

**SUBSTITUTE FOR
HOUSE BILL NO. 5754**

A bill to amend 1965 PA 314, entitled "Public employee retirement system investment act," by amending sections 12b, 12c, 12d, 13, 13a, 14, 16, 17, 19, 20a, 20c, 20d, and 20e (MCL 38.1132b, 38.1132c, 38.1132d, 38.1133, 38.1133a, 38.1134, 38.1136, 38.1137, 38.1139, 38.1140a, 38.1140c, 38.1140d, and 38.1140e), sections 12b, 12c, and 12d as added and sections 13, 14, 16, 17, 19, 20a, 20d, and 20e as amended by 1996 PA 485, section 13a as added by 1998 PA 343, and section 20c as amended by 1997 PA 42; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12b. (1) "Defined contribution plan" means a defined
2 contribution plan as defined in section 414(i) in the internal
3 revenue code.

4 (2) "Derivative" means either of the following:

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1 (a) A contract or convertible security that changes in value
2 in concert with a related or underlying security, future, or
3 other instrument or index; or obtains much of its value from
4 price movements in a related or underlying security, future, or
5 other instrument or index; or both.

6 (b) A contract or security, such as an option, forward,
7 swap, warrant, or a debt instrument with 1 or more options, for-
8 wards, swaps, or warrants embedded in it or attached to it, the
9 value of which contract or security is determined in whole or in
10 part by the price of 1 or more underlying instruments or
11 markets.

12 (3) "Equity interests" means limited partnership interests
13 and other interests in which the liability of the investor is
14 limited to the amount of the investment, but does not mean gen-
15 eral partnership interests or other interests involving general
16 liability of the investor.

17 (4) "Foreign security" means any of the following:

18 (a) A fixed income security issued by a government, a gov-
19 ernmental agency, or a public or private company that is traded
20 outside of the United States and issued in a currency other than
21 the United States dollar.

22 (b) An equity position in a company traded on an exchange
23 outside of the United States ~~of~~ OR a security issued in a cur-
24 rency other than the United States dollar or an unregistered
25 American depository receipt.

26 (c) An equity or fixed income derivative that derives its
27 value from an investment described in subdivision (a) or (b) or a

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1 foreign stock or bond index traded on an exchange outside of the
2 United States.

3 Sec. 12c. (1) "Investment fiduciary" means a person other
4 than a participant directing the investment of the assets of his
5 or her individual account in a defined contribution plan who does
6 any of the following:

7 (a) Exercises any discretionary authority or control in the
8 investment of a system's assets.

9 (b) Renders investment advice for a system for a fee or
10 other direct or indirect compensation.

11 (2) "Invest" or "investment" means the utilization of money
12 in the expectation of future returns in the form of income or
13 capital gain. Investments initially purchased in accordance with
14 this act which subsequently do not qualify for purchase for any
15 reason, shall be considered to continue to meet the requirements
16 of this act. Investment includes a guarantee by an investment
17 fiduciary. ~~under section 20i.~~

18 (3) "Investment grade" means graded in the top 4 major
19 grades as determined by 2 national rating services.

20 Sec. 12d. (1) "National rating services" means Moody's
21 investors service, inc.; Standard & Poor's ratings group; Fitch
22 investors service inc.; Duff & Phelps credit rating corp.; or any
23 other ~~firm~~ **NATIONALLY RECOGNIZED STATISTICAL RATING**
24 **ORGANIZATION** as determined by the state treasurer.

25 (2) "Net earnings available for fixed charges" means net
26 income after deducting operating and maintenance expenses, taxes
27 other than federal and state income taxes, depreciation, and

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1 depletion, but excluding extraordinary expenses appearing in the
2 regular financial statements of the system.

3 (3) "Obligations" means bonds, notes, collateral trust cer-
4 tificates, convertible bonds, debentures, equipment trust certif-
5 icates, conditional sales agreements, guaranteed mortgage certif-
6 icates, pass-through certificates, participation certificates,
7 mortgages, trust deeds, general obligation bonds, revenue bonds,
8 or other similar interest bearing instruments of debt.

9 Obligations may be secured or unsecured and may be publicly
10 offered or privately placed.

11 (4) "Party in interest" means, as it relates to a system,
12 any of the following:

13 (a) An investment fiduciary, counsel, or employee of the
14 system.

15 (b) A person providing services to the system.

16 (c) The political subdivision sponsoring the system.

17 (d) An organization, any of whose members are covered by the
18 system.

19 (e) A spouse, ancestor, lineal descendant, or spouse of a
20 lineal descendant of an individual described in subdivision (a)
21 or (b).

22 (f) An entity controlled by an individual or organization
23 described in subdivisions (a) to (e).

24 (5) "Portfolio company" means an entity in which the invest-
25 ment fiduciary has invested or has considered investing system
26 assets.

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1 Sec. 13. (1) The provisions of this act shall supersede any
2 investment authority previously granted to a system under any
3 other law of this state.

4 (2) The assets of a system may be invested, reinvested, held
5 in nominee form, and managed by an investment fiduciary subject
6 to the terms, conditions, and limitations provided in this act.
7 An investment fiduciary of a defined contribution plan may
8 arrange for 1 or more investment options to be directed by the
9 participants of the defined contribution plan. The limitations
10 on the percentage of total assets for ~~investment~~ INVESTMENTS
11 provided in this act do not apply to a defined contribution plan
12 in which a participant directs the investment of the assets in
13 his or her individual account, and that participant is not con-
14 sidered an investment fiduciary under this act.

15 (3) An investment fiduciary shall discharge his or her
16 duties solely in the interest of the participants and the benefi-
17 ciaries, and shall do all of the following:

18 (a) Act with the same care, skill, prudence, and diligence
19 under the circumstances then prevailing that a prudent person
20 acting in a similar capacity and familiar with those matters
21 would use in the conduct of a similar enterprise with similar
22 aims.

23 (b) Act with due regard for the management, reputation, and
24 stability of the issuer and the character of the particular
25 investments being considered.

26 (c) Make investments for the exclusive purposes of providing
27 benefits to participants and participants' beneficiaries, and of

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1 defraying reasonable expenses of investing the assets of the
2 system.

3 (d) Give appropriate consideration to those facts and cir-
4 cumstances that the investment fiduciary knows or should know are
5 relevant to the particular investment or investment course of
6 action involved, including the role the investment or investment
7 course of action plays in that portion of the system's invest-
8 ments for which the investment fiduciary has responsibility; and
9 ~~shall~~ act accordingly. For purposes of this subsection,
10 "appropriate consideration" includes but is not limited to a
11 determination by the investment fiduciary that a particular
12 investment or investment course of action is reasonably designed,
13 as part of the investments of the system, to further the purposes
14 of the system, taking into consideration the risk of loss and the
15 opportunity for gain or other return associated with the invest-
16 ment or investment course of action; and consideration of the
17 following factors as they relate to the investment or investment
18 course of action:

19 (i) The diversification of the investments of the system.

20 (ii) The liquidity and current return of the investments of
21 the system relative to the anticipated cash flow requirements of
22 the system.

23 (iii) The projected return of the investments of the system
24 relative to the funding objectives of the system.

25 (e) Give appropriate consideration to investments that would
26 enhance the general welfare of this state and its citizens if
27 those investments offer the safety and rate of return comparable

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1 to other investments permitted under this act and available to
2 the investment fiduciary at the time the investment decision is
3 made.

4 (f) Prepare and maintain written objectives, policies, and
5 strategies with clearly defined accountability and responsibility
6 for implementing and executing the system's investments.

7 (g) Monitor the investment of the system's assets with
8 regard to the limitations on those investments pursuant to this
9 act. Upon discovery that an investment causes the system to
10 exceed a limitation prescribed in this act, the investment fidu-
11 ciary shall reallocate assets in a prudent manner in order to
12 comply with the prescribed limitation.

13 (4) An investment fiduciary may use a portion of the income
14 of the system to defray the costs of investing, managing, and
15 protecting the assets of the system; may retain investment and
16 all other services necessary for the conduct of the affairs of
17 the system; and may pay reasonable compensation for those
18 services. Subject to an annual appropriation by the legislature,
19 a deduction from the income of a state administered system
20 resulting from the payment of those costs shall be made.

21 (5) The system shall be a separate and distinct trust fund
22 and the assets of the system shall be for the exclusive benefit
23 of the participants and their beneficiaries and of defraying rea-
24 sonable expenses of investing the assets of the system. With
25 respect to a system, an investment fiduciary shall not cause the
26 system to engage in a transaction if he or she knows or should

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1 know that the transaction is any of the following, either
2 directly or indirectly:

3 (a) A sale or exchange or a leasing of any property from the
4 system to a party in interest for less than the fair market
5 value, or from a party in interest to the system for more than
6 the fair market value.

7 (b) A lending of money or other extension of credit from the
8 system to a party in interest without the receipt of adequate
9 security and a reasonable rate of interest, or from a party in
10 interest to the system with the provision of excessive security
11 or at an unreasonably high rate of interest.

12 (c) A transfer to, or use by or for the benefit of, the
13 political subdivision sponsoring the system of any assets of the
14 system for less than adequate consideration.

15 (d) The furnishing of goods, services, or facilities from
16 the system to a party in interest for less than adequate consid-
17 eration, or from a party in interest to the system for more than
18 adequate consideration.

19 (6) With respect to a system subject to this act, an invest-
20 ment fiduciary shall not do any of the following:

21 (a) Deal with the assets of the system in his or her own
22 interest or for his or her own account.

23 (b) In his or her individual or any other capacity act in
24 any transaction involving the system on behalf of a party whose
25 interests are adverse to the interests of the system or the
26 interest of its participants or participants' beneficiaries.

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1 (c) Receive any consideration for his or her own personal
2 account from any party dealing with the system in connection with
3 a transaction involving the assets of the system.

4 (7) This section does not prohibit an investment fiduciary
5 from doing any of the following:

6 (a) Receiving any benefit to which he or she may be entitled
7 as a participant or participant's beneficiary of the system.

8 (b) Receiving any reimbursement of expenses properly and
9 actually incurred in the performance of his or her duties for the
10 system.

11 (c) Serving as an investment fiduciary in addition to being
12 an officer, employee, agent, or other representative of the
13 political subdivision sponsoring the system.

14 (d) Receiving agreed upon compensation for services from the
15 system.

16 (8) Except for an employee of a system, this state, or the
17 political subdivision sponsoring a system, when acting in the
18 capacity as an investment fiduciary, an investment fiduciary who
19 is qualified under section 12c(1)(b) shall meet 1 of the follow-
20 ing requirements:

21 (a) Be a registered investment adviser under ~~both~~ EITHER
22 the investment advisers act of 1940, title II of chapter 686, 54
23 Stat. 847, 15 U.S.C. 80b-1 to 80b-21, ~~and~~ OR the uniform secur-
24 ities act, ~~Act No. 265 of the Public Acts of 1964, being~~
25 ~~sections 451.501 to 451.818 of the Michigan Compiled Laws 1964~~
26 PA 265, MCL 451.501 TO 451.818.

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1 (b) Be a bank as defined under the investment advisers act
2 of 1940.

3 (c) Be an insurance company qualified under section 16(3).

4 (9) An investment fiduciary shall not invest in a debt
5 instrument issued by a foreign country that has been identified
6 by the United States state department as engaging in or sponsor-
7 ing terrorism.

8 (10) A system shall annually publish and make available to
9 the plan participants and beneficiaries a list of all expenses
10 paid by soft dollars.

11 Sec. 13a. (1) As used in this section, "MacBride
12 principles" means those requirements for companies doing business
13 in Northern Ireland designed to do all of the following:

14 (a) Increase the representation of individuals from under-
15 represented religious groups in the work force including manage-
16 rial, supervisory, administrative, clerical, and technical jobs.

17 (b) Provide adequate security for the protection of minority
18 employees both at the workplace and while traveling to and from
19 the workplace.

20 (c) Ban provocative religious or political emblems from the
21 workplace.

22 (d) Publicly advertise all employment openings and make spe-
23 cial recruitment efforts to attract applicants from underrepre-
24 sented religious groups.

25 (e) Provide that layoff, recall, and termination procedures
26 shall not in practice favor particular religious groupings.

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1 (f) Abolish job reservations, apprenticeship restrictions,
2 and differential employment criteria, which discriminate on the
3 basis of religion or ethnic origin.

4 (g) Develop training programs that will prepare substantial
5 numbers of current minority employees for skilled jobs, including
6 the expansion of existing programs and the creation of new pro-
7 grams to train, upgrade, and improve the skills of minority
8 employees.

9 (h) Establish procedures to assess, identify, and actively
10 recruit minority employees with potential for further
11 advancement.

12 (i) Appoint senior management staff members to oversee the
13 efforts to comply with these principles and the implementation of
14 timetables to achieve these principles.

15 (2) ~~The~~ WITH RESPECT TO INVESTMENTS QUALIFIED UNDER SEC-
16 TION 14 OR 20K, THE investment fiduciary shall use all capital
17 stock, common stock, preferred stock, American depository
18 receipts, or any other evidence of residual ownership of a corpo-
19 ration in which it has investments to support either of the
20 following:

21 (a) Shareholder resolutions and initiatives proposing the
22 adoption of the MacBride principles for companies doing business
23 in Northern Ireland.

24 (b) Shareholder resolutions and initiatives proposing to
25 recognize efforts to end employment discrimination contained in
26 any agreement between the government of the Republic of Ireland
27 and the government of the United Kingdom, signed on November 15,

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1 1985, which agreement is commonly referred to as the Anglo-Irish
2 agreement.

3 (3) If a provision of the MacBride principles is found to be
4 in violation of the law of the United Kingdom by a court in the
5 United States or the United Kingdom, then the duties of the
6 investment fiduciary prescribed by this section shall not apply
7 to the extent that a shareholder resolution or initiative
8 includes the provision that has been found unlawful.

9 Sec. 14. (1) An investment fiduciary may invest not more
10 than ~~65%~~ 70% of a system's assets in stock. An investment
11 fiduciary shall not invest in more than 5% of the outstanding
12 stock of any 1 corporation, ~~nor~~ OR invest more than 5% of a
13 system's assets in the stock of any 1 corporation, unless other-
14 wise provided in this act.

15 (2) Stock invested in under this section shall meet 1 of the
16 following requirements:

17 (a) Be registered on a national securities exchange regu-
18 lated under title I of the securities exchange act of 1934, chap-
19 ter 404, 48 Stat. 881, 15 U.S.C. 78a to 78l, 78m to 78o, 78o-3
20 to 78dd-1, 78ee to 78hh, and 78kk to 78ll.

21 (b) Be on the national association of securities dealers
22 automated quotation system or a successor to this system.

23 (c) Be issued pursuant to rule 144a under the securities act
24 of 1933, 17 C.F.R. 230.144a.

25 (3) NOTWITHSTANDING SUBSECTION (2), AN INVESTMENT FIDUCIARY
26 MAY DESIGNATE AN AMERICAN DEPOSITORY RECEIPT THAT SATISFIES THE
27 REQUIREMENTS OF SUBSECTION (2) AS AN INVESTMENT QUALIFIED UNDER

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1 THIS SECTION OR AS AN INVESTMENT IN FOREIGN SECURITIES QUALIFIED
2 UNDER SECTION 20K.

3 Sec. 16. (1) An investment fiduciary may invest in annuity
4 investment contracts or participations in separate real estate,
5 mortgage, bond, stock, or other special investment accounts of a
6 life insurance company authorized to do business in this state.
7 An investment in such a separate account shall be considered an
8 investment in stock under section 14 only to the extent that the
9 separate account's assets include stock, and then only for the
10 purpose of determining the ~~65%~~ 70% maximum investment limit
11 under section 14. An investment in such a separate account shall
12 also be considered an investment in real or personal property
13 under section ~~19(2)~~ 19(1), but only to the extent that the sep-
14 arate account's assets include real or personal property, and
15 then only for the purpose of determining the 5% maximum invest-
16 ment limit under section ~~19(2)~~ 19(1).

17 (2) An investment fiduciary may invest in the general
18 account of a life insurer authorized to do business in this state
19 under the insurance code of 1956, ~~Act No. 218 of the Public Acts~~
20 ~~of 1956, being sections 500.100 to 500.8302 of the Michigan~~
21 ~~Compiled Laws~~ 1956 PA 218, MCL 500.100 TO 500.8302, but the
22 total amount of assets of any 1 system invested in any 1 insurer
23 shall not exceed 50% of the capital and surplus of the insurer.

24 (3) A life insurance company under this section shall have
25 been in operation for at least 5 years and have assets under man-
26 agement of more than \$500,000,000.00. The insurance company
27 shall have a claims-paying ability rating no less than single A

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1 according to A.M. Best & company or AA- according to Duff &
2 Phelps credit rating corp., and AN overall company financial
3 strength rating no less than Aa3 according to Moody's investors
4 ~~services~~ SERVICE, inc. or AA- according to Standard & Poor's
5 ratings group.

6 Sec. 17. (1) An investment fiduciary may invest in any of
7 the following:

8 (a) Obligations issued, assumed, or guaranteed by a solvent
9 entity created or existing under the laws of the United States or
10 of any state, district, or territory of the United States, which
11 are not in default as to principal or interest, including but not
12 limited to the following:

13 (i) Obligations secured by the mortgage of real property or
14 the pledge of adequate collateral if, during any 3, including 1
15 of the last 2, of the 5 fiscal years immediately preceding the
16 time of investment, the net earnings of the issuing, assuming, or
17 guaranteeing entity available for fixed charges, as determined in
18 accordance with standard accounting practice, shall have been not
19 less than the total of its fixed charges for the year on an over-
20 all basis, nor less than 1-1/2 times its fixed charges for the
21 year on a priority basis after excluding interest requirements on
22 obligations subordinate to the issue as to security.

23 (ii) Equipment trust certificates of railroad companies
24 organized under the laws of any state of the United States or of
25 Canada or any of its provinces, payable within 20 years from
26 their date of issue, in annual or semiannual installments,
27 beginning not later than the fifth year after the date of issue,

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1 which certificates are a first lien on the specific equipment
2 pledged as security for the payment of the certificates, and
3 which certificates are either the direct obligations of the rail-
4 road companies or are guaranteed by the railroad companies, or
5 are executed by trustees holding title to the equipment.

6 (iii) Obligations other than those described in subpara-
7 graphs (i) and (ii), if the net earnings of the issuing, assum-
8 ing, or guaranteeing entity available for fixed charges during
9 each of any 3, including 1 of the last 2, of the 5 fiscal years
10 immediately preceding the time of investment, shall have been not
11 less than 1-1/2 times the total of the entity's fixed charges for
12 such year, or if the obligations are of investment grade.

13 (b) Obligations secured by a security interest in real or
14 personal property and a lease obligation given by a solvent
15 entity whose obligations would be qualified investments under the
16 provisions of this act, if the investment does not exceed 100% of
17 the appraised value of the property subject to the lease, and if
18 all of the following requirements are met:

19 (i) The lease has an unexpired term equal to or exceeding
20 the remaining term of the investment.

21 (ii) The lease is noncancelable unless the lessee first pays
22 the sum of all unpaid rents due or to become due during the
23 remaining lease term.

24 (iii) The lease provides for net rental payments equal to or
25 exceeding the periodic payments on the investment.

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1 (iv) The lease provides that the net rental payments are to
2 be made without abatement or offset during the full term of the
3 lease.

4 (v) The lease and the lease payments are assigned to the
5 system, an agent of the system, or an independent trustee.

6 (c) Obligations issued, assumed, or guaranteed by the United
7 States, its agencies, or United States government-sponsored
8 enterprises.

9 (d) Obligations of a possession, territory, or public
10 instrumentality of the United States, or of any state, city,
11 county, township, village, school district, authority, or any
12 other governmental unit having the power to levy taxes, or in
13 obligations of other similar political units of the United
14 States. These investments shall be of investment grade. These
15 investments shall not be permitted if in the 3 preceding years
16 the governmental unit has failed to pay its debt or any part of
17 its debt or the interest on the debt. The aggregate investments
18 made under this subdivision shall not exceed 5% of the system's
19 total assets.

20 (e) Banker's acceptances, commercial accounts, certificates
21 of deposit, or depository receipts issued by a bank, trust com-
22 pany, savings and loan association, or a credit union.

23 (f) Commercial paper rated at the time of purchase within
24 the 2 highest classifications established by not less than 2
25 national rating services, ~~as determined by the state treasurer,~~
26 and which matures within 270 days after the date of issue.

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1 (g) Repurchase agreements for the purchase of securities
2 issued by the United States government or its agencies and
3 executed by a bank or trust company or by members of the associa-
4 tion of primary dealers or other recognized dealers in United
5 States government securities.

6 (h) Reverse repurchase agreements for the sale of securities
7 issued by the United States government or its agencies and exe-
8 cuted with a bank or trust company or with members of the associ-
9 ation of primary dealers or other recognized dealers in United
10 States government securities.

11 (i) Any investment otherwise permitted by this section in
12 which the interest rate varies from time to time.
13 Notwithstanding a provision of any other act to the contrary, a
14 loan shall not be considered to be in violation of the usury
15 statutes of this state by virtue of the fact that the loan is
16 made on a variable interest rate basis.

17 (j) Obligations secured by any of the obligations described
18 in subdivision (a) or (c).

19 (k) Dollar denominated obligations issued in the United
20 States by foreign governments, supranationals, banks, or
21 corporations. These investments shall be of investment grade.

22 (2) Except as otherwise provided in this act and except for
23 obligations described in subsection (1)(c), an investment fidu-
24 ciary shall not do any of the following:

25 (a) Invest in more than 5% of the outstanding obligations of
26 any 1 issuer.

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1 (b) Invest more than 5% of a system's assets in the
2 obligations of any 1 issuer.

3 Sec. 19. (1) An investment fiduciary may invest up to 5% of
4 a system's assets in publicly or privately issued real estate
5 investment trusts or in real or personal property otherwise qual-
6 ified pursuant to section 15, 16, or 20c.

7 (2) In addition to investments authorized under
8 subsection (1), an investment fiduciary of a system having assets
9 of more than \$100,000,000.00 may do any of the following:

10 (a) Invest in, buy, sell, hold, improve, lease, or acquire
11 by foreclosure or an agreement in lieu of foreclosure, real or
12 personal property or an interest in real or personal property.

13 (b) Develop, maintain, operate, or lease the real or per-
14 sonal property referred to in subdivision (a).

15 (c) Form 1 or more limited partnerships, corporations,
16 limited liability companies, trusts, or other organizational
17 entities for which liability of an investor cannot exceed the
18 amount of the investment under the laws of the United States or
19 of any state, district, or territory of the United States to hold
20 title to, improve, lease, manage, develop, maintain, or operate
21 real or personal property whether currently held or acquired
22 after the effective date of the amendatory act that added this
23 subdivision. An entity formed pursuant to this subdivision has
24 the right to exercise all powers granted to the entity by the
25 laws of the jurisdiction of formation, including, but not limited
26 to, the power to borrow money in order to provide additional

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1 capital to benefit and increase the overall return on property
2 held by the entity.

3 (d) Invest in investments otherwise qualified pursuant to
4 subsection (1).

5 (3) Except as otherwise provided in this section, the aggre-
6 gate investments made under subsection (2) shall not exceed 5% of
7 the assets of the system. The purchase price of an investment
8 made under this section shall not exceed the appraised value of
9 the real or personal property.

10 (4) If the investment fiduciary of a system is the state
11 treasurer, investments described in subsection (1) or (2) may
12 exceed 5% of the assets of the system.

13 (5) An investment qualified under this section in which the
14 underlying asset is an interest in real or personal property con-
15 stitutes an investment under this section for the purpose of
16 meeting the asset limitations contained in this act. This sub-
17 section applies even though the investment may be qualified else-
18 where in this act. ~~An investment in stock under this section~~
19 ~~shall not be considered an investment in stock under section 14.~~

20 NOTWITHSTANDING THIS SUBSECTION, AN INVESTMENT FIDUCIARY MAY DES-
21 IGNATE A REAL ESTATE INVESTMENT TRUST WHICH SATISFIES THE
22 REQUIREMENTS OF SECTION 14(2) AS AN INVESTMENT QUALIFIED UNDER
23 THIS SECTION OR AS AN INVESTMENT IN STOCK UNDER SECTION 14.

24 Sec. 20a. (1) Except as provided in subsection (2), an
25 investment fiduciary of a system having assets of more than
26 \$250,000,000.00 may invest not more than 2% of a system's assets
27 in a debt, warrant, or equity interest in a small business having

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1 more than 1/2 of the small business's assets or employees within
2 this state, or in a debt, warrant, or equity interest in a small
3 business investment company or venture capital firm having its
4 principal office or more than 1/2 of its assets within this
5 state, or the system may create, own, hold, buy, sell, operate,
6 manage, and direct 1 or more small business investment companies
7 or venture capital firms designed to invest in small businesses
8 having more than 1/2 of their assets or employees within this
9 state. An investment fiduciary may also join with a group com-
10 posed of other public employee retirement systems, pension sys-
11 tems subject to the employee retirement income security act of
12 1974, Public Law 93-406, 88 Stat. 829, financial institutions,
13 corporations, or governmental agencies or instrumentalities to
14 accomplish the purposes of this section. An investment in stock
15 under this section shall be considered an investment in stock
16 under section 14 only for the purpose of determining the ~~65%~~
17 70% maximum investment limitation contained in section 14.

18 (2) If the investment fiduciary of a system is the state
19 treasurer, investments described in subsection (1) may exceed 2%
20 of the assets of the system, but shall not exceed 5% of the
21 assets of the system.

22 Sec. 20c. (1) A financial institution, A TRUST COMPANY, a
23 management company qualified under section 15, or any affiliate
24 of a person described in this section if that affiliate qualifies
25 as an investment fiduciary under section 13(8)(a), retained to
26 act as an investment fiduciary may invest the assets of a system
27 in any collective investment fund, common trust fund, or pooled

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1 fund that is established and maintained for investment of those
2 assets by the financial institution, TRUST COMPANY, or management
3 company under federal or state statutes or rules or regulations.
4 An investment in a collective investment fund, common trust fund,
5 or pooled fund shall be considered an investment in the underly-
6 ing ~~asset~~ ASSETS OF THAT FUND FOR ALL PURPOSES UNDER THIS ACT.

7 (2) As used in this section, "financial institution" means a
8 state or nationally chartered bank or a state or federally
9 chartered savings and loan association, savings bank, or credit
10 union whose deposits are insured by an agency of the United
11 States government and which maintains a principal office or
12 branch office located in this state under the laws of this state
13 or the United States.

14 Sec. 20d. (1) An investment fiduciary of a system having
15 assets of less than \$250,000,000.00 may invest not more than 5%
16 of the system's assets in investments not otherwise qualified
17 under this act, whether the investments are similar or dissimilar
18 to those specified in this act.

19 (2) An investment fiduciary of a system having assets of
20 \$250,000,000.00 or more may invest not more than 10% of the
21 system's assets in investments described in subsection (1).

22 (3) AN INVESTMENT FIDUCIARY OF A SYSTEM HAVING ASSETS OF
23 \$1,000,000,000.00 OR MORE MAY INVEST NOT MORE THAN 15% OF THE
24 SYSTEM'S ASSETS IN INVESTMENTS DESCRIBED IN SUBSECTION (1).

25 (4) ~~(3)~~ An investment fiduciary of a system who is the
26 state treasurer may invest not more than ~~15%~~ 20% of the
27 system's assets in investments described in subsection (1).

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1 (5) ~~(4)~~ If an investment described in subsection (1) is
2 subsequently determined to be permitted under another section of
3 this act, then the investment shall no longer be included under
4 this section.

5 (6) ~~(5)~~ This section shall not be used to exceed a percen-
6 tage of total assets limitation for an investment provided in any
7 other section of this act.

8 Sec. 20e. (1) An investment fiduciary may loan bonds,
9 stocks, or other securities if at the time the loan is executed,
10 at least 102% of the full market value of the security loaned is
11 secured by collateral of cash to be invested in ~~investment grade~~
12 ~~securities or repurchase~~ 1 OR MORE OF THE FOLLOWING:

13 (A) SECURITIES GRADED IN THE TOP 4 MAJOR GRADES AS DETER-
14 MINED BY AT LEAST 1 NATIONAL RATING SERVICE, BUT NOT GRADED BELOW
15 THE TOP 4 GRADES AS DETERMINED BY ANY OF THE NATIONAL RATING
16 SERVICES, OR DETERMINED BY THE INVESTMENT FIDUCIARY TO BE OF COM-
17 PARABLE QUALITY IN THE CASE OF UNRATED SECURITIES.

18 (B) REPURCHASE agreements collateralized by ~~investment~~
19 ~~grade~~ securities ~~, irrevocable~~ GRADED IN THE TOP 4 MAJOR
20 GRADES AS DETERMINED BY AT LEAST 1 NATIONAL RATING SERVICE, BUT
21 NOT GRADED BELOW THE TOP 4 GRADES AS DETERMINED BY ANY OF THE
22 NATIONAL RATING SERVICES, OR DETERMINED BY THE INVESTMENT FIDU-
23 CIARY TO BE OF COMPARABLE QUALITY IN THE CASE OF UNRATED
24 SECURITIES.

25 (C) IRREVOCABLE bank letters of credit. ~~, or securities~~

26 (D) SECURITIES issued or guaranteed by the United States
27 government or an agency of the United States government.

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1 (2) At all times during the term of ~~each such~~ A loan UNDER
2 SUBSECTION (1), the collateral shall be equal to not less than
3 100% of the full market value of the security loaned.

4 Enacting section 1. Section 20i of the public employee
5 retirement system investment act, 1965 PA 314, MCL 38.1140i, is
6 repealed.