform the

1 duties regarding the defined contribution plan, as applicable.

2 2. The department shall, in accordance with chapter 17A,  
3 adopt rules necessary for the implementation of this chapter,  
4 including rules concerning the following:

5 a. Matters necessary for the treatment of the plan as a  
6 qualified plan under applicable sections of the Internal  
7 Revenue Code.

8 b. The treatment of dormant or inactive accounts.

9 c. The security and privacy of information maintained by  
10 the department concerning a member's investments, as required  
11 by applicable law.

12 d. Minimum asset, reserve, insurance, or other security  
13 requirements intended to ensure the solvency of a contractor  
14 used by the department for investment services.

15 e. The commencement of benefits in the plan.

16 Sec. 12. NEW SECTION. 97E.5 ADMINISTRATIVE EXPENSES AND  
17 FEES.

18 1. The department may establish a fund within the defined  
19 contribution plan for paying the plan's administrative  
20 expenses.

21 2. The department may do any of the following:

22 a. Assess fees to pay the reasonable administrative costs  
23 of the plan.

24 b. Negotiate with a vendor or vendors for vendor  
25 reimbursement of departmental administrative expenses for the  
26 plan.

27 3. All fees assessed must be fully disclosed to plan  
28 members and treated as public information.

29 4. Costs for the department to provide for contract  
30 oversight are included as part of the administrative expenses  
31 of the plan.

32 Sec. 13. NEW SECTION. 97E.6 PLAN MEMBERSHIP.

33 Except as otherwise provided in this chapter, a member of  
34 the plan means an employee who elected coverage under the plan  
35 pursuant to section 97B.42A.

1     Sec. 14. NEW SECTION. 97E.7 TRANSFERS OR ROLLOVERS INTO  
2 PLAN -- MEMBERSHIP CREDIT FOR PURPOSES OF VESTING.

3     1. Except as provided in this section, the department  
4 shall accept the transfer or rollover of assets from another  
5 qualified plan to the member's retirement account. If a  
6 member is transferring assets from the defined benefit system,  
7 the member shall, for the purposes of becoming vested pursuant  
8 to section 97E.8, receive credit for the employee's prior  
9 membership service under the defined benefit system.

10    2. a. Money from the defined benefit system shall not be  
11 transferred or rolled over to a retirement account unless the  
12 money was contributed to the defined benefit system on an  
13 after-tax basis.

14    b. To the extent that the transfer or rollover is  
15 disallowed under the Internal Revenue Code provisions in  
16 effect as of the calendar year immediately preceding the date  
17 of the transfer or rollover, a member may not transfer or  
18 rollover to a retirement account contributions made under  
19 sections 403(b) and 457 of the Internal Revenue Code.

20     Sec. 15. NEW SECTION. 97E.8 VESTING -- MANDATORY  
21 TERMINATION OF MEMBERSHIP -- FORFEITURES.

22     1. A member is fully vested with the member's  
23 contributions and the income on those contributions from the  
24 date that the employee becomes a member of the plan, but is  
25 not considered a vested member unless the member meets the  
26 criteria under subsection 2.

27     2. A member is not vested with the employer's  
28 contributions and the income on those contributions and does  
29 not attain the status of a vested member until the member has  
30 a total of four years of membership service under the system.

31     3. A member who terminates covered employment before  
32 becoming a vested member shall terminate plan membership by  
33 removing from the plan the member's entire account balance as  
34 provided in section 97E.13. The employer contributions and  
35 income on the employer's contributions in the member's

1 retirement account are forfeited and must be allocated as  
2 provided in section 97E.9.

3 Sec. 16. NEW SECTION. 97E.9 ALLOCATION OF CONTRIBUTIONS  
4 AND FORFEITURES.

5 1. Each plan member's retirement account must be credited  
6 with employee contributions calculated as provided in section  
7 97B.11.

8 2. Each employer of a plan member shall make contributions  
9 to the plan and to the defined benefit system as allocated by  
10 this subsection in an amount calculated as provided in section  
11 97B.11.

12 a. Each plan member's retirement account shall be credited  
13 with the portion of employer contributions calculated by using  
14 the rate provided in section 97B.11 minus the plan choice  
15 rate.

16 b. The retirement fund of the defined benefit system shall  
17 be credited with the remaining employer contributions for that  
18 member calculated using the plan choice rate.

19 3. If employer contributions to the member's account and  
20 investment income on the employer contributions are forfeited,  
21 the department shall allocate the forfeitures under this  
22 section to meet the employer contributions obligation provided  
23 under subsection 2, paragraph "a", in lieu of direct  
24 contributions by the employer and shall increase the  
25 contribution amount under subsection 2, paragraph "b", by the  
26 amount of the forfeitures used in lieu of the employer  
27 contributions.

28 Sec. 17. NEW SECTION. 97E.10 DETERMINATION AND  
29 ADJUSTMENT OF PLAN CHOICE RATE AND CONTRIBUTION ALLOCATIONS --  
30 RULEMAKING.

31 1. The department shall provide for the periodic review of  
32 the sufficiency of the plan choice rate and shall adjust the  
33 rate as specified in this section. The department shall adopt  
34 procedures to ensure that the data necessary to comply with  
35 this section is collected and maintained for all system

1 members.

2 2. The plan choice rate shall be set and adjusted based  
3 upon the following factors:

4 a. As determined under subsection 3, the change in the  
5 normal cost contribution rate in the defined benefit system  
6 that is the result of member selection of the defined  
7 contribution plan.

8 b. As determined under subsection 4, the anticipated  
9 reduction in defined contribution plan costs because of  
10 forfeitures.

11 c. As determined under subsection 5, the sufficiency of  
12 the plan choice rate to actuarially fund the defined  
13 contribution plan's share of the defined benefit system's  
14 unfunded liabilities.

15 3. The change in the normal cost contribution rate must be  
16 an amount equal to the difference between the normal cost  
17 contribution rate in the defined benefit system that would  
18 have resulted if all system members remained in the defined  
19 benefit system and the normal cost contribution rate in the  
20 defined benefit system for the actual members of the defined  
21 benefit system, multiplied by the covered payroll of members  
22 in the defined benefit system, divided by the covered payroll  
23 of members in the defined contribution plan. The measurements  
24 under this subsection must be based on the defined benefit  
25 system in effect on the effective date of this Act until the  
26 department determines that the defined benefit system has been  
27 amended in a manner that significantly affects plan choices  
28 available to system members. After the department determines  
29 that the defined benefit system has been significantly  
30 changed, the measurements in this subsection with respect to  
31 members entering the system after the significant change must  
32 be made on the basis of the defined benefit system, as  
33 amended.

34 4. The anticipated reduction in defined contribution plan  
35 costs as a result of forfeitures under section 97E.9 shall be

1 determined as the amount of forfeitures expected during the  
2 next fiscal year based on actual forfeitures in the preceding  
3 fiscal year, adjusted by taking into account the gains or  
4 losses during the preceding fiscal year resulting from  
5 forfeitures of greater or lesser amounts than expected,  
6 divided by twice the covered payroll of members of the defined  
7 contribution plan.

8 5. The sufficiency of the plan choice rate to actuarially  
9 fund the appropriate share of the defined benefit system's  
10 unfunded liabilities shall be determined as follows:

11 a. The department shall determine the number of years  
12 required to actuarially fund the defined benefit plan's  
13 unfunded liabilities as of the June 30, 2002, actuarial  
14 valuation, which shall be the initial schedule for the defined  
15 contribution plan to actuarially fund the plan's share of the  
16 unfunded liabilities. The board shall reduce the schedule by  
17 one year each year.

18 b. During each subsequent actuarial valuation of the  
19 defined benefit system, the department shall determine whether  
20 the plan choice rate minus the sum of the amounts provided in  
21 subsection 2, paragraphs "a" and "b", is sufficient to pay the  
22 unfunded liability obligations within the schedule determined  
23 under subsection 5, paragraph "a". If the amount is  
24 insufficient to fund the liability over a period of ten years  
25 longer than the scheduled period or is more than sufficient to  
26 fund the liability over a period of ten years earlier than the  
27 scheduled period, the department shall determine to the  
28 nearest one-tenth of one percent the amount of the increase or  
29 decrease in the plan choice rate that is required to  
30 actuarially fund the liabilities according to the established  
31 schedule.

32 6. If the department determines that the plan choice rate  
33 should be increased or decreased, the plan choice rate shall  
34 be increased or decreased accordingly. If the plan choice  
35 rate is increased, the allocation of employer contributions to

1 member accounts under section 97E.9 shall be decreased by that  
2 rate. If the plan choice rate is decreased, the allocation of  
3 employer contributions to member accounts under section 97E.9  
4 shall be increased by that rate.

5 7. By November 1 of the year of a determination pursuant  
6 to this section that the allocation of employer contributions  
7 under section 97E.9 shall be changed, the department shall  
8 notify system members, participating employers, employee and  
9 employer organizations, the governor, and the legislature of  
10 its determination and of the changes required.

11 8. Effective January 1 of the year after a determination  
12 under this section, the plan choice rate and the allocation of  
13 contributions under section 97E.9 shall be adjusted according  
14 to the department's determination.

15 Sec. 18. NEW SECTION. 97E.11 MAXIMUM CONTRIBUTION  
16 LIMITATION.

17 The annual additions to a retirement account within the  
18 defined contribution plan shall not exceed the annual limits  
19 on contributions as specified in section 415 of the Internal  
20 Revenue Code of 1986 and adjusted annually by the commissioner  
21 of internal revenue.

22 Sec. 19. NEW SECTION. 97E.12 INVESTMENT ALTERNATIVES --  
23 NOTICE OF CHANGES -- DEFAULT FUND.

24 1. The department shall contract with a vendor or vendors  
25 to provide for at least eight investment alternatives within  
26 the defined contribution plan. In providing for the plan's  
27 investment alternatives, only a vendor or vendors offering  
28 suitable and well-managed investments that is authorized to do  
29 business in this state shall be used.

30 2. The investment alternatives shall include at least  
31 three that offer plan members the following:

32 a. The ability to materially affect the potential return  
33 on amounts in the member's retirement account and shall  
34 specify the degree of risk to which those amounts are subject.

35 b. A range of investment alternatives that does all of the

1 following:

2 (1) Provides sound and diversified funds.

3 (2) Offers, under each alternative, a materially different  
4 risk and return characteristic than found in the other  
5 alternatives.

6 (3) Allows the member or beneficiary to choose among them  
7 to achieve a portfolio with an aggregate risk and return  
8 characteristic to achieve a point within the risk and return  
9 range normally appropriate for the member or beneficiary based  
10 on age, income, and individual retirement goals.

11 (4) Tends to minimize through diversification the overall  
12 risk of large losses.

13 3. Subject to a competitive bidding process, the  
14 investment alternatives may include the investment  
15 alternatives offered to the state employees' deferred  
16 compensation plan pursuant to section 19A.12B.

17 4. The department shall from time to time review the  
18 suitability and management of investment alternatives and may  
19 change the alternatives to be offered. The department shall  
20 notify affected members of potential changes in alternatives  
21 before any changes become effective.

22 5. Assets within each member's retirement account must be  
23 invested as directed by the member.

24 6. The department shall provide for a balanced fund to be  
25 established as a default investment fund. If a member fails  
26 to direct how the member's retirement account is to be  
27 invested, the member's entire account balance shall be  
28 invested in the default fund.

29 Sec. 20. NEW SECTION. 97E.13 PAYOUT OF ACCOUNT BALANCES  
30 WHEN TERMINATING PLAN MEMBERSHIP.

31 Any time after termination of covered employment by a  
32 member, a member or the member's beneficiary may terminate  
33 plan membership by making a written application to the  
34 department and removing the member's account balance from the  
35 plan through any combination of the following payout options,

1 each of which is subject to applicable regulations of the  
2 internal revenue service:

3 1. A direct rollover to an eligible retirement plan or to  
4 an individual retirement account or annuity pursuant to  
5 section 401(a)(31) of the Internal Revenue Code.

6 2. A regular rollover to an eligible retirement plan  
7 pursuant to section 402(c) of the Internal Revenue Code.

8 3. A lump sum distribution of the member's account  
9 balance.

10 Sec. 21. NEW SECTION. 97E.14 DISTRIBUTION OPTIONS FOR  
11 PLAN MEMBERS -- RULEMAKING -- MINIMUM DISTRIBUTION  
12 REQUIREMENTS -- RESTRICTIONS.

13 1. Subject to the requirements of this chapter and chapter  
14 97B, if applicable, a member may, after termination of covered  
15 employment, leave the member's account balance in the plan,  
16 and the member is eligible for a distribution as provided in  
17 this section.

18 2. After termination of covered employment, upon written  
19 application to the department, a member may, if provided for  
20 by the board, select a distribution option offered pursuant to  
21 a contract negotiated by the department with a plan vendor or  
22 vendors.

23 3. A member who is less than seventy and one-half years of  
24 age who returns to covered employment shall not continue to  
25 receive a distribution under this section while the member is  
26 actively employed in a covered position.

27 4. The department shall adopt rules under chapter 17A to  
28 administer this section and to provide that distributions  
29 comply with the minimum distribution requirements established  
30 in the Internal Revenue Code.

31 Sec. 22. NEW SECTION. 97E.15 DEATH BENEFITS.

32 A plan member's beneficiary shall be designated and  
33 determined pursuant to rules adopted by the department under  
34 chapter 17A. Upon written application filed with the  
35 department after the death of a plan member, the member's

1 beneficiary is entitled to the member's account balance and  
2 all rights established in and subject to this chapter.

3 Sec. 23. NEW SECTION. 97E.16 MINIMUM ACCOUNT BALANCE  
4 REQUIRED FOR MEMBERSHIP AFTER TERMINATION -- ADJUSTMENT BY  
5 RULE.

6 1. a. If a member's account balance is less than five  
7 thousand dollars at the time that the member terminates  
8 covered employment, the member shall terminate plan membership  
9 by removing the member's account balance from the plan in a  
10 manner provided pursuant to section 97E.13.

11 b. If the member fails to remove the member's account  
12 balance, the department may close the account by paying to the  
13 member a lump sum distribution of the member's entire account  
14 balance.

15 2. The department may by rule adjust the minimum account  
16 balance provided in this section as necessary to maintain  
17 reasonable administrative costs and to account for inflation.

18 Sec. 24. EFFECTIVE DATE. This Act takes effect on July 1,  
19 2003.

20 EXPLANATION

21 This bill establishes an option for employees covered or  
22 eligible to be covered under the Iowa public employees'  
23 retirement system (IPERS) to elect out of coverage under that  
24 system and into a defined contribution plan established by the  
25 department of personnel. This bill takes effect on July 1,  
26 2003.

27 Membership in the defined contribution plan is established  
28 by the bill. The bill provides that a person hired on or  
29 after July 1, 2003, who is eligible for coverage under IPERS,  
30 has the option of electing out of that coverage and electing  
31 coverage under a defined contribution plan established by the  
32 department. Active members of IPERS as of July 1, 2003, are  
33 given an option for one year from July 1, 2003, to transfer to  
34 the defined contribution plan. If a member transfers  
35 coverage, the department shall transfer moneys to the member's

1 account in the defined contribution plan in an amount equal to  
2 the amount the person would be eligible to receive as a refund  
3 if the person terminated membership under IPERS.

4 The bill provides that the department shall establish the  
5 defined contribution plan as a qualified plan pursuant to  
6 section 401a of the Internal Revenue Code. The bill provides  
7 that the department shall contract for the administration of  
8 the plan through a competitive bidding process. The bill  
9 authorizes the department to assess fees for the  
10 administration of the plan.

11 The bill provides that a member shall be vested in the  
12 defined contribution plan when the combination of years in  
13 IPERS, if applicable, and the plan equals four. A member who  
14 terminates employment prior to vesting shall forfeit the  
15 employer's contributions, and investment income on that  
16 amount, to the plan which shall otherwise offset contributions  
17 required to be made to the plan by that employer.

18 The bill provides that contributions to the plan from  
19 employers and employees shall be based on the percentage rates  
20 provided members of IPERS. While the entire employee  
21 contribution is deposited in members' accounts, a portion of  
22 the employer's contributions, as determined by the department,  
23 shall be retained and deposited in the IPERS fund to ensure  
24 that IPERS remains in a fully funded status. The method of  
25 determining the portion transferred to the IPERS retirement  
26 fund is established by the bill.

27 The bill provides that at least eight investment choices be  
28 provided to members under the defined contribution plan and  
29 provides for member selection of investment choices. The bill  
30 provides that moneys in a member's account shall be deposited  
31 in a balanced fund if the member fails to select an investment  
32 option. Distributions to plan members, eligible rollovers of  
33 accounts, and death benefit provisions are included in the  
34 bill. The bill also provides for an immediate distribution of  
35 moneys in a member's account if the account balance is less

1 than \$5,000, or the amount established by the department, at  
2 the time the member is terminated from covered employment.

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