

# Senate Study Bill 3209

## Bill Text

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1 1 DIVISION I  
1 2 PUBLIC SAFETY PEACE OFFICERS' RETIREMENT,  
1 3 ACCIDENT, AND DISABILITY SYSTEM  
1 4 Section 1. Section [97A.5](#), subsection 1, Code 1999, is  
1 5 amended to read as follows:  
1 6 1. BOARD OF TRUSTEES. A board of trustees of the Iowa  
1 7 department of public safety peace officers' retirement,  
1 8 accident, and disability system is created. The general  
1 9 responsibility for the proper operation of the system is  
1 10 vested in the board of trustees. The board of trustees is  
1 11 constituted as follows: The commissioner of public safety,  
1 12 who is chairperson of the board, the treasurer of state,

~~and~~

1 13 an actively engaged member of the system, to be chosen by  
1 14 secret ballot by the actively engaged members of the system,  
1 15 and a retired member of the system, to be chosen by secret  
1 16 ballot by the retired members of the system. Both members of  
1 17 the system shall serve for a term of two years.  
1 18 Sec. 2. Section [97A.5](#), subsection 2, Code 1999, is amended  
1 19 to read as follows:  
1 20 2. VOTING. Each trustee shall be entitled to one vote on  
1 21 said board and

~~two~~

- three concurring votes shall be necessary  
1 22 for a decision by the trustees on any question at any meeting  
1 23 of said board.  
1 24 Sec. 3. Section [97A.6](#), subsection 2, Code 1999, is amended  
1 25 to read as follows:  
1 26 2. Allowance on service retirement.  
1 27 a. Upon retirement from service prior to July 1, 1990, a  
1 28 member shall receive a service retirement allowance which  
1 29 shall consist of a pension which equals fifty percent of the  
1 30 member's average final compensation.  
1 31 b. Upon retirement from service on or after July 1, 1990,  
1 32 but before July 1, 1992, a member shall receive a service  
1 33 retirement allowance which shall consist of a pension which  
1 34 equals fifty-four percent of the member's average final  
1 35 compensation.  
2 1 c. Commencing July 1, 1992, but before July 1, 2000, the  
2 2 board of trustees shall increase the percentage multiplier of  
2 3 the member's average final compensation by an additional two  
2 4 percent each July 1 until reaching sixty percent of the  
2 5 member's average final compensation.  
2 6 d. Upon retirement from service on or after July 1, 2000,  
2 7 a member shall receive a service retirement allowance which  
2 8 shall consist of a pension which equals sixty and one-half  
2 9 percent of the member's average final compensation.  
2 10

~~d.~~

- e. Commencing July 1, 1990, if the member has completed  
2 11 more than twenty-two years of creditable service, the service  
2 12 retirement allowance shall consist of a pension which equals

2 13 the amount provided in paragraphs "b"

~~and~~

~~or "c", or "d", plus~~

2 14 an additional percentage as set forth below:

2 15 (1) For a member who terminates service, other than by  
2 16 death or disability, on or after July 1, 1990, but before July  
2 17 1, 1991, and who does not withdraw the member's contributions  
2 18 pursuant to section 97A.16, upon the member's retirement there  
2 19 shall be added three-tenths percent of the member's average  
2 20 final compensation for each year of service over twenty-two  
2 21 years, excluding years of service after the member's fifty-  
2 22 fifth birthday. However, this subparagraph does not apply to  
2 23 more than eight additional years of service.

2 24 (2) For a member who terminates service, other than by  
2 25 death or disability, on or after July 1, 1991, but before  
2 26 October 16, 1992, and who does not withdraw the member's  
2 27 contributions pursuant to section 97A.16, upon the member's  
2 28 retirement there shall be added six-tenths percent of the  
2 29 member's average final compensation for each year of service  
2 30 over twenty-two years, excluding years of service after the  
2 31 member's fifty-fifth birthday. However, this subparagraph  
2 32 does not apply to more than eight additional years of service.

2 33 (3) For a member who terminates service, other than by  
2 34 death or disability, on or after October 16, 1992, but before  
2 35 July 1, 1996, and who does not withdraw the member's  
3 1 contributions pursuant to section 97A.16, upon the member's  
3 2 retirement there shall be added six-tenths percent of the  
3 3 member's average final compensation for each year of service  
3 4 over twenty-two years. However, this subparagraph does not  
3 5 apply to more than eight additional years of service.

3 6 (4) For a member who terminates service, other than by  
3 7 death or disability, on or after July 1, 1996, but before July  
3 8 1, 1998, and who does not withdraw the member's contributions  
3 9 pursuant to section 97A.16, upon the member's retirement there  
3 10 shall be added one and one-half percent of the member's  
3 11 average final compensation for each year of service over  
3 12 twenty-two years. However, this subparagraph does not apply  
3 13 to more than eight additional years of service.

3 14 (5) For a member who terminates service, other than by  
3 15 death or disability, on or after July 1, 1998, but before July  
3 16 1, 2000, and who does not withdraw the member's contributions  
3 17 pursuant to section 97A.16, upon the member's retirement there  
3 18 shall be added one and one-half percent of the member's  
3 19 average final compensation for each year of service over  
3 20 twenty-two years. However, this subparagraph does not apply  
3 21 to more than ten additional years of service.

3 22 (6) For a member who terminates service, other than by  
3 23 death or disability, on or after July 1, 2000, and who does  
3 24 not withdraw the member's contributions pursuant to section  
3 25 97A.16, upon the member's retirement there shall be added two  
3 26 and three-fourths percent of the member's average final  
3 27 compensation for each year of service over twenty-two years.  
3 28 However, this subparagraph does not apply to more than ten  
3 29 additional years of service.

3 30 Sec. 4. Section 97A.6, subsection 8, paragraph b,  
3 31 unnumbered paragraph 1, Code 1999, is amended to read as  
3 32 follows:

3 33 In lieu of the payment specified in paragraph "a", a  
3 34 beneficiary meeting the qualifications of paragraph "c" may  
3 35 elect to receive a monthly pension equal to one-twelfth of  
4 1 forty percent of the average final compensation of the member,  
4 2 but not less than an amount equal to

~~twenty~~

~~twenty-five~~

4 3 percent of the monthly earnable compensation paid to an active

4 4 member having the rank of senior patrol officer of the Iowa  
4 5 state patrol if the member was in service at the time of  
4 6 death. For a member not in service at the time of death, the  
4 7 pension shall be reduced as provided in subsection 1,  
4 8 paragraph "b".

4 9 Sec. 5. Section 97A.6, subsection 14, paragraph a, Code  
4 10 1999, is amended to read as follows:

4 11 a. Effective July 1, 1980, and on each July 1 thereafter,  
4 12 the monthly pensions authorized in this section payable to  
4 13 retired members and to beneficiaries, except children of a  
4 14 deceased member, shall be adjusted as provided in this  
4 15 paragraph. The monthly pension of each retired member and  
4 16 each beneficiary shall be adjusted by adding to that monthly  
4 17 pension an amount equal to the amounts determined in  
4 18 subparagraphs (1) and (2). The adjusted monthly pension shall  
4 19 not be less than the amount which was paid at the time of the  
4 20 member's retirement or death.

4 21 (1) An amount equal to the

~~following percentages of the~~

4 22 difference between the monthly earnable compensation payable  
4 23 to an active member of the department, of the same rank and  
4 24 position on the salary scale as was held by the retired or  
4 25 deceased member at the time of the member's retirement or  
4 26 death, for July of the preceding year and the monthly earnable  
4 27 compensation payable to an active member of the department of  
4 28 the same rank and position on the salary scale for July of the  
4 29 year just beginning

~~shall be added to the monthly pension of~~

4 30

~~each retired member and each beneficiary as follows~~

~~multiplied~~

4 31 by the following applicable percentage:

4 32

~~(1)~~

~~(a)~~

~~Thirty~~

~~Forty~~ percent for members receiving a

4 33 service retirement allowance and for beneficiaries receiving a  
4 34 pension under subsection 9 of this section.

4 35

~~(2)~~

~~(b)~~

~~Thirty~~

~~Forty~~ percent for members with five or more

5 1 years of membership service who are receiving an ordinary

5 2 disability retirement allowance.

5 3

~~(3)~~

~~(c)~~

~~Fifteen~~

~~Twenty-four~~ percent for members with less

5 4 than five years of membership service who are receiving an

5 5 ordinary disability retirement allowance, and for

5 6 beneficiaries receiving a pension under subsection 8 of this

5 7 section.

5 8

~~(4)~~

~~(d)~~

~~Thirty three and one third~~

~~Forty percent for~~

5 9 members receiving an accidental disability allowance.

5 10

~~The adjusted monthly pension shall not be less than the~~

5 11

~~amount which was paid at the time of the member's retirement~~

5 12

~~or death.~~

5 13 (2) The following applicable amount determined as follows:

5 14 (a) Fifteen dollars where the member's retirement date was  
5 15 less than five years prior to the effective date of the  
5 16 adjustment.

5 17 (b) Twenty dollars where the member's retirement date was  
5 18 at least five years, but less than ten years, prior to the  
5 19 effective date of the adjustment.

5 20 (c) Twenty-five dollars where the member's retirement date  
5 21 was at least ten years, but less than fifteen years, prior to  
5 22 the effective date of the adjustment.

5 23 (d) Thirty dollars where the member's retirement date was  
5 24 at least fifteen years, but less than twenty years, prior to  
5 25 the effective date of the adjustment.

5 26 (e) Thirty-five dollars where the member's retirement date  
5 27 was at least twenty years prior to the effective date of the  
5 28 adjustment.

5 29 The amount added to the monthly pension of a surviving  
5 30 spouse receiving a pension under subsection 12, paragraph "a",  
5 31 of this section shall be equal to one-half the amount that  
5 32 would have been added to the monthly pension of the retired  
5 33 member.

5 34 As of the first of July of each year, the monthly pension  
5 35 payable to each surviving child under the provisions of  
6 1 subsections 8, 9, and 12 of this section shall be adjusted to  
6 2 equal six percent of the monthly earnable compensation payable  
6 3 on that July 1 to an active member having the rank of senior  
6 4 patrol officer of the Iowa state patrol.

6 5 Sec. 6. Section [97A.8](#), subsection 1, paragraph b, Code  
6 6 1999, is amended to read as follows:

6 7 b. On the basis of the rate of interest and of the  
6 8 mortality, interest, and other tables adopted by the board of  
6 9 trustees, the board of trustees, upon the advice of the  
6 10 actuary hired by the board for that purpose, shall make each  
6 11 valuation required by this chapter and shall immediately after  
6 12 making such valuation, determine the "normal contribution  
6 13 rate". The normal contribution rate shall be the rate percent  
6 14 of the earnable compensation of all members obtained by  
6 15 deducting from the total liabilities of the fund the sum of  
6 16 the amount of the funds in hand to the credit of the fund and  
6 17 dividing the remainder by one percent of the present value of  
6 18 the prospective future compensation of all members as computed  
6 19 on the basis of the rate of interest and of mortality and  
6 20 service tables adopted by the board of trustees, all reduced  
6 21 by the employee contribution made pursuant to this subsection.  
6 22 However, the normal rate of contribution shall not be less  
6 23 than seventeen percent. The normal rate of contribution shall  
6 24 be determined by the board of trustees after each valuation.  
6 25 To assist in determining the normal rate of contribution, the

6 26 board of trustees may adopt a smoothing method for valuing the  
6 27 assets of the system. The smoothing method is designed to  
6 28 reduce changes in the normal contribution rate which could  
6 29 result from fluctuations in the market value of the assets of  
6 30 the system.

6 31 Sec. 7. Section [97A.8](#), subsection 1, paragraph c,  
6 32 unnumbered paragraph 2, Code 1999, is amended by striking the  
6 33 unnumbered paragraph.

6 34 Sec. 8. PEACE OFFICERS RETIREMENT SYSTEM LEGISLATIVE  
6 35 INTENT. It is the intent of the general assembly that peace  
7 1 officer members of the retirement system be afforded a  
7 2 retirement benefit based upon ninety percent of a peace  
7 3 officer's earnable compensation at the time of a member's  
7 4 retirement after the peace officer has completed thirty years  
7 5 of service when the retirement system can afford it on an  
7 6 actuarially sound basis.

7 7 DIVISION II

7 8 IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

7 9 Sec. 9. Section [97B.1A](#), Code 1999, is amended by adding  
7 10 the following new subsection:

7 11 NEW SUBSECTION. 2A. "Accumulated employer contributions"  
7 12 means an amount equal to the total obtained as of any date, by  
7 13 accumulating each individual contribution by the employer for  
7 14 the member with interest plus interest dividends as provided  
7 15 in section 97B.70, for all completed calendar years and for  
7 16 any completed calendar year for which the interest dividend  
7 17 has not been declared and for completed months of partially  
7 18 completed calendar years, compounded as provided in section  
7 19 97B.70.

7 20 Sec. 10. Section [97B.1A](#), subsection 8, paragraph a,  
7 21 subparagraph (1), Code 1999, is amended to read as follows:

7 22 (1) Elective officials in positions for which the  
7 23 compensation is on a fee basis, elective officials of school  
7 24 districts, elective officials of townships, and elective  
7 25 officials of other political subdivisions who are in part-time  
7 26 positions. An elective official covered under this chapter  
7 27 may terminate membership under this chapter by informing the  
7 28 department in writing of the expiration of the member's term  
7 29 of office or by informing the department of the member's  
7 30 intent to terminate membership for employment as an elective  
7 31 official and establishing that the member has a bona fide  
7 32 termination of employment from all employment covered under  
7 33 this chapter other than as an elective official and that the  
7 34 member has filed a completed application for benefits form  
7 35 with the department. A county attorney is an employee for

8 1 purposes of this chapter whether that county attorney is  
8 2 employed on a full-time or part-time basis.

8 3 Sec. 11. Section [97B.1A](#), subsection 8, paragraph a, Code  
8 4 1999, is amended by adding the following new subparagraph:

8 5 NEW SUBPARAGRAPH. (12) Persons employed by a municipal  
8 6 water utility or waterworks that has established a pension and  
8 7 annuity retirement system for its employees pursuant to  
8 8 chapter 412.

8 9 Sec. 12. Section [97B.1A](#), subsection 8, paragraph b,  
8 10 subparagraph (3), Code 1999, is amended to read as follows:

8 11 (3) Employees hired for temporary employment of less than  
8 12 six consecutive months or one thousand forty hours in a  
8 13 calendar year. An employee who works for an employer for six  
8 14 or more consecutive months

~~in a calendar year~~

- or who works for

8 15 an employer for more than one thousand forty hours in a  
8 16 calendar year is not a temporary employee under this  
8 17 subparagraph. Adjunct instructors are temporary employees for  
8 18 the purposes of this chapter. As used in this section, unless  
8 19 the context otherwise requires, "adjunct instructors" means

8 20 instructors employed by a community college or a university  
8 21 governed by the state board of regents without a continuing  
8 22 contract, whose teaching load does not exceed one-half time  
8 23 for two full semesters or three full quarters per calendar  
8 24 year.

8 25 Sec. 13. Section [97B.1A](#), Code 1999, is amended by adding  
8 26 the following new subsection:

8 27 NEW SUBSECTION. 14A. "Member account" means the account  
8 28 established for each member and includes the member's  
8 29 accumulated contributions and the member's share of the  
8 30 accumulated employer contributions as provided in section  
8 31 97B.53. "Member account" does not mean the supplemental  
8 32 account for active members.

8 33 Sec. 14. Section [97B.1A](#), Code 1999, is amended by adding  
8 34 the following new subsection:

8 35 NEW SUBSECTION. 22A. "Supplemental account for active  
9 1 members" or "supplemental account" means the account  
9 2 established for each active member under section 97B.49H.

9 3 Sec. 15. Section [97B.1A](#), subsection 24, paragraph a, Code  
9 4 1999, is amended to read as follows:

9 5 24. a. "Three-year average covered wage" means, for a  
9 6 member who retires prior to July 1, 2003, a member's covered  
9 7 wages averaged for the highest three years of the member's  
9 8 service, except as otherwise provided in this subsection. The  
9 9 highest three years of a member's covered wages shall be  
9 10 determined using calendar years. However, if a member's final  
9 11 quarter of a year of employment does not occur at the end of a  
9 12 calendar year, the department may determine the wages for the  
9 13 third year by computing the average quarter of all quarters  
9 14 from the member's highest calendar year of covered wages not  
9 15 being used in the selection of the two highest years and using  
9 16 the computed average quarter for each quarter in the third  
9 17 year in which no wages have been reported in combination with  
9 18 the final quarter or quarters of the member's service to  
9 19 create a full year. However, the department shall not use the  
9 20 member's final quarter of wages if using that quarter would  
9 21 reduce the member's three-year average covered wage. If the  
9 22 three-year average covered wage of a member exceeds the  
9 23 highest maximum covered wages in effect for a calendar year  
9 24 during the member's period of service, the three-year average  
9 25 covered wage of the member shall be reduced to the highest  
9 26 maximum covered wages in effect during the member's period of  
9 27 service. Notwithstanding any other provision of this  
9 28 paragraph to the contrary, a member's wages for the third year  
9 29 as computed by this paragraph shall not exceed, by more than  
9 30 three percent, the member's highest actual calendar year of  
9 31 covered wages for a member whose first month of entitlement is  
9 32 January 1999 or later.

9 33 Sec. 16. Section [97B.1A](#), subsection 24, paragraph b,  
9 34 subparagraph (4), Code 1999, is amended to read as follows:

9 35 (4) For a member who retires on or after January 1, 2000,  
10 1 but before January 1,

~~2003~~

- ~~2001~~, and whose three-year average  
10 2 covered wage at the time of retirement exceeds

~~fifty five~~

-  
10 3 ~~sixty-five~~ thousand dollars, the member's covered wages  
10 4 averaged for the highest

~~seven~~

- ~~six~~ years of the member's  
10 5 service or

~~fifty five~~

- sixty-five thousand dollars, whichever

10 6 is greater.

10 7 Sec. 17. Section 97B.1A, subsection 24, paragraph b, Code  
10 8 1999, is amended by adding the following new subparagraph:

10 9 NEW SUBPARAGRAPH. (5) For a member who retires on or  
10 10 after January 1, 2001, but before January 1, 2002, and whose  
10 11 three-year average covered wage at the time of retirement  
10 12 exceeds seventy-five thousand dollars, the member's covered  
10 13 wages averaged for the highest six years of the member's  
10 14 service or seventy-five thousand dollars, whichever is  
10 15 greater.

10 16 Sec. 18. Section 97B.1A, subsection 24, Code 1999, is  
10 17 amended by adding the following new paragraph:

10 18 NEW PARAGRAPH. c. "Three-year average covered wage"  
10 19 means, for a member who retires on or after July 1, 2003, the  
10 20 greater of the member's covered wages averaged for a member's  
10 21 highest twelve consecutive quarters of service or the member's  
10 22 covered wages averaged for a member's highest three calendar  
10 23 years of service. The department shall adopt rules to  
10 24 implement this paragraph in accordance with the requirements  
10 25 of this chapter and the federal Internal Revenue Code.

10 26 Sec. 19. Section 97B.1A, subsection 26, paragraph a, Code  
10 27 1999, is amended to read as follows:

10 28 a. (1) "Wages" means all remuneration for employment,  
10 29 including

~~the~~

~~, but not limited to, any of the following:~~

10 30 (a) The cash value of

~~remuneration paid in a medium other~~

10 31

~~than cash, but not including the cash value of remuneration~~

10 32

~~paid in a medium other than cash as~~

~~under wage equivalents not~~

10 33 necessitated by the convenience of the employer. The

~~amount~~

10 34

~~agreed upon by the employer and employee for remuneration paid~~

10 35

~~in a medium other than cash~~

~~under fair market value of such wage~~

11 1 equivalents shall be reported to the department by the

11 2 employer

~~and is conclusive of the value of the remuneration~~

11 3

~~"Wages" does not include special lump sum payments made as~~

11 4

~~payment for accrued sick leave or accrued vacation or payments~~

11 5

~~made as an incentive for early retirement or as payments made~~

11 6

~~upon dismissal, severance, or a special bonus payment.~~

11 7 (b) The remuneration paid to an employee before employee-  
11 8 paid contributions are made to plans qualified under sections  
11 9 125, 129, 401, 403, 408, and 457 of the Internal Revenue Code.  
11 10 (c)

~~Wages for~~

~~For an elected official~~

~~means~~

~~other than a~~

11 11 a member of the general assembly, the total compensation  
11 12 received by the elected official, whether paid in the form of  
11 13 per diem or annual salary

~~received by an elected official~~

11 14 exclusive of expense and travel allowances.

11 15 (d)

~~Wages for~~

~~For a member of the general assembly,~~

~~means~~

11 16 the total compensation received by a member of the general  
11 17 assembly, whether paid in the form of per diem or annual  
11 18 salary, exclusive of expense and travel allowances paid to a  
11 19 member of the general assembly except as otherwise provided in  
11 20 this

~~paragraph~~

~~subparagraph subdivision. Wages includes per~~

11 21 diem payments paid to members of the general assembly during  
11 22 interim periods between sessions of the general assembly.  
11 23 Wages also includes daily allowances to members of the general  
11 24 assembly for nontravel expenses of office during a session of  
11 25 the general assembly, but does not include the portion of the  
11 26 daily allowance which exceeds the maximum established by law  
11 27 for members from Polk county.

11 28 (e) Payments for compensatory time earned that are  
11 29 received in lieu of taking regular work hours off. However,  
11 30 "wages" does not include payments for compensatory time earned  
11 31 in excess of two hundred forty hours per year.

11 32 (2) "Wages" does not include any of the following:

11 33 (a) The cash value of wage equivalents necessitated by the  
11 34 convenience of the employer.

11 35 (b) Payments made for accrued sick leave or accrued  
12 1 vacation leave that are not being used to replace regular work  
12 2 hours, whether paid in a lump sum or in installments.

12 3 (c) Payments made as an incentive for early retirement or  
12 4 as payment made upon dismissal or severance from employment,  
12 5 or a special bonus payment intended as an early retirement  
12 6 incentive, whether paid in a lump sum or in installments.

12 7 (d) Employer-paid contributions to, and any distributions  
12 8 from, plans, programs, or arrangements qualified under section  
12 9 117, 120, 125, 129, 401, 403, 408, or 457 of the Internal  
12 10 Revenue Code.

12 11 (e) Employer-paid contributions for coverage under, or  
12 12 distributions from, an accident, health, or life insurance  
12 13 plan, program, or arrangement.

12 14 (f) Workers' compensation and unemployment compensation

- 12 15 payments.
- 12 16 (g) Disability payments.
- 12 17 (h) Reimbursements of employee business expenses except
- 12 18 for those expenses included as wages for a member of the
- 12 19 general assembly.
- 12 20 (i) Payments for allowances made to an employee that are
- 12 21 not included in an employee's federal taxable income except
- 12 22 for those allowances included as wages for a member of the
- 12 23 general assembly.
- 12 24 (j) Payments of damages, attorney fees, interest, and
- 12 25 penalties made to satisfy a grievance or wage claim.
- 12 26 (k) Payments for services as an independent contractor.
- 12 27 (l) Payments made by an entity that is not an employer
- 12 28 under this chapter.
- 12 29 (m) Payments made in lieu of any employer-paid group
- 12 30 insurance coverage.
- 12 31 (n) Payments made for the difference between the costs of
- 12 32 single and family insurance coverage.
- 12 33 (o) Payments made by an employer to reimburse employees
- 12 34 for the cost of insurance coverage and for other fringe
- 12 35 benefits or expenses.

13 1 Sec. 20. Section [97B.5](#), Code 1999, is amended to read as  
13 2 follows:

13 3 97B.5 STAFF.

13 4 Subject to other provisions of this chapter, the department  
13 5 may employ personnel as necessary for the administration of  
13 6 the system, including but not limited to a chief investment  
13 7 officer and a chief benefits officer. The maximum number of  
13 8 full-time equivalent employees specified by the general  
13 9 assembly for the department for administration of the system  
13 10 for a fiscal year shall not be reduced by any authority other  
13 11 than the general assembly. The staff shall be appointed  
13 12 pursuant to chapter 19A. The department shall not appoint or  
13 13 employ a person who is an officer or committee member of a  
13 14 political party organization or who holds or is a candidate  
13 15 for

~~an~~

~~a partisan~~ elective public office. The department may  
13 16 employ attorneys and contract with attorneys and legal firms  
13 17 for the provision of legal counsel and advice in the  
13 18 administration of this chapter and chapter 97C. The  
13 19 department may execute contracts with investment advisors,  
13 20 consultants, and managers outside state government in the  
13 21 administration of this chapter. The department may delegate  
13 22 to any person such authority as it deems reasonable and proper  
13 23 for the effective administration of this chapter, and may bond  
13 24 any person handling moneys or signing checks under this  
13 25 chapter.

13 26 Sec. 21. Section [97B.9](#), unnumbered paragraph 1, Code 1999,  
13 27 is amended to read as follows:

13 28

~~Contributions unpaid on the date on which they are due and~~

~~payable as prescribed by the department,~~  
13 29

~~An employer shall~~

13 30

~~bear~~

~~be charged the greater of ten dollars per occurrence or~~  
13 31 interest at the combined interest and dividend rate required  
13 32 under section 97B.70 for the applicable calendar year

13 33

~~provided that the~~  
~~for contributions unpaid on the date on~~  
13 34 which they are due and payable as prescribed by the  
13 35 department. The department may  
~~prescribe fair and reasonable~~

14 1

~~regulations pursuant to~~  
~~adopt rules prescribing circumstances~~  
14 2 for which the interest or charge shall not accrue with respect  
14 3 to contributions required. Interest or charges collected  
14 4 pursuant to this section shall be paid into the Iowa public  
14 5 employees' retirement fund.  
14 6 Sec. 22. Section 97B.9, subsection 4, Code 1999, is  
14 7 amended to read as follows:  
14 8 4. Regardless of any potentially applicable statute of  
14 9 limitations, if the department finds that the employer or  
14 10 employee

~~or employer~~  
~~, or both, have erroneously underpaid~~  
14 11 contributions, the  
~~employer shall pay the employer's share of~~

14 12

~~contributions and interest and the interest assessed to the~~  
14 13

~~employee's share of contributions~~  
~~department shall notify the~~  
14 14 employer and employee in writing of the total amount of the  
14 15 underpayment, including interest, and the employer's and  
14 16 employee's share of the underpayment. The department shall  
14 17 collect from the employer the total amount of the  
14 18 underpayment, including the employer's share, the employee's  
14 19 share, and the interest assessed to both shares of the  
14 20 underpayment, regardless of whether the employee has  
14 21 reimbursed the employer for the employee's share of the  
14 22 underpayment. The employee shall be obligated to pay only the  
14 23 employee's share of the underpaid contributions, without  
14 24 interest, to the employer

~~, who shall then remit them to the~~

14 25

~~department~~  
~~The employer may collect the employee's share of~~  
14 26 underpaid contributions from the employee or the employee's  
14 27 estate. The employer may collect the employee's share through  
14 28 a deduction from the employee's wages, or by maintaining a  
14 29 legal action against the employee or the employee's estate.  
14 30 For purposes of section 1526 of the federal Taxpayer Relief  
14 31 Act of 1997, eligible participants, as defined by section  
14 32 1526, may make payments of contributions under this section  
14 33 without regard to the limitations of section 415(c)(1) of the  
14 34 federal Internal Revenue Code.  
14 35 Sec. 23. Section 97B.11, unnumbered paragraph 2, Code  
15 1 1999, is amended by striking the unnumbered paragraph.

15 2 Sec. 24. NEW SECTION. 97B.14A WAGE REPORTING.  
15 3 An employer shall report wages of employees covered by this  
15 4 chapter to the department in a manner and form as prescribed  
15 5 by the department. If the wages reported by an employer  
15 6 appear to be a distortion of the normal wage progression  
15 7 pattern for an employee, the department may request that the  
15 8 employer provide documentation indicating that the wages were  
15 9 not misreported for the purposes of causing an increase in the  
15 10 retirement allowance or other payments authorized to be made  
15 11 by this chapter. If the department determines that the wages  
15 12 of an employee were misreported, the employer shall prepare  
15 13 and file wage adjustments allocating the wages to the proper  
15 14 wage reporting period.  
15 15 Sec. 25. Section 97B.17, subsection 2, Code 1999, is  
15 16 amended to read as follows:  
15 17 2. Records specifying amounts accumulated in members'  
15 18

~~active~~

~~accounts and supplemental accounts.~~

15 19 Sec. 26. Section 97B.25, Code 1999, is amended to read as  
15 20 follows:  
15 21 97B.25 APPLICATIONS FOR BENEFITS.  
15 22 A representative designated by the chief benefits officer  
15 23 and referred to in this chapter as a retirement benefits  
15 24

~~specialist~~

~~officer~~ shall promptly examine applications for  
15 25 retirement benefits and on the basis of facts found shall  
15 26 determine whether or not the claim is valid. If the claim is  
15 27 valid, the retirement benefits

~~specialist~~

~~officer~~ shall send a  
15 28 notification to the member stating the option the member has  
15 29 selected pursuant to

~~sections 97B.49A through 97B.49C, as~~

15 30

~~applicable, or~~

~~section 97B.51~~, the month with respect to which  
15 31 benefits shall commence, and the monthly benefit amount  
15 32 payable. If the claim is invalid, the retirement benefits  
15 33

~~specialist~~

~~officer~~ shall promptly notify the applicant and any  
15 34 other interested party of the decision and the reasons A  
15 35 retirement application shall not be amended or revoked by the  
16 1 member once the first retirement allowance is paid. A  
16 2 member's death during the first month of entitlement shall not  
16 3 invalidate an approved application.

16 4 Sec. 27. Section 97B.42A, Code 1999, is amended by adding  
16 5 the following new subsection:

16 6 NEW SUBSECTION. 3A. A person who is employed in a  
16 7 position as an employee as defined in section 97B.1A,  
16 8 subsection 8, paragraph "a", subparagraph (12), on July 1,  
16 9 2000, and who has not elected out of coverage under this  
16 10 chapter prior to that date, shall begin coverage under the  
16 11 system on July 1, 2000, unless, on or before August 31, 2000,  
16 12 the person files an application with appropriate documentation  
16 13 to elect coverage under an alternative pension and annuity  
16 14 retirement system established pursuant to chapter 412. If a  
16 15 person elects coverage under the alternative pension and

16 16 annuity retirement system, the period of time from July 1,  
16 17 2000, until the date the person's election of coverage is  
16 18 effective shall not constitute service for purposes of  
16 19 coverage under this chapter and a wage adjustment shall be  
16 20 processed for the person based on any contributions collected  
16 21 pursuant to this chapter during that period of time and shall  
16 22 be credited pursuant to section 97B.10. A decision to elect  
16 23 coverage under an alternative pension and annuity retirement  
16 24 system established pursuant to chapter 412 under this  
16 25 subsection is irrevocable upon approval from the department.

16 26 A person who becomes a member of the Iowa public employees'  
16 27 retirement system pursuant to this subsection, and who has one  
16 28 or more years of covered wages, may purchase credit, pursuant  
16 29 to section 97B.73, for one or more quarters of service prior  
16 30 to August 1, 2000, in which the person was employed in a  
16 31 position as described by section 97B.1A, subsection 8,  
16 32 paragraph "a", subparagraph (12), but was not a member of the  
16 33 system.

16 34 Sec. 28. Section [97B.42A](#), subsection 4, Code 1999, is  
16 35 amended to read as follows:

17 1 4. A person who becomes a member of the system pursuant to  
17 2 subsection 3, or who is a member of the system, and who has  
17 3 one or more years of covered wages, may purchase credit,  
17 4 pursuant to section 97B.73, for one or more quarters of  
17 5 service prior to January 1, 1999, in which the person was  
17 6 employed in a position as described in section 97B.1A,  
17 7 subsection 8, paragraph "a", but was not a member of the  
17 8 system.

17 9 Sec. 29. Section [97B.44](#), Code 1999, is amended to read as  
17 10 follows:

17 11 97B.44 BENEFICIARY.

17 12 Each member shall designate on a form to be furnished by  
17 13 the department a beneficiary for death benefits payable under  
17 14 this chapter on the death of the member. The designation may  
17 15 be changed from time to time by the member by filing a new  
17 16 designation with the department. A designation or change in  
17 17 designation made by a member on or after July 1, 2000, shall  
17 18 contain the written consent of the member's spouse, if  
17 19 applicable. The designation of a beneficiary is not  
17 20 applicable if the member receives a refund of all  
17 21 contributions of the member. If a member who has received a  
17 22 refund of contributions returns to employment, the member  
17 23 shall file a new designation with the department.

17 24 If a member has not designated a beneficiary on a form  
17 25 furnished by the department, or if there are no surviving  
17 26 designated beneficiaries of a member, death benefits payable  
17 27 under this chapter shall be paid to the member's estate.

17 28 Sec. 30. Section [97B.48](#), subsection 1, Code 1999, is  
17 29 amended to read as follows:

17 30 1. Retirement allowances shall be paid monthly, except  
17 31 that an allowance of less than six hundred dollars a year may,  
17 32 at the member's option, be paid as a lump sum in an amount  
17 33 equal to the sum of the member's and employer's accumulated  
17 34 contributions and the retirement dividends standing to the  
17 35 member's credit before December 31, 1966. Receipt of the  
18 1 lump-sum payment by a member shall terminate any and all  
18 2 entitlement for the period of service covered of the member  
18 3 under this chapter and the member shall not be eligible to buy  
18 4 back the period of service.

18 5 Sec. 31. Section [97B.48A](#), subsection 1, unnumbered  
18 6 paragraph 1, Code 1999, is amended to read as follows:

18 7 If a member who has not reached the member's sixty-fifth  
18 8 birthday and who has a bona fide retirement under this chapter  
18 9 is in regular full-time employment during a calendar year, the  
18 10 member's retirement allowance shall be reduced by fifty cents  
18 11 for each dollar the member earns over the limit provided in  
18 12 this subsection. However, employment is not full-time

18 13 employment until the member receives remuneration in an amount  
18 14 in excess of

~~twelve~~

- ~~fourteen~~ thousand dollars for a calendar

18 15 year, or an amount equal to the amount of remuneration  
18 16 permitted for a calendar year for persons under sixty-five  
18 17 years of age before a reduction in federal social security  
18 18 retirement benefits is required, whichever is higher.  
18 19 Effective the first of the month in which a member attains the  
18 20 age of sixty-five years, a retired member may receive a  
18 21 retirement allowance without a reduction after return to  
18 22 covered employment regardless of the amount of remuneration  
18 23 received.

18 24 Sec. 32. Section [97B.48A](#), subsection 3, Code 1999, is  
18 25 amended to read as follows:

18 26 3. Upon a retirement after reemployment, a retired member  
18 27 may have the retired member's retirement allowance  
18 28 redetermined under this section or section 97B.48,

~~sections~~

-  
18 29

~~97B.49A through 97B.49H,~~

- section 97B.50, or section 97B.51,

18 30 whichever is applicable, based upon the addition of credit for  
18 31 the years of membership service of the employee after  
18 32 reemployment, the covered wage during reemployment, and the  
18 33 age of the employee after reemployment. The member shall  
18 34 receive a single retirement allowance calculated from both  
18 35 periods of membership service, one based on the initial  
19 1 retirement and one based on the second retirement following  
19 2 reemployment. If the total years of membership service and  
19 3 prior service of a member who has been reemployed equals or  
19 4 exceeds thirty, the years of membership service on which the  
19 5 original retirement allowance was based may be reduced by a  
19 6 fraction of the years of service equal to the number of years  
19 7 by which the total years of membership service and prior  
19 8 service exceeds thirty divided by thirty, if this reduction in  
19 9 years of service will increase the total retirement allowance  
19 10 of the member. The additional retirement allowance calculated  
19 11 for the period of reemployment shall be added to the  
19 12 retirement allowance calculated for the initial period of  
19 13 membership service and prior service, adjusted as provided in  
19 14 this subsection. The retirement allowance calculated for the  
19 15 initial period of membership service and prior service shall  
19 16 not be adjusted for any other factor than years of service.  
19 17 The retired member shall not receive a retirement allowance  
19 18 based upon more than a total of thirty years of service.  
19 19 Effective July 1, 1998, a redetermination of a retirement  
19 20 allowance as authorized by this subsection for a retired  
19 21 member whose combined service exceeds the applicable years of  
19 22 service for that member as provided in sections 97B.49A  
19 23 through 97B.49G shall have the determination of the member's  
19 24 reemployment benefit based upon the percentage multiplier as  
19 25 determined for that member as provided in sections 97B.49A  
19 26 through 97B.49G.

19 27 Sec. 33. Section [97B.48A](#), subsection 4, Code 1999, is  
19 28 amended to read as follows:

19 29 4. The department shall pay to the member the accumulated  
19 30 contributions of the member and all of the employer  
19 31 contributions, plus interest plus interest dividends as  
19 32 provided in section 97B.70, for all completed calendar years,  
19 33 compounded as provided in section 97B.70, on the covered wages  
19 34 earned by a retired member that are not used in the  
19 35 recalculation of the retirement allowance of a member. A

20 1 payment of contributions to a member pursuant to this  
20 2 subsection shall be considered a retirement payment and not a  
20 3 refund and the member shall not be eligible to buy back the  
20 4 period of reemployment service.

20 5 Sec. 34. Section [97B.49B](#), subsection 1, paragraph d, Code  
20 6 1999, is amended by adding the following new subparagraph:

20 7 NEW SUBPARAGRAPH. (7) An employee covered by the merit  
20 8 system as provided in chapter 19A whose primary duty is  
20 9 providing airport security and who carries or is licensed to  
20 10 carry a firearm while performing those duties.

20 11 Sec. 35. Section [97B.49F](#), subsection 1, paragraph b,  
20 12 subparagraph (2), subparagraph subdivision (a), Code 1999, is  
20 13 amended to read as follows:

20 14 (a) The percentage representing

~~eighty percent of~~  
- the

20 15 percentage increase in the consumer price index published in  
20 16 the federal register by the federal department of labor,  
20 17 bureau of labor statistics, that reflects the percentage  
20 18 increase in the consumer price index for the twelve-month  
20 19 period ending June 30 of the year that the dividend is to be  
20 20 paid.

20 21 Sec. 36. Section [97B.49F](#), subsection 1, paragraph c, Code  
20 22 1999, is amended to read as follows:

20 23 c. If a member eligible to receive a cost-of-living  
20 24 dividend dies before November 1 of a year, a cost-of-living  
20 25 dividend shall not be payable in November of that year in the  
20 26 name of the member. If a member dies on or after November 1,  
20 27 but before payment of a dividend is made in that month, the  
20 28 full amount of the retirement dividend for that year shall be  
20 29 paid in the member's name upon notification of the member's  
20 30 death.

20 31 Sec. 37. Section [97B.49F](#), subsection 2, paragraph a, Code  
20 32 1999, is amended to read as follows:

20 33 a. Commencing January 1, 1999, all members who retired on  
20 34 or after July 1, 1990, and who have been retired for at least  
20 35 one year as of the date the dividend is payable, or a  
21 1 beneficiary or contingent annuitant of such a member who  
21 2 receives a monthly benefit, shall be eligible to receive a  
21 3 favorable experience dividend, payable on the last business  
21 4 day in January of each year pursuant to the requirements of  
21 5 this subsection. If the member, beneficiary, or contingent  
21 6 annuitant eligible to receive a favorable experience dividend  
21 7 dies before January 1 of a year, a favorable experience  
21 8 dividend shall not be payable in January of that year in the  
21 9 name of the member, beneficiary, or contingent annuitant.  
21 10 However, if the member, beneficiary, or contingent annuitant  
21 11 dies on or after January 1 but before the dividend is paid in  
21 12 that month, the full amount of the dividend payable in that  
21 13 month shall be paid in the name of the applicable member,  
21 14 beneficiary, or contingent annuitant, upon notification of  
21 15 death.

21 16 Sec. 38. Section [97B.49F](#), subsection 2, paragraph c, Code  
21 17 1999, is amended by adding the following new subparagraph:

21 18 NEW SUBPARAGRAPH. (3A) Notwithstanding the provisions of  
21 19 this paragraph to the contrary, moneys credited to the reserve  
21 20 account in any applicable year shall not exceed an amount  
21 21 which, if credited to the reserve account, would exceed an  
21 22 amount that the system's actuary determines is sufficient to  
21 23 pay the maximum favorable experience dividend for each of the  
21 24 next following ten years, based on reasonable actuarial  
21 25 assumptions.

21 26 Sec. 39. Section [97B.49F](#), subsection 2, paragraph d, Code  
21 27 1999, is amended to read as follows:

21 28 d. The favorable experience dividend is calculated by  
21 29 multiplying the

~~total of the~~  
- monthly

~~benefit payments of~~

21 30 retirement allowance payable to the retiree, beneficiary, or  
21 31 contingent annuitant for the previous

~~calendar year~~  
- December

21 32 by twelve, and then multiplying that amount by the number of  
21 33 complete years the member has been retired or would have been  
21 34 retired if living as of the date the dividend is payable, and  
21 35 by the applicable percentage. For purposes of this paragraph,  
22 1 the applicable percentage is the percentage, not to exceed  
22 2 three percent, that the department determines shall be applied  
22 3 in calculating the favorable experience dividend if the  
22 4 department determines that the reserve account is sufficiently  
22 5 funded to make a distribution. In making its determination,  
22 6 the department shall consider, but not be limited to, the  
22 7 amounts credited to the reserve account, the distributions  
22 8 from the reserve account made in previous years, the  
22 9 likelihood of future credits to and distributions from the  
22 10 reserve account, and the distributions paid under subsection  
22 11 1.

22 12 Sec. 40. Section [97B.49G](#), Code 1999, is amended by adding  
22 13 the following new subsection:

22 14 NEW SUBSECTION. 12. PROBATION AND PAROLE OFFICERS III  
22 15 JULY 1994 - JULY 1998. The department shall establish and  
22 16 maintain additional contribution accounts for employees of  
22 17 judicial district departments of correctional services who  
22 18 were employed as parole officers III and probation officers  
22 19 III during any portion of the period from July 1, 1994,  
22 20 through June 30, 1998. A probation officer III or parole  
22 21 officer III who made contributions to the retirement fund  
22 22 during the period from July 1, 1994, through June 30, 1998, as  
22 23 a member of a protection occupation shall have credited to an  
22 24 additional contribution account for that probation or parole  
22 25 officer an amount equal to the contributions made to the  
22 26 retirement fund in excess of 3.7 percent of the probation or  
22 27 parole officer's covered wages paid from July 1, 1994, through  
22 28 June 30, 1998, plus interest at the applicable statutory  
22 29 interest rates established in this chapter. Moneys deposited  
22 30 in an additional contribution account established pursuant to  
22 31 this section shall be payable in a lump sum to the probation  
22 32 or parole officer at retirement or upon request for a refund  
22 33 of moneys in the account. If the probation or parole officer  
22 34 dies prior to receipt of moneys in the account, the  
22 35 beneficiary designated by that probation or parole officer  
23 1 shall receive a lump sum payment of moneys in the account.  
23 2 The payment of moneys from the account created in this  
23 3 subsection shall not be annuitized. A probation officer III  
23 4 or parole officer III for which an account is established  
23 5 under this subsection shall not receive credit for eligible  
23 6 service as a member of a protection occupation for that  
23 7 service.

23 8 Sec. 41. Section [97B.49H](#), subsection 5, paragraph c, Code  
23 9 1999, is amended to read as follows:

23 10 c. Upon retirement, the member shall elect to receive in a  
23 11 lump sum payment or in an annuity, in addition to any other  
23 12 payment provided by this chapter, all amounts credited to the  
23 13 member's supplemental account. The annuity provided under  
23 14 this section shall be payable in the same form, at the same  
23 15 time, and to the same persons, including beneficiaries and  
23 16 contingent annuitants, that the member elects for the payments  
23 17 under the other provisions of this chapter providing for the

23 18 monthly payment of allowances. The amount of an annuity  
23 19 provided under this section, including amounts payable to  
23 20 beneficiaries and contingent annuitants, shall be calculated  
23 21 using the amount credited to the member's supplemental account  
23 22 as of the date of retirement, and the assumptions underlying  
23 23 the actuarial tables used to calculate optional allowances  
23 24 under section 97B.51.

23 25 Sec. 42. Section 97B.50, subsection 2, Code 1999, is  
23 26 amended to read as follows:

23 27 2. a. A vested member who retires from the system due to  
23 28 disability and commences receiving disability benefits  
23 29 pursuant to the federal Social Security Act, 42 U.S.C. } 423  
23 30 et seq., and who has not reached the normal retirement date,  
23 31 shall receive benefits as selected under

~~sections 97B.49A~~

23 32

~~through 97B.49C, as applicable~~

~~section 97B.51, and shall not~~

23 33 have benefits reduced upon retirement as required under  
23 34 subsection 1 regardless of whether the member has completed  
23 35 thirty or more years of membership service. However, the  
24 1 benefits shall be suspended during any period in which the  
24 2 member returns to covered employment. This section takes  
24 3 effect July 1, 1990, for a member meeting the requirements of  
24 4 this paragraph who retired from the system at any time after  
24 5 July 4, 1953. Eligible members retiring on or after July 1,  
24 6 2000, are entitled to the receipt of retroactive adjustment  
24 7 payments

~~back to July 1, 1990~~

~~for no more than twelve months~~

24 8 immediately preceding the month in which written notice of  
24 9 retirement due to disability was submitted to the department,  
24 10 notwithstanding the requirements of subsection 4.

24 11 b. A vested member who retires from the system due to  
24 12 disability and commences receiving disability benefits  
24 13 pursuant to the federal Railroad Retirement Act, 45 U.S.C. }  
24 14 231 et seq., and who has not reached the normal retirement  
24 15 date, shall receive benefits as selected under

~~sections~~

24 16

~~97B.49A through 97B.49C, as applicable~~

~~section 97B.51, and~~

24 17 shall not have benefits reduced upon retirement as required  
24 18 under subsection 1 regardless of whether the member has  
24 19 completed thirty or more years of membership service.  
24 20 However, the benefits shall be suspended during any period in  
24 21 which the member returns to covered employment. This section  
24 22 takes effect July 1, 1990, for a member meeting the  
24 23 requirements of this paragraph who retired from the system at  
24 24 any time since July 4, 1953. Eligible members retiring on or  
24 25 after July 1, 2000, are entitled to the receipt of retroactive  
24 26 adjustment payments

~~back to July 1, 1990~~

~~for no more than~~

24 27 twelve months immediately preceding the month in which written  
24 28 notice of retirement due to disability was submitted to the  
24 29 department, notwithstanding the requirements of subsection 4.

24 30 Sec. 43. NEW SECTION. 97B.50A DISABILITY BENEFITS FOR  
24 31 SPECIAL SERVICE MEMBERS.

24 32 1. DEFINITIONS. For purposes of this section, unless the  
24 33 context otherwise provides:

24 34 a. "Member" means a vested member who is classified as a  
24 35 special service member under section 97B.1A, subsection 22, at  
25 1 the time of the alleged disability. "Member" does not mean a  
25 2 volunteer fire fighter.

25 3 b. "Net disability retirement allowance" means the amount  
25 4 determined by subtracting the amount paid during the previous  
25 5 calendar year by the member for health insurance or similar  
25 6 health care coverage for the member and the member's  
25 7 dependents from the amount of the member's disability  
25 8 retirement allowance, including any dividends and  
25 9 distributions from supplemental accounts, paid for that year  
25 10 pursuant to this section.

25 11 c. "Reemployment comparison amount" means an amount equal  
25 12 to the current covered wages of an active special service  
25 13 member at the same position on the salary scale within the  
25 14 rank or position the member held at the time the member  
25 15 received a disability retirement allowance pursuant to this  
25 16 section. If the rank or position held by the member at the  
25 17 time of retirement pursuant to this section is abolished, the  
25 18 amount shall be computed by the department as though the rank  
25 19 or position had not been abolished and salary increases had  
25 20 been granted on the same basis as granted to other ranks or  
25 21 positions by the former employer of the member. The  
25 22 reemployment comparison amount shall not be less than the  
25 23 three-year average covered wage of the member, based on all  
25 24 regular and special service covered under this chapter.

25 25 2. IN-SERVICE DISABILITY RETIREMENT ALLOWANCE.

25 26 a. A member who is injured in the performance of the  
25 27 member's duties, and otherwise meets the requirements of this  
25 28 subsection shall receive an in-service disability retirement  
25 29 allowance under this subsection, in lieu of a monthly  
25 30 retirement allowance as provided in section 97B.49A, 97B.49B,  
25 31 97B.49C, 97B.49D, or 97B.49G, as applicable.

25 32 b. Upon application of a member, a member who has become  
25 33 totally and permanently incapacitated for duty in the member's  
25 34 special service occupation as the natural and proximate result  
25 35 of an injury, disease, or exposure occurring or aggravated  
26 1 while in the actual performance of duty at some definite place  
26 2 and time shall be eligible to retire under this subsection,  
26 3 provided that the medical board, as established by this  
26 4 section, shall certify that the member is mentally or  
26 5 physically incapacitated for further performance of duty, that  
26 6 the incapacity is likely to be permanent, and that the member  
26 7 should be retired. The department shall make the final  
26 8 determination, based on the medical evidence received, of a  
26 9 member's total and permanent disability. However, if a  
26 10 person's special service membership in the system first  
26 11 commenced on or after July 1, 2000, the member shall not be  
26 12 eligible for benefits with respect to a disability which would  
26 13 not exist, but for a medical condition that was known to exist  
26 14 on the date that membership commenced. A member who is denied  
26 15 a benefit under this subsection, by reason of a finding by the  
26 16 department that the member is not mentally or physically  
26 17 incapacitated for the further performance of duty, shall be  
26 18 entitled to be restored to active service in the same or  
26 19 comparable special service occupation position held by the  
26 20 member immediately prior to the application for disability  
26 21 benefits.

26 22 c. Disease under this subsection shall mean heart disease  
26 23 or any disease of the lungs or respiratory tract and shall be  
26 24 presumed to have been contracted while on active duty as a  
26 25 result of strain, exposure, or the inhalation of noxious  
26 26 fumes, poison, or gases. However, if a person's special  
26 27 service membership in the system first commenced on or after  
26 28 July 1, 2000, and the heart disease or disease of the lungs or

26 29 respiratory tract would not exist, but for a medical condition  
26 30 that was known to exist on the date that special service  
26 31 membership commenced, the presumption established in this  
26 32 paragraph shall not apply.

26 33 d. Upon retirement for an in-service disability as  
26 34 provided by this subsection, a member shall receive the  
26 35 greater of a monthly in-service disability retirement  
27 1 allowance calculated under this subsection or a monthly  
27 2 retirement allowance as provided in section 97B.49A, 97B.49B,  
27 3 97B.49C, 97B.49D, or 97B.49G, as applicable. The monthly in-  
27 4 service disability allowance calculated under this subsection  
27 5 shall consist of an allowance equal to one-twelfth of sixty  
27 6 percent of the member's three-year average covered wage or its  
27 7 actuarial equivalent as provided under section 97B.51.

27 8 3. ORDINARY DISABILITY RETIREMENT ALLOWANCE.

27 9 a. A member who otherwise meets the requirements of this  
27 10 subsection shall receive an ordinary disability retirement  
27 11 allowance under this subsection, in lieu of a monthly  
27 12 retirement allowance as provided in section 97B.49A, 97B.49B,  
27 13 97B.49C, 97B.49D, or 97B.49G, as applicable.

27 14 b. Upon application of a member, a member who has become  
27 15 totally and permanently incapacitated for duty in the member's  
27 16 special service occupation shall be eligible to retire under  
27 17 this subsection, provided that the medical board, as  
27 18 established by this section, shall certify that the member is  
27 19 mentally or physically incapacitated for further performance  
27 20 of duty, that the incapacity is likely to be permanent, and  
27 21 that the member should be retired. The department shall make  
27 22 the final determination, based on the medical evidence  
27 23 received, of a member's total and permanent disability.  
27 24 However, if a person's special service membership in the  
27 25 system first commenced on or after July 1, 2000, the member  
27 26 shall not be eligible for benefits with respect to a  
27 27 disability which would not exist, but for a medical condition  
27 28 that was known to exist on the date that special service  
27 29 membership commenced. A member who is denied a benefit under  
27 30 this subsection, by reason of a finding by the department that  
27 31 the member is not mentally or physically incapacitated for the  
27 32 further performance of duty, shall be entitled to be restored  
27 33 to active service in the same or comparable special service  
27 34 occupation position held by the member immediately prior to  
27 35 the application for disability benefits.

28 1 c. Upon retirement for an ordinary disability as provided  
28 2 by this subsection, a member shall receive the greater of a  
28 3 monthly ordinary disability retirement allowance calculated  
28 4 under this subsection or a monthly retirement allowance as  
28 5 provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or  
28 6 97B.49G, as applicable. The monthly ordinary disability  
28 7 allowance calculated under this subsection shall consist of an  
28 8 allowance equal to one-twelfth of fifty percent of the  
28 9 member's three-year average covered wage or its actuarial  
28 10 equivalent as provided under section 97B.51.

28 11 4. WAIVER OF ALLOWANCE. A member receiving a disability  
28 12 retirement allowance under this section may file an  
28 13 application to receive benefits pursuant to section 97B.50,  
28 14 subsection 2, in lieu of receiving a disability retirement  
28 15 allowance under this section, if the member becomes eligible  
28 16 for benefits under section 97B.50, subsection 2. An  
28 17 application to receive benefits pursuant to section 97B.50,  
28 18 subsection 2, shall be filed with the department within sixty  
28 19 days after the member becomes eligible for benefits pursuant  
28 20 to that section or the member shall be ineligible to elect  
28 21 coverage under that section. On the first of the month  
28 22 following the month in which a member's application is  
28 23 approved by the department, the member's election of coverage  
28 24 under section 97B.50, subsection 2, shall become effective and  
28 25 the member's eligibility to receive a disability retirement

28 26 allowance pursuant to this section shall cease. Benefits  
28 27 payable pursuant to section 97B.50, subsection 2, shall be  
28 28 calculated using the option choice the member selected for  
28 29 payment of a disability retirement allowance pursuant to this  
28 30 section. An application to elect coverage under section  
28 31 97B.50, subsection 2, is irrevocable upon approval by the  
28 32 department.

28 33 5. OFFSET TO ALLOWANCE. Notwithstanding any provisions to  
28 34 the contrary in state law, or any applicable contract or  
28 35 policy, any amounts which may be paid or payable by the  
29 1 employer under any workers' compensation, unemployment  
29 2 compensation, or other law to a member, and any disability  
29 3 payments the member receives pursuant to the federal Social  
29 4 Security Act, 42 U.S.C. } 423 et seq., shall be offset against  
29 5 and payable in lieu of any retirement allowance payable  
29 6 pursuant to this section on account of the same disability.

29 7 6. REEXAMINATION OF MEMBERS RETIRED ON ACCOUNT OF  
29 8 DISABILITY.

29 9 a. Once each year during the first five years following  
29 10 the retirement of a member under this section, and once in  
29 11 every three-year period thereafter, the department may, and  
29 12 upon the member's application shall, require any member  
29 13 receiving an in-service or ordinary disability retirement  
29 14 allowance who has not yet attained the age of fifty-five years  
29 15 to undergo a medical examination as arranged by the medical  
29 16 board as established by this section. The examination shall  
29 17 be made by the medical board or by an additional physician or  
29 18 physicians designated by the medical board. If any member  
29 19 receiving an in-service or ordinary disability retirement  
29 20 allowance who has not attained the age of fifty-five years  
29 21 refuses to submit to the medical examination, the allowance  
29 22 may be discontinued until the member's withdrawal of the  
29 23 refusal, and should the member's refusal continue for one  
29 24 year, all rights in and to the member's disability retirement  
29 25 allowance shall be revoked by the department.

29 26 b. If a member is determined under paragraph "a" to be no  
29 27 longer eligible for in-service or ordinary disability  
29 28 benefits, all benefits paid under this section shall cease.  
29 29 The member shall be eligible to receive benefits calculated  
29 30 under section 97B.49B or 97B.49C, as applicable, when the  
29 31 member reaches age fifty-five.

29 32 7. REEMPLOYMENT.

29 33 a. If a member receiving a disability retirement allowance  
29 34 is returned to covered employment, the member's disability  
29 35 retirement allowance shall cease, the member shall again  
30 1 become an active member, and shall contribute thereafter at  
30 2 the same rate payable by similarly classified members. If a  
30 3 member receiving a disability retirement allowance returns to  
30 4 special service employment, then the period of time the member  
30 5 received a disability retirement allowance shall constitute  
30 6 eligible service as defined in section 97B.49B, subsection 1,  
30 7 or section 97B.49C, subsection 1, as applicable. Upon  
30 8 subsequent retirement, the member's retirement allowance shall  
30 9 be calculated as provided in section 97B.48A.

30 10 b. (1) If a member receiving a disability retirement  
30 11 allowance is engaged in a gainful occupation that is not  
30 12 covered employment, the member's disability retirement  
30 13 allowance shall be reduced, if applicable, as provided in this  
30 14 paragraph.

30 15 (2) If the member is engaged in a gainful occupation  
30 16 paying more than the difference between the member's net  
30 17 disability retirement allowance and one and one-half times the  
30 18 reemployment comparison amount for that member, then the  
30 19 amount of the member's disability retirement allowance shall  
30 20 be reduced to an amount such that the member's net disability  
30 21 retirement allowance plus the amount earned by the member  
30 22 shall equal one and one-half times the reemployment comparison

30 23 amount for that member.

30 24 (3) The member shall submit sufficient documentation to  
30 25 the system to permit the system to determine the member's net  
30 26 disability retirement allowance and earnings from a gainful  
30 27 occupation that is not covered employment for the applicable  
30 28 year.

30 29 (4) This paragraph does not apply to a member who is at  
30 30 least fifty-five years of age and would have completed a  
30 31 sufficient number of years of service if the member had  
30 32 remained in active special service employment. For purposes  
30 33 of this subparagraph, a sufficient number of years of service  
30 34 shall be twenty-five for a special service member as described  
30 35 in section 97B.49B or twenty-two for a special service member  
31 1 as described in section 97B.49C.

31 2 8. DEATH BENEFITS. A member who is receiving an in-  
31 3 service or ordinary disability retirement allowance under this  
31 4 section shall be treated as having elected a lifetime monthly  
31 5 retirement allowance with death benefits payable under section  
31 6 97B.52, subsection 2, unless the member elects an optional  
31 7 form of benefit provided under section 97B.51, which shall be  
31 8 actuarially equivalent to the lifetime monthly retirement  
31 9 allowance provided under this section.

31 10 9. MEDICAL BOARD. The system shall designate a medical  
31 11 board to be composed of three physicians from the university  
31 12 of Iowa hospitals and clinics who shall arrange for and pass  
31 13 upon the medical examinations required under this section and  
31 14 shall report in writing to the department the conclusions and  
31 15 recommendations upon all matters duly referred to the medical  
31 16 board. Each report of a medical examination under this  
31 17 section shall include the medical board's findings as to the  
31 18 extent of the member's physical or mental impairment. Except  
31 19 as required by this section, each report shall be confidential  
31 20 and shall be maintained in accordance with the federal  
31 21 Americans with Disabilities Act, and any other state or  
31 22 federal law containing requirements for confidentiality of  
31 23 medical records.

31 24 10. LIABILITY OF THIRD PARTIES SUBROGATION.

31 25 a. If a member receives an injury for which benefits are  
31 26 payable under this section, and if the injury is caused under  
31 27 circumstances creating a legal liability for damages against a  
31 28 third party other than the system, the member or the member's  
31 29 legal representative may maintain an action for damages  
31 30 against the third party. If a member or a member's legal  
31 31 representative commences such an action, the plaintiff member  
31 32 or representative shall serve a copy of the original notice  
31 33 upon the system not less than ten days before the trial of the  
31 34 action, but a failure to serve the notice does not prejudice  
31 35 the rights of the system, and the following rights and duties  
32 1 ensue:

32 2 (1) The system shall be indemnified out of the recovery of  
32 3 damages to the extent of benefit payments made by the system,  
32 4 with legal interest, except that the plaintiff member's  
32 5 attorney fees may be first allowed by the district court.

32 6 (2) The system has a lien on the damage claim against the  
32 7 third party and on any judgment on the damage claim for  
32 8 benefits for which the system is liable. In order to continue  
32 9 and preserve the lien, the system shall file a notice of the  
32 10 lien within thirty days after receiving a copy of the original  
32 11 notice in the office of the clerk of the district court in  
32 12 which the action is filed.

32 13 b. If a member fails to bring an action for damages  
32 14 against a third party within thirty days after the system  
32 15 requests the member in writing to do so, the system is  
32 16 subrogated to the rights of the member and may maintain the  
32 17 action against the third party, and may recover damages for  
32 18 the injury to the same extent that the member may recover  
32 19 damages for the injury. If the system recovers damages in the

32 20 action, the court shall enter judgment for distribution of the  
32 21 recovery as follows:

32 22 (1) A sum sufficient to repay the system for the amount of  
32 23 such benefits actually paid by the system up to the time of  
32 24 the entering of the judgment.

32 25 (2) A sum sufficient to pay the system the present worth,  
32 26 computed at the interest rate provided in section 535.3 for  
32 27 court judgments and decrees, of the future payments of such  
32 28 benefits, for which the system is liable, but the sum is not a  
32 29 final adjudication of the future payment which the member is  
32 30 entitled to receive.

32 31 (3) Any balance shall be paid to the member.

32 32 c. Before a settlement is effective between the system and  
32 33 a third party who is liable for any injury, the member must  
32 34 consent in writing to the settlement; and if the settlement is  
32 35 between the member and a third party, the system must consent  
33 1 in writing to the settlement; or on refusal to consent, in  
33 2 either case, the district court in the county in which either  
33 3 the employer of the member or the system is located must  
33 4 consent in writing to the settlement.

33 5 d. For purposes of subrogation under this section, a  
33 6 payment made to an injured member or the member's legal  
33 7 representative, by or on behalf of a third party or the third  
33 8 party's principal or agent, who is liable for, connected with,  
33 9 or involved in causing the injury to the member, shall be  
33 10 considered paid as damages because the injury was caused under  
33 11 circumstances creating a legal liability against the third  
33 12 party, whether the payment is made under a covenant not to  
33 13 sue, compromise settlement, denial of liability, or is  
33 14 otherwise made.

33 15 11. DOCUMENT SUBMISSIONS. A member retired under this  
33 16 section, in order to be eligible for continued receipt of  
33 17 retirement benefits, shall submit to the department any  
33 18 documentation the department may reasonably request which will  
33 19 provide information needed to determine payments to the member  
33 20 under this section.

33 21 12. ADDITIONAL CONTRIBUTIONS. The expenses incurred in  
33 22 the administration of this section by the system shall be paid  
33 23 through additional contributions as determined pursuant to  
33 24 section 97B.49B, subsection 3, or section 97B.49C, subsection  
33 25 3, as applicable.

33 26 13. APPLICABILITY RETROACTIVITY.

33 27 a. This section applies to a member who becomes disabled  
33 28 on or after July 1, 2000, and also applies to a member who  
33 29 becomes disabled prior to July 1, 2000, if the member has not  
33 30 terminated special service employment as of June 30, 2000.

33 31 b. To qualify for benefits under this section, a member  
33 32 must file a completed application with the department within  
33 33 one year of the member's termination of employment. A member  
33 34 eligible for a disability retirement allowance under this  
33 35 section is entitled to receipt of retroactive adjustment  
34 1 payments for no more than six months immediately preceding the  
34 2 month in which the completed application for receipt of a  
34 3 disability retirement allowance under this section is  
34 4 approved.

34 5 14. RULES. The department shall adopt rules pursuant to  
34 6 chapter 17A specifying the application procedure for members  
34 7 pursuant to this section.

34 8 Sec. 44. Section [97B.51](#), Code 1999, is amended by striking  
34 9 the section and inserting in lieu thereof the following:

34 10 97B.51 ALLOWANCE UPON RETIREMENT.

34 11 1. Each member has the right prior to the member's  
34 12 retirement date to elect to have the member's retirement  
34 13 allowance payable under one of the options set forth in this  
34 14 section. The amount of the optional retirement allowance  
34 15 selected in paragraph "a", "c", "d", or "e", shall be the  
34 16 actuarial equivalent of the amount of the retirement allowance

34 17 otherwise payable to the member as determined by the system in  
34 18 consultation with the system's actuary. The member shall make  
34 19 an election by written request to the department and the  
34 20 election is subject to the approval of the department. If the  
34 21 member is married, election of an option under this section  
34 22 requires the written acknowledgment of the member's spouse.

34 23 The member may select one of the following options:

34 24 a. At retirement, a member may designate that upon the  
34 25 member's death, a specified amount of money shall be paid to a  
34 26 named beneficiary, and the member's monthly retirement  
34 27 allowance shall be reduced by an actuarially determined amount  
34 28 to provide for the lump sum payment. The amount designated by  
34 29 the member must be in thousand dollar increments and shall be  
34 30 limited to the amount of the member's accumulated  
34 31 contributions. The amount designated shall not lower the  
34 32 monthly retirement allowance of the member by more than one-  
34 33 half the amount payable as provided in paragraph "b". A  
34 34 member may designate a different beneficiary at any time,  
34 35 except as limited by an order that has been accepted by the  
35 1 department as complying with the requirements of section  
35 2 97B.39.

35 3 b. A member may elect a retirement allowance otherwise  
35 4 payable to the member upon retirement under the retirement  
35 5 system pursuant to this chapter, to include the applicable  
35 6 provisions of sections 97B.49A through 97B.49G, and a death  
35 7 benefit as provided in section 97B.52, subsection 2.

35 8 c. A member may elect an increased retirement allowance  
35 9 during the member's lifetime with no death benefit after the  
35 10 member's retirement date.

35 11 d. (1) A member may elect to receive a decreased  
35 12 retirement allowance during the member's lifetime and have the  
35 13 decreased retirement allowance, or a designated fraction  
35 14 thereof, continued after the member's death to another person,  
35 15 called a contingent annuitant, during the lifetime of the  
35 16 contingent annuitant. The member cannot change the contingent  
35 17 annuitant after the member's retirement. In case of the  
35 18 election of a contingent annuitant, no death benefits, as  
35 19 might otherwise be provided by this chapter, will be payable  
35 20 upon the death of either the member or the contingent  
35 21 annuitant after the member's retirement.

35 22 (2) In lieu of a benefit as calculated under subparagraph  
35 23 (1), a member may elect to receive a decreased retirement  
35 24 allowance during the member's lifetime and have the decreased  
35 25 retirement allowance, or a designated fraction thereof,  
35 26 continued after the member's death to another person, called a  
35 27 contingent annuitant, during the lifetime of the contingent  
35 28 annuitant, as determined by this subparagraph. In addition,  
35 29 if the contingent annuitant dies prior to the death of the  
35 30 member, the member shall receive a retirement allowance  
35 31 beginning with the first month following the death of the  
35 32 contingent annuitant as if the member had selected the option  
35 33 provided by paragraph "b" at the time of the member's first  
35 34 retirement. The member cannot change the contingent annuitant  
35 35 after the member's retirement. If a contingent annuitant  
36 1 receives a decreased retirement allowance under this  
36 2 subparagraph following the death of the member, no death  
36 3 benefits, as might otherwise be provided by this chapter, will  
36 4 be payable upon the death of the contingent annuitant.

36 5 e. A member may elect to receive a decreased retirement  
36 6 allowance during the member's lifetime with provision that in  
36 7 event of the member's death during the first one hundred  
36 8 twenty months of retirement, monthly payments of the member's  
36 9 decreased retirement allowance shall be made to the member's  
36 10 beneficiary until a combined total of one hundred twenty  
36 11 monthly payments have been made to the member and the member's  
36 12 beneficiary. When the member designates multiple  
36 13 beneficiaries, the present value of the remaining payments

36 14 shall be paid in a lump sum to each beneficiary, either in  
36 15 equal shares to the beneficiaries, or if the member specifies  
36 16 otherwise in a written request, in the specified proportion.  
36 17 A member may designate a different beneficiary at any time,  
36 18 except as limited by an order that has been accepted by the  
36 19 department as complying with the requirements of section  
36 20 97B.39.

36 21 2. The election by a member of an option stated under this  
36 22 section shall be null and void if the member dies prior to the  
36 23 member's first month of entitlement.

36 24 3. A member who had elected to take an option stated in  
36 25 this section, may, at any time prior to retirement, revoke  
36 26 such an election by written notice to the department. A  
36 27 member shall not change or revoke an election once the first  
36 28 retirement allowance is paid.

36 29 Sec. 45. Section [97B.52](#), subsection 1, Code 1999, is  
36 30 amended to read as follows:

36 31 1. If a member dies prior to the member's first month of  
36 32 entitlement, the member's beneficiary shall be entitled to  
36 33 receive a death benefit equal to the greater of the amount  
36 34 provided in paragraph "a" or "b".

36 35 a. A lump sum payment equal to the accumulated  
37 1 contributions of the member at the date of death plus the  
37 2 product of an amount equal to the highest year of covered  
37 3 wages of the deceased member and the number of years of  
37 4 membership service divided by the applicable denominator

~~shall~~

37 5

~~be paid to the member's beneficiary in a lump sum payment~~

37 6 However, a lump sum payment made to a beneficiary under this  
37 7

~~subsection~~

~~paragraph~~ due to the death of a member shall not be  
37 8 less than the amount that would have been payable on the death  
37 9 of the member on June 30, 1984, under this

~~subsection~~

37 10 ~~paragraph~~ as it appeared in the 1983 Code.  
37 11 As used in this

~~subsection~~

~~paragraph~~, "applicable  
37 12 denominator" means the following, based upon the type of  
37 13 membership service in which the member served either on the  
37 14 date of death, or if the member died after terminating  
37 15 service, on the date of the member's last termination of  
37 16 service:  
37 17

~~a.~~

~~(1)~~ For regular service, the applicable denominator is  
37 18 thirty.  
37 19

~~b.~~

~~(2)~~ For service in a protection occupation, as defined  
37 20 in section 97B.49B, the applicable denominator is twenty-five.  
37 21

~~c.~~

~~(3)~~ For service as a sheriff, deputy sheriff, or

37 22 airport fire fighter, as provided in section 97B.49C, the  
37 23 applicable denominator is twenty-two.  
37 24 Effective July 1, 1978, a method of payment under this  
37 25

~~subsection~~

- paragraph filed with the department by a member

37 26 does not apply.

37 27 b. For a member who dies on or after January 1, 2001, a  
37 28 lump sum payment equal to the actuarial present value of the  
37 29 member's accrued benefit as of the date of death. The  
37 30 actuarial equivalent present value of the member's accrued  
37 31 benefit as of the date of death shall be calculated using the  
37 32 same interest rate and mortality tables that are used by the  
37 33 system and the system's actuary under section 97B.51, and  
37 34 shall assume that the member would have retired at the  
37 35 member's earliest normal retirement date.

38 1 c. The payment of a death benefit to a designated  
38 2 beneficiary as provided by this subsection shall be in a lump  
38 3 sum payment. However, if the designated beneficiary is a sole  
38 4 individual, the beneficiary may elect to receive, in lieu of a  
38 5 lump sum payment under this subsection, a monthly annuity  
38 6 payable for the life of the beneficiary. The monthly annuity  
38 7 shall be calculated by applying the annuity tables used by the  
38 8 department to the lump sum payment under this subsection based  
38 9 on the beneficiary's age. If the designated beneficiary is  
38 10 more than one individual, or if the designated beneficiary is  
38 11 an estate, trust, church, charity, or other similar  
38 12 organization, a death benefit under this subsection shall only  
38 13 be paid in a lump sum.

38 14 Sec. 46. Section [97B.52](#), subsection 2, Code 1999, is  
38 15 amended to read as follows:

38 16 2. If a member dies on or after the first day of the  
38 17 member's first month of entitlement, the excess, if any, of  
38 18 the accumulated contributions by the member as of said date,  
38 19 over the total gross monthly retirement allowances received by  
38 20 the member under the retirement system will be paid to the  
38 21 member's beneficiary unless the retirement allowance is then  
38 22 being paid in accordance with section 97B.48 or with section  
38 23 97B.51, subsection 1,

~~4, 5, or 6~~

- paragraph "a", "c", "d", or

38 24 "e".

38 25 Sec. 47. Section [97B.52](#), subsection 5, Code 1999, is  
38 26 amended to read as follows:

38 27 5. Following written notification to the department, a  
38 28 beneficiary of a deceased member may waive current and future  
38 29 rights to payments to which the beneficiary would otherwise be  
38 30 entitled under section 97B.51,

~~subsections 5 and 6 and this~~

38 31

~~section~~

- subsection 1, paragraphs "a", "b", and "e". Upon

38 32 receipt of the waiver, the department shall pay the amount  
38 33 designated to be received by that beneficiary to the member's  
38 34 other surviving beneficiary or beneficiaries or to the estate  
38 35 of the deceased member, as elected by the beneficiary in the  
39 1 waiver. If the payments being waived are payable to the  
39 2 member's estate and an estate is not probated, the payments  
39 3 shall be paid to the deceased member's surviving spouse, or if  
39 4 there is no surviving spouse, to the member's heirs other than  
39 5 the beneficiary who waived the payments.

39 6 Sec. 48. Section [97B.52A](#), subsection 1, paragraph b, Code

39 7 1999, is amended to read as follows:

39 8 b. For a member whose first month of entitlement is July  
39 9 1998 or later, but before July 2000, the member does not  
39 10 return to any employment with a covered employer until the  
39 11 member has qualified for no fewer than four calendar months of  
39 12 retirement benefits.

39 13 Sec. 49. Section [97B.52A](#), subsection 1, Code 1999, is  
39 14 amended by adding the following new paragraph:

39 15 NEW PARAGRAPH. c. For a member whose first month of  
39 16 entitlement is July 2000 or later, the member does not return  
39 17 to any employment with a covered employer until the member has  
39 18 qualified for no fewer than one calendar month of retirement  
39 19 benefits. For purposes of this paragraph, effective July 1,  
39 20 2000, any employment with a covered employer does not include  
39 21 employment as an elective official or member of the general  
39 22 assembly if the member is not covered under this chapter for  
39 23 that employment.

39 24 Sec. 50. Section [97B.52A](#), subsection 2, Code 1999, is  
39 25 amended to read as follows:

39 26 2. A member may commence receiving retirement benefits  
39 27 under this chapter upon satisfying eligibility requirements.  
39 28 However, a retired member who commences receiving a retirement  
39 29 allowance but

~~returns to employment before qualifying for no~~

39 30

~~fewer than four calendar months of retirement benefits~~

~~fails~~

39 31 to meet the applicable requirements of subsection 1 does not  
39 32 have a bona fide retirement and any retirement allowance  
39 33 received by such a member must be returned to the system  
39 34 together with interest earned on the retirement allowance  
39 35 calculated at a rate determined by the department. Until the  
40 1 member has repaid the retirement allowance and interest, the  
40 2 department may withhold any future retirement allowance for  
40 3 which the member may qualify.

40 4 Sec. 51. Section [97B.52A](#), Code 1999, is amended by adding  
40 5 the following new subsection:

40 6 NEW SUBSECTION. 4. The requirements of this section shall  
40 7 apply to a lump sum payment as provided by section 97B.48,  
40 8 subsection 1, and the payment of contributions as provided in  
40 9 section 97B.48A, subsection 4.

40 10 Sec. 52. Section [97B.53](#), Code Supplement 1999, is amended  
40 11 to read as follows:

40 12 97B.53 TERMINATION OF EMPLOYMENT REFUND OPTIONS.

40 13 Membership in the retirement system, and all rights to the  
40 14 benefits under the system,

~~will~~

~~cease upon a member's~~

40 15 termination of employment with the employer prior to the  
40 16 member's retirement, other than by death, and upon receipt by  
40 17 the member of

~~the~~

~~a refund of moneys in the member's~~

40 18

~~accumulated contributions~~

~~account as provided in this section.~~

40 19 1. Upon the termination of employment with the employer  
40 20 prior to retirement other than by death of a member, the  
40 21 member's account, consisting of accumulated contributions by  
40 22 the member and, for a

~~—vested~~

~~— member who is vested on the date~~

40 23 an application for a refund is filed, the member's share of  
40 24 the accumulated employer contributions for the vested member  
40 25 at the date of the termination, may be paid to the member upon  
40 26 application, except as provided in subsections 2, 5, and 6.  
40 27 For the purpose of this subsection, the "member's share of the  
40 28 accumulated employer contributions" is an amount equal to the  
40 29

~~—total obtained as of any date, by accumulating each individual~~

40 30

~~—contribution by the employer for the member with interest plus~~

40 31

~~—interest dividends as provided in section 97B.70, for all~~

40 32

~~—completed calendar years and for any completed calendar year~~

40 33

~~—for which the interest dividend has not been declared and for~~

40 34

~~—completed months of partially completed calendar years,~~

40 35

~~—compounded as provided in section 97B.70~~

~~— accumulated employer~~

41 1 contributions of the member multiplied by a fraction of years  
41 2 of service for that member as defined in section 97B.49A,  
41 3 97B.49B, or 97B.49C.

41 4 2. If a vested member's employment is terminated prior to  
41 5 the member's retirement, other than by death, the member may  
41 6 receive a monthly retirement allowance commencing on the first  
41 7 day of the month in which the member attains the age of sixty-  
41 8 five years, if the member is then alive, or, if the member so  
41 9 elects in accordance with section 97B.47, commencing on the  
41 10 first day of the month in which the member attains the age of  
41 11 fifty-five or any month thereafter prior to the date the  
41 12 member attains the age of sixty-five years, and continuing on  
41 13 the first day of each month thereafter during the member's  
41 14 lifetime, provided the member does not receive prior to the  
41 15 date the member's retirement allowance is to commence a refund  
41 16 of

~~—accumulated contributions~~

~~— moneys in the member's account as~~

41 17 provided under any of the provisions of this chapter. The  
41 18 amount of each such monthly retirement allowance shall be  
41 19 determined as provided in either sections 97B.49A through  
41 20 97B.49G, or in section 97B.50, whichever is applicable.  
41 21

~~—3. The accumulated contributions account of a terminated,~~

41 22

~~—vested member shall be credited with interest, including~~

41 23

~~interest dividends, in the manner provided in section 97B.70.~~

41 24

~~4.~~

- 3. A terminated, vested member has the right, prior to  
41 25 the commencement of the member's retirement allowance, to  
41 26 receive a refund of moneys in the member's

~~accumulated~~

41 27

~~contributions~~

- account, and in the event of the death of the  
41 28 member prior to the commencement of the member's retirement  
41 29 allowance and prior to the receipt of any such refund the  
41 30 benefits of subsection 1 of section 97B.52 shall be paid.  
41 31

~~5.~~

- 4. A member has not terminated employment for purposes  
41 32 of this section if the member accepts other covered employment  
41 33 within

~~thirty days~~

- four months after receiving the last  
41 34 payment of wages for covered employment, or if the member  
41 35 begins covered employment prior to filing a request for a  
42 1 refund with the department.  
42 2

~~5A.~~

- 5. Within sixty days after a member has been issued  
42 3 payment for a refund of moneys in the member's

~~accumulated~~

42 4

~~contributions~~

- account, the member may repay the

~~accumulated~~

42 5

~~contributions~~

- moneys refunded, plus interest that would have  
42 6 accrued, as determined by the department, and receive credit  
42 7 for membership service for the period covered by the refund  
42 8 payment.  
42 9

~~5B.~~

- 6. A member who does not withdraw moneys in the  
42 10 member's

~~accumulated contributions~~

- account upon termination of  
42 11 employment may at any time request the return of the moneys in  
42 12 the member's

~~accumulated contributions~~

- account, but if the

42 13 member receives a return of

~~contributions~~

~~moneys in the~~

42 14 member's account the member has waived all claims for any  
42 15 other benefits and membership rights from the fund.

42 16 7. If a member is involuntarily terminated from covered  
42 17 employment, has been issued payment for a refund, and is  
42 18 retroactively reinstated in covered employment as a remedy for  
42 19 an employment dispute, the member may receive credit for  
42 20 membership service for the period covered by the refund  
42 21 payment upon repayment to the department within ninety days  
42 22 after the date of the order or agreement requiring  
42 23 reinstatement of the amount of the refund plus interest that  
42 24 would have accrued, as determined by the department.  
42 25

~~6.~~

~~8.~~ The system is under no obligation to maintain the

42 26

~~accumulated contribution~~

~~member~~ account of a member who

42 27 terminates covered employment prior to December 31, 1998, if  
42 28 the member was not vested at the time of termination. A  
42 29 person who made contributions to the abolished system, who is  
42 30 entitled to a refund in accordance with the provisions of this  
42 31 chapter, and who has not claimed and received such a refund  
42 32 prior to January 1, 1964, shall, if the person makes a claim  
42 33 for refund after January 1, 1964, be required to submit proof  
42 34 satisfactory to the department of the person's entitlement to  
42 35 the refund. The department is under no obligation to maintain  
43 1 the

~~contribution~~

~~member~~ accounts of such persons after January

43 2 1, 1964.

43 3

~~7.~~

~~9.~~ Any member whose employment is terminated may elect

43 4 to leave the moneys in the member's

~~accumulated contributions~~

43 5 member account in the retirement fund.

43 6

~~8.~~

~~10.~~ If an employee hired to fill a permanent position

43 7 terminates the employee's employment within six months from  
43 8 the date of employment, the employer may file a claim with the  
43 9 department for a refund of the funds contributed to the  
43 10 department by the employer for the employee.

43 11 Sec. 53. Section 97B.53A, Code 1999, is amended to read as  
43 12 follows:

43 13 97B.53A DUTY OF DEPARTMENT.

43 14

~~Effective July 1, 1991, upon~~

~~Upon~~ a member's termination of

43 15 covered employment prior to the member's retirement, the  
43 16 department shall send the member by first class mail, to the  
43 17 member's last known mailing address, a notice setting forth  
43 18 the balance and status of the member's account and  
43 19 supplemental account and an explanation of the courses of  
43 20 action available to the member under this chapter.

43 21 Sec. 54. Section 97B.53B, subsection 1, paragraph c,  
43 22 unnumbered paragraph 1, Code 1999, is amended to read as  
43 23 follows:  
43 24 "Eligible rollover distribution" means all or any portion  
43 25 of a member's account and supplemental account, except that an  
43 26 eligible rollover distribution does not include any of the  
43 27 following:  
43 28 Sec. 55. Section 97B.60, Code 1999, is amended to read as  
43 29 follows:  
43 30 97B.60 ACTUARIAL INVESTIGATION.  
43 31

~~At least once in each two year period~~

~~- During calendar year~~

43 32 2002, and every four years thereafter, the department shall  
43 33 cause an actuarial investigation to be made of all experience  
43 34 under the retirement system. Pursuant to such an  
43 35 investigation, the department shall, from time to time,  
44 1 determine upon an actuarial basis the condition of the system  
44 2 and shall report to the general assembly its findings and  
44 3 recommendations. The department shall adopt from time to time  
44 4 mortality tables and all other necessary factors for use in  
44 5 all actuarial calculations required in connection with the  
44 6 retirement system.

44 7 Sec. 56. Section 97B.70, Code 1999, is amended to read as  
44 8 follows:

44 9 97B.70 INTEREST AND DIVIDENDS TO MEMBERS.

44 10 1. For calendar years prior to January 1, 1997, interest  
44 11 at two percent per annum and interest dividends declared by  
44 12 the department shall be credited to the member's contributions  
44 13 and the employer's contributions to become part of the  
44 14 accumulated contributions and accumulated employer  
44 15 contributions thereby.

44 16 a. The average rate of interest earned shall be determined  
44 17 upon the following basis:

44 18 (1) Investment income shall include interest and cash  
44 19 dividends on stock.

44 20 (2) Investment income shall be accounted for on an accrual  
44 21 basis.

44 22 (3) Capital gains and losses, realized or unrealized,  
44 23 shall not be included in investment income.

44 24 (4) Mean assets shall include fixed income investments  
44 25 valued at cost or on an amortized basis, and common stocks at  
44 26 market values or cost, whichever is lower.

44 27 (5) The average rate of earned interest shall be the  
44 28 quotient of the investment income and the mean assets of the  
44 29 retirement fund.

44 30 b. The interest dividend shall be determined within sixty  
44 31 days after the end of each calendar year as follows:

44 32 The dividend rate for a calendar year shall be the excess  
44 33 of the average rate of interest earned for the year over the  
44 34 statutory two percent rate plus twenty-five hundredths of one  
44 35 percent. The average rate of interest earned and the interest  
45 1 dividend rate in percent shall be calculated to the nearest  
45 2 one hundredth, that is, to two decimal places. Interest and  
45 3 interest dividends calculated pursuant to this subsection  
45 4 shall be compounded annually.

45 5 2. For calendar years beginning January 1, 1997, a per  
45 6 annum interest rate at one percent above the interest rate on  
45 7 one-year certificates of deposit shall be credited to the  
45 8 member's contributions and the employer's contributions to  
45 9 become part of the accumulated contributions and accumulated  
45 10 employer contributions account. For purposes of this  
45 11 subsection, the interest rate on one-year certificates of  
45 12 deposit shall be determined by the department based on the  
45 13 average rate for such certificates of deposit as of the first  
45 14 business day of each year as published in a publication of

45 15 general acceptance in the business community. The per annum  
45 16 interest rate shall be credited on a quarterly basis by  
45 17 applying one-quarter of the annual interest rate to the sum of  
45 18 the accumulated contributions and the accumulated employer  
45 19 contributions as of the end of the previous calendar quarter.

45 20 3. Interest shall be credited to the accumulated  
45 21 contributions and accumulated employer contributions accounts,  
45 22 and supplemental accounts of active members, inactive vested  
45 23 members, and, effective January 1, 1999, to inactive nonvested  
45 24 members, until the quarter prior to the quarter in which the  
45 25 member's first retirement allowance is paid or in which the  
45 26 member is issued a refund under section 97B.53, or in which a  
45 27 death benefit is issued.

45 28 4. Prior to January 1, 1999, interest and interest  
45 29 dividends shall be credited to the accumulated contributions  
45 30 and accumulated employer contributions account of a person who  
45 31 leaves the contributions in the retirement fund upon  
45 32 termination from covered employment prior to achieving vested  
45 33 status, but who subsequently returns to covered employment.  
45 34 Upon return to covered employment but prior to January 1,  
45 35 1999, interest and interest dividends shall be credited to the  
46 1 accumulated contributions and accumulated employer  
46 2 contributions account of the person commencing upon the date  
46 3 on which the person has covered wages.

46 4 5. If the department no longer maintains the accumulated  
46 5 contribution and accumulated employer contributions account of  
46 6 the person pursuant to this chapter, but the person submits  
46 7 satisfactory proof to the department that the person, or the  
46 8 person's employer, did make

~~the~~

~~contributions that should be~~

46 9 included in the accumulated contributions and accumulated  
46 10 employer contributions account, the department shall credit  
46 11 interest and interest dividends in the manner provided in  
46 12 subsection 4.

46 13 Sec. 57. NEW SECTION. 97B.82 PURCHASE OF SERVICE CREDIT  
46 14 DIRECT ROLLOVERS.

46 15 Effective July 1, 2002, a member may purchase any service  
46 16 credit permitted under this chapter by means of a direct  
46 17 rollover pursuant to rules adopted by the department and  
46 18 consistent with applicable requirements of the Internal  
46 19 Revenue Code. For purposes of this section, a "direct  
46 20 rollover" means a transfer to the system of an eligible  
46 21 rollover distribution from a qualified plan, including an  
46 22 eligible rollover distribution of qualified plan assets made  
46 23 through a conduit eligible retirement plan, all as described  
46 24 under the Internal Revenue Code. The amount of the direct  
46 25 rollover into the system cannot exceed the cost of the service  
46 26 purchase by a member under this chapter. Once a direct  
46 27 rollover is made, the member must forfeit the applicable  
46 28 service credit under the qualified plan from which the  
46 29 eligible rollover distribution is received.

46 30 Sec. 58. Section 97B.13, Code 1999, is repealed.

46 31 Sec. 59. EFFECTIVE DATE RETROACTIVE APPLICABILITY.  
46 32 Section 16 of this Act, amending section 97B.1A, subsection  
46 33 24, paragraph "b", being deemed of immediate importance, takes  
46 34 effect upon enactment and is retroactively applicable to  
46 35 January 1, 2000, and is applicable on and after that date.

47 1 Sec. 60. IMPLEMENTATION DATE. Section 57 of this Act,  
47 2 creating new section 97B.82 which establishes a direct  
47 3 rollover for the purchase of service credit, shall not be  
47 4 implemented until the Iowa public employees' retirement system  
47 5 has received a determination letter from the federal internal  
47 6 revenue service approving the retirement system plan's  
47 7 qualified status under Internal Revenue Code section 401(a),  
47 8 as amended by section 97B.82.

47 9 Sec. 61. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
47 10 DEFINED CONTRIBUTION OPTIONS INTERIM STUDY. It is the  
47 11 intent of the general assembly that the legislative council  
47 12 may appoint a legislative interim study committee during the  
47 13 2000 interim to consider possible defined contribution options  
47 14 for persons covered by the Iowa public employees' retirement  
47 15 system. In conducting its study, the interim study committee  
47 16 may consider proposals to allow members of the Iowa public  
47 17 employees' retirement system to select a defined contribution  
47 18 option in lieu of or in addition to the current defined  
47 19 benefit plan.

47 20 DIVISION III

47 21 STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

47 22 Sec. 62. Section 400.8, subsection 1, Code 1999, is  
47 23 amended to read as follows:

47 24 1. The commission, when necessary under the rules,  
47 25 including minimum and maximum age limits, which shall be  
47 26 prescribed and published in advance by the commission and  
47 27 posted in the city hall, shall hold examinations for the  
47 28 purpose of determining the qualifications of applicants for  
47 29 positions under civil service, other than promotions, which  
47 30 examinations shall be practical in character and shall relate  
47 31 to matters which will fairly test the mental and physical  
47 32 ability of the applicant to discharge the duties of the  
47 33 position to which the applicant seeks appointment. The  
47 34 physical examination of applicants for appointment to the  
47 35 positions of police officer, police matron, or fire fighter  
48 1 shall be held in accordance with medical protocols established  
48 2 by the board of trustees of the fire and police retirement  
48 3 system established by section 411.5 and shall be conducted by  
48 4 the medical board as established in section 411.5. The board  
48 5 of trustees may change the medical protocols at any time the  
48 6 board so determines. The

~~commission shall conduct a medical~~

48 7 physical examination of an applicant for the position of  
48 8 police officer, police matron, or fire fighter shall be  
48 9 conducted after a conditional offer of employment has been  
48 10 made to the applicant. An applicant shall not be  
48 11 discriminated against on the basis of height, weight, sex, or  
48 12 race in determining physical or mental ability of the  
48 13 applicant. Reasonable rules relating to strength, agility,  
48 14 and general health of applicants shall be prescribed. The  
48 15 costs of the physical examination required under this  
48 16 subsection shall be paid from the trust and agency fund of the  
48 17 city.

48 18 Sec. 63. NEW SECTION. 400.8A GUIDELINES FOR ONGOING  
48 19 FITNESS FOR POLICE OFFICERS AND FIRE FIGHTERS.

48 20 The board of trustees of the fire and police retirement  
48 21 system established by section 411.5, in consultation with the  
48 22 medical board established in section 411.5, shall establish  
48 23 and maintain protocols and guidelines for ongoing wellness and  
48 24 fitness for police officers and fire fighters while in  
48 25 service. The board of trustees may change the protocols and  
48 26 guidelines at any time the board so determines. The protocols  
48 27 and guidelines shall be established by the board of trustees  
48 28 for the consideration of cities covered by this chapter and  
48 29 may be applied by a city for the purpose of determining  
48 30 continued wellness and fitness for members of the city's  
48 31 police and fire departments. The medical board established in  
48 32 section 411.5 shall provide to cities and fire and police  
48 33 departments assistance regarding the possible implementation  
48 34 and operation of the protocols and guidelines for ongoing  
48 35 wellness and fitness provided by this section. For purposes  
49 1 of this section, "wellness and fitness" means the process by  
49 2 which police officers and fire fighters maintain fitness for

49 3 duty.  
49 4 Sec. 64. Section 411.1, subsection 6, Code 1999, is  
49 5 amended to read as follows:  
49 6 6. "Child" means only surviving issue of a deceased active  
49 7 or retired member, or a child legally adopted by a deceased  
49 8 member prior to the member's retirement. "Child" includes  
49 9 only an individual who is under the age of eighteen years, an  
49 10 individual who is under the age of twenty-two years and is a  
49 11 full-time student, or an individual who is disabled at the  
49 12 time under the definitions used in section

~~402~~

- 202 of the  
49 13 Social Security Act as amended if the disability occurred to  
49 14 the individual during the time the individual was under the  
49 15 age of eighteen years and the parent of the individual was an  
49 16 active member of the system.

49 17 Sec. 65. Section 411.1, subsection 10, Code 1999, is  
49 18 amended to read as follows:  
49 19 10. "Medical board" shall mean the

~~board of physicians~~

-  
49 20 single medical provider network designated by the system as  
49 21 the medical board as provided for in section 411.5.

49 22 Sec. 66. Section 411.1, subsection 12, Code 1999, is  
49 23 amended to read as follows:

49 24 12. "Membership service" shall mean service as a police  
49 25

~~officers~~

- officer or a fire

~~fighters~~

- fighter rendered

~~since~~

-  
49 26

~~last becoming a member, or, where membership is regained as~~

-  
49 27

~~provided in this chapter, all of such service~~

- for a city which

49 28 is credited as service pursuant to section 411.4.

49 29 Sec. 67. Section 411.1, subsection 19, Code 1999, is  
49 30 amended to read as follows:

49 31 19. "Surviving spouse" shall mean the surviving spouse of  
49 32 a

~~marriage solemnized prior to retirement of a~~

- deceased member

49 33 from active service. Surviving spouse shall include a former  
49 34 spouse only if the division of assets in the dissolution of  
49 35 marriage decree pursuant to section 598.17 grants the former  
50 1 spouse rights of a spouse under this chapter.

~~If there is no~~

-  
50 2

~~surviving spouse of a marriage solemnized prior to retirement~~

-  
50 3

~~of a deceased member, surviving spouse includes a surviving~~

50 4

~~spouse of a marriage of two years or more duration solemnized~~

50 5

~~subsequent to retirement of the member.~~

50 6 Sec. 68. Section [411.1A](#), Code 1999, is amended to read as  
50 7 follows:

50 8 411.1A PURPOSE OF CHAPTER.

50 9 The purpose of this chapter is to promote economy and  
50 10 efficiency in the municipal public safety service by

~~providing~~

50 11 doing the following:

50 12 1. Provide an orderly means for police officers and fire  
50 13 fighters to have a retirement system which will provide for  
50 14 the payment of pensions to retired members and members  
50 15 incurring disabilities, and to the surviving spouses and  
50 16 dependents of deceased members.

50 17 2. Provide a comprehensive disability program for police  
50 18 officers and fire fighters to include standards for entrance  
50 19 physical examinations, guidelines for ongoing fitness and  
50 20 wellness, disability pensions, and postdisability retirement  
50 21 compliance requirements.

50 22 Sec. 69. Section [411.3](#), subsection 2, Code 1999, is  
50 23 amended to read as follows:

50 24 2. Should any member

~~in any period of five consecutive~~

50 25

~~years after last becoming a member, be absent from service for~~

50 26

~~more than four years~~

~~cease to be employed as a police officer~~

50 27 or fire fighter by a city, or should the member become a  
50 28 beneficiary or die, the member shall thereupon cease to be a  
50 29 member of the system.

50 30 Sec. 70. Section [411.4](#), Code 1999, is amended to read as  
50 31 follows:

50 32 411.4 SERVICE CREDITABLE.

50 33 1. Service for fewer than six months of a year is not  
50 34 creditable as service. Service of six months or more of a  
50 35 year is equivalent to one year of service, but in no case  
51 1 shall more than one year of service be creditable for all  
51 2 service in one calendar year, nor shall the system allow  
51 3 credit as service for any period of more than one month  
51 4 duration during which the member was absent without pay.

51 5 2. The system shall credit as service for a member of the  
51 6 system a previous period of service

~~for which the~~

~~only under~~

51 7 any of the following circumstances:

51 8 a. The member had withdrawn the member's accumulated  
51 9 contributions, as defined in section 411.21, for the previous  
51 10 period of service.

51 11 b. The member returned to service after an absence of  
51 12 service of a period of less than four years from the last day

51 13 of the prior period of service.

51 14 c. The member returned to service after an absence of  
51 15 service of a period of four or more years from the last day of  
51 16 the prior period of service and the member had sufficient  
51 17 service as of the last day of the prior period of service to  
51 18 have been entitled to a retirement allowance on that date  
51 19 under section 411.6, subsection 1, paragraph "b".

51 20 Sec. 71. Section 411.5, subsection 6, Code 1999, is  
51 21 amended by adding the following new paragraph:

51 22 NEW PARAGRAPH. c. Notwithstanding any provision of  
51 23 chapter 22 to the contrary, the system's records may be  
51 24 released to any political subdivision, instrumentality, or  
51 25 agency of the state solely for use in a civil or criminal law  
51 26 enforcement activity pursuant to the requirements of this  
51 27 paragraph. To obtain the records, the political subdivision,  
51 28 instrumentality, or agency of the state shall, in writing,  
51 29 certify to the system that the activity is authorized by law,  
51 30 provide a written description of the information desired, and  
51 31 describe the law enforcement activity for which the  
51 32 information is sought. The system shall not be civilly or  
51 33 criminally liable for the release of records in accordance  
51 34 with the requirements of this paragraph.

51 35 Sec. 72. Section 411.5, subsection 8, Code 1999, is  
52 1 amended to read as follows:

52 2 8. MEDICAL BOARD. The

~~system~~

~~board of trustees shall~~

52 3 designate a single medical provider network as the medical  
52 4 board

~~to be composed of three physicians who~~

~~for the system.~~

52 5 The medical board shall arrange for and pass upon all medical  
52 6 examinations required under the provisions of chapter 400 and  
52 7 this chapter

~~, except that for~~

~~and shall assist the system in~~

52 8 all aspects of the comprehensive disability program described  
52 9 in section 411.1A. For examinations required because of  
52 10 disability

~~three physicians~~

~~, a physician from the~~

~~university~~

~~-~~

52 11

~~of Iowa hospitals and clinics who~~

~~medical board specializing~~

52 12 in occupational medicine, and a second physician specializing  
52 13 in an appropriate field of medicine as determined by the  
52 14 occupational medicine physician shall pass upon the medical  
52 15 examinations required for disability retirements, and shall  
52 16 report to the system in writing

~~its~~

~~their~~ conclusions and

52 17 recommendations upon all matters referred to

~~it~~

~~the medical~~

52 18 board. Each report of a medical examination under section  
52 19 411.6, subsections 3 and 5, shall include the medical board's  
52 20 findings in accordance with section 411.6 as to the extent of

52 21 the member's physical impairment.

52 22 Sec. 73. Section 411.6, subsection 2, Code 1999, is  
52 23 amended to read as follows:

52 24 2. ALLOWANCE ON SERVICE RETIREMENT.

52 25 a. The service retirement allowance for a member who  
52 26 terminates service, other than by death or disability, prior  
52 27 to July 1, 1990, shall consist of a pension which equals fifty  
52 28 percent of the member's average final compensation.

52 29 b. The service retirement allowance for a member who  
52 30 terminates service, other than by death or disability, on or  
52 31 after July 1, 1990, but before July 1, 1992, shall consist of  
52 32 a pension which equals fifty-four percent of the member's  
52 33 average final compensation.

52 34 c. Commencing July 1, 1992, for members who terminate  
52 35 service, other than by death or disability, on or after that  
53 1 date, but before July 1, 2000, the system shall increase the  
53 2 percentage multiplier of the member's average final  
53 3 compensation by an additional two percent each July 1 until  
53 4 reaching sixty percent of the member's average final  
53 5 compensation. The applicable percentage multiplier shall be  
53 6 the rate in effect on the date of the member's termination  
53 7 from service.

53 8 d. Upon retirement from service on or after July 1, 2000,  
53 9 a member shall receive a service retirement allowance which  
53 10 shall consist of a pension which equals sixty-six percent of  
53 11 the member's average final compensation.

53 12

~~—d.~~

— e. Commencing July 1, 1990, if the member has completed  
53 13 more than twenty-two years of creditable service, the service  
53 14 retirement allowance shall consist of a pension which equals  
53 15 the amount provided in

~~— paragraphs~~

— ~~paragraph "b".~~

~~— and~~

— "c", or

53 16 "d", plus an additional percentage as set forth below:

53 17 (1) For a member who terminates service, other than by  
53 18 death or disability, on or after July 1, 1990, but before July  
53 19 1, 1991, and who does not withdraw the member's contributions  
53 20 pursuant to section 411.23, upon the member's retirement there  
53 21 shall be added three-tenths percent of the member's average  
53 22 final compensation for each year of service over twenty-two  
53 23 years, excluding years of service after the member's fifty-  
53 24 fifth birthday. However, this subparagraph does not apply to  
53 25 more than eight additional years of service.

53 26 (2) For a member who terminates service, other than by  
53 27 death or disability, on or after July 1, 1991, but before  
53 28 October 16, 1992, and who does not withdraw the member's  
53 29 contributions pursuant to section 411.23, upon the member's  
53 30 retirement there shall be added six-tenths percent of the  
53 31 member's average final compensation for each year of service  
53 32 over twenty-two years, excluding years of service after the  
53 33 member's fifty-fifth birthday. However, this subparagraph  
53 34 does not apply to more than eight additional years of service.

53 35 (3) For a member who terminates service, other than by  
54 1 death or disability, on or after October 16, 1992, but before  
54 2 July 1, 1998, and who does not withdraw the member's  
54 3 contributions pursuant to section 411.23, upon the member's  
54 4 retirement there shall be added six-tenths percent of the  
54 5 member's average final compensation for each year of service  
54 6 over twenty-two years. However, this subparagraph does not  
54 7 apply to more than eight additional years of service.

54 8 (4) For a member who terminates service, other than by

54 9 death or disability, on or after July 1, 1998, but before July  
54 10 1, 2000, and who does not withdraw the member's contributions  
54 11 pursuant to section 411.23, upon the member's retirement there  
54 12 shall be added one and one-half percent of the member's  
54 13 average final compensation for each year of service over  
54 14 twenty-two years. However, this subparagraph does not apply  
54 15 to more than eight additional years of service.

54 16 (5) For a member who terminates service, other than by  
54 17 death or disability, on or after July 1, 2000, and who does  
54 18 not withdraw the member's contributions pursuant to section  
54 19 411.23, upon the member's retirement there shall be added two  
54 20 percent of the member's average final compensation for each  
54 21 year of service over twenty-two years. However, this  
54 22 subparagraph does not apply to more than eight additional  
54 23 years of service.

54 24 Sec. 74. Section [411.6](#), subsection 5, paragraph b, Code  
54 25 1999, is amended to read as follows:

54 26 b. If a member in service or the chief of the police or  
54 27 fire departments becomes incapacitated for duty as a natural  
54 28 or proximate result of an injury or disease incurred in or  
54 29 aggravated by the actual performance of duty at some definite  
54 30 time or place or while acting, pursuant to order, outside the  
54 31 city by which the member is regularly employed, the member,  
54 32 upon being found to be temporarily incapacitated following a  
54 33 medical examination as directed by the city, is entitled to  
54 34 receive the member's full pay and allowances from the city's  
54 35 general fund until re-examined as directed by the city and  
55 1 found to be fully recovered or until the city determines that  
55 2 the member is likely to be permanently disabled.

~~The~~

~~If the~~

55 3 temporary incapacity of a member continues more than sixty  
55 4 days, or if the city expects the incapacity to continue more  
55 5 than sixty days, the city shall notify the system of the  
55 6 temporary incapacity. Upon notification by a city, the system  
55 7 may refer the matter to the medical board for review and  
55 8 consultation with the member's treating physician during the  
55 9 temporary incapacity. Except as provided by this paragraph,  
55 10 the board of trustees of the statewide system has no  
55 11 jurisdiction over these matters until the city determines that  
55 12 the disability is likely to be permanent.

55 13 Sec. 75. Section [411.6](#), subsection 6, paragraph c, Code  
55 14 1999, is amended to read as follows:

55 15 c. Upon retirement for accidental disability on or after  
55 16 July 1, 1998, a member shall receive an accidental disability  
55 17 retirement allowance which shall consist of a pension in an  
55 18 amount equal to the greater of sixty percent of the member's  
55 19 average final compensation or the retirement allowance that  
55 20 the member would receive under subsection 2 if the member

~~has~~

55 21 had attained fifty-five years of age.

55 22 Sec. 76. Section [411.6](#), subsection 7, unnumbered paragraph  
55 23 1, Code 1999, is amended to read as follows:

55 24 Once each year during the first five years following the  
55 25 retirement of a member on a disability retirement allowance,  
55 26 and once in every three-year period thereafter, the system  
55 27 may, and upon the member's application shall, require any  
55 28 disability beneficiary who has not yet attained age fifty-five  
55 29 to undergo a medical examination at a place designated by the  
55 30 medical board. The examination shall be made by the medical  
55 31 board or in special cases, by an additional physician or  
55 32 physicians designated by such board. If any disability  
55 33 beneficiary who has not attained the age of fifty-five refuses  
55 34 to submit to the medical examination, the member's allowance

55 35 may be discontinued until withdrawal of such refusal, and if  
56 1 the refusal continues for one year all rights in and to the  
56 2 member's pension may be revoked by the system. For a  
56 3 disability beneficiary who has not attained the age of fifty-  
56 4 five and whose entitlement to a disability retirement  
56 5 commenced on or after July 1, 2000, the medical board may, as  
56 6 part of the examination required by this subsection, suggest  
56 7 appropriate medical treatment or rehabilitation if, in the  
56 8 opinion of the medical board, the recommended treatment or  
56 9 rehabilitation would likely restore the disability beneficiary  
56 10 to duty.

56 11 Sec. 77. Section [411.6](#), subsection 7, paragraph a,  
56 12 unnumbered paragraph 1, Code 1999, is amended to read as  
56 13 follows:

56 14 Should any beneficiary for either ordinary or accidental  
56 15 disability, except a beneficiary who is fifty-five years of  
56 16 age or over

~~and would have completed twenty two years of~~

56 17

~~service if the beneficiary had remained in active service~~  
~~-, be~~

56 18 engaged in a gainful occupation paying more than the  
56 19 difference between the member's net retirement allowance and  
56 20 one and one-half times the earnable compensation of an active  
56 21 member at the same position on the salary scale within the  
56 22 member's rank as the member held at retirement, then the  
56 23 amount of the member's retirement allowance shall be reduced  
56 24 to an amount such that the member's net retirement allowance  
56 25 plus the amount earned by the member shall equal one and one-  
56 26 half times the amount of the current earnable compensation of  
56 27 an active member at the same position on the salary scale  
56 28 within the member's rank as the member held at retirement.  
56 29 Should the member's

~~earning capacity~~  
~~- earnings be later~~

56 30 changed, the amount of the member's retirement allowance may  
56 31 be further modified, provided that the new retirement  
56 32 allowance shall not exceed the amount of the retirement  
56 33 allowance adjusted by annual readjustments of pensions  
56 34 pursuant to subsection 12 of this section nor an amount which  
56 35 would cause the member's net retirement allowance, when added  
57 1 to the amount earned by the beneficiary, to equal one and one-  
57 2 half times the amount of the earnable compensation of an  
57 3 active member at the same position on the salary scale within  
57 4 the member's rank as the member held at retirement. A  
57 5 beneficiary restored to active service at a salary less than  
57 6 the average final compensation upon the basis of which the  
57 7 member was retired at age fifty-five or greater, shall not  
57 8 again become a member of the retirement system and shall have  
57 9 the member's retirement allowance suspended while in active  
57 10 service. If the rank or position held by the retired member  
57 11 is subsequently abolished, adjustments to the allowable limit  
57 12 on the amount of income which can be earned in a gainful  
57 13 occupation shall be computed by the board of trustees as  
57 14 though such rank or position had not been abolished and salary  
57 15 increases had been granted to such rank or position on the  
57 16 same basis as increases granted to other ranks and positions  
57 17 in the department. For purposes of this paragraph, "net  
57 18 retirement allowance" means the amount determined by  
57 19 subtracting the amount paid during the previous calendar year  
57 20 by the beneficiary for health insurance or similar health care  
57 21 coverage for the beneficiary and the beneficiary's dependents  
57 22 from the amount of the member's retirement allowance paid for

57 23 that year pursuant to this chapter. The beneficiary shall  
57 24 submit sufficient documentation to the system to permit the  
57 25 system to determine the member's net retirement allowance for  
57 26 the applicable year.

57 27 Sec. 78. Section 411.6, subsection 7, Code 1999, is  
57 28 amended by adding the following new paragraph:

57 29 NEW PARAGRAPH. c. Should a disability beneficiary under  
57 30 age fifty-five be employed in a public safety occupation, the  
57 31 disability beneficiary's retirement allowance shall cease.  
57 32 Notwithstanding any provision of this chapter to the contrary,  
57 33 if a disability beneficiary is employed in a public safety  
57 34 occupation that would otherwise constitute membership service,  
57 35 the disability beneficiary shall not become a member of the  
58 1 system. For purposes of this paragraph, "public safety  
58 2 occupation" means a peace officer, as defined in section  
58 3 97A.1; a protection occupation, as defined in section 97B.49B;  
58 4 a sheriff, deputy sheriff, or airport fire fighter, as defined  
58 5 in section 97B.49C; and a police officer or fire fighter as  
58 6 defined in section 411.1, who was not restored to active  
58 7 service as provided by this subsection.

58 8 Sec. 79. Section 411.6, subsection 8, Code 1999, is  
58 9 amended to read as follows:

58 10 8. ORDINARY DEATH BENEFIT.

58 11 a. Upon the receipt of proof of the death of a member in  
58 12 service, or a member not in service who has completed four or  
58 13 more years of service as provided in subsection 1, paragraph  
58 14 "b", there shall be paid to the person designated by the  
58 15 member to the system as the member's beneficiary, if the  
58 16 member has had one or more years of membership service and no  
58 17 pension is payable under subsection 9,

~~an~~

~~the greater of the~~  
58 18 following:

58 19 (1) An amount equal to fifty percent of the compensation  
58 20 earnable by the member during the year immediately preceding  
58 21 the member's death if the member is in service, or an amount  
58 22 equal to fifty percent of the compensation earned by the  
58 23 member during the member's last year of service if the member  
58 24 is not in service.

58 25 (2) An amount the member would have been entitled to  
58 26 withdraw pursuant to section 411.23 if the member had  
58 27 terminated service on the date of the member's death.

58 28 b. In lieu of the payment specified in paragraph "a", a  
58 29 beneficiary meeting the qualifications of paragraph "c" may  
58 30 elect to receive a monthly pension equal to one-twelfth of  
58 31 forty percent of the average final compensation of the member,  
58 32 but not less than twenty percent of the monthly earnable  
58 33 compensation paid to an active member holding the highest  
58 34 grade in the rank of fire fighter, for a beneficiary of a  
58 35 deceased member of a fire department, or the highest grade in  
59 1 the rank of police patrol officer, for a beneficiary of a  
59 2 deceased member of a police department, if the member was in  
59 3 service at the time of death. For a member not in service at  
59 4 the time of death, the pension shall be reduced as provided in  
59 5 subsection 1, paragraph "b".

59 6 For a member not in service at the time of death, the  
59 7 pension shall be paid commencing when the member would have  
59 8 attained the age of fifty-five except that if there is a child  
59 9 of the member, the pension shall be paid commencing with the  
59 10 member's death until the

~~children reach the age of eighteen,~~

59 11

~~or twenty two if applicable~~

~~- child of the member no longer~~

59 12 meets the definition of child as provided in section 411.1.

59 13 The pension shall resume

~~- commencing~~

- when the member would have

59 14 attained the age of fifty-five.

59 15 For a member in service at the time of death, the pension  
59 16 shall be paid commencing with the member's death. In addition  
59 17 to the pension, there shall also be paid for each child of a  
59 18 member, a monthly pension equal to six percent of the monthly  
59 19 earnable compensation paid to an active member holding the  
59 20 highest grade in the rank of fire fighter, for a child of a  
59 21 deceased member of a fire department, or the highest grade in  
59 22 the rank of police patrol officer, for a child of a deceased  
59 23 member of a police department.

59 24 Notwithstanding section 411.6, subsection 8, Code 1985,  
59 25 effective July 1, 1990, for a member's surviving spouse who,  
59 26 prior to July 1, 1986, elected to receive pension benefits  
59 27 under this paragraph, the monthly pension benefit shall be  
59 28 equal to the higher of one-twelfth of forty percent of the  
59 29 average final compensation of the member, or the amount the  
59 30 surviving spouse was receiving on July 1, 1990.

59 31 c. The pension under paragraph "b" may be selected only by  
59 32 the following beneficiaries:

59 33 (1) The spouse.

59 34 (2) If there is no spouse, or if the spouse dies and there  
59 35 is a child of a member, then the

~~- guardian of the~~

- member's

60 1 child or children,

~~- divided as the system determines, to~~

-  
60 2

~~- continue as a joint and survivor pension until every child of~~

-  
60 3

~~- the member dies or attains the age of eighteen, or twenty two~~

-  
60 4

~~- if applicable~~

- in equal shares. The pension to each child

60 5 shall terminate when the child no longer meets the definition  
60 6 of child in section 411.1.

60 7 (3) If there is no surviving spouse or child, then the  
60 8 member's dependent father or mother, or both, as the system  
60 9 determines, to continue until remarriage or death.

60 10 d. If

~~- there is no nomination of~~

- the member failed to

60 11 designate a beneficiary, or if the beneficiary designated by  
60 12 the member predeceases the member, the benefits provided in  
60 13 paragraph "a" of this subsection shall be paid

~~- to the member's~~

-  
60 14

~~- estate.~~

- as follows in the following order of priority:

60 15 (1) To the member's surviving spouse.



61 15 children in equal shares. The pension to each child shall  
61 16 terminate when the child no longer meets the definition of  
61 17 child in section 411.1.

61 18 (3) If there is no surviving spouse or child, then to the  
61 19 member's dependent father or mother, or both, as the system  
61 20 determines, to continue until remarriage or death.

61 21 c. In addition to the accidental death benefit pension  
61 22 provided in paragraph "b", there shall also be paid for each  
61 23 child of a member a monthly pension equal to six percent of  
61 24 the monthly earnable compensation paid to an active member  
61 25 holding the highest grade in the rank of fire fighter, for a  
61 26 child of a deceased member of a fire department, or holding  
61 27 the highest grade in the rank of police patrol officer, for a  
61 28 child of a deceased member of a police department.

61 29 d. A person eligible to receive the pension payable under  
61 30 paragraph "b" of this subsection may elect to receive the  
61 31 benefit payable under subsection 8, paragraph "a", in lieu of  
61 32 the pension provided in paragraph "b" of this subsection.  
61 33

~~b.~~

~~e. If there is no~~

~~spouse, child, or dependent parent~~

61 34

~~surviving a deceased member~~

~~person entitled to the pension~~

61 35 payable under paragraph "b" of this subsection, the death  
62 1 shall be treated as an ordinary death case and the benefit  
62 2 payable under subsection 8, paragraph "a", in lieu of the  
62 3 pension provided in paragraph "a" of this subsection, shall be  
62 4 paid

~~to the member's estate~~

~~as provided by that subsection.~~

62 5

~~Disease under this subsection shall mean heart disease or~~

62 6

~~any disease of the lungs or respiratory tract and shall be~~

62 7

~~presumed to have been contracted while on active duty as a~~

62 8

~~result of strain or the inhalation of noxious fumes, poison,~~

62 9

~~or gases.~~

62 10 Sec. 81. Section [411.6](#), subsection 11, Code 1999, is  
62 11 amended to read as follows:

62 12 11. Pension to spouse and children of deceased pensioned  
62 13 member. In the event of the death of any member receiving a  
62 14 retirement allowance under the provisions of subsections 2, 4,  
62 15 or 6 of this section there shall be paid a pension:

62 16 a. To the spouse, equal to one-half the amount received by  
62 17 the deceased beneficiary, but in no instance less than twenty  
62 18 percent of the monthly earnable compensation paid to an active  
62 19 member holding the highest grade in the rank of fire fighter,

62 20 for a beneficiary of a deceased member of the fire department,  
62 21 or the highest grade in the rank of police patrol officer, for  
62 22 a beneficiary of a deceased member of a police department, and  
62 23 in addition a monthly pension equal to the monthly pension  
62 24 payable under subsection 9 of this section for each child  
62 25

~~under eighteen years of age or twenty two years of age if~~

62 26

~~applicable~~

~~;~~ or

62 27 b. If the spouse dies either prior or subsequent to the  
62 28 death of the member, to the guardian of each surviving child,  
62 29 a monthly pension equal to the monthly pension payable under  
62 30 subsection 9 of this section for the support of the child.

62 31 Sec. 82. Section [411.6](#), Code 1999, is amended by adding  
62 32 the following new subsection:

62 33 NEW SUBSECTION. 14. BENEFICIARY DESIGNATION. A member  
62 34 may designate, in writing on a form prescribed by the system,  
62 35 any person or persons to whom the system will pay a death  
63 1 benefit under this section in the event of the member's death.  
63 2 If the member is married at the time a designation is signed,  
63 3 a designation of a beneficiary other than the member's spouse  
63 4 shall not be valid unless the member's spouse consents in  
63 5 writing to the designation. A designation filed with the  
63 6 system shall be deemed revoked if, subsequent to the  
63 7 designation, a new designation is filed with the system, the  
63 8 member marries, or the member divorces the individual who was  
63 9 the member's named beneficiary.

63 10 Sec. 83. Section [411.6](#), Code 1999, is amended by adding  
63 11 the following new subsection:

63 12 NEW SUBSECTION. 15. LINE OF DUTY DEATH BENEFIT.

63 13 a. If, upon the receipt of evidence and proof from the  
63 14 chief of the police or fire department that the death of a  
63 15 member in service was the direct and proximate result of a  
63 16 traumatic personal injury incurred in the line of duty, the  
63 17 system decides that death was so caused, there shall be paid,  
63 18 to a person authorized to receive an accidental death benefit  
63 19 as provided in subsection 9, paragraph "b", the amount of one  
63 20 hundred thousand dollars, which shall be payable in a lump  
63 21 sum.

63 22 b. A line of duty death benefit shall not be payable under  
63 23 this subsection if any of the following applies:

63 24 (1) The death resulted from stress, strain, occupational  
63 25 illness, or a chronic, progressive, or congenital illness,  
63 26 including, but not limited to, a disease of the heart, lungs,  
63 27 or respiratory system, unless a traumatic personal injury was  
63 28 a substantial contributing factor to the member's death.

63 29 (2) The death was caused by the intentional misconduct of  
63 30 the member or by the member's intent to cause the member's own  
63 31 death.

63 32 (3) The member was voluntarily intoxicated at the time of  
63 33 death.

63 34 (4) The member was performing the member's duties in a  
63 35 grossly negligent manner at the time of death.

64 1 (5) An individual who would otherwise be entitled to a  
64 2 benefit under this subsection was, through the individual's  
64 3 actions, a substantial contributing factor to the member's  
64 4 death.

64 5 Sec. 84. Section [411.6](#), Code 1999, is amended by adding  
64 6 the following new subsection:

64 7 NEW SUBSECTION. 16. INELIGIBILITY FOR DISABILITY  
64 8 BENEFITS.

64 9 a. A member otherwise eligible to receive a disability  
64 10 retirement benefit under this chapter shall not be eligible to

64 11 receive such a benefit if the system determines that any of  
64 12 the following conditions for ineligibility apply:

64 13 (1) The disability would not exist but for the member's  
64 14 chemical dependency, as defined in section 125.2, on a  
64 15 schedule I controlled substance, as defined in section  
64 16 124.204, or the member's chemical dependency on a schedule II  
64 17 controlled substance, as defined in section 124.206, resulting  
64 18 from the inappropriate use of the schedule II controlled  
64 19 substance.

64 20 (2) The disability is a mental disability proximately  
64 21 caused by appropriate disciplinary actions taken against the  
64 22 member, or by conflicts with a superior or coworker if the  
64 23 superior or coworker was acting legally and appropriately  
64 24 toward the member when the conflicts occurred.

64 25 b. A member otherwise eligible to receive a disability  
64 26 retirement benefit under this chapter, or who is receiving  
64 27 such a benefit, shall not be eligible to receive such a  
64 28 benefit beginning with the month following the determination  
64 29 by the system that the disability would not exist but for the  
64 30 action of the member for which the member has been convicted  
64 31 of a felony.

64 32 c. A member eligible to commence receiving a disability  
64 33 benefit on or after July 1, 2000, may be ineligible to receive  
64 34 a disability retirement benefit if the system determines that  
64 35 the member's alcoholism or drug addiction was a contributing  
65 1 factor material to the determination of the member's  
65 2 disability. Upon a determination that the member's alcoholism  
65 3 or drug addiction was a contributing factor in the member's  
65 4 disability, the system shall direct the member to undergo  
65 5 substance abuse treatment that the medical board determines is  
65 6 appropriate to treat the member's alcoholism or drug  
65 7 addiction. After the end of a twenty-four-month period  
65 8 following the member's first month of entitlement to a  
65 9 disability benefit, the system shall reevaluate the member's  
65 10 disability. If the system determines that the member failed  
65 11 to comply with the treatment program prescribed by this  
65 12 paragraph and that the member would not be disabled but for  
65 13 the member's alcoholism or drug addiction, the member's  
65 14 entitlement to a disability benefit under this chapter shall  
65 15 terminate effective the first day of the first month following  
65 16 the month the member is notified of the system's  
65 17 determination.

65 18 Sec. 85. Section [411.6](#), Code 1999, is amended by adding  
65 19 the following new subsection:

65 20 NEW SUBSECTION. 17. LIMITATIONS ON BENEFITS PRISONERS.

65 21 a. An individual who is otherwise entitled to a retirement  
65 22 allowance under this chapter shall not receive a retirement  
65 23 allowance for any month during which both of the following  
65 24 conditions exist:

65 25 (1) The individual is confined in a jail, prison, or  
65 26 correctional facility pursuant to the individual's conviction  
65 27 of a felony.

65 28 (2) The individual has a spouse, or a child or children,  
65 29 as defined in section 411.1.

65 30 b. The amount of the retirement allowance not paid to the  
65 31 individual under paragraph "a" shall be paid in the following  
65 32 order of priority:

65 33 (1) To the individual's spouse, if any.

65 34 (2) If there is no spouse, then to the individual's child  
65 35 or children, as defined in section 411.1.

66 1 c. This subsection shall not be construed in a manner that  
66 2 impairs the rights of any individual under a marital property,  
66 3 spousal support, or child support order. In addition, this  
66 4 subsection shall not be construed to impair the statutory  
66 5 rights of a governmental entity, including, but not limited  
66 6 to, the right of a governmental entity to collect an amount  
66 7 for deposit in the victim compensation fund established in

66 8 chapter 915.

66 9 Sec. 86. Section [411.11](#), Code 1999, is amended to read as  
66 10 follows:

66 11 411.11 CONTRIBUTIONS BY THE CITY.

66 12 1. On or before January 1 of each year the system shall  
66 13 certify to the superintendent of public safety of each  
66 14 participating city the amounts which will become due and  
66 15 payable during the year next following to the fire and police  
66 16 retirement fund. The amounts so certified shall be included  
66 17 by the superintendent of public safety in the annual budget  
66 18 estimate. The amounts so certified shall be appropriated by  
66 19 the respective cities and transferred to the retirement system  
66 20 for the ensuing year. The cities shall annually levy a tax  
66 21 sufficient in amount to cover the appropriations.

66 22 2. Amounts paid by a city to a member as back pay that  
66 23 would have constituted earnable compensation if paid when  
66 24 earned shall be allocated by the system as earnable  
66 25 compensation to the period or periods for which paid and  
66 26 employer and employee contributions shall be paid to the  
66 27 system for the amounts. The contribution rate to be applied  
66 28 to such amounts shall be determined pursuant to section 411.8  
66 29 based on the rates in effect for the period or periods to  
66 30 which the amounts are allocated. Interest on the  
66 31 contributions required to be paid shall be calculated pursuant  
66 32 to this section as if the contributions were unpaid as of the  
66 33 date the contributions would have been due if the back pay had  
66 34 been paid to the member during the period in which it was due.  
66 35 The requirements of this subsection apply regardless of  
67 1 whether the back pay is made under a covenant not to sue,  
67 2 compromise settlement, denial of liability, or other agreement  
67 3 between the member and the employer.

67 4 3. Contributions unpaid on the date on which they are due  
67 5 and payable as prescribed by the system shall bear interest at  
67 6 the greater of the interest rate assumption adopted by the  
67 7 board of trustees or the rate of interest on the short-term  
67 8 investment fund account of the system's custodial bank for the  
67 9 period the contributions remain unpaid. Interest due pursuant  
67 10 to this section may be waived by the system pursuant to rules  
67 11 adopted by the board. Interest collected pursuant to this  
67 12 section shall be paid into the retirement fund created in  
67 13 section 411.8.

67 14 4. If an employer fails to pay contributions or interest  
67 15 as required by this chapter after receiving thirty days'  
67 16 notice of the employer's obligation, the system may maintain a  
67 17 civil action to collect the unpaid contributions and interest  
67 18 from the employer, which action shall be heard as  
67 19 expeditiously as possible. If the system prevails in the  
67 20 civil action to recover unpaid contributions and interest, the  
67 21 court shall require the employer to pay the costs of the  
67 22 action.

67 23 Sec. 87. Section [411.22](#), Code 1999, is amended to read as  
67 24 follows:

67 25 411.22 LIABILITY OF THIRD PARTIES SUBROGATION.

67 26 1. If a member receives an injury or dies for which  
67 27 benefits are payable under section 411.6, subsection 3,

~~or~~

- 5,

67 28 8, or 9, or section 411.15, and if the injury or death is  
67 29 caused under circumstances creating a legal liability for  
67 30 damages against a third party other than the retirement  
67 31 system, the retirement system is subrogated to the rights of  
67 32 the member or the member's legal representative beneficiary  
67 33 entitled to receive a death benefit and may maintain an action  
67 34 for damages against the third party for lost earnings and lost  
67 35 earnings capacity. If the retirement system recovers damages  
68 1 in the action, the court shall enter judgment for distribution

68 2 of the recovery as follows:

68 3 a. A sum sufficient to repay the retirement system for the  
68 4 amount of such benefits actually paid by the retirement system  
68 5 up to the time of the entering of the judgment.

68 6 b. A sum sufficient to pay the retirement system the  
68 7 present worth, computed at the interest rate provided in  
68 8 section 535.3 for court judgments and decrees, of the future  
68 9 payments of such benefits, for which the retirement system is  
68 10 liable, but the sum is not a final adjudication of the future  
68 11 payments which the member is entitled to receive.

68 12 c. A sum sufficient to repay the retirement system for the  
68 13 costs and expenses of maintaining the action.

68 14 d. Any balance remaining after the repayments provided by  
68 15 paragraphs "a" through "c" shall be paid to the injured  
68 16 member, or the beneficiary under section 411.6, subsection 8  
68 17 or 9, whichever is applicable.

68 18 2. If the system, after receiving written notice of the  
68 19 third-party liability, declines in writing to maintain an  
68 20 action against the third party or fails to maintain an action  
68 21 within one hundred eighty days of receiving written notice of  
68 22 the third-party liability, the member, the member's estate, or  
68 23 the legal representative of the member or the member's estate,  
68 24 may maintain an action for damages against the third party.

68 25 If

~~— a member or a member's legal representative commences~~

~~— such~~

68 26 an action is commenced, the plaintiff member, estate, or  
68 27 representative shall serve a copy of the original notice upon  
68 28 the retirement system not less than ten days before the trial  
68 29 of the action, but a failure to serve the notice does not  
68 30 prejudice the rights of the retirement system, and the  
68 31 following rights and duties ensue:

68 32 a. The retirement system shall be indemnified out of the  
68 33 recovery of damages to the extent of benefit payments

~~— made~~

68 34 paid or awarded by the retirement system, with legal interest,  
68 35 except that the plaintiff member's or estate's attorney fees  
69 1 may be first allowed by the district court. For purposes of  
69 2 this paragraph, "benefit payments paid or awarded" means the  
69 3 sum of the following amounts:

69 4 (1) The amount of benefits actually paid by the retirement  
69 5 system up to the time of the entering of the judgment.

69 6 (2) The present worth, computed at the interest rate  
69 7 provided in section 535.3 for court judgments and decrees, of  
69 8 the future payments of such benefits, for which the retirement  
69 9 system is liable, but the sum is not a final adjudication of  
69 10 the future payments which the member is entitled to receive.

69 11 b. The retirement system has a lien on the damage claim  
69 12 against the third party and on any judgment on the damage  
69 13 claim for benefits for which the retirement system is liable.  
69 14 In order to continue and preserve the lien, the retirement  
69 15 system shall file a notice of the lien within thirty days  
69 16 after receiving a copy of the original notice in the office of  
69 17 the clerk of the district court in which the action is filed.

69 18

~~— 2. If a member fails to bring an action for damages~~

~~—~~  
69 19

~~— against a third party within thirty days after the retirement~~

~~—~~  
69 20

~~system requests the member in writing to do so, the retirement~~

~~69 21~~

~~system is subrogated to the rights of the member and may~~

~~69 22~~

~~maintain the action against the third party, and may recover~~

~~69 23~~

~~damages for the injury to the same extent that the member may~~

~~69 24~~

~~recover damages for the injury. If the retirement system~~

~~69 25~~

~~recovers damages in the action, the court shall enter judgment~~

~~69 26~~

~~for distribution of the recovery as follows:~~

~~69 27~~

~~a. A sum sufficient to repay the retirement system for the~~

~~69 28~~

~~amount of such benefits actually paid by the retirement system~~

~~69 29~~

~~up to the time of the entering of the judgment.~~

~~69 30~~

~~b. A sum sufficient to pay the retirement system the~~

~~69 31~~

~~present worth, computed at the interest rate provided in~~

~~69 32~~

~~section 535.3 for court judgments and decrees, of the future~~

~~69 33~~

~~payments of such benefits, for which the retirement system is~~

~~69 34~~

~~liable, but the sum is not a final adjudication of the future~~

~~69 35~~

~~payments which the member is entitled to receive.~~

~~70 1~~

~~e. Any balance shall be paid to the member.~~

~~70 2~~

3. Before a settlement is effective between the retirement

70 3 system and a third party who is liable for an injury or death,  
70 4 the member or beneficiary must consent in writing to the  
70 5 settlement; and if the settlement is between the member or the  
70 6 member's estate and a third party, the retirement system must  
70 7 consent in writing to the settlement; or on refusal to  
70 8 consent, in either case, the district court in the county in  
70 9 which either the city or the retirement system is located must  
70 10 consent in writing to the settlement.

70 11 4. For purposes of subrogation under this section, a  
70 12 payment made to an injured member, a member's estate, or the  
70 13

~~member's~~

- legal representative of the member or member's

70 14 estate, by or on behalf of a third party or the third party's  
70 15 principal or agent, who is liable for, connected with, or  
70 16 involved in causing the injury

~~to~~

- or death of the member,

70 17 shall be considered paid as damages because the injury or  
70 18 death was caused under circumstances creating a legal  
70 19 liability against the third party, whether the payment is made  
70 20 under a covenant not to sue, compromise settlement, denial of  
70 21 liability, or is otherwise made.

70 22 Sec. 88. EFFECTIVE DATE RETROACTIVE APPLICABILITY.

70 23 Sections 66, 69, 70, 83, and 86, of this Act, amending section  
70 24 411.1, subsection 12, section 411.3, section 411.4, section  
70 25 411.6, by creating new subsection 15, and section 411.11,  
70 26 being deemed of immediate importance, take effect upon  
70 27 enactment and are retroactively applicable to January 1, 1992,  
70 28 and are applicable on and after that date.

70 29 Sec. 89. EFFECTIVE DATE. Section 65 of this Act amending  
70 30 section 411.1, subsection 10, and section 72 of this Act,  
70 31 amending section 411.5, subsection 8, take effect July 1,  
70 32 2001.

70 33 Sec. 90. STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM  
70 34 LEGISLATIVE INTENT. It is the intent of the general assembly  
70 35 that members of the retirement system be afforded a retirement  
71 1 benefit based upon ninety percent of a member's earnable  
71 2 compensation at the time of a member's retirement after the  
71 3 member has completed thirty years of service when the  
71 4 retirement system can afford it on an actuarially sound basis.

71 5 DIVISION IV

71 6 JUDICIAL RETIREMENT SYSTEM

71 7 Sec. 91. Section [602.9104](#), Code 1999, is amended to read  
71 8 as follows:

71 9 602.9104 DEDUCTIONS FROM JUDGES' SALARIES CONTRIBUTIONS  
71 10 BY STATE.

71 11 1. A judge to whom this article applies, shall be paid an  
71 12 amount equal to

~~ninety six percent of~~

- the basic salary of the

71 13 judge as set by the general assembly

~~An~~

- minus an amount

71 14

~~equal to four percent of the basic salary of the judge as set~~

71 15

~~by the general assembly is~~

- designated as the judge's

71 16 contribution to the judicial retirement fund

~~, and shall be~~

71 17

~~paid by the state in the manner provided in subsection 2~~

~~- The~~

71 18 amount designated as the judge's contribution to the judicial  
71 19 retirement fund shall be calculated as provided in subsection  
71 20 1A and shall be paid by the state in the manner provided in  
71 21 subsection 2.

71 22 1A. a. Effective with the fiscal year commencing July 1,  
71 23 1994, and for each subsequent fiscal year until the system  
71 24 attains fully funded status based upon the benefits provided  
71 25 for judges through the judicial retirement system as of July  
71 26 1, 2001, contributions to the judicial retirement fund shall  
71 27 be calculated as follows:

71 28 (1) The state shall contribute annually to the judicial  
71 29 retirement fund an amount equal to at least twenty-three and  
71 30 seven-tenths percent of the basic salary of each judge covered  
71 31 under this article. The state's contribution shall be  
71 32 appropriated directly to the judicial retirement fund.

71 33 (2) Each judge to whom this article applies shall  
71 34 contribute annually to the judicial retirement fund an amount  
71 35 equal to five percent of the basic salary of the judge as set  
72 1 by the general assembly.

72 2 b. Commencing with the first fiscal year in which the  
72 3 system attains fully funded status based upon the benefits  
72 4 provided for judges through the judicial retirement system as  
72 5 of July 1, 2001, and for each subsequent fiscal year,  
72 6 contributions to the judicial retirement fund shall be  
72 7 calculated as follows:

72 8 (1) The state shall contribute annually to the judicial  
72 9 retirement fund an amount equal to sixty percent of the  
72 10 required contribution rate multiplied by the basic salary of  
72 11 each judge covered under this article. The state's  
72 12 contribution shall be appropriated directly to the judicial  
72 13 retirement fund.

72 14 (2) Each judge to whom this article applies shall  
72 15 contribute annually to the judicial retirement fund an amount  
72 16 equal to forty percent of the required contribution rate  
72 17 multiplied by the basic salary of the judge as set by the  
72 18 general assembly.

72 19 2. The amount designated in subsection 1 and subsection 1A  
72 20 as the judge's contribution to the judicial retirement fund  
72 21 shall be paid by the department of revenue and finance from  
72 22 the general fund of the state to the court administrator for  
72 23 deposit with the treasurer of state to the credit of the  
72 24 judicial retirement fund. Moneys in the fund are appropriated  
72 25 for the payment of annuities, refunds, and allowances provided  
72 26 by this article, except that the amount of the appropriations  
72 27 affecting payment of annuities, refunds, and allowances to  
72 28 judges of the municipal and superior court is limited to that  
72 29 part of the fund accumulated for their benefit as provided in  
72 30 this article. The corpus and income of the fund shall be used  
72 31 only for the exclusive benefit of the judges covered under  
72 32 this article, their survivors, or an alternate payee who is  
72 33 assigned benefits pursuant to a domestic relations order.

72 34 3. A judge covered under this article is deemed to consent  
72 35 to the reduction in basic salary as provided in subsection 1.

73 1 4.

~~- a.~~

~~- As used in this~~

~~- subsection~~

~~- section, unless the~~

73 2 context otherwise requires:  
73 3

~~(1)~~

- a. "Actuarial valuation" means an actuarial valuation  
73 4 of the judicial retirement system or an annual actuarial  
73 5 update of an actuarial valuation, as required pursuant to  
73 6 section 602.9116.  
73 7

~~(2)~~

- b. "Fully funded status" means that the most recent  
73 8 actuarial valuation reflects that, using the aggregate cost  
73 9 method in accordance with generally recognized and accepted  
73 10 actuarial principles and practices set forth by the American  
73 11 academy of actuaries, the funded status of the system is at  
73 12 least one hundred percent.  
73 13

~~(3)~~

- c. "Required contribution rate" means that percentage  
73 14 of the basic salary of all judges covered under this article  
73 15 which

~~, in addition to the judge's contribution established in~~

~~-~~  
73 16

~~subsection 1,~~

- the actuary of the system determines is  
73 17 necessary to maintain fully funded status.  
73 18

~~b. Effective with the fiscal year commencing July 1, 1994,~~

~~-~~  
73 19

~~and for each subsequent fiscal year until the system attains~~

~~-~~  
73 20

~~fully funded status, the state shall contribute annually to~~

~~-~~  
73 21

~~the judicial retirement fund an amount equal to at least~~

~~-~~  
73 22

~~twenty three and seven tenths percent of the basic salary of~~

~~-~~  
73 23

~~all judges covered under this article. Commencing with the~~

~~-~~  
73 24

~~first fiscal year in which the system attains fully funded~~

~~-~~  
73 25

~~status, and for each subsequent fiscal year, the state shall~~

~~-~~  
73 26

~~contribute to the judicial retirement fund the required~~

~~-~~

~~contribution rate. The state's contribution shall be~~

~~appropriated directly to the judicial retirement fund.~~

73 29 Sec. 92. Section [602.9107](#), subsection 1, Code 1999, is  
73 30 amended to read as follows:

73 31 1. a. The annual annuity of a judge under this system is  
73 32 an amount equal to three percent of the judge's average annual  
73 33 basic salary for the judge's last three years as a judge of  
73 34 one or more of the courts included in this article, multiplied  
73 35 by the judge's years of service as a judge of one or more of  
74 1 the courts for which contributions were made to the system.  
74 2 However, an annual annuity shall not exceed an amount equal to  
74 3 a specified percentage of the basic annual salary which the  
74 4 judge is receiving at the time the judge becomes separated  
74 5 from service. Forfeitures shall not be used to increase the  
74 6 annuities a judge or survivor would otherwise receive under  
74 7 the system.

74 8 b. "Specified percentage", for purposes of this section,  
74 9 means as follows:

74 10 (1) For judges who retire and receive an annuity prior to  
74 11 July 1, 1998, the specified percentage shall be fifty percent.

74 12 (2) For judges who retire and receive an annuity on or  
74 13 after July 1, 1998, but before July 1, 2000, the specified  
74 14 percentage shall be fifty-two percent.

74 15 (3) For judges who retire and receive an annuity on or  
74 16 after July 1, 2000, but before July 1, 2001, the specified  
74 17 percentage shall be fifty-six percent.

74 18 (4) For judges who retire and receive an annuity on or  
74 19 after July 1, 2001, the specified percentage shall be sixty  
74 20 percent.

74 21 Sec. 93. Section [602.9204](#), Code Supplement 1999, is  
74 22 amended to read as follows:

74 23 602.9204 SALARY ANNUITY OF SENIOR JUDGE AND RETIRED  
74 24 SENIOR JUDGE.

74 25 1. A judge who retires on or after July 1, 1994, and who  
74 26 is appointed a senior judge under section 602.9203 shall be  
74 27 paid a salary as determined by the general assembly. A senior  
74 28 judge or retired senior judge shall be paid an annuity under  
74 29 the judicial retirement system in the manner provided in  
74 30 section 602.9109, but computed under this section in lieu of  
74 31 section 602.9107, as follows: The annuity paid to a senior  
74 32 judge or retired senior judge shall be an amount equal to  
74 33 three percent of the basic senior judge salary, multiplied by  
74 34 the judge's years of service prior to retirement as a judge of  
74 35 one or more of the courts included under this article, for  
75 1 which contributions were made to the system, except the  
75 2 annuity of the senior judge or retired senior judge shall not  
75 3 exceed

~~fifty percent~~

~~an amount equal to the applicable~~

75 4 specified percentage of the basic senior judge salary used in  
75 5 calculating the annuity. However, following the twelve-month  
75 6 period during which the senior judge or retired senior judge  
75 7 attains seventy-eight years of age, the annuity paid to the  
75 8 person shall be an amount equal to three percent of the basic  
75 9 senior judge salary cap, multiplied by the judge's years of  
75 10 service prior to retirement as a judge of one or more of the  
75 11 courts included under this article, for which contributions  
75 12 were made to the system, except that the annuity shall not  
75 13 exceed

~~—fifty percent~~

~~— an amount equal to the applicable~~

75 14 specified percentage of the basic senior judge salary cap. A  
75 15 senior judge or retired senior judge shall not receive  
75 16 benefits calculated using a basic senior judge salary  
75 17 established after the twelve-month period in which the senior  
75 18 judge or retired senior judge attains seventy-eight years of  
75 19 age. The state shall provide, regardless of age, to an active  
75 20 senior judge or a senior judge with six years of service as a  
75 21 senior judge and to the judge's spouse, and pay for medical  
75 22 insurance until the judge attains the age of seventy-eight  
75 23 years.

75 24 2. As used in this section, unless the context otherwise  
75 25 requires:

75 26 a. "Applicable specified percentage" means, for a senior  
75 27 judge or retired senior judge, the specified percentage, as  
75 28 defined in section 602.9107, subsection 1, that applied on the  
75 29 date the judge was separated from full-time service.

75 30

~~— a.~~

~~— b.~~ "Basic senior judge salary" means the basic annual  
75 31 salary which the judge is receiving at the time the judge  
75 32 becomes separated from full-time service, as would be used in  
75 33 computing an annuity pursuant to section 602.9107 without  
75 34 service as a senior judge, plus seventy-five percent of the  
75 35 escalator.

76 1

~~— b.~~

~~— c.~~ "Basic senior judge salary cap" means the basic  
76 2 senior judge salary, at the end of the twelve-month period  
76 3 during which the senior judge or retired senior judge attained  
76 4 seventy-eight years of age, of the office in which the person  
76 5 last served as a judge before retirement as a judge or senior  
76 6 judge.

76 7

~~— e.~~

~~— d.~~ "Escalator" means the difference between the current  
76 8 basic salary, as of the time each payment is made up to and  
76 9 including the twelve-month period during which the senior  
76 10 judge or retired senior judge attains seventy-eight years of  
76 11 age, of the office in which the senior judge last served as a  
76 12 judge before retirement as a judge or senior judge, and the  
76 13 basic annual salary which the judge is receiving at the time  
76 14 the judge becomes separated from full-time service as a judge  
76 15 of one or more of the courts included in this article, as  
76 16 would be used in computing an annuity pursuant to section  
76 17 602.9107 without service as a senior judge.

76 18

EXPLANATION

76 19 This bill makes numerous changes to public retirement  
76 20 systems, including the public safety peace officers'  
76 21 retirement, accident, and disability system, the Iowa public  
76 22 employees' retirement system, the statewide fire and police  
76 23 retirement system, and the judicial retirement system. This  
76 24 bill may include a state mandate as defined in Code section  
76 25 25B.3. The state mandate funding requirement in Code section  
76 26 25B.2, however, does not apply to public employee retirement  
76 27 systems. The changes to each public retirement system are as  
76 28 follows:

76 29 PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND  
76 30 DISABILITY SYSTEM (PORS)

76 31 Code section 97A.5, governing the administration of the  
76 32 retirement system, is changed to add a retired member of the  
76 33 system to the board of trustees. The retired member of the  
76 34 board shall be elected from the retired members and shall have

76 35 a two-year term.

77 1 Code section 97A.6, subsection 2, governing the calculation  
77 2 of retirement benefits, is amended by adding a new paragraph  
77 3 to provide that member of PORS receives 2.75 percent of the  
77 4 member's average final compensation for each year of service  
77 5 up to a total of 32 years of service or a maximum of 88  
77 6 percent.

77 7 Code section 97A.6, subsection 8, governing an ordinary  
77 8 death benefit, is amended to provide that certain eligible  
77 9 beneficiaries of a member who dies shall receive, at a  
77 10 minimum, a monthly pension equal to 25 percent, rather than 20  
77 11 percent, of the monthly pay of a senior patrol officer if the  
77 12 member died in service.

77 13 Code section 97A.6, subsection 14, governing the annual  
77 14 readjustment of pensions, is amended. The current  
77 15 readjustment escalator provisions are amended to increase the  
77 16 percentages used to provide an annual readjustment of the  
77 17 pensions payable from the current 30 percent and 33 1/3  
77 18 percent to 40 percent, and from the current 15 percent to 24  
77 19 percent.

77 20 In addition to the modification of the current escalator  
77 21 increase received by an eligible member or beneficiary each  
77 22 July 1, the bill provides for adding to the amount calculated  
77 23 using the current escalator provisions as amended by this bill  
77 24 an additional dollar amount based on the number of years the  
77 25 member has been retired. The additional amount is \$15 for a  
77 26 member retired less than five years, \$20 for a member retired  
77 27 between five and 10 years, \$25 for a member retired between 10  
77 28 and 15 years, \$30 for a member retired between 15 and 20  
77 29 years, and \$35 for a member retired over 20 years.

77 30 Code section 97A.8, concerning the method of financing the  
77 31 PORS through contributions, is amended to permit the board of  
77 32 trustees to adopt a method designed to stabilize changes in  
77 33 the normal contribution rate which could result from  
77 34 fluctuations in the market value of the assets of the system.

77 35 The bill also provides that it is the intent of the general  
78 1 assembly that members of PORS receive a retirement benefit of  
78 2 90 percent of their earnable compensation after 30 years of  
78 3 service once the system can afford it.

#### 78 4 IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

78 5 Code section 97B.1A is amended by adding new subsection 2A  
78 6 which defines accumulated employer contributions as employer  
78 7 contributions made on behalf of a member plus interest.

78 8 Code section 97B.1A, subsection 8, paragraph "a",  
78 9 subparagraph (1), which provides for the ability of an elected  
78 10 official to opt for coverage, is amended to allow an elected  
78 11 official who has opted to be covered under IPERS to opt out of  
78 12 coverage while still in office. Specifically, the change  
78 13 permits an official to opt out of IPERS coverage if the  
78 14 official terminates employment from all employment covered  
78 15 under this chapter other than employment as an elective  
78 16 official and applies to receive a retirement benefit under  
78 17 IPERS.

78 18 Code section 97B.1A, subsection 8, concerning the  
78 19 definition of temporary employees, is changed to provide that  
78 20 an employee is a temporary employee if the employee is hired  
78 21 for less than six consecutive months. Current law provides  
78 22 that an employee is a temporary employee if the employee is  
78 23 hired for less than six months in a calendar year.

78 24 Code section 97B.1A is amended by adding new subsection 14A  
78 25 which defines a member account as the amount established for a  
78 26 member that includes the accumulated contributions of the  
78 27 member and the relevant accumulated employer contributions for  
78 28 that member.

78 29 Code section 97B.1A is amended by adding subsection 22A  
78 30 which adds a definition for a supplemental account for active  
78 31 members that is consistent with Code section 97B.49H which

78 32 created this account.

78 33 Code section 97B.1A, subsection 24, concerning the  
78 34 definition of three-year average covered wage used in  
78 35 determining IPERS retirement benefits is amended by modifying  
79 1 the multiyear mechanism for implementing a revision to the  
79 2 calculation of three-year average covered wage if the member's  
79 3 average wage exceeds a certain dollar level. Current law  
79 4 provides that a member's "three-year average covered wage"  
79 5 will be calculated using the highest seven years for a member  
79 6 who retires during calendar year 2000, 2001, or 2002, and  
79 7 whose three-year average covered wage exceeds \$55,000. The  
79 8 bill provides that only the highest six years will be used,  
79 9 that the income threshold will increase to \$65,000 for persons  
79 10 retiring on or after January 1, 2000, but before 2001, and to  
79 11 \$75,000 for persons retiring in calendar year 2001, and that  
79 12 the modification ends after calendar year 2001 and not after  
79 13 calendar year 2002. The portion of this change which applies  
79 14 to members retiring during calendar year 2000 is effective  
79 15 upon enactment and applicable on or after January 1, 2000.

79 16 Code section 97B.1A, subsection 24, concerning the three-  
79 17 year average covered wage, is also amended to provide for a  
79 18 new determination of this covered wage for a member who  
79 19 retires on or after July 1, 2003. The change provides that  
79 20 beginning July 2003, a member's three-year average covered  
79 21 wage shall be the greater of the member's highest 12 quarters  
79 22 of service, or the member's highest three years of service.  
79 23 Under current law, a member's three-year average covered wage  
79 24 is determined based solely on calendar years.

79 25 Code section 97B.1A, subsection 26, defining wages is  
79 26 amended. The new definition specifically provides that wages  
79 27 payable to an employee but that are otherwise deducted from  
79 28 the employee's pay and paid to certain IRS qualified plans are  
79 29 considered wages. Payments for compensatory time are also  
79 30 included up to 240 hours per year. In addition, the amendment  
79 31 lists several categories of payment to an employee that are  
79 32 not considered wages. For example, accrued sick leave  
79 33 payments, accrued vacation leave payments, disability  
79 34 payments, reimbursements for business expenses, early  
79 35 retirement bonuses, employer paid contributions to certain IRS  
80 1 qualified plans as well as for health and life insurance or  
80 2 other fringe benefits, payments for service as an independent  
80 3 contractor, and workers' compensation and unemployment  
80 4 payments are all excluded from the definition of wages.

80 5 Code section 97B.5 is amended to permit IPERS staff members  
80 6 to seek and hold nonpartisan elective public offices.  
80 7 Currently, IPERS staff members are not allowed to seek or hold  
80 8 any elective public office.

80 9 Code section 97B.9 is amended to permit the department to  
80 10 charge an employer who fails to make required contributions to  
80 11 IPERS on time a uniform \$10 charge if that charge exceeds the  
80 12 interest on the unpaid contributions. Any charge collected  
80 13 shall be paid into the IPERS fund.

80 14 Code section 97B.9, concerning the repayment of unpaid  
80 15 contributions from employers and employees for service in  
80 16 IPERS, is amended to provide that the department of personnel  
80 17 can collect the total underpayment owed from the employer.  
80 18 Current law specifying who ultimately is required to pay what  
80 19 share of the underpayment is unchanged. The employee is still  
80 20 obligated to pay the employee's share of unpaid contributions,  
80 21 without interest, to the employer and the employer is allowed  
80 22 to collect this amount from the employee or the employee's  
80 23 estate.

80 24 Code section 97B.11 is amended to require employers to  
80 25 deduct contributions from an employee's wages regardless of  
80 26 size. Current law does not require a contribution if the  
80 27 amount does not exceed \$1 for a quarter.

80 28 New Code section 97B.14A is created to require employers to

80 29 report wages to the department of personnel in a manner and  
80 30 form as prescribed by the department. The new section also  
80 31 permits the department to seek additional information from an  
80 32 employer if the wages reported for an employee appear to be  
80 33 distorted and to require an employer to resubmit wage  
80 34 information if the wages for that employee were misreported.  
80 35 Code section 97B.42A is amended by adding new subsection  
81 1 3A. The change provides that persons employed by a municipal  
81 2 water utility or waterworks that has established an  
81 3 alternative pension and annuity retirement system for its  
81 4 employees pursuant to Code chapter 412 may elect to become  
81 5 members of the Iowa public employees' retirement system  
81 6 (IPERS) pursuant to the requirements of this subsection.  
81 7 The change provides that persons hired on or after the  
81 8 effective date of this bill will become members of IPERS  
81 9 unless they elect coverage in the alternative retirement  
81 10 system established in Code chapter 412. Persons hired before  
81 11 the effective date of this bill become members of IPERS as of  
81 12 July 1, 2000, unless they opt for coverage in the alternative  
81 13 system by August 31, 2000. Persons who become members of  
81 14 IPERS pursuant to this bill have the ability to purchase  
81 15 service credit for time employed by a water utility or  
81 16 waterworks while covered under a retirement system established  
81 17 pursuant to Code chapter 412. A corresponding change to the  
81 18 definitions in section 97B.1A is also made in this bill.  
81 19 Code section 97B.42A is amended to require an employee, who  
81 20 became a member of IPERS during 1999 on the basis of  
81 21 employment that previously was not included within IPERS and  
81 22 who wants to buy back that service, to have at least one or  
81 23 more years of covered wages under IPERS before the buyback is  
81 24 allowed.  
81 25 Code section 97B.44 governing the designation of a  
81 26 beneficiary for death benefits by a member is amended to  
81 27 require that the member obtain the written consent of the  
81 28 member's spouse for an original or changed designation.  
81 29 Code sections 97B.48 and 97B.48A are amended to provide  
81 30 that receipt of a lump sum payment in lieu of a retirement  
81 31 allowance under Code section 97B.48, or receipt of a refund of  
81 32 contributions following retirement from reemployment under  
81 33 Code section 97B.48A, are not considered refunds for service  
81 34 which would allow the member to buy back that service at a  
81 35 later time. Code section 97B.52A is amended to provide that  
82 1 bona fide retirement requirements apply to these payments.  
82 2 Code section 97B.48A, subsection 1, is amended to increase  
82 3 the earned income limit before a member's retirement allowance  
82 4 is reduced pursuant to that section. Currently, a member can  
82 5 earn the greater of \$12,000 or the amount of income permitted  
82 6 under social security before a reduction is potentially  
82 7 applied. This change provides that the \$12,000 be increased  
82 8 to \$14,000.  
82 9 Code section 97B.49B, concerning the definition of  
82 10 employees included in a protection occupation, is amended to  
82 11 add airport security employees covered by the state's merit  
82 12 system who carry or are authorized to carry a weapon for their  
82 13 jobs.  
82 14 Code section 97B.49F, governing the determination of the  
82 15 cost of living dividend, is amended. The dividend program for  
82 16 pre-July 1990 retirees is amended to provide that 100 percent,  
82 17 and not 80 percent, of the percentage based on the consumer  
82 18 price index shall be used in determining the appropriate  
82 19 percentage to use in determining the dividend adjustment each  
82 20 year. The current 3 percent annual limitation on this  
82 21 percentage is not changed by this bill.  
82 22 Code section 97B.49F, subsection 1, concerning the cost-of-  
82 23 living dividend, is amended to provide that the person  
82 24 eligible to receive the dividend must live through to November  
82 25 1, of any particular year to receive a dividend as of the last

82 26 day of November for that particular year.

82 27 Code section 97B.49F, subsection 2, concerning the  
82 28 favorable experience dividend, is amended to provide that the  
82 29 person eligible to receive the dividend must live through to  
82 30 January 1 of any particular year in order to receive a  
82 31 dividend as of the last day of January for that particular  
82 32 year.

82 33 Code section 97B.49F, subsection 2, concerning the  
82 34 favorable experience dividend, is amended. The change  
82 35 provides that the amount deposited in the reserve account of  
83 1 IPERS for the payment of this dividend each year shall not  
83 2 exceed the amount necessary to pay this dividend for the  
83 3 following 10 years. In addition, the subsection is amended to  
83 4 provide that the calculation of the dividend shall be done  
83 5 based upon 12 times the December benefit paid to a member or  
83 6 beneficiary eligible to receive the benefit.

83 7 Code section 97B.49G is amended to add new subsection 12.  
83 8 This subsection provides that a person employed as a probation  
83 9 officer III or parole officer III, who was a member of the  
83 10 protection occupation for that service between July 1, 1994,  
83 11 and June 30, 1998, shall have the contributions that were  
83 12 contributed to the fund in excess of the percentage applied to  
83 13 most IPERS members deposited in a separate additional  
83 14 contribution account. In addition, any service as a member of  
83 15 a protection occupation for that service will be credited as  
83 16 regular IPERS service. Any amount in that account, plus  
83 17 interest, will be available upon request of the member or upon  
83 18 retirement. Before July 1994, and after June 1998, probation  
83 19 and parole officer IIIs were not included in the protection  
83 20 occupation classification.

83 21 Code section 97B.49H, governing supplemental accounts for  
83 22 active members, is amended to provide that a member, upon  
83 23 retirement, must elect to receive this amount as a lump sum or  
83 24 annuity. In addition, the section is changed to provide for  
83 25 the determination of the annuity in a manner similar to that  
83 26 used for other annuity options within Code chapter 97B.

83 27 Code section 97B.50, subsection 2, governing early  
83 28 retirement and disability, is amended to eliminate the ability  
83 29 of a person who retires due to disability and receives  
83 30 disability payments from federal Social Security or from the  
83 31 federal Railroad Retirement System to receive a retroactive  
83 32 adjustment of IPERS retirement benefits back to July 1, 1990.  
83 33 Instead, the bill allows a member to receive only a 12-month  
83 34 retroactive adjustment of IPERS benefits.

83 35 New Code section 97B.50A provides for disability retirement  
84 1 benefits for special service members of the Iowa public  
84 2 employees' retirement system (IPERS). A special service  
84 3 member of IPERS for purposes of this bill includes a person  
84 4 who is a member of a protection occupation or who is a  
84 5 sheriff, deputy sheriff, or airport fire fighter.

84 6 The new Code section provides that an eligible special  
84 7 service member of IPERS who becomes disabled for duty while in  
84 8 the performance of the member's duty is entitled to an in-  
84 9 service disability retirement allowance equal to the greater  
84 10 of one-twelfth of 60 percent of the member's three-year  
84 11 average covered wage or the amount the member would receive  
84 12 under a normal retirement. For purposes of establishing an  
84 13 in-service disability, heart or lung disease is presumed to  
84 14 have been contracted while on duty. The new Code section also  
84 15 provides that a member who becomes disabled and unable to  
84 16 perform the member's job is entitled to an ordinary disability  
84 17 retirement allowance equal to the greater of one-twelfth of 50  
84 18 percent of the member's three-year average covered wage or  
84 19 what the member would receive under a normal retirement. For  
84 20 both disability retirements, the department of personnel makes  
84 21 the decision as to whether the person is totally disabled.  
84 22 The new Code section also has provisions for offsets to

84 23 disability allowances, reexamination of members on disability,  
84 24 reemployment, death benefits, establishing the medical board,  
84 25 and subrogation. The new Code section provides that the costs  
84 26 of administering the disability program shall be paid through  
84 27 contributions from the special service employees and their  
84 28 employers in the same manner as additional benefits are paid.  
84 29 (The employer pays 60 percent and the employee pays 40  
84 30 percent.) The new Code section applies to a special service  
84 31 member who became disabled prior to the effective date of the  
84 32 bill, if the member did not terminate the special service  
84 33 employment before the effective date of the bill.

84 34 Code section 97B.51, governing the retirement allowance  
84 35 options a retired IPERS member may select, is amended by  
85 1 striking the section and replacing it with a new section.  
85 2 Current Code section 97B.51 is retained but reordered to  
85 3 provide that all five primary options available to a member  
85 4 upon retirement are listed in the order IPERS refers to them  
85 5 in their administrative rules. In addition, the new section  
85 6 provides a new option to a member retiring which is reflected  
85 7 in subsection 1, paragraph "d", subparagraph (2). This option  
85 8 allows a member to obtain a decreased retirement allowance and  
85 9 to provide the member's beneficiary with a retirement  
85 10 allowance upon the member's death. The change from the  
85 11 current option reflected in subparagraph (1) is that the  
85 12 member can resume receiving an unreduced retirement allowance  
85 13 as otherwise calculated by Code chapter 97B if the designated  
85 14 beneficiary dies before the retiree.

85 15 Code section 97B.52, governing the death benefit provided a  
85 16 beneficiary of a member who dies prior to retirement is  
85 17 changed. The change provides that, for a member who dies on  
85 18 or after January 1, 2001, a beneficiary can elect to receive a  
85 19 death benefit equal to the current death benefit or an amount  
85 20 representing the actuarial value of the member's retirement  
85 21 benefit as of the date of death. The bill provides that a  
85 22 death benefit can be paid as an annuity only if there is one  
85 23 beneficiary and the beneficiary so elects.

85 24 Code section 97B.52A, concerning bona fide retirement, is  
85 25 modified to permit an elective official or member of the  
85 26 general assembly to remain in that position and still receive  
85 27 a retirement allowance following termination of other covered  
85 28 employment so long as the elective official or member of the  
85 29 general assembly is not contributing to IPERS coverage for the  
85 30 elected position. In addition, the section is changed to  
85 31 provide that commencing July 2000, a member has a bona fide  
85 32 retirement if the member does not return to any employment  
85 33 with a covered employer until the member has received at least  
85 34 one month of retirement benefits. Under current law, a member  
85 35 has to receive four months of benefits before returning to  
86 1 work with a covered employer.

86 2 Code section 97B.53, governing refunds of contributions  
86 3 upon termination of employment, is amended to provide that a  
86 4 member is eligible to receive a portion of the employer  
86 5 contributions only if the member is vested as of the date an  
86 6 application for refund is filed with the department. In  
86 7 addition, the section is amended to permit a member  
86 8 involuntarily terminated from IPERS covered employment who  
86 9 then received a refund as a result, to repay the refund, plus  
86 10 applicable interest, and obtain full service credit for the  
86 11 IPERS service prior to the involuntary termination if the  
86 12 person is ordered reinstated as a remedy arising out of an  
86 13 employment dispute.

86 14 Code sections 97B.53A, 97B.53B, and 97B.70 are amended to  
86 15 provide for similar treatment of a member's supplemental  
86 16 account as is provided to the member's account which consists  
86 17 of both employee and employer contributions.

86 18 Code section 97B.60 is amended to require an actuarial  
86 19 investigation of the experience of IPERS every four years

86 20 beginning with an investigation in calendar year 2002.  
86 21 Currently, IPERS is required to conduct such an experience  
86 22 study every two years.

86 23 New Code section 97B.82 is added to allow a member to  
86 24 purchase credit for membership service authorized by Code  
86 25 chapter 97B by means of a direct rollover of assets from a  
86 26 qualified plan of the member as authorized by the Internal  
86 27 Revenue Code. This section will not be implemented until the  
86 28 department of personnel receives a determination letter from  
86 29 the internal revenue service approving the change.

86 30 Code section 97B.13, regarding no income tax deduction, is  
86 31 repealed.

86 32 The bill provides that it is the intent of the general  
86 33 assembly that the legislative council may appoint an interim  
86 34 study committee to consider possible defined contribution  
86 35 options for persons covered by IPERS.

87 1 STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

87 2 Code section 400.8, governing civil service entrance  
87 3 examinations, is amended to provide that the physical  
87 4 examination of applicants for appointment to positions of  
87 5 police officer, police matron, and fire fighter, shall be  
87 6 conducted by the medical board established under Code chapter  
87 7 411. Current law provides that the physical examination be  
87 8 conducted as directed by the civil service commission.

87 9 New Code section 400.8A authorizes the board of trustees of  
87 10 the Code chapter 411 retirement system, in consultation with  
87 11 the medical board established in Code chapter 411, to  
87 12 establish and maintain protocols and guidelines for ongoing  
87 13 wellness and fitness of police officers and fire fighters  
87 14 while in service. The new section allows, but does not  
87 15 require, cities to apply the protocols and guidelines.

87 16 Code section 411.1, subsection 19, defining surviving  
87 17 spouse, is amended. The change provides that a person who  
87 18 marries a retired member of the system after the member  
87 19 retired is the member's surviving spouse regardless of the  
87 20 length of the marriage. Under current law, a person who  
87 21 marries a retired member after retirement must be married for  
87 22 at least two years prior to the member's death to be  
87 23 considered a surviving spouse of the deceased member.

87 24 Code section 411.1A is amended to provide that a purpose of  
87 25 the retirement system is to provide a comprehensive disability  
87 26 program for police officers and fire fighters.

87 27 Code section 411.3, governing membership in the retirement  
87 28 system, is amended to provide that once a member ceases to be  
87 29 a police officer or fire fighter of a city covered by the  
87 30 system, the member ceases to be a member of the system. Under  
87 31 current law, a member ceased to be a member if the member was  
87 32 absent from service for over four years in any five-year  
87 33 period after last becoming a member. The changes to this  
87 34 section take effect upon enactment and are retroactively  
87 35 applicable to January 1, 1992.

88 1 Code section 411.4, governing the crediting of service, is  
88 2 amended. The change provides that a member can receive credit  
88 3 for a previous period of service if the member returned to  
88 4 service after an absence from service of less than four years.  
88 5 If the member returned to service after an absence of four or  
88 6 more years, the bill permits the crediting of prior service  
88 7 only if the prior service was long enough to allow for the  
88 8 receipt of a retirement allowance. In addition, current law  
88 9 allows credit for prior service if the member had withdrawn  
88 10 the member's accumulated contributions. Code section 411.1,  
88 11 subsection 12, is also amended to provide that membership  
88 12 service means only that service credited to the member. The  
88 13 changes to Code section 411.4 and to Code section 411.1,  
88 14 subsection 12, take effect upon enactment and are  
88 15 retroactively applicable to January 1, 1992.

88 16 Code section 411.5, subsection 6, is amended to allow the

88 17 release of otherwise confidential records under the board's  
88 18 control to a governmental entity for use in a civil or  
88 19 criminal law enforcement activity.

88 20 Code section 411.5, subsection 8, concerning the  
88 21 composition and duties of the medical board is amended. The  
88 22 bill provides that the system can designate a single medical  
88 23 provider network to arrange for the medical examinations  
88 24 required to be conducted and to assist the system in  
88 25 implementing the comprehensive disability program. The bill  
88 26 provides that a physician specializing in occupational  
88 27 medicine, and another physician specialist selected by that  
88 28 physician, shall conduct disability examinations as required  
88 29 by Code chapter 411. Under current law, three physicians are  
88 30 designated as the medical board and three physicians from the  
88 31 university of Iowa are required to conduct all disability  
88 32 examinations as required by Code chapter 411. This section of  
88 33 the bill takes effect July 1, 2001.

88 34 Code section 411.6, subsection 2, concerning the retirement  
88 35 allowance for a service retirement, is amended. The change  
89 1 provides, for members retiring on or after July 1, 2000, that  
89 2 the member will receive a service retirement equal to 66  
89 3 percent of the member's average final compensation instead of  
89 4 the current 60 percent. In addition, the subsection is  
89 5 amended to provide that a member retiring on or after July 1,  
89 6 2000, with more than 22 years of service will receive an  
89 7 increase in the percentage applied to the member's average  
89 8 final compensation of 2 percent for each year of additional  
89 9 service over 22 years up to a maximum of eight additional  
89 10 years of service.

89 11 Code section 411.6, subsection 5, concerning an accidental  
89 12 disability benefit, is amended to provide that a city shall  
89 13 notify the retirement system if a member is temporarily  
89 14 incapacitated for at least 60 days, or if the city expects a  
89 15 member to be temporarily incapacitated for at least 60 days.  
89 16 The change also provides that the medical board can consult  
89 17 with the member's treating physician during the incapacity.  
89 18 Under current law, the system had no right to be involved  
89 19 until the city determined that the disability is likely to be  
89 20 permanent.

89 21 Code section 411.6, subsection 7, concerning reexaminations  
89 22 of disability retirement beneficiaries, is amended. One  
89 23 change permits the medical board, when the medical board  
89 24 reexamines a disability-retired member, to suggest appropriate  
89 25 treatment or rehabilitation for the member if the medical  
89 26 board believes it might return the retired member to duty.  
89 27 The earnings test for disability retirement beneficiaries is  
89 28 also changed to provide that the test does not apply to a  
89 29 beneficiary who is 55 years old or older. Under current law,  
89 30 the earnings test would still apply to a beneficiary over 55  
89 31 if that beneficiary would not have completed 22 years of  
89 32 service if the beneficiary had remained in active service.  
89 33 Finally, Code section 411.6, subsection 7, is amended by  
89 34 adding a new paragraph which provides that a disability  
89 35 retirement benefit shall cease if the member returns to duty  
90 1 in a public safety occupation. The bill includes service as a  
90 2 special service member under IPERS, a member of PORS, and a  
90 3 member under Code chapter 411 who was not restored to active  
90 4 duty.

90 5 Code section 411.6, subsection 8, governing an ordinary  
90 6 death benefit, is changed. The bill provides that a  
90 7 beneficiary can select, in lieu of the current death benefit,  
90 8 the amount of contributions and interest the member could have  
90 9 withdrawn pursuant to Code section 411.23. The bill also  
90 10 allows a person over 22 years old but who still meets the  
90 11 definition of child under the chapter to receive a death  
90 12 benefit as provided in this subsection. In addition, the  
90 13 change provides that if no beneficiary is designated, the

90 14 death benefit will be distributed, in the following priority,  
90 15 to the member's surviving spouse, to the surviving children  
90 16 regardless of age, to the member's surviving parents, to the  
90 17 member's estate, and finally, to the member's heirs.

90 18 Code section 411.6, subsection 9, concerning an accidental  
90 19 death benefit, is amended to provide that an eligible  
90 20 accidental death benefit beneficiary can elect to receive an  
90 21 ordinary death benefit instead. In addition, the subsection  
90 22 provides that if no spouse, child, or parent eligible to  
90 23 receive an accidental death benefit exists and an ordinary  
90 24 death benefit is to be paid, the payment priority established  
90 25 for an ordinary death benefit will be used to pay the benefit.

90 26 Code section 411.6, subsection 11, concerning pensions to  
90 27 the spouse or children of a deceased pensioned member, is  
90 28 amended to provide that a person over 22 years old but who  
90 29 still meets the definition of child under the chapter to  
90 30 receive a pension as provided in this subsection.

90 31 Code section 411.6 is amended by adding new subsection 14  
90 32 governing the designation of a death beneficiary. The new  
90 33 subsection provides that a designation of a person other than  
90 34 the spouse of a member must have the consent of the spouse.

90 35 In addition, a beneficiary designation is deemed revoked if  
91 1 the member marries, divorces, or files a new designation.

91 2 Code section 411.6, new subsection 15, provides for a  
91 3 \$100,000 lump sum payment to a person authorized to receive an  
91 4 accidental death benefit if a member in service covered by the  
91 5 municipal fire and police retirement system dies as a result  
91 6 of a traumatic personal injury incurred in the line of duty.  
91 7 The benefit is in addition to the benefit currently provided  
91 8 for an accidental death while in the performance of duty. The  
91 9 bill takes effect upon enactment and applies retroactively to  
91 10 January 1, 1992.

91 11 Code section 411.6 is amended by adding new subsection 16  
91 12 providing that a member otherwise eligible for a disability  
91 13 pension would be ineligible under certain circumstances. The  
91 14 new subsection provides that a member is ineligible to receive  
91 15 a disability pension if the disability was caused by the  
91 16 member's chemical dependency on certain controlled substances,  
91 17 an act in which the member is convicted of a felony, or if a  
91 18 mental disability was caused by appropriate disciplinary  
91 19 actions or conflicts at work. However, if the medical board  
91 20 finds that alcoholism or drug addiction contributed to the  
91 21 disability, the member still receives a disability pension but  
91 22 will be required to submit to treatment and be reevaluated in  
91 23 24 months. If the member fails to comply with treatment and  
91 24 the reevaluation indicates that the member would not be  
91 25 disabled but for the alcoholism or addiction, the member is  
91 26 then ineligible to receive a disability pension.

91 27 Code section 411.6 is amended by adding new subsection 17  
91 28 providing that a member otherwise eligible for a pension would  
91 29 be ineligible for that period when the member is incarcerated  
91 30 due to a conviction for a felony. The new subsection provides  
91 31 that the member's pension would be paid to the member's  
91 32 spouse, if any, and then to any children of the member.  
91 33 However, if no spouse or children exist, then the pension  
91 34 remains payable to the individual. The new subsection does  
91 35 provide, however, that the provisions of this new subsection  
92 1 do not impair the right of a person entitled to an amount from  
92 2 the member pursuant to a marital property, spousal support, or  
92 3 child support agreement and do not impair the statutory rights  
92 4 of a governmental entity.

92 5 Code section 411.11, concerning contributions to the system  
92 6 by a city, is amended. One change provides that if a member  
92 7 is awarded back pay from a city that would otherwise  
92 8 constitute earnable compensation under the chapter,  
92 9 contributions, and interest on the back pay awarded, shall be  
92 10 paid to the system. In addition, the back pay is then

92 11 allocated to the member's earnable compensation for the period  
92 12 in which it would have been paid. Another change to the  
92 13 section allows the system to collect interest on unpaid  
92 14 contributions at a rate equal to the system's interest rate  
92 15 assumption or the interest charged by a bank on the system's  
92 16 short-term investment fund account. In addition, the system  
92 17 is granted the right to collect unpaid contributions from a  
92 18 city in a legal action with costs of the action assessed to  
92 19 the city if the system prevails. The changes to this section  
92 20 take effect upon enactment and are retroactively applicable to  
92 21 January 1, 1992.

92 22 Code section 411.22, concerning the system's right to  
92 23 maintain an action to recover benefits paid when a third party  
92 24 is liable, is amended. The section is amended to provide that  
92 25 the system is subrogated to the rights of a member's  
92 26 beneficiary who receives a death benefit for the death of a  
92 27 member in which a third party is liable. In addition, the  
92 28 section is changed to provide that the system is entitled to  
92 29 bring an action against a liable third party for lost earnings  
92 30 and lost earnings capacity prior to the member or the member's  
92 31 estate having the right to seek recovery. Under current law,  
92 32 the member has the right to seek legal action and the system  
92 33 is entitled to maintain an action if the member fails to bring  
92 34 an action after the system requests the member to bring the  
92 35 action. The amended section provides that if the system  
93 1 recovers damages, the court shall enter judgment in an amount  
93 2 for the system sufficient to pay the system for any past and  
93 3 future benefits for which the system is liable and to pay the  
93 4 system the costs of the action. The remainder of any damages  
93 5 recovered shall be awarded to the member or member's  
93 6 beneficiary or estate. The amended section further provides  
93 7 that the member or member's estate may maintain an action if  
93 8 the system declines in writing to maintain an action or fails  
93 9 to maintain an action within 180 days of receiving notice of  
93 10 the potential third-party liability.

93 11 The bill also provides that it is the intent of the general  
93 12 assembly that members of the statewide system receive a  
93 13 retirement benefit of 90 percent of their earnable  
93 14 compensation after 30 years of service once the system can  
93 15 afford it.

#### 93 16 JUDICIAL RETIREMENT SYSTEM

93 17 Code section 602.9104, governing contributions from judges  
93 18 and the state to the judicial retirement system, is amended.  
93 19 The change provides that the state will contribute 23.7  
93 20 percent of all judges' salaries, and each judge will  
93 21 contribute 5 percent of the judge's salary to the fund, until  
93 22 the actuary determines that the fund has reached fully funded  
93 23 status based upon the benefits provided judges as of July 1,  
93 24 2001. Current law provides that the stated percentages shall  
93 25 be contributed until the fund has reached fully funded status  
93 26 based upon the benefits provided judges as of the date of the  
93 27 actuarial valuation. Once fully funded status is reached,  
93 28 based upon the benefits provided as of July 1, 2001, the  
93 29 amendment to Code section 602.9104 provides that the state  
93 30 contribute 60 percent, and the judges' 40 percent, of the cost  
93 31 to maintain the fund in a fully funded status. Under current  
93 32 law, once fully funded status is reached, the state's  
93 33 contribution is decreased while maintaining the judge's 4  
93 34 percent contribution rate.

93 35 Code section 602.9107, governing the basic retirement  
94 1 annuity for a judge, is amended. The amendment provides that  
94 2 the maximum annuity for a judge retiring between July 1, 2000,  
94 3 and July 1, 2001, shall be limited to 56 percent of the  
94 4 judge's average annual salary for the last three years of  
94 5 service, while the maximum annuity for a judge retiring on or  
94 6 after July 1, 2001, shall be limited to 60 percent. Under  
94 7 current law, a judge receives an annuity based on 3 percent of

94 8 salary multiplied by the number of years of service with a cap  
94 9 of 52 percent. The increase in this percentage is also  
94 10 applied to the calculation of a senior judge pension with the  
94 11 percentage to be applied to the benefits in existence as of  
94 12 the date the judge ceased to be a full-time judge.  
94 13 LSB 5811SC 78  
94 14 ec/cf/24.1