

HOUSE BILL No. 5167

September 5, 2007, Introduced by Reps. Wenke and Nitz and referred to the Committee on Education.

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 4, 8, 25, 26, 34, 61, 91, and 108 (MCL 38.1304, 38.1308, 38.1325, 38.1326, 38.1334, 38.1361, 38.1391, and 38.1408), section 4 as amended by 2007 PA 15, sections 8, 25, and 26 as amended by 1997 PA 143, sections 34 and 108 as amended by 2002 PA 94, section 61 as amended by 2006 PA 158, and section 91 as amended by 2004 PA 117, and by adding sections 41b, 60, 109, 110, 111, and 112 and article 7.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) "Compound interest" means interest compounded
2 annually on July 1 on the contributions on account as of the
3 previous July 1 and computed at the rate of investment return

1 determined under section 104a(1) for the last completed state
2 fiscal year.

3 (2) "Contributory service" means credited service other than
4 noncontributory service.

5 (3) "Deferred member" means a member who has ceased to be a
6 public school employee and has satisfied the requirements of
7 section 82 for a deferred vested service retirement allowance.

8 (4) "Department" means the department of management and
9 budget.

10 (5) "Designated date" means September 30, 2006.

11 (6) "Direct rollover" means a payment by the retirement system
12 to the eligible retirement plan specified by the distributee.

13 (7) "Distributee" includes a member or deferred member.
14 Distributee also includes the member's or deferred member's
15 surviving spouse or the member's or deferred member's spouse or
16 former spouse under an eligible domestic relations order, with
17 regard to the interest of the spouse or former spouse.

18 (8) Beginning January 1, 2002, except as otherwise provided in
19 this subsection, "eligible retirement plan" means an individual
20 retirement account described in section 408(a) of the internal
21 revenue code, an individual retirement annuity described in section
22 408(b) of the internal revenue code, an annuity plan described in
23 section 403(a) of the internal revenue code, or a qualified trust
24 described in section 401(a) of the internal revenue code, an
25 annuity contract described in section 403(b) of the internal
26 revenue code, or an eligible plan under section 457(b) of the
27 internal revenue code which is maintained by a state, political

1 subdivision of a state, or an agency or instrumentality of a state
2 or political subdivision of a state and which agrees to separately
3 account for amounts transferred into such eligible plan under
4 section 457(b) of the internal revenue code from this retirement
5 system, that accepts the distributee's eligible rollover
6 distribution. However, in the case of an eligible rollover
7 distribution to a surviving spouse, an eligible retirement plan
8 means an individual retirement account or an individual retirement
9 annuity described above.

10 (9) Beginning January 1, 2002, "eligible rollover
11 distribution" means a distribution of all or any portion of the
12 balance to the credit of the distributee. Eligible rollover
13 distribution does not include any of the following:

14 (a) A distribution made for the life or life expectancy of the
15 distributee or the joint lives or joint life expectancies of the
16 distributee and the distributee's designated beneficiary.

17 (b) A distribution for a specified period of 10 years or more.

18 (c) A distribution to the extent that the distribution is
19 required under section 401(a)(9) of the internal revenue code.

20 (d) The portion of any distribution that is not includable in
21 federal gross income, determined without regard to the exclusion
22 for net unrealized appreciation with respect to employer
23 securities, except to the extent that the portion of a distribution
24 that is not includable in federal gross income is paid to either of
25 the following:

26 (i) An individual retirement account or annuity described in
27 section 408(a) or (b) of the internal revenue code.

1 (ii) A qualified defined contribution plan as described in
2 section 401(a) or 403(a) of the internal revenue code that agrees
3 to separately account for amounts transferred, including separately
4 accounting for the portion of the distribution that is includable
5 in gross income and the portion of the distribution which is not
6 includable in gross income.

7 (10) "Employee organization professional services leave" or
8 "professional services leave" means a leave of absence that is
9 renewed annually by the reporting unit so that a member may accept
10 a position with a public school employee organization to which he
11 or she belongs and which represents employees of a reporting unit
12 in employment matters. The member shall be included in membership
13 of the retirement system during a professional services leave if
14 all of the conditions of section 71(5) and (6) are satisfied.

15 (11) "Employee organization professional services released
16 time" or "professional services released time" means a portion of
17 the school fiscal year during which a member is released by the
18 reporting unit from his or her regularly assigned duties to engage
19 in employment matters for a public school employee organization to
20 which he or she belongs. The member's compensation received or
21 service rendered, or both, as applicable, by a member while on
22 professional services released time shall be reportable to the
23 retirement system if all of the conditions of section 71(5) and (6)
24 are satisfied.

25 (12) "Final average compensation" means the aggregate amount
26 of a member's compensation earned within the averaging period in
27 which the aggregate amount of compensation was highest divided by

1 the member's number of years, including any fraction of a year, of
2 credited service during the averaging period. The averaging period
3 shall be 36 consecutive calendar months if the member contributes
4 to the member investment plan; otherwise, the averaging period
5 shall be 60 consecutive calendar months. If the member has less
6 than 1 year of credited service in the averaging period, the number
7 of consecutive calendar months in the averaging period shall be
8 increased to the lowest number of consecutive calendar months that
9 contains 1 year of credited service.

10 (13) "Health benefits" means hospital, medical-surgical, and
11 sick care benefits and dental, vision, and hearing benefits for
12 retirants, retirement allowance beneficiaries, and health insurance
13 dependents provided pursuant to section 91.

14 (14) **"IMPLEMENTATION DATE" MEANS JULY 1, 2008.**

15 (15) ~~(14)~~—"Internal revenue code" means the United States
16 internal revenue code of 1986.

17 (16) ~~(15)~~—"Long-term care insurance" means group insurance
18 that is authorized by the retirement system for retirants,
19 retirement allowance beneficiaries, and health insurance
20 dependents, as that term is defined in section 91, to cover the
21 costs of services provided to retirants, retirement allowance
22 beneficiaries, and health insurance dependents, from nursing homes,
23 assisted living facilities, home health care providers, adult day
24 care providers, and other similar service providers.

25 (17) ~~(16)~~—"Member investment plan" means the program of member
26 contributions described in section 43a.

27 (18) **"PLAN DOCUMENT" MEANS THE DOCUMENT THAT CONTAINS THE**

1 PROVISIONS AND PROCEDURES OF TIER 2 IN CONFORMITY WITH THIS ACT AND
2 THE INTERNAL REVENUE CODE.

3 Sec. 8. (1) "Service" means personal service performed as a
4 public school employee or creditable under this act.

5 (2) "Simple interest" means interest at 1 or more rates per
6 annum determined by the retirement board.

7 (3) "State of Michigan service" means service performed as a
8 state employee in the classified or unclassified service under the
9 state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

10 (4) "Teacher" means a person employed by a reporting unit who
11 is engaged in teaching, who is engaged in administering and
12 supervising teaching, or who is under a teacher's contract with a
13 reporting unit.

14 (5) "TIER 1" MEANS THE RETIREMENT PLAN AVAILABLE TO A MEMBER
15 UNDER THIS ACT WHO WAS FIRST EMPLOYED BY A REPORTING UNIT BEFORE
16 THE IMPLEMENTATION DATE AND WHO DOES NOT ELECT TO BECOME A
17 QUALIFIED PARTICIPANT OF TIER 2.

18 (6) "TIER 2" MEANS THE RETIREMENT PLAN OR PLANS ESTABLISHED
19 PURSUANT TO THE PLAN DOCUMENTS THAT ARE AVAILABLE TO QUALIFIED
20 PARTICIPANTS UNDER SECTIONS 109 TO 112 AND ARTICLE 7.

21 (7) ~~(5)~~—"Transitional public employment program" means
22 participation in public service employment programs in the areas of
23 environmental quality, health care, education, public safety, crime
24 prevention and control, prison rehabilitation, transportation,
25 recreation, maintenance of parks, streets, and other public
26 facilities, solid waste removal, pollution control, housing and
27 neighborhood improvements, rural development, conservation,

1 beautification, veterans' outreach, and other fields of human
2 betterment and community improvement as part of a program of
3 comprehensive manpower services authorized, undertaken, and
4 financed under the comprehensive employment and training act of
5 1973, former Public Law 93-203, 87 Stat. 839.

6 Sec. 25. (1) The board shall have only the rights, authority,
7 and discretion in the proper discharge of its duties provided in
8 this act and former 1945 PA 136.

9 (2) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE**
10 retirement board may promulgate rules pursuant to the
11 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
12 24.328, for the implementation and administration of this act. **THE**
13 **RETIREMENT BOARD SHALL NOT PROMULGATE RULES FOR THE ESTABLISHMENT,**
14 **IMPLEMENTATION, ADMINISTRATION, OPERATION, INVESTMENT, OR**
15 **DISTRIBUTION OF A TIER 2 RETIREMENT PLAN.**

16 Sec. 26. (1) **THIS SECTION DOES NOT APPLY TO TIER 2.**

17 (2) ~~(1)~~—The state treasurer shall be treasurer of the
18 retirement system and shall have investment authority, including
19 the custodianship of the funds of the retirement system, and shall
20 have fiduciary responsibility with regard to the investment of
21 funds of the retirement system.

22 (3) ~~(2)~~—The state treasurer shall deposit the funds of the
23 retirement system in the same manner and subject to the law
24 governing the deposit of state funds by the treasurer. Income
25 earned by the retirement system's funds shall be credited to the
26 respective reserves under this act that earned the income.

27 Sec. 34. (1) The reserve for health benefits is the account to

1 which payments of reporting units, **SUBSCRIBER COPAYMENTS, AND**
2 **PAYMENTS BY THE RETIREMENT SYSTEM UNDER SECTION 136** for health
3 benefits are credited. Benefits payable pursuant to ~~section 91~~
4 **SECTIONS 91 AND 136** shall be paid from the reserve for health
5 benefits. The assets and any earnings on the assets contained in
6 the reserve for health benefits and the health advance funding
7 subaccount are not to be treated as pension assets for any purpose.

8 (2) The health advance funding subaccount is the account to
9 which amounts transferred pursuant to section 41 are credited.
10 Except as otherwise provided in this section, any amounts received
11 in the health advance funding subaccount and accumulated earnings
12 on those amounts shall not be expended until the actuarial accrued
13 liability for health benefits under section 91 is at least 100%
14 funded. The department may expend funds or transfer funds to
15 another account to expend for health benefits under section 91 if
16 the actuarial accrued liability for health benefits under section
17 91 is at least 100% funded. For each fiscal year that begins after
18 the first fiscal year in which the actuarial accrued liability for
19 health benefits under section 91 is at least 100% funded by the
20 health advance funding subaccount, the amounts may be expended or
21 credited to fund health benefits provided under section 91 as
22 provided in section 41(2).

23 (3) Notwithstanding any other provision of this section, the
24 department may transfer amounts from the health advance funding
25 subaccount to the reserve for employer contributions established in
26 section 30 if the department does both of the following:

27 (a) At least 45 days before the intended transfer, submits a

1 request to the chairs of the senate and house appropriations
2 committees and, at least 15 days before the intended transfer,
3 obtains the approval of both the senate and house appropriations
4 committees.

5 (b) Ensures that the request submitted to the senate and house
6 appropriations committees contains an actuarial valuation prepared
7 pursuant to section 41 that demonstrates that as of the beginning
8 of a fiscal year, and after all credits and transfers required by
9 this act for the previous fiscal year have been made, the sum of
10 the actuarial value of assets and the actuarial present value of
11 future normal cost contributions does not exceed the actuarial
12 present value of benefits.

13 **SEC. 41B. FOR FISCAL YEARS THAT BEGIN ON OR AFTER THE**
14 **EFFECTIVE DATE OF THIS SECTION, THE ANNUAL LEVEL PERCENTAGE OF**
15 **PAYROLL CONTRIBUTION RATE AS IT APPLIES TO THE UNFUNDED ACTUARIAL**
16 **ACCRUED LIABILITY DETERMINED UNDER SECTION 41 SHALL BE BASED ON AND**
17 **APPLIED TO THE COMBINED PAYROLLS FOR MEMBERS OF TIER 1 AND**
18 **QUALIFIED PARTICIPANTS OF TIER 2.**

19 **SEC. 60. (1) THIS SECTION APPLIES TO ALL SERVICE CREDIT**
20 **PURCHASED BY A MEMBER UNDER THIS ACT IF THE MEMBER ELECTS TO**
21 **PURCHASE SERVICE CREDIT AFTER JULY 1, 2008. ON AND AFTER JULY 1,**
22 **2008, A MEMBER SHALL NOT PURCHASE SERVICE CREDIT UNDER THIS ACT**
23 **UNLESS THE MEMBER HAS AT LEAST 2 YEARS OF CREDITED SERVICE AS A**
24 **PUBLIC SCHOOL EMPLOYEE.**

25 **(2) AFTER JULY 1, 2008, IF A MEMBER ELECTS TO PURCHASE SERVICE**
26 **CREDIT AND BECOMES A RETIRANT UNDER SECTION 43B, 81, OR 82, THE**
27 **MEMBER SHALL ONLY RECEIVE HEALTH BENEFITS AS DETERMINED UNDER**

1 **SECTION 91(10).**

2 Sec. 61. ~~(1)~~—Except as otherwise provided in this section, if
3 a retirant is receiving a retirement allowance other than a
4 disability allowance payable under this act or under former 1945 PA
5 136, on account of either age or years of personal service
6 performed, or both, and becomes employed by a reporting unit **OR IS**
7 **HIRED ON A CONTRACTUAL BASIS AS AN INDEPENDENT CONTRACTOR BY A**
8 **REPORTING UNIT**, the following shall take place:

9 (a) The retirant shall not be entitled to a new final average
10 compensation or additional service credit under this retirement
11 system unless additional service is performed equivalent to 5 or
12 more years of service credit or, if the retirant has contributed to
13 the member investment plan, the equivalent of 3 or more years of
14 service credit. The retirant may elect to have the retirement
15 allowance recomputed based on the added credit or the final average
16 compensation resulting from the added service, or both. A
17 retirement allowance shall not be recomputed until the retirant
18 pays into the retirement system an amount equal to the retirant's
19 new final average compensation multiplied by the percentage
20 determined under section 41(2) for normal cost and unfunded
21 actuarial accrued liabilities, not including the percentage
22 required for the funding of health benefits, multiplied by the
23 total service credit in the period in which the retirant's
24 additional service was performed.

25 (b) The retirant's retirement allowance shall be reduced by
26 the lesser of the amount that the earnings in a calendar year
27 exceed the amount permitted without a reduction of benefits under

1 the social security act, chapter 531, 49 Stat. 620, or 1/3 of the
2 retirant's final average compensation. For purposes of computing
3 allowable earnings under this subdivision, the final average
4 compensation shall be increased by 5% for each full year of
5 retirement.

6 ~~—— (2) The retirement system may offset retirement benefits
7 payable under this act against amounts owed to the retirement
8 system by a retirant or retirement allowance beneficiary.~~

9 ~~—— (3) Subsection (1) does not apply to a retirant if all of the
10 following circumstances exist:~~

11 ~~—— (a) The retirant is a former teacher or administrator employed
12 in a teaching or research capacity by a university that is
13 considered a reporting unit for the limited purpose described in
14 section 7(3).~~

15 ~~—— (b) The retirant is not eligible to use any service or
16 compensation attributable to the employment described in
17 subdivision (a) for a recomputation of his or her retirement
18 allowance.~~

19 ~~—— (c) A university that employs a retirant pursuant to this
20 subsection shall report such employment to the retirement system by
21 July 1 of each year. The report to be filed shall include the name
22 of the retirant, the capacity in which the retirant is employed,
23 and the total annual compensation paid to the retirant.~~

24 ~~—— (4) Until July 1, 2011, subsection (1) does not apply to a
25 retirant if all of the following circumstances exist:~~

26 ~~—— (a) The retirant is employed by a reporting unit that has an
27 approved emergency situation, not including a situation caused by a~~

1 ~~labor dispute, that necessitates the hiring of a retirant in the~~
2 ~~capacity of a teacher, principal, stationary engineer,~~
3 ~~administrator, or other category as determined by the~~
4 ~~superintendent of public instruction to prevent depriving students~~
5 ~~of an education. The chief executive officer or superintendent of~~
6 ~~the school district shall include with the written notification~~
7 ~~documentation showing that more than 8% of all classes in the~~
8 ~~district during the 1998-99 school year are taught by full time~~
9 ~~substitute teachers who are not certificated in the subjects or~~
10 ~~grade levels which they teach. Within 30 days after receipt of the~~
11 ~~notification and documentation under this subdivision, the~~
12 ~~department of education shall notify the chief executive officer or~~
13 ~~superintendent and the retirement system of its approval or~~
14 ~~disapproval of the emergency situation. If disapproved by the~~
15 ~~department of education, this subsection does not apply.~~

16 ~~—— (b) The retirant is employed under an emergency situation~~
17 ~~described in subdivision (a) for a period not to exceed 6 years.~~

18 ~~—— (c) The retirant is not eligible to use any service or~~
19 ~~compensation attributable to the employment described in~~
20 ~~subdivision (a) for a recomputation of his or her retirement~~
21 ~~allowance.~~

22 ~~—— (5) On or before July 1, 1999, the state superintendent of~~
23 ~~public instruction shall compile a listing of critical shortage~~
24 ~~disciplines. This listing shall be updated annually.~~

25 ~~—— (6) Until July 1, 2011, subsection (1) does not apply to a~~
26 ~~retirant if all of the following circumstances exist:~~

27 ~~—— (a) The retirant is employed by a reporting unit that has a~~

1 ~~situation, not including a situation caused by a labor dispute,~~
2 ~~that necessitates the hiring of a retirant in an area that has been~~
3 ~~identified by the state superintendent of public instruction as a~~
4 ~~critical shortage discipline pursuant to subsection (5).~~

5 ~~—— (b) The retirant is employed under a situation described in~~
6 ~~subdivision (a) for a period not to exceed 6 years.~~

7 ~~—— (c) The retirant is not eligible to use any service or~~
8 ~~compensation attributable to the employment described in~~
9 ~~subdivision (a) for a recomputation of his or her retirement~~
10 ~~allowance.~~

11 ~~—— (7) The provisions of subsections (4) and (6) shall only apply~~
12 ~~for retirants who have been retired for at least 12 months before~~
13 ~~becoming employed under this section.~~

14 Sec. 91. (1) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,**
15 **THE** retirement system shall pay the entire monthly premium or
16 membership or subscription fee for hospital, medical-surgical, and
17 sick care benefits for the benefit of a retirant or retirement
18 allowance beneficiary who elects coverage in the plan authorized by
19 the retirement board and the department.

20 (2) The retirement system may pay up to the maximum of the
21 amount payable under subsection (1) toward the monthly premium for
22 hospital, medical-surgical, and sick care benefits for the benefit
23 of a retirant or retirement allowance beneficiary enrolled in a
24 group health insurance or prepaid service plan not authorized by
25 the retirement board and the department, if enrolled before June 1,
26 1975, for whom the retirement system on July 18, 1983 was making a
27 payment towards his or her monthly premium.

1 (3) A retirant or retirement allowance beneficiary receiving
2 hospital, medical-surgical, and sick care benefits coverage under
3 subsection (1) or (2), until eligible for medicare, shall have an
4 amount equal to the cost chargeable to a medicare recipient for
5 part B of medicare deducted from his or her retirement allowance.

6 (4) The retirement system shall pay 90% of the monthly premium
7 or membership or subscription fee for dental, vision, and hearing
8 benefits for the benefit of a retirant or retirement allowance
9 beneficiary who elects coverage in the plan authorized by the
10 retirement board and the department. Payments shall begin under
11 this subsection upon approval by the retirement board and the
12 department of plan coverage and a plan provider.

13 (5) The retirement system shall pay up to 90% of the maximum
14 of the amount payable under subsection (1) toward the monthly
15 premium or membership or subscription fee for hospital, medical-
16 surgical, and sick care benefits coverage described in subsections
17 (1) and (2) for each health insurance dependent of a retirant
18 receiving benefits under subsection (1) or (2). Payment shall not
19 exceed 90% of the actual monthly premium or membership or
20 subscription fee. The retirement system shall pay 90% of the
21 monthly premium or membership or subscription fee for dental,
22 vision, and hearing benefits described in subsection (4) for the
23 benefit of each health insurance dependent of a retirant receiving
24 benefits under subsection (4). Payment for health benefits coverage
25 for a health insurance dependent of a retirant shall not be made
26 after the retirant's death, unless the retirant designated a
27 retirement allowance beneficiary as provided in section 85 and the

1 dependent was covered or eligible for coverage as a health
2 insurance dependent of the retirant on the retirant's date of
3 death. Payment for health benefits coverage shall not be made for a
4 health insurance dependent after the later of the retirant's death
5 or the retirement allowance beneficiary's death. Payment under this
6 subsection and subsection (6) began October 1, 1985 for health
7 insurance dependents who on July 10, 1985 were covered by the
8 hospital, medical-surgical, and sick care benefits plan authorized
9 by the retirement board and the department. Payment under this
10 subsection and subsection (6) for other health insurance dependents
11 shall not begin before January 1, 1986.

12 (6) The payment described in subsection (5) shall also be made
13 for each health insurance dependent of a deceased member or
14 deceased duty disability retirant if a retirement allowance is
15 being paid to a retirement allowance beneficiary because of the
16 death of the member or duty disability retirant as provided in
17 section 43c(c), 89, or 90. Payment for health benefits coverage for
18 a health insurance dependent shall not be made after the retirement
19 allowance beneficiary's death.

20 (7) The payments provided by this section shall not be made on
21 behalf of a retiring section 82 deferred member or health insurance
22 dependent of a deferred member having less than 21 full years of
23 attained credited service or the retiring deferred member's
24 retirement allowance beneficiary, and shall not be made on behalf
25 of a retirement allowance beneficiary of a deferred member who dies
26 before retiring. ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**
27 **(10), THE** retirement system shall pay, on behalf of a retiring

1 section 82 deferred member or health insurance dependent of a
2 deferred member or a retirement allowance beneficiary of a deceased
3 deferred member, either of whose allowance is based upon not less
4 than 21 years of attained credited service, 10% of the payments
5 provided by this section, increased by 10% for each attained full
6 year of credited service beyond 21 years, not to exceed 100%. This
7 subsection applies to any member who attains deferred status under
8 section 82 after October 31, 1980.

9 (8) Any retirant or retirement allowance beneficiary excluded
10 from payments under this section may participate in the hospital,
11 medical-surgical, and sick care benefits plan, the dental plan,
12 vision plan, or hearing plan, or any combination of the plans
13 described in this section in the manner prescribed by the
14 retirement system at his or her own cost.

15 (9) The hospital, medical-surgical, and sick care benefits
16 plan, dental plan, vision plan, and hearing plan that covers
17 retirants, retirement allowance beneficiaries, and health insurance
18 dependents pursuant to this section shall contain a coordination of
19 benefits provision that provides all of the following:

20 (a) If the person covered under the hospital, medical-
21 surgical, and sick care benefits plan is also eligible for medicare
22 or medicaid, or both, then the benefits under medicare or medicaid,
23 or both, shall be determined before the benefits of the hospital,
24 medical-surgical, and sick care benefits plan provided pursuant to
25 this section.

26 (b) If the person covered under any of the plans provided by
27 this section is also covered under another plan that contains a

1 coordination of benefits provision, the benefits shall be
2 coordinated as provided by the coordination of benefits act, 1984
3 PA 64, MCL 550.251 to 550.255.

4 (c) If the person covered under any of the plans provided by
5 this section is also covered under another plan that does not
6 contain a coordination of benefits provision, the benefits under
7 the other plan shall be determined before the benefits of the plan
8 provided pursuant to this section.

9 (10) THIS SUBSECTION ONLY APPLIES TO A RETIRANT WHO ELECTS TO
10 PURCHASE SERVICE CREDIT ON OR AFTER JULY 1, 2008. A RETIRANT WHO
11 ELECTS TO PURCHASE SERVICE CREDIT AFTER JULY 1, 2008 SHALL HAVE HIS
12 OR HER BENEFITS UNDER THIS SECTION DETERMINED BY THE RETIREMENT
13 SYSTEM IN THE MANNER PRESCRIBED IN THIS SUBSECTION. THE RETIREMENT
14 SYSTEM SHALL FIRST DETERMINE WHETHER THE PURCHASE OF SERVICE CREDIT
15 ALLOWED THE RETIRANT TO RETIRE EARLIER THAN THE RETIRANT WOULD HAVE
16 RETIRED WITHOUT THE PURCHASE OF SERVICE CREDIT. THE RETIREMENT
17 SYSTEM SHALL THEN DETERMINE THE DIFFERENCE BETWEEN THE RETIRANT'S
18 EFFECTIVE DATE AND THE EFFECTIVE DATE THAT THE RETIRANT WOULD HAVE
19 RETIRED IF THE RETIRANT HAD NOT PURCHASED THE SERVICE CREDIT. THE
20 RETIRANT WHO IS SUBJECT TO THIS SUBSECTION SHALL NOT BE ELIGIBLE
21 FOR HEALTH CARE BENEFITS UNDER THIS SECTION UNTIL THE EFFECTIVE
22 DATE THAT THE RETIRANT WOULD HAVE RETIRED IF THE RETIRANT HAD NOT
23 PURCHASED THE SERVICE CREDIT.

24 (11) ~~(10)~~ For purposes of this section:

25 (a) "Health insurance dependent" means any of the following:

26 (i) The spouse of the retirant or the surviving spouse to whom
27 the retirant or deceased member was married at the time of the

1 retirant's or deceased member's death.

2 (ii) An unmarried child, by birth or adoption, of the retirant
3 or deceased member, until December 31 of the calendar year in which
4 the child becomes 19 years of age.

5 (iii) An unmarried child, by birth or adoption, of the retirant
6 or deceased member, until December 31 of the calendar year in which
7 the child becomes 25 years of age, who is enrolled as a full-time
8 student, and who is or was at the time of the retirant's or
9 deceased member's death a dependent of the retirant or deceased
10 member as defined in section 152 of the internal revenue code.

11 (iv) An unmarried child, by birth or adoption, of the retirant
12 or deceased member who is incapable of self-sustaining employment
13 because of mental or physical disability, and who is or was at the
14 time of the retirant's or deceased member's death a dependent of
15 the retirant or deceased member as defined in section 152 of the
16 internal revenue code.

17 (v) The parents of the retirant or deceased member, or the
18 parents of his or her spouse, who are residing in the household of
19 the retirant or retirement allowance beneficiary.

20 (vi) An unmarried child who is not the child by birth or
21 adoption of the retirant or deceased member but who otherwise
22 qualifies to be a health insurance dependent under subparagraph
23 (ii), (iii), or (iv), if the retirant or deceased member is the legal
24 guardian of the unmarried child.

25 (b) "Medicaid" means benefits under the federal medicaid
26 program established under title XIX of the social security act,
27 chapter 531, 49 Stat. 620, 42 ~~U.S.C.~~ **USC** 1396 to 1396f, 1396g-1 to

1 1396r-6, and 1396r-8 to 1396v.

2 (c) "Medicare" means benefits under the federal medicare
3 program established under title XVIII of the social security act,
4 chapter 531, 49 Stat. 620, 42 U.S.C.—USC 1395 to 1395b, 1395b-2,
5 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to
6 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28,
7 1395x to 1395yy, and 1395bbb to 1395ggg.

8 Sec. 108. (1) This section is enacted pursuant to federal law
9 that imposes certain administrative requirements and benefit
10 limitations for qualified governmental plans. This state intends
11 that the retirement system be a qualified pension plan created in
12 trust under section 401 of the internal revenue code and that the
13 trust be an exempt organization under section 501 of the internal
14 revenue code. The department shall administer the retirement system
15 to fulfill this intent.

16 ~~—— (2) Except as otherwise provided in this section, employer-~~
17 ~~financed benefits provided by the retirement system under this act~~
18 ~~shall not exceed \$10,000.00 per year for a retirant who has 15 or~~
19 ~~more years of credited service at retirement.~~

20 ~~—— (3) Employer financed benefits provided by the retirement~~
21 ~~system under this act shall not exceed the limitation under~~
22 ~~subsection (2) unless application of this subsection results in a~~
23 ~~higher limitation. The higher limitation of this subsection applies~~
24 ~~to employer financed benefits provided by the retirement system~~
25 ~~and, for purposes of section 415(b) of the internal revenue code,~~
26 ~~applies to aggregated benefits received from all qualified pension~~
27 ~~plans administered by the department of management and budget,~~

1 ~~office of retirement systems. Employer financed benefits provided~~
2 ~~by the retirement system shall not exceed the lesser of the~~
3 ~~following:~~

4 ~~—— (a) One of the following amounts that is applicable to the~~
5 ~~member:~~

6 ~~—— (i) If a member retires at age 62 or older, \$90,000.00 or the~~
7 ~~adjusted amount described in subsection (4) per year.~~

8 ~~—— (ii) If a member retires at or after age 55 but before age 62,~~
9 ~~the actuarially reduced amount of the limitation prescribed in~~
10 ~~subparagraph (i) per year. The retirement system shall use an~~
11 ~~interest rate of 5% per year compounded annually to calculate the~~
12 ~~actuarial reduction in this subparagraph. However, the limitation~~
13 ~~in this subparagraph shall not be actuarially reduced below~~
14 ~~\$75,000.00.~~

15 ~~—— (iii) If a member retires before age 55, the actuarially reduced~~
16 ~~amount of the limitation prescribed in subparagraph (ii) per year.~~
17 ~~The retirement system shall use an interest rate of 5% per year~~
18 ~~compounded annually to calculate the actuarial reduction in this~~
19 ~~subparagraph.~~

20 ~~—— (b) 100% of the member's average compensation for high 3 years~~
21 ~~as described in section 415(b)(3) of the internal revenue code.~~

22 ~~—— (4) Section 415(d) of the internal revenue code requires the~~
23 ~~secretary of the treasury or his or her delegate to annually adjust~~
24 ~~the \$10,000.00 limitation described in subsection (2) and the~~
25 ~~\$90,000.00 limitation described in subsection (3)(a)(i) for~~
26 ~~increases in cost of living, beginning in 1988. This section shall~~
27 ~~be administered using the limitations applicable to each calendar~~

1 ~~year as adjusted by the secretary of the treasury or his or her~~
2 ~~delegate under section 415(d) of the internal revenue code. The~~
3 ~~retirement system shall adjust the benefits subject to the~~
4 ~~limitation each year to conform with the adjusted limitation.~~

5 (2) THE RETIREMENT SYSTEM SHALL BE ADMINISTERED IN COMPLIANCE
6 WITH THE PROVISIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE, 26
7 USC 415, AND REGULATIONS UNDER THAT SECTION THAT ARE APPLICABLE TO
8 GOVERNMENTAL PLANS. EMPLOYER-FINANCED BENEFITS PROVIDED BY THE
9 RETIREMENT SYSTEM UNDER THIS ACT SHALL NOT EXCEED THE APPLICABLE
10 LIMITATIONS SET FORTH IN SECTION 415 OF THE INTERNAL REVENUE CODE,
11 26 USC 415, AS ADJUSTED BY THE COMMISSIONER OF INTERNAL REVENUE
12 UNDER SECTION 415(D) OF THE INTERNAL REVENUE CODE, 26 USC 415, TO
13 REFLECT COST-OF-LIVING INCREASES, AND THE RETIREMENT SYSTEM SHALL
14 ADJUST THE BENEFITS SUBJECT TO THE LIMITATION EACH CALENDAR YEAR TO
15 CONFORM WITH THE ADJUSTED LIMITATION. FOR PURPOSES OF SECTION
16 415(B) OF THE INTERNAL REVENUE CODE, 26 USC 415, THE APPLICABLE
17 LIMITATION SHALL APPLY TO AGGREGATED BENEFITS RECEIVED FROM ALL
18 QUALIFIED PENSION PLANS FOR WHICH THE OFFICE OF RETIREMENT SERVICES
19 COORDINATES ADMINISTRATION OF THAT LIMITATION. IF THERE IS A
20 CONFLICT BETWEEN THIS SECTION AND ANOTHER SECTION OF THIS ACT, THIS
21 SECTION PREVAILS.

22 (3) ~~(5)~~—The assets of the retirement system shall be held in
23 trust and invested for the sole purpose of meeting the legitimate
24 obligations of the retirement system and shall not be used for any
25 other purpose. The assets shall not be used for or diverted to a
26 purpose other than for the exclusive benefit of the members,
27 deferred members, retirants, and retirement allowance

1 beneficiaries.

2 (4) ~~(6)~~—The retirement system shall return post-tax member
3 contributions made by a member and received by the retirement
4 system to a member upon retirement, pursuant to internal revenue
5 service regulations and approved internal revenue service exclusion
6 ratio tables.

7 (5) ~~(7)~~—The required beginning date for retirement allowances
8 and other distributions shall not be later than April 1 of the
9 calendar year following the calendar year in which the employee
10 attains age 70-1/2 or April 1 of the calendar year following the
11 calendar year in which the employee retires.

12 (6) ~~(8)~~—If the retirement system is terminated, the interest
13 of the members, deferred members, retirants, and retirement
14 allowance beneficiaries in the retirement system is nonforfeitable
15 to the extent funded as described in section 411(d)(3) of the
16 internal revenue code and the related internal revenue service
17 regulations applicable to governmental plans.

18 (7) ~~(9)~~—Notwithstanding any other provision of this act to the
19 contrary that would limit a distributee's election under this act,
20 a distributee may elect, at the time and in the manner prescribed
21 by the retirement board, to have any portion of an eligible
22 rollover distribution paid directly to an eligible retirement plan
23 specified by the distributee in a direct rollover. This subsection
24 applies to distributions made on or after January 1, 1993.

25 (8) ~~(10)~~—For purposes of determining actuarial equivalent
26 retirement allowances under sections 45 and 85(1)(b), (1)(c),
27 (1)(d), and (2), the actuarially assumed interest rate shall be 8%

1 with utilization of the 1983 group annuity and mortality table.

2 ~~—— (11) Notwithstanding any other provision of this section, the~~
3 ~~retirement system shall be administered in compliance with the~~
4 ~~provisions of section 415 of the internal revenue code and revenue~~
5 ~~service regulations under that section that are applicable to~~
6 ~~governmental plans. If there is a conflict between this section and~~
7 ~~another section of this or any other act of this state, this~~
8 ~~section prevails.~~

9 (9) ~~(12)~~ Notwithstanding any other provision of this act, the
10 compensation of a member of the retirement system shall be taken
11 into account for any year under the retirement system only to the
12 extent that it does not exceed the compensation limit established
13 in section 401(a)(17) of the internal revenue code, as adjusted by
14 the commissioner of internal revenue. This subsection applies to
15 any person who first becomes a member of the retirement system on
16 or after October 1, 1996.

17 (10) ~~(13)~~ Notwithstanding any other provision of this act,
18 contributions, benefits, and service credit with respect to
19 qualified military service will be provided under the retirement
20 system in accordance with section 414(u) of the internal revenue
21 code. This subsection applies to all qualified military service on
22 or after December 12, 1994.

23 **SEC. 109. (1) AN INDIVIDUAL WHO WAS A DEFERRED MEMBER OR**
24 **FORMER NONVESTED MEMBER ON THE DAY BEFORE THE IMPLEMENTATION DATE,**
25 **WHO IS EMPLOYED BY A REPORTING UNIT ON OR AFTER THE IMPLEMENTATION**
26 **DATE, AND WHO BY VIRTUE OF THAT EMPLOYMENT WOULD BE ELIGIBLE FOR**
27 **MEMBERSHIP IN TIER 1 MAY MAKE AN ELECTION AS PRESCRIBED IN SECTION**

1 110.

2 (2) AN INDIVIDUAL WHO IS FIRST EMPLOYED AND ENTERED UPON THE
3 PAYROLL OF A REPORTING UNIT ON OR AFTER THE IMPLEMENTATION DATE
4 SHALL BECOME A QUALIFIED PARTICIPANT OF TIER 2. THE DATE OF
5 MEMBERSHIP IN TIER 1 OR PARTICIPATION IN TIER 2 UNDER THIS
6 SUBSECTION DATES BACK TO THE DATE THE INDIVIDUAL WAS FIRST EMPLOYED
7 AND ENTERED UPON THE PAYROLL OF A REPORTING UNIT.

8 SEC. 110. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
9 THE RETIREMENT SYSTEM SHALL PROVIDE AN OPPORTUNITY FOR EACH MEMBER
10 WHO IS A TIER 1 MEMBER ON THE DAY BEFORE THE IMPLEMENTATION DATE,
11 TO ELECT IN WRITING TO TERMINATE MEMBERSHIP IN TIER 1 AND ELECT TO
12 BECOME A QUALIFIED PARTICIPANT IN TIER 2. AN ELECTION MADE BY A
13 MEMBER UNDER THIS SUBSECTION IS IRREVOCABLE. THE RETIREMENT SYSTEM
14 SHALL ACCEPT WRITTEN ELECTIONS UNDER THIS SUBSECTION FROM MEMBERS
15 DURING THE PERIOD BEGINNING ON AUGUST 31, 2008 AND ENDING ON
16 NOVEMBER 30, 2008. A MEMBER WHO DOES NOT MAKE A WRITTEN ELECTION OR
17 WHO DOES NOT FILE THE ELECTION DURING THE PERIOD SPECIFIED IN THIS
18 SUBSECTION CONTINUES TO BE A MEMBER OF TIER 1. A MEMBER WHO MAKES
19 AND FILES A WRITTEN ELECTION UNDER THIS SUBSECTION ELECTS TO DO ALL
20 OF THE FOLLOWING:

21 (A) CEASE TO BE A MEMBER OF TIER 1 EFFECTIVE 12 MIDNIGHT ON
22 DECEMBER 31, 2008.

23 (B) BECOME A QUALIFIED PARTICIPANT IN TIER 2 EFFECTIVE 12:01
24 A.M. ON JANUARY 1, 2009.

25 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WAIVE
26 ALL OF HIS OR HER RIGHTS TO A PENSION, AN ANNUITY, A RETIREMENT
27 ALLOWANCE, OR ANY OTHER BENEFIT UNDER TIER 1 EFFECTIVE 12 MIDNIGHT

1 ON THE DAY DESCRIBED IN SUBDIVISION (A). THIS SUBDIVISION DOES NOT
2 AFFECT A PERSON'S RIGHT TO HEALTH BENEFITS PROVIDED UNDER THIS ACT
3 PURSUANT TO SECTION 136.

4 (2) THIS SUBSECTION APPLIES TO AN INDIVIDUAL WHO WAS A VESTED
5 MEMBER OF TIER 1 ON THE DAY BEFORE THE IMPLEMENTATION DATE AND WHO
6 TERMINATES THE EMPLOYMENT UPON WHICH THAT MEMBERSHIP IS BASED ON OR
7 AFTER THE IMPLEMENTATION DATE BUT ON OR BEFORE DECEMBER 31, 2008.
8 BEFORE THE TERMINATION OF HIS OR HER EMPLOYMENT, AN INDIVIDUAL
9 DESCRIBED IN THIS SUBSECTION MAY ELECT IN WRITING TO TERMINATE
10 MEMBERSHIP IN TIER 1 AND BECOME A QUALIFIED PARTICIPANT IN TIER 2.
11 AN ELECTION MADE BY A MEMBER UNDER THIS SUBSECTION IS IRREVOCABLE.
12 THE RETIREMENT SYSTEM SHALL ACCEPT WRITTEN ELECTIONS UNDER THIS
13 SUBSECTION FROM A MEMBER DURING THE PERIOD BEGINNING ON THE
14 IMPLEMENTATION DATE AND ENDING ON DECEMBER 31, 2008. A MEMBER
15 DESCRIBED IN THIS SUBSECTION WHO DOES NOT MAKE A WRITTEN ELECTION
16 OR WHO DOES NOT FILE THE ELECTION BEFORE THE TERMINATION OF HIS OR
17 HER EMPLOYMENT CONTINUES TO BE A MEMBER OR DEFERRED MEMBER OF TIER
18 1. A MEMBER WHO MAKES AND FILES A WRITTEN ELECTION UNDER THIS
19 SUBSECTION TO TERMINATE MEMBERSHIP IN TIER 1 ELECTS TO DO ALL OF
20 THE FOLLOWING:

21 (A) CEASE TO BE A MEMBER OF TIER 1 AND BECOME A QUALIFIED
22 PARTICIPANT IN TIER 2 EFFECTIVE 12 MIDNIGHT ON THE DAY IMMEDIATELY
23 PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT.

24 (B) BECOME A FORMER QUALIFIED PARTICIPANT IN TIER 2 EFFECTIVE
25 12:01 A.M. ON THE DAY IMMEDIATELY FOLLOWING THE DATE DESCRIBED IN
26 SUBDIVISION (A).

27 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WAIVE

1 ALL OF HIS OR HER RIGHTS TO A PENSION, AN ANNUITY, A RETIREMENT
2 ALLOWANCE, AN INSURANCE BENEFIT, OR ANY OTHER BENEFIT UNDER TIER 1
3 EFFECTIVE 12 MIDNIGHT ON THE DATE DESCRIBED IN SUBDIVISION (A).
4 THIS SUBDIVISION DOES NOT AFFECT AN INDIVIDUAL'S RIGHT TO HEALTH
5 BENEFITS PROVIDED UNDER THIS ACT PURSUANT TO SECTION 136.

6 (3) IF AN INDIVIDUAL WHO WAS A DEFERRED MEMBER ON THE DAY
7 BEFORE THE IMPLEMENTATION DATE OR AN INDIVIDUAL WHO WAS A FORMER
8 NONVESTED MEMBER ON THE DAY BEFORE THE IMPLEMENTATION DATE IS
9 EMPLOYED BY A REPORTING UNIT ON OR AFTER THE IMPLEMENTATION DATE
10 AND BY VIRTUE OF THAT EMPLOYMENT IS AGAIN ELIGIBLE FOR MEMBERSHIP
11 IN TIER 1, THE INDIVIDUAL SHALL ELECT IN WRITING TO REMAIN A MEMBER
12 OF TIER 1 OR TO TERMINATE MEMBERSHIP IN TIER 1 AND BECOME A
13 QUALIFIED PARTICIPANT IN TIER 2. AN ELECTION MADE BY A DEFERRED
14 MEMBER OR A FORMER NONVESTED MEMBER UNDER THIS SUBSECTION IS
15 IRREVOCABLE. THE RETIREMENT SYSTEM SHALL ACCEPT WRITTEN ELECTIONS
16 UNDER THIS SUBSECTION FROM A DEFERRED MEMBER OR A FORMER NONVESTED
17 MEMBER DURING THE PERIOD BEGINNING ON THE DATE OF THE INDIVIDUAL'S
18 REEMPLOYMENT AND ENDING UPON THE EXPIRATION OF 60 DAYS AFTER THE
19 DATE OF THAT REEMPLOYMENT. A DEFERRED MEMBER OR FORMER NONVESTED
20 MEMBER WHO MAKES AND FILES A WRITTEN ELECTION TO REMAIN A MEMBER OF
21 TIER 1 RETAINS ALL RIGHTS AND IS SUBJECT TO ALL CONDITIONS AS A
22 MEMBER OF TIER 1 UNDER THIS ACT. A DEFERRED MEMBER OR FORMER
23 NONVESTED MEMBER WHO DOES NOT MAKE A WRITTEN ELECTION OR WHO DOES
24 NOT FILE THE ELECTION DURING THE PERIOD SPECIFIED IN THIS
25 SUBSECTION CONTINUES TO BE A MEMBER OF TIER 1. A DEFERRED MEMBER OR
26 FORMER NONVESTED MEMBER WHO MAKES AND FILES A WRITTEN ELECTION TO
27 TERMINATE MEMBERSHIP IN TIER 1 ELECTS TO DO ALL OF THE FOLLOWING:

1 (A) CEASE TO BE A MEMBER OF TIER 1 EFFECTIVE 12 MIDNIGHT ON
2 THE LAST DAY OF THE PAYROLL PERIOD THAT INCLUDES THE DATE OF THE
3 ELECTION.

4 (B) BECOME A QUALIFIED PARTICIPANT IN TIER 2 EFFECTIVE 12:01
5 A.M. ON THE FIRST DAY OF THE PAYROLL PERIOD IMMEDIATELY FOLLOWING
6 THE DATE OF THE ELECTION.

7 (C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, WAIVE
8 ALL OF HIS OR HER RIGHTS TO A PENSION, AN ANNUITY, A RETIREMENT
9 ALLOWANCE, AN INSURANCE BENEFIT, OR ANY OTHER BENEFIT UNDER TIER 1
10 EFFECTIVE 12 MIDNIGHT ON THE LAST DAY OF THE PAYROLL PERIOD THAT
11 INCLUDES THE DATE OF THE ELECTION. THIS SUBDIVISION DOES NOT AFFECT
12 AN INDIVIDUAL'S RIGHT TO HEALTH BENEFITS PROVIDED UNDER THIS ACT
13 PURSUANT TO SECTION 136.

14 (4) AFTER CONSULTATION WITH THE RETIREMENT SYSTEM'S ACTUARY
15 AND THE RETIREMENT BOARD, THE DEPARTMENT SHALL DETERMINE THE METHOD
16 BY WHICH A MEMBER, DEFERRED MEMBER, OR FORMER NONVESTED MEMBER
17 SHALL MAKE A WRITTEN ELECTION UNDER THIS SECTION. IF THE MEMBER,
18 DEFERRED MEMBER, OR FORMER NONVESTED MEMBER IS MARRIED AT THE TIME
19 OF THE ELECTION, THE ELECTION IS NOT EFFECTIVE UNLESS THE ELECTION
20 IS SIGNED BY THE INDIVIDUAL'S SPOUSE. HOWEVER, THE RETIREMENT BOARD
21 MAY WAIVE THIS REQUIREMENT IF THE SPOUSE'S SIGNATURE CANNOT BE
22 OBTAINED BECAUSE OF EXTENUATING CIRCUMSTANCES.

23 (5) AN ELECTION UNDER THIS SECTION IS SUBJECT TO THE ELIGIBLE
24 DOMESTIC RELATIONS ORDER ACT, 1991 PA 46, MCL 38.1701 TO 38.1711.

25 (6) IF AN INDIVIDUAL WHO WAS A DEFERRED MEMBER OF THE STATE
26 EMPLOYEES' RETIREMENT SYSTEM ON THE DAY BEFORE THE IMPLEMENTATION
27 DATE IS FIRST EMPLOYED AND ENTERED UPON THE PAYROLL OF A REPORTING

1 UNIT ON OR AFTER THE IMPLEMENTATION DATE, THE RETIREMENT SYSTEM
2 SHALL PROVIDE AN OPPORTUNITY FOR THAT INDIVIDUAL TO ELECT IN
3 WRITING TO BECOME A MEMBER OF TIER 1 OR TO BECOME A QUALIFIED
4 PARTICIPANT OF TIER 2. THE RETIREMENT SYSTEM AND THE INDIVIDUAL
5 SHALL FOLLOW THE PROVISIONS AND PROCEDURES PROVIDED IN THIS SECTION
6 AND BY THE DEPARTMENT AS IF THE INDIVIDUAL WERE A DEFERRED MEMBER
7 OF TIER 1 ON THE DAY BEFORE THE IMPLEMENTATION DATE.

8 (7) IF THE DEPARTMENT RECEIVES NOTIFICATION FROM THE UNITED
9 STATES INTERNAL REVENUE SERVICE THAT THIS SECTION OR ANY PORTION OF
10 THIS SECTION WILL CAUSE THE RETIREMENT SYSTEM TO BE DISQUALIFIED
11 FOR TAX PURPOSES UNDER THE INTERNAL REVENUE CODE, THEN THE PORTION
12 THAT WILL CAUSE THE DISQUALIFICATION DOES NOT APPLY.

13 SEC. 111. (1) FOR A MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP
14 IN TIER 1 UNDER SECTION 110(1), THE RETIREMENT SYSTEM SHALL DIRECT
15 THE STATE TREASURER TO TRANSFER A LUMP SUM AMOUNT FROM THE
16 APPROPRIATE RESERVE CREATED UNDER ARTICLE 2 TO THE QUALIFIED
17 PARTICIPANT'S ACCOUNT IN TIER 2 ON OR BEFORE JULY 1, 2009. THE
18 RETIREMENT SYSTEM SHALL CALCULATE THE AMOUNT TO BE TRANSFERRED,
19 WHICH SHALL BE EQUAL TO THE SUM OF THE FOLLOWING:

20 (A) THE MEMBER'S ACCUMULATED CONTRIBUTIONS, IF ANY, FROM THE
21 RESERVE FOR EMPLOYEE CONTRIBUTIONS AS OF 12 MIDNIGHT DECEMBER 31,
22 2008.

23 (B) FOR A MEMBER WHO IS A PARTICIPANT IN THE MEMBER INVESTMENT
24 PLAN, THE MEMBER'S ACCUMULATED CONTRIBUTIONS, IF ANY, FROM THE
25 RESERVE FOR MEMBER INVESTMENT PLAN AS OF 12 MIDNIGHT DECEMBER 31,
26 2008.

27 (C) FOR A MEMBER WHO IS VESTED UNDER SECTION 81 AS OF 12

1 MIDNIGHT DECEMBER 31, 2008, THE EXCESS, IF ANY, OF THE ACTUARIAL
2 PRESENT VALUE OF THE MEMBER'S ACCUMULATED BENEFIT OBLIGATION, OVER
3 THE AMOUNT SPECIFIED IN SUBDIVISIONS (A) AND (B), FROM THE RESERVE
4 FOR EMPLOYER CONTRIBUTIONS. EXCEPT AS PROVIDED IN SUBSECTION (7),
5 FOR THE PURPOSES OF THIS SUBSECTION, THE PRESENT VALUE OF THE
6 MEMBER'S ACCUMULATED BENEFIT OBLIGATION IS BASED UPON THE MEMBER'S
7 ACTUAL CREDITED SERVICE AND ACTUAL FINAL AVERAGE COMPENSATION AS OF
8 12 MIDNIGHT DECEMBER 31, 2008. THE ACTUARIAL PRESENT VALUE SHALL BE
9 COMPUTED AS OF 12 MIDNIGHT DECEMBER 31, 2008 AND SHALL BE BASED ON
10 THE FOLLOWING:

11 (i) EIGHT PERCENT EFFECTIVE ANNUAL INTEREST, COMPOUNDED
12 ANNUALLY.

13 (ii) A 50% MALE AND 50% FEMALE GENDER NEUTRAL BLEND OF THE
14 MORTALITY TABLES USED TO PROJECT RETIRANT LONGEVITY IN THE MOST
15 RECENT ACTUARIAL VALUATION REPORT.

16 (iii) A BENEFIT COMMENCEMENT AGE, BASED UPON THE MEMBER'S
17 ESTIMATED CREDITED SERVICE AS OF 12 MIDNIGHT DECEMBER 31, 2008. THE
18 BENEFIT COMMENCEMENT AGE SHALL BE THE YOUNGER OF THE FOLLOWING, BUT
19 SHALL NOT BE YOUNGER THAN THE MEMBER'S AGE AS OF 12 MIDNIGHT
20 DECEMBER 31, 2008:

21 (A) AGE 60.

22 (B) AGE 55, IF THE MEMBER'S ESTIMATED CREDITED SERVICE EQUALS
23 OR EXCEEDS 30 YEARS.

24 (C) THE AGE OF THE MEMBER IF THE MEMBER'S CREDITED SERVICE
25 EQUALS OR EXCEEDS 30 YEARS AND THE MEMBER CONTRIBUTES TO THE MEMBER
26 INVESTMENT PLAN.

27 (D) INTEREST ON ANY AMOUNTS DETERMINED IN SUBDIVISIONS (A),

1 (B), AND (C) FROM JANUARY 1, 2009 TO THE DATE OF THE TRANSFER,
2 BASED UPON 8% ANNUAL INTEREST, COMPOUNDED ANNUALLY.

3 (2) FOR A MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP IN TIER 1
4 UNDER SECTION 110(2), THE RETIREMENT SYSTEM SHALL DIRECT THE STATE
5 TREASURER TO TRANSFER A LUMP SUM AMOUNT FROM THE APPROPRIATE
6 RESERVE CREATED UNDER ARTICLE 2 TO THE FORMER QUALIFIED
7 PARTICIPANT'S ACCOUNT IN TIER 2 ON OR BEFORE THE EXPIRATION OF 60
8 DAYS AFTER THE DATE OF THE INDIVIDUAL'S TERMINATION OF EMPLOYMENT.
9 THE RETIREMENT SYSTEM SHALL CALCULATE THE AMOUNT TO BE TRANSFERRED,
10 WHICH SHALL BE EQUAL TO THE SUM OF THE FOLLOWING:

11 (A) THE MEMBER'S ACCUMULATED CONTRIBUTIONS, IF ANY, FROM THE
12 RESERVE FOR EMPLOYEE CONTRIBUTIONS AS OF 12 MIDNIGHT ON THE DAY
13 IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT.

14 (B) FOR A MEMBER WHO IS A PARTICIPANT IN THE MEMBER INVESTMENT
15 PLAN, THE MEMBER'S ACCUMULATED CONTRIBUTIONS, IF ANY, FROM THE
16 RESERVE FOR MEMBER INVESTMENT PLAN AS OF 12 MIDNIGHT ON THE DAY
17 IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT.

18 (C) THE EXCESS OF ANY ACTUARIAL PRESENT VALUE OF THE MEMBER'S
19 ACCUMULATED BENEFIT OBLIGATION, OVER THE AMOUNT SPECIFIED IN
20 SUBDIVISIONS (A) AND (B), FROM THE RESERVE FOR EMPLOYER
21 CONTRIBUTIONS. EXCEPT AS PROVIDED IN SUBSECTION (7), FOR THE
22 PURPOSES OF THIS SUBSECTION, THE PRESENT VALUE OF THE MEMBER'S
23 ACCUMULATED BENEFIT OBLIGATION IS BASED UPON THE MEMBER'S ACTUAL
24 CREDITED SERVICE AND ACTUAL FINAL AVERAGE COMPENSATION AS OF 12
25 MIDNIGHT ON THE DAY IMMEDIATELY PRECEDING THE DATE OF THE
26 TERMINATION OF EMPLOYMENT. THE ACTUARIAL PRESENT VALUE SHALL BE
27 COMPUTED AS OF 12 MIDNIGHT ON THAT DATE AND SHALL BE BASED ON THE

1 FOLLOWING:

2 (i) EIGHT PERCENT EFFECTIVE ANNUAL INTEREST, COMPOUNDED
3 ANNUALLY.

4 (ii) A 50% MALE AND 50% FEMALE GENDER NEUTRAL BLEND OF THE
5 MORTALITY TABLES USED TO PROJECT RETIRANT LONGEVITY IN THE MOST
6 RECENT ANNUAL ACTUARIAL VALUATION REPORT.

7 (iii) A BENEFIT COMMENCEMENT AGE, BASED UPON THE MEMBER'S
8 ESTIMATED CREDITED SERVICE AS OF 12 MIDNIGHT ON THE DAY IMMEDIATELY
9 PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT. THE BENEFIT
10 COMMENCEMENT AGE SHALL BE THE YOUNGER OF THE FOLLOWING, BUT SHALL
11 NOT BE YOUNGER THAN THE MEMBER'S AGE AS OF 12 MIDNIGHT ON THE DAY
12 IMMEDIATELY PRECEDING THE DATE OF THE TERMINATION OF EMPLOYMENT:

13 (A) AGE 60.

14 (B) AGE 55, IF THE MEMBER'S ESTIMATED CREDITED SERVICE EQUALS
15 OR EXCEEDS 30 YEARS.

16 (C) THE AGE OF THE MEMBER IF THE MEMBER'S CREDITED SERVICE
17 EQUALS OR EXCEEDS 30 YEARS AND THE MEMBER IS A PARTICIPANT OF THE
18 MEMBER INVESTMENT PLAN.

19 (D) INTEREST ON ANY AMOUNTS DETERMINED IN SUBDIVISIONS (A),
20 (B), AND (C) FROM THE DAY IMMEDIATELY FOLLOWING THE DATE DESCRIBED
21 IN SUBDIVISION (A) TO THE DATE OF THE TRANSFER, BASED UPON 8%
22 EFFECTIVE ANNUAL INTEREST, COMPOUNDED ANNUALLY.

23 (3) FOR A DEFERRED MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP
24 IN TIER 1 UNDER SECTION 110(3), THE RETIREMENT SYSTEM SHALL DIRECT
25 THE STATE TREASURER TO TRANSFER A LUMP SUM AMOUNT FROM THE
26 APPROPRIATE RESERVE CREATED UNDER ARTICLE 2 TO THE QUALIFIED
27 PARTICIPANT'S ACCOUNT IN TIER 2 ON OR BEFORE THE EXPIRATION OF 60

1 DAYS AFTER THE DATE OF THE INDIVIDUAL'S ELECTION TO TERMINATE
2 MEMBERSHIP. THE RETIREMENT SYSTEM SHALL CALCULATE THE AMOUNT TO BE
3 TRANSFERRED, WHICH SHALL BE EQUAL TO THE SUM OF THE FOLLOWING:

4 (A) THE DEFERRED MEMBER'S ACCUMULATED CONTRIBUTIONS, IF ANY,
5 FROM THE RESERVE FOR EMPLOYEE CONTRIBUTIONS AS OF 12 MIDNIGHT ON
6 THE LAST DAY OF THE PAYROLL PERIOD THAT INCLUDES THE DATE OF THE
7 ELECTION.

8 (B) FOR A DEFERRED MEMBER WHO IS A PARTICIPANT IN THE MEMBER
9 INVESTMENT PLAN, THE DEFERRED MEMBER'S ACCUMULATED CONTRIBUTIONS,
10 IF ANY, FROM THE RESERVE FOR MEMBER INVESTMENT PLAN AS OF 12
11 MIDNIGHT ON THE LAST DAY OF THE PAYROLL PERIOD THAT INCLUDES THE
12 DATE OF THE ELECTION.

13 (C) THE EXCESS, IF ANY, OF THE ACTUARIAL PRESENT VALUE OF THE
14 DEFERRED MEMBER'S ACCUMULATED BENEFIT OBLIGATION, OVER THE AMOUNT
15 SPECIFIED IN SUBDIVISIONS (A) AND (B), FROM THE RESERVE FOR
16 EMPLOYER CONTRIBUTIONS. EXCEPT AS PROVIDED IN SUBSECTION (5), FOR
17 THE PURPOSES OF THIS SUBSECTION, THE PRESENT VALUE OF THE DEFERRED
18 MEMBER'S ACCUMULATED BENEFIT OBLIGATION IS BASED UPON THE DEFERRED
19 MEMBER'S ACTUAL CREDITED SERVICE AND ACTUAL FINAL AVERAGE
20 COMPENSATION AS OF 12 MIDNIGHT ON THE LAST DAY OF THE PAYROLL
21 PERIOD THAT INCLUDES THE DATE OF THE ELECTION. THE ACTUARIAL
22 PRESENT VALUE SHALL BE COMPUTED AS OF 12 MIDNIGHT ON THAT DATE AND
23 SHALL BE BASED ON THE FOLLOWING:

24 (i) EIGHT PERCENT EFFECTIVE ANNUAL INTEREST, COMPOUNDED
25 ANNUALLY.

26 (ii) A 50% MALE AND 50% FEMALE GENDER NEUTRAL BLEND OF THE
27 MORTALITY TABLES USED TO PROJECT RETIRANT LONGEVITY IN THE MOST

1 RECENT ANNUAL ACTUARIAL VALUATION REPORT.

2 (iii) A BENEFIT COMMENCEMENT AGE, BASED UPON THE MEMBER'S
3 ESTIMATED CREDITED SERVICE AS OF 12 MIDNIGHT ON THE LAST DAY OF THE
4 PAYROLL PERIOD THAT INCLUDES THE DATE OF THE ELECTION. THE BENEFIT
5 COMMENCEMENT AGE SHALL BE THE YOUNGER OF THE FOLLOWING, BUT SHALL
6 NOT BE YOUNGER THAN THE MEMBER'S AGE AS OF 12 MIDNIGHT ON THE LAST
7 DAY OF THE PAYROLL PERIOD THAT INCLUDES THE DATE OF THE ELECTION:

8 (A) AGE 60.

9 (B) AGE 55, IF THE DEFERRED MEMBER'S ESTIMATED CREDITED
10 SERVICE EQUALS OR EXCEEDS 30 YEARS.

11 (C) THE AGE OF THE DEFERRED MEMBER IF THE DEFERRED MEMBER'S
12 CREDITED SERVICE EQUALS OR EXCEEDS 30 YEARS AND THE DEFERRED MEMBER
13 IS A PARTICIPANT OF THE MEMBER INVESTMENT PLAN.

14 (D) INTEREST ON ANY AMOUNTS DETERMINED IN SUBDIVISIONS (A),
15 (B), AND (C) FROM THE FIRST DAY OF THE PAYROLL PERIOD IMMEDIATELY
16 FOLLOWING THE DATE OF THE ELECTION TO THE DATE OF THE TRANSFER,
17 BASED UPON 8% EFFECTIVE ANNUAL INTEREST, COMPOUNDED ANNUALLY.

18 (4) FOR THE PURPOSES OF SUBSECTIONS (1) TO (3) AND SUBSECTION
19 (6), THE CALCULATION OF ACTUAL PRESENT VALUE OF THE MEMBER'S OR
20 DEFERRED MEMBER'S ACCUMULATED BENEFIT OBLIGATION SHALL BE BASED
21 UPON METHODS ADOPTED BY THE DEPARTMENT AND THE RETIREMENT SYSTEM'S
22 ACTUARY IN CONSULTATION WITH THE RETIREMENT BOARD. ACTUAL FINAL
23 AVERAGE COMPENSATION SHALL BE DETERMINED AS PROVIDED IN SECTIONS 3A
24 AND 4(11) AS OF 12 MIDNIGHT ON THE DATE THE MEMBER OR DEFERRED
25 MEMBER CEASES TO BE A MEMBER OF TIER 1 UNDER SECTION 110.

26 (5) FOR A FORMER NONVESTED MEMBER WHO ELECTS TO TERMINATE
27 MEMBERSHIP IN TIER 1 UNDER SECTION 110(3) AND WHO HAS ACCUMULATED

1 CONTRIBUTIONS STANDING TO HIS OR HER CREDIT IN THE RESERVE FOR
2 EMPLOYEE CONTRIBUTIONS OR THE RESERVE FOR MEMBER INVESTMENT PLAN,
3 THE RETIREMENT SYSTEM SHALL DIRECT THE STATE TREASURER TO TRANSFER
4 A LUMP SUM AMOUNT FROM THE APPROPRIATE RESERVE CREATED UNDER
5 ARTICLE 2 TO THE QUALIFIED PARTICIPANT'S ACCOUNT IN TIER 2 ON OR
6 BEFORE THE EXPIRATION OF 60 DAYS AFTER THE DATE OF THE INDIVIDUAL'S
7 ELECTION TO TERMINATE MEMBERSHIP. THE RETIREMENT SYSTEM SHALL
8 CALCULATE THE AMOUNT TO BE TRANSFERRED, WHICH SHALL BE EQUAL TO THE
9 SUM OF THE FOLLOWING:

10 (A) THE FORMER NONVESTED MEMBER'S ACCUMULATED CONTRIBUTIONS,
11 IF ANY, FROM THE RESERVE FOR EMPLOYEE CONTRIBUTIONS AS OF 12
12 MIDNIGHT ON THE LAST DAY OF THE PAYROLL PERIOD THAT INCLUDES THE
13 DATE OF THE ELECTION.

14 (B) FOR A FORMER NONVESTED MEMBER WHO IS A PARTICIPANT IN THE
15 MEMBER INVESTMENT PLAN, THE FORMER NONVESTED MEMBER'S ACCUMULATED
16 CONTRIBUTIONS, IF ANY, FROM THE RESERVE FOR MEMBER INVESTMENT PLAN
17 AS OF 12 MIDNIGHT ON THE LAST DAY OF THE PAYROLL PERIOD THAT
18 INCLUDES THE DATE OF THE ELECTION.

19 (C) INTEREST ON ANY AMOUNTS DETERMINED IN SUBDIVISIONS (A) AND
20 (B) FROM THE FIRST DAY OF THE PAYROLL PERIOD IMMEDIATELY FOLLOWING
21 THE DATE OF THE ELECTION TO THE DATE OF THE TRANSFER, BASED UPON 8%
22 EFFECTIVE ANNUAL INTEREST, COMPOUNDED ANNUALLY.

23 (6) FOR EACH MEMBER WHO ELECTS TO TERMINATE MEMBERSHIP IN TIER
24 1 UNDER SECTION 110, THE RETIREMENT SYSTEM SHALL DO ALL OF THE
25 FOLLOWING:

26 (A) DIRECT THE STATE TREASURER TO TRANSFER FROM THE RESERVE
27 FOR EMPLOYER CONTRIBUTIONS TO THE QUALIFIED PARTICIPANT'S ACCOUNT

1 IN TIER 2 THE EXCESS OF ANY RECOMPUTED AMOUNT OVER THE PREVIOUSLY
2 TRANSFERRED AMOUNT TOGETHER WITH INTEREST FROM 12 MIDNIGHT DECEMBER
3 31, 2007 TO THE DATE OF THE TRANSFER UNDER THIS SUBSECTION, BASED
4 UPON 8% EFFECTIVE ANNUAL INTEREST, COMPOUNDED ANNUALLY.

5 (B) DIRECT THE STATE TREASURER TO TRANSFER FROM THE QUALIFIED
6 PARTICIPANT'S ACCOUNT IN TIER 2 TO THE RESERVE FOR EMPLOYER
7 CONTRIBUTIONS THE EXCESS OF ANY PREVIOUSLY TRANSFERRED AMOUNT OVER
8 THE RECOMPUTED AMOUNT, TOGETHER WITH INTEREST, FROM THE DATE OF THE
9 TRANSFER MADE UNDER SUBSECTION (1), BASED UPON 8% EFFECTIVE ANNUAL
10 INTEREST, COMPOUNDED ANNUALLY.

11 (7) IF THE DEPARTMENT RECEIVES NOTIFICATION FROM THE UNITED
12 STATES INTERNAL REVENUE SERVICE THAT THIS SECTION OR ANY PORTION OF
13 THIS SECTION WILL CAUSE THE RETIREMENT SYSTEM TO BE DISQUALIFIED
14 FOR TAX PURPOSES UNDER THE INTERNAL REVENUE CODE, THEN THE PORTION
15 THAT WILL CAUSE THE DISQUALIFICATION DOES NOT APPLY.

16 SEC. 112. AFTER CONSULTING THE RETIREMENT SYSTEM'S ACTUARY,
17 THE DEPARTMENT SHALL CALCULATE FOR EACH FISCAL YEAR ANY COST
18 SAVINGS THAT HAVE ACCRUED AS A RESULT OF THE IMPLEMENTATION OF THE
19 AMENDATORY ACT THAT ADDED THIS SECTION OVER THE COSTS THAT WOULD
20 HAVE BEEN INCURRED HAD THE AMENDATORY ACT THAT ADDED THIS SECTION
21 NOT BEEN IMPLEMENTED.

22 ARTICLE 7

23 SEC. 121. FOR THE PURPOSES OF THIS ARTICLE, THE WORDS AND
24 PHRASES DEFINED IN SECTIONS 122 TO 124 HAVE THE MEANINGS ASCRIBED
25 TO THEM IN THOSE SECTIONS.

26 SEC. 122. (1) "ACCUMULATED BALANCE" MEANS THE TOTAL BALANCE IN
27 A QUALIFIED PARTICIPANT'S, FORMER QUALIFIED PARTICIPANT'S, OR

1 REFUND BENEFICIARY'S INDIVIDUAL ACCOUNT IN TIER 2.

2 (2) "COMPENSATION" MEANS THE REMUNERATION PAID A QUALIFIED
3 PARTICIPANT ON ACCOUNT OF THE QUALIFIED PARTICIPANT'S SERVICES
4 EQUAL TO THE SUM OF THE FOLLOWING:

5 (A) A PARTICIPANT'S W-2 EARNINGS FOR SERVICES PERFORMED FOR
6 THE EMPLOYER.

7 (B) ANY AMOUNT CONTRIBUTED OR DEFERRED AT THE ELECTION OF THE
8 PARTICIPANT WHICH IS EXCLUDED FROM GROSS INCOME UNDER SECTION 125,
9 132(F) (4), 401(K), 403(B), OR 457 OF THE INTERNAL REVENUE CODE, 26
10 USC 125, 132, 401, 403, AND 457.

11 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF MANAGEMENT AND
12 BUDGET.

13 (4) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
14 MANAGEMENT AND BUDGET OR HIS OR HER DESIGNEE.

15 SEC. 123. (1) "EMPLOYER" MEANS A REPORTING UNIT.

16 (2) "FORMER QUALIFIED PARTICIPANT" MEANS AN INDIVIDUAL WHO WAS
17 A QUALIFIED PARTICIPANT AND WHO TERMINATES THE EMPLOYMENT UPON
18 WHICH HIS OR HER PARTICIPATION IS BASED FOR ANY REASON.

19 (3) "HEALTH BENEFIT DEPENDENT" MEANS AN INDIVIDUAL WHO WOULD
20 HAVE BEEN ELIGIBLE FOR HEALTH INSURANCE COVERAGE AS A HEALTH
21 INSURANCE DEPENDENT UNDER SECTION 91(11) (A) IF THE FORMER QUALIFIED
22 PARTICIPANT HAD BECOME A RETIRANT OF TIER 1.

23 SEC. 124. (1) "QUALIFIED PARTICIPANT" MEANS AN INDIVIDUAL WHO
24 IS A PARTICIPANT OF TIER 2 AND WHO MEETS 1 OF THE FOLLOWING
25 REQUIREMENTS:

26 (A) AN INDIVIDUAL WHO IS FIRST EMPLOYED AND ENTERED UPON THE
27 PAYROLL OF A REPORTING UNIT ON OR AFTER THE IMPLEMENTATION DATE.

1 (B) AN INDIVIDUAL WHO ELECTS TO TERMINATE MEMBERSHIP IN TIER 1
2 AND WHO ELECTS TO PARTICIPATE IN TIER 2 IN THE MANNER PRESCRIBED IN
3 SECTION 110.

4 (2) "REFUND BENEFICIARY" MEANS AN INDIVIDUAL NOMINATED BY A
5 QUALIFIED PARTICIPANT OR A FORMER QUALIFIED PARTICIPANT UNDER
6 SECTION 134 TO RECEIVE A DISTRIBUTION OF THE PARTICIPANT'S
7 ACCUMULATED BALANCE IN THE MANNER PRESCRIBED IN SECTION 135.

8 (3) "STATE TREASURER" MEANS THE TREASURER OF THIS STATE.

9 SEC. 124A. (1) THE DEPARTMENT SHALL DESIGNATE 3 OR MORE TIER 2
10 CONTRACTS OR ACCOUNT PLANS PROVIDED BY AT LEAST 3 DIFFERENT
11 ENTITIES, TO BE OFFERED TO PARTICIPANTS IN THE TIER 2 PLAN. NO TIER
12 2 PLAN OPTION SHALL BE DESIGNATED UNDER THIS SECTION UNLESS THE
13 ENTITY PROVIDES ALL OF THE FOLLOWING REQUIREMENTS:

14 (A) IT IS AUTHORIZED TO CONDUCT BUSINESS IN THIS STATE WITH
15 REGARD TO ANY ANNUITY CONTRACTS OR CERTIFICATES TO BE OFFERED UNDER
16 THE PLAN.

17 (B) IT PROVIDES A DEFINED CONTRIBUTION PENSION PLAN AND
18 ASSOCIATED PLAN SERVICES TO PUBLIC SECTOR EMPLOYEES IN AT LEAST 10
19 OTHER STATES.

20 (C) IT PROVIDES A TIER 2 OPTION THAT IS AN ANNUITY CONTRACT OR
21 CUSTODIAL ACCOUNT THAT IS NOT REQUIRED TO BE HELD BY A SEPARATE
22 PLAN TRUSTEE.

23 (2) IN DESIGNATING TIER 2 PLANS UNDER THIS SECTION, THE
24 DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING:

25 (A) THE EXPERIENCE OF THE ENTITY IN PROVIDING THE PLAN IN
26 OTHER STATES.

27 (B) THE POTENTIAL EFFECTIVENESS OF THE PLAN IN THE

1 RECRUITMENT AND RETENTION OF ACADEMIC OR ADMINISTRATIVE EMPLOYEES.

2 (C) THE NATURE AND EXTENT OF THE RIGHTS AND BENEFITS TO BE
3 PROVIDED UNDER THE PLAN.

4 (D) THE RELATIONSHIP BETWEEN THE RIGHTS AND BENEFITS UNDER THE
5 PLAN AND THE AMOUNT OF THE CONTRIBUTIONS MADE UNDER THAT PLAN.

6 (E) THE SUITABILITY OF THE RIGHTS AND BENEFITS UNDER THE PLAN
7 TO THE NEEDS AND INTERESTS OF ACADEMIC OR ADMINISTRATIVE EMPLOYEES.

8 (F) THE CAPABILITY OF THE ENTITY OFFERING THE PLAN TO PROVIDE
9 THE RIGHTS AND BENEFITS UNDER THE PLAN, AND TO MONITOR COMPLIANCE
10 UNDER THE CONTRACT OR ACCOUNT WITH APPLICABLE FEDERAL TAX
11 REQUIREMENTS INCORPORATED INTO THE CONTRACT OR ACCOUNT.

12 (G) ANY OTHER SUPPLEMENTAL MATTERS IT CONSIDERS RELEVANT.

13 (3) THE DEPARTMENT SHALL CONSULT WITH THE STATE TREASURER IN
14 DETERMINING APPROPRIATE INVESTMENT VEHICLES OFFERED WITHIN THE
15 DESIGNATED TIER 2 OPTION PLANS. THE DEPARTMENT IN CONSULTATION WITH
16 THE STATE TREASURER SHALL PERIODICALLY REVIEW EACH TIER 2 PLAN
17 DESIGNATED UNDER THIS SECTION AND THE ENTITY OFFERING THE PLAN TO
18 ENSURE THAT THE REQUIREMENTS AND PURPOSES OF THIS ARTICLE ARE BEING
19 MET. IF THE DEPARTMENT FINDS THAT THE ENTITY OFFERING A TIER 2 PLAN
20 IS NOT IN COMPLIANCE WITH ANY REQUIREMENT OF THIS SECTION OR THE
21 PLAN IS NOT SATISFACTORILY MEETING THE PURPOSES OF THIS ARTICLE, IT
22 MAY RESCIND ITS DESIGNATION OF THE PLAN.

23 (4) THE DEPARTMENT SHALL DETERMINE THE PROVISIONS AND
24 PROCEDURES OF TIER 2 IN CONFORMITY WITH THIS ARTICLE AND THE
25 REQUIREMENTS OF THE INTERNAL REVENUE CODE.

26 (5) THE DIRECTOR SHALL USE A COMPETITIVE BIDDING PROCESS TO
27 SELECT ANY MANAGERIAL, PROFESSIONAL, OR ADMINISTRATIVE SERVICES FOR

1 THE PROPER ADMINISTRATION AND INVESTMENT OF ASSETS OF TIER 2. THE
2 COMPETITIVE BIDDING PROCESS SHALL INCLUDE A REQUIREMENT THAT ANY
3 SERVICE PROVIDER SELECTED UNDER THIS SUBSECTION WILL BE REQUIRED TO
4 PAY FOR THE COST OF ANY NOTIFICATION OF MEMBERS ENTITLED TO MAKE AN
5 ELECTION UNDER SECTION 110.

6 SEC. 126. (1) A QUALIFIED PARTICIPANT, FORMER QUALIFIED
7 PARTICIPANT, HEALTH BENEFIT DEPENDENT, OR REFUND BENEFICIARY MAY
8 REQUEST A HEARING ON A CLAIM INVOLVING HIS OR HER RIGHTS UNDER TIER
9 2. UPON WRITTEN REQUEST, THE DEPARTMENT SHALL PROVIDE FOR A HEARING
10 THAT SHALL BE CONDUCTED PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE
11 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287. AN
12 INDIVIDUAL MAY BE REPRESENTED BY COUNSEL OR OTHER AUTHORIZED AGENT
13 AT A HEARING CONDUCTED UNDER THIS SECTION.

14 (2) CHAPTERS 2, 3, AND 5 OF THE ADMINISTRATIVE PROCEDURES ACT
15 OF 1969, 1969 PA 306, MCL 24.224 TO 24.264 AND 24.291 TO 24.292, DO
16 NOT APPLY TO THE ESTABLISHMENT, IMPLEMENTATION, ADMINISTRATION,
17 OPERATION, INVESTMENT, OR DISTRIBUTION OF TIER 2.

18 SEC. 127. EACH QUALIFIED PARTICIPANT, FORMER QUALIFIED
19 PARTICIPANT, AND REFUND BENEFICIARY SHALL DIRECT THE INVESTMENT OF
20 THE INDIVIDUAL'S ACCUMULATED EMPLOYER AND EMPLOYEE CONTRIBUTIONS
21 AND EARNINGS TO 1 OR MORE INVESTMENT CHOICES WITHIN AVAILABLE
22 CATEGORIES OF INVESTMENT PROVIDED BY THE STATE TREASURER. THE
23 LIMITATIONS ON THE PERCENTAGE OF TOTAL ASSETS FOR INVESTMENTS
24 PROVIDED IN THE PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT,
25 1965 PA 314, MCL 38.1132 TO 38.1140M, DO NOT APPLY TO TIER 2.

26 SEC. 128. THE ADMINISTRATIVE EXPENSES OF TIER 2 SHALL BE PAID
27 BY THE QUALIFIED PARTICIPANTS, FORMER QUALIFIED PARTICIPANTS, AND

1 REFUND BENEFICIARIES WHO HAVE NOT CLOSED THEIR ACCOUNTS IN A MANNER
2 DETERMINED BY THE DEPARTMENT.

3 SEC. 129. A QUALIFIED PARTICIPANT SHALL NOT PARTICIPATE IN ANY
4 OTHER PUBLIC SECTOR RETIREMENT BENEFITS PLAN FOR SIMULTANEOUS
5 SERVICE RENDERED TO THE SAME PUBLIC SECTOR EMPLOYER. EXCEPT AS
6 OTHERWISE PROVIDED IN THIS ACT OR BY THE DEPARTMENT, THIS SECTION
7 DOES NOT PROHIBIT A QUALIFIED PARTICIPANT FROM PARTICIPATING IN A
8 RETIREMENT PLAN ESTABLISHED BY A PUBLIC SECTOR EMPLOYER UNDER THE
9 INTERNAL REVENUE CODE. FOR THE PURPOSES OF THIS SECTION, PUBLIC
10 SECTOR EMPLOYER INCLUDES, BUT IS NOT LIMITED TO, A REPORTING UNIT.

11 SEC. 130. (1) THE DEPARTMENT SHALL PROMPTLY CREDIT THE TIER 2
12 ACCOUNT OF A QUALIFIED PARTICIPANT OR FORMER QUALIFIED PARTICIPANT
13 WHO MAKES AN ELECTION UNDER SECTION 110 TO TERMINATE MEMBERSHIP IN
14 TIER 1 WITH ANY AMOUNT TRANSFERRED FROM TIER 1 PURSUANT TO SECTION
15 111.

16 (2) NOT LATER THAN 30 DAYS AFTER RECEIPT OF A RECOMPUTED
17 AMOUNT, THE DEPARTMENT SHALL CHARGE THE PARTICIPANT'S TIER 2
18 ACCOUNT FOR ANY AMOUNT OF EXCESS TRANSFERS AND TRANSFER THAT AMOUNT
19 TO THE APPROPRIATE RESERVE IN TIER 1. THE DIRECTOR MAY DETERMINE
20 WHICH INVESTMENT CHOICE OR CHOICES WITHIN A PARTICIPANT'S TIER 2
21 ACCOUNT WILL BE USED FOR THIS PURPOSE.

22 SEC. 131. (1) THIS SECTION IS SUBJECT TO THE VESTING
23 REQUIREMENTS OF SECTION 132.

24 (2) A QUALIFIED PARTICIPANT'S EMPLOYER SHALL CONTRIBUTE TO THE
25 QUALIFIED PARTICIPANT'S TIER 2 ACCOUNT AN AMOUNT EQUAL TO 4% OF THE
26 QUALIFIED PARTICIPANT'S COMPENSATION.

27 (3) A QUALIFIED PARTICIPANT MAY PERIODICALLY ELECT TO

1 CONTRIBUTE UP TO 3% OF HIS OR HER COMPENSATION TO HIS OR HER TIER 2
2 ACCOUNT. THE QUALIFIED PARTICIPANT'S EMPLOYER SHALL MAKE AN
3 ADDITIONAL CONTRIBUTION TO THE QUALIFIED PARTICIPANT'S TIER 2
4 ACCOUNT IN AN AMOUNT EQUAL TO THE CONTRIBUTION MADE BY THE
5 QUALIFIED PARTICIPANT UNDER THIS SUBSECTION.

6 (4) A QUALIFIED PARTICIPANT MAY MAKE CONTRIBUTIONS IN ADDITION
7 TO CONTRIBUTIONS MADE UNDER SUBSECTION (3) TO HIS OR HER TIER 2
8 ACCOUNT AS PERMITTED BY THE DEPARTMENT AND THE INTERNAL REVENUE
9 CODE. THE QUALIFIED PARTICIPANT'S EMPLOYER SHALL NOT MATCH
10 CONTRIBUTIONS MADE BY THE QUALIFIED PARTICIPANT UNDER THIS
11 SUBSECTION.

12 SEC. 132. (1) A QUALIFIED PARTICIPANT IS IMMEDIATELY 100%
13 VESTED IN HIS OR HER CONTRIBUTIONS MADE TO TIER 2. A QUALIFIED
14 PARTICIPANT SHALL VEST IN THE EMPLOYER CONTRIBUTIONS MADE ON HIS OR
15 HER BEHALF TO TIER 2 ACCORDING TO THE FOLLOWING SCHEDULE:

16 (A) UPON COMPLETION OF 2 YEARS OF SERVICE, 50%.

17 (B) UPON COMPLETION OF 3 YEARS OF SERVICE, 75%.

18 (C) UPON COMPLETION OF 4 YEARS OF SERVICE, 100%.

19 (2) A QUALIFIED PARTICIPANT IS VESTED IN THE HEALTH INSURANCE
20 COVERAGE PROVIDED IN SECTION 136 IF THE QUALIFIED PARTICIPANT MEETS
21 1 OF THE FOLLOWING REQUIREMENTS:

22 (A) THE QUALIFIED PARTICIPANT HAS COMPLETED 10 YEARS OF
23 SERVICE AS A QUALIFIED PARTICIPANT AND WAS NOT A MEMBER, DEFERRED
24 MEMBER, OR FORMER NONVESTED MEMBER OF TIER 1.

25 (B) THE QUALIFIED PARTICIPANT WAS A MEMBER, DEFERRED MEMBER,
26 OR FORMER NONVESTED MEMBER OF TIER 1 WHO MADE AN ELECTION TO
27 PARTICIPATE IN TIER 2 PURSUANT TO SECTION 110, AND WHO HAS MET THE

1 SERVICE REQUIREMENTS HE OR SHE WOULD HAVE BEEN REQUIRED TO MEET IN
2 ORDER TO VEST IN HEALTH BENEFITS UNDER SECTION 91.

3 SEC. 133. A QUALIFIED PARTICIPANT WHO WAS A MEMBER, DEFERRED
4 MEMBER, OR FORMER NONVESTED MEMBER OF TIER 1 WHO MAKES AN ELECTION
5 TO PARTICIPATE IN TIER 2 PURSUANT TO SECTION 110, SHALL BE CREDITED
6 WITH THE YEARS OF SERVICE ACCRUED UNDER TIER 1 ON THE EFFECTIVE
7 DATE OF PARTICIPATION IN TIER 2 FOR THE PURPOSE OF MEETING THE
8 VESTING REQUIREMENTS FOR BENEFITS UNDER SECTION 132.

9 SEC. 134. A QUALIFIED PARTICIPANT OR FORMER QUALIFIED
10 PARTICIPANT MAY NOMINATE 1 OR MORE INDIVIDUALS AS A REFUND
11 BENEFICIARY BY FILING WRITTEN NOTICE OF NOMINATION WITH THE
12 DEPARTMENT. IF THE QUALIFIED PARTICIPANT OR FORMER QUALIFIED
13 PARTICIPANT IS MARRIED AT THE TIME OF THE NOMINATION AND THE
14 PARTICIPANT'S SPOUSE IS NOT THE REFUND BENEFICIARY FOR 100% OF THE
15 ACCOUNT, THE NOMINATION IS NOT EFFECTIVE UNLESS THE NOMINATION IS
16 SIGNED BY THE PARTICIPANT'S SPOUSE. HOWEVER, THE DEPARTMENT MAY
17 WAIVE THIS REQUIREMENT IF THE SPOUSE'S SIGNATURE CANNOT BE OBTAINED
18 BECAUSE OF EXTENUATING CIRCUMSTANCES.

19 SEC. 135. (1) A QUALIFIED PARTICIPANT IS ELIGIBLE TO RECEIVE
20 DISTRIBUTION OF HIS OR HER ACCUMULATED BALANCE IN TIER 2 UPON
21 BECOMING A FORMER QUALIFIED PARTICIPANT.

22 (2) UPON THE DEATH OF A QUALIFIED PARTICIPANT OR FORMER
23 QUALIFIED PARTICIPANT, THE ACCUMULATED BALANCE OF THAT DECEASED
24 PARTICIPANT IS CONSIDERED TO BELONG TO THE REFUND BENEFICIARY, IF
25 ANY, OF THAT DECEASED PARTICIPANT. IF A VALID NOMINATION OF REFUND
26 BENEFICIARY IS NOT ON FILE WITH THE DEPARTMENT, THE DEPARTMENT, IN
27 A LUMP SUM DISTRIBUTION, SHALL DISTRIBUTE THE ACCUMULATED BALANCE

1 TO THE LEGAL REPRESENTATIVE, IF ANY, OF THE DECEASED PARTICIPANT
2 OR, IF THERE IS NO LEGAL REPRESENTATIVE, TO THE DECEASED
3 PARTICIPANT'S ESTATE.

4 (3) A FORMER QUALIFIED PARTICIPANT OR REFUND BENEFICIARY MAY
5 ELECT 1 OR A COMBINATION OF SEVERAL OF THE FOLLOWING METHODS OF
6 DISTRIBUTION OF THE ACCUMULATED BALANCE:

7 (A) A LUMP SUM DISTRIBUTION TO THE RECIPIENT.

8 (B) A LUMP SUM DIRECT ROLLOVER TO ANOTHER QUALIFIED PLAN, TO
9 THE EXTENT ALLOWED BY FEDERAL LAW.

10 (C) PERIODIC DISTRIBUTIONS, AS AUTHORIZED BY THE DEPARTMENT.

11 (D) NO CURRENT DISTRIBUTION, IN WHICH CASE THE ACCUMULATED
12 BALANCE SHALL REMAIN IN TIER 2 UNTIL THE FORMER QUALIFIED
13 PARTICIPANT OR REFUND BENEFICIARY ELECTS A METHOD OR METHODS OF
14 DISTRIBUTION UNDER SUBDIVISIONS (A) TO (C), TO THE EXTENT ALLOWED
15 BY FEDERAL LAW.

16 SEC. 135A. (1) A QUALIFIED PARTICIPANT WHOM THE RETIREMENT
17 BOARD FINDS TO HAVE BECOME TOTALLY AND PERMANENTLY DISABLED FROM
18 ANY GAINFUL EMPLOYMENT BY REASON OF PERSONAL INJURY OR MENTAL OR
19 PHYSICAL ILLNESS WHILE SERVING AS AN EMPLOYEE OF THAT REPORTING
20 UNIT SHALL BE GRANTED A SUPPLEMENTAL BENEFIT EQUIVALENT TO THE
21 AMOUNT PROVIDED FOR IN SECTION 84 AS IF THE FORMER QUALIFIED
22 PARTICIPANT HAD RETIRED UNDER SECTION 87, WHICH SUPPLEMENTAL
23 BENEFIT SHALL BE OFFSET BY THE VALUE OF THE DISTRIBUTION OF HIS OR
24 HER ACCUMULATED BALANCE UPON BECOMING A FORMER QUALIFIED
25 PARTICIPANT PURSUANT TO SECTION 135.

26 (2) IF A QUALIFIED PARTICIPANT DIES AS A RESULT OF INJURY OR
27 ILLNESS ARISING OUT OF AND IN THE COURSE OF THE QUALIFIED

1 PARTICIPANT'S REPORTING UNIT SERVICE FOR WHICH WORKER'S DISABILITY
2 COMPENSATION IS PAID, OR A DUTY DISABILITY RETIRANT WHO IS IN
3 RECEIPT OF WEEKLY WORKER'S DISABILITY COMPENSATION ON ACCOUNT OF
4 THE RETIRANT'S REPORTING UNIT SERVICE DIES FROM THE SAME CAUSES FOR
5 WHICH THE FORMER QUALIFIED PARTICIPANT RETIRED WITHIN 36 MONTHS
6 AFTER THE FORMER QUALIFIED PARTICIPANT'S RETIREMENT, AND IN EITHER
7 CASE THE DEATH OR THE ILLNESS OR INJURY RESULTING IN DEATH IS FOUND
8 BY THE RETIREMENT BOARD TO HAVE RESULTED, WITHOUT THE QUALIFIED
9 PARTICIPANT'S OR FORMER QUALIFIED PARTICIPANT'S WILLFUL NEGLIGENCE,
10 FROM THE PERFORMANCE OF THE QUALIFIED PARTICIPANT'S OR FORMER
11 QUALIFIED PARTICIPANT'S REPORTING UNIT SERVICE, A SUPPLEMENTAL
12 BENEFIT SHALL BE GRANTED EQUIVALENT TO THE AMOUNT PROVIDED FOR IN
13 SECTION 84 HAD THE FORMER QUALIFIED PARTICIPANT BEEN CONSIDERED
14 RETIRED UNDER SECTION 90, WHICH SUPPLEMENTAL BENEFIT SHALL BE
15 OFFSET BY THE VALUE OF THE DISTRIBUTION OF HIS OR HER ACCUMULATED
16 BALANCE UPON BECOMING A FORMER QUALIFIED PARTICIPANT PURSUANT TO
17 SECTION 135.

18 (3) A QUALIFIED PARTICIPANT WHO HAS AT LEAST 10 YEARS OF
19 CREDITED SERVICE WHOM THE RETIREMENT BOARD FINDS TO HAVE BECOME
20 TOTALLY AND PERMANENTLY DISABLED FOR PURPOSES OF EMPLOYMENT BY HIS
21 OR HER REPORTING UNIT BY REASON OF PERSONAL INJURY OR MENTAL OR
22 PHYSICAL ILLNESS BEFORE TERMINATION OF REPORTING UNIT SERVICE AND
23 EMPLOYMENT SHALL BE GRANTED A SUPPLEMENTAL BENEFIT EQUIVALENT TO
24 THE AMOUNT PROVIDED FOR IN SECTION 84 AS IF THE FORMER QUALIFIED
25 PARTICIPANT HAD RETIRED UNDER SECTION 86, WHICH SUPPLEMENTAL
26 BENEFIT SHALL BE OFFSET BY THE VALUE OF THE DISTRIBUTION OF HIS OR
27 HER ACCUMULATED BALANCE UPON BECOMING A FORMER QUALIFIED

1 PARTICIPANT PURSUANT TO SECTION 135.

2 (4) IF A QUALIFIED PARTICIPANT WHO MEETS THE SERVICE
3 REQUIREMENTS OF SECTION 89 DIES AS A RESULT OF INJURY OR ILLNESS
4 THAT DOES NOT ARISE OUT OF AND IN THE COURSE OF THE QUALIFIED
5 PARTICIPANT'S REPORTING UNIT SERVICE, A SUPPLEMENTAL BENEFIT SHALL
6 BE GRANTED EQUIVALENT TO THE AMOUNT PROVIDED FOR IN SECTION 89 HAD
7 THE FORMER QUALIFIED PARTICIPANT BEEN CONSIDERED RETIRED UNDER
8 SECTION 89, WHICH SUPPLEMENTAL BENEFIT SHALL BE OFFSET BY THE VALUE
9 OF THE DISTRIBUTION OF HIS OR HER ACCUMULATED BALANCE UPON BECOMING
10 A FORMER QUALIFIED PARTICIPANT PURSUANT TO SECTION 135.

11 (5) A QUALIFIED PARTICIPANT, FORMER QUALIFIED PARTICIPANT, OR
12 BENEFICIARY OF A DECEASED PARTICIPANT, WHICH PARTICIPANT IS
13 ELIGIBLE FOR A DISABILITY RETIREMENT ALLOWANCE UNDER THIS SECTION,
14 IS ELIGIBLE FOR HEALTH INSURANCE COVERAGE UNDER SECTION 91 IN ALL
15 RESPECTS AND UNDER THE SAME TERMS AS A RETIRANT AND HIS OR HER
16 BENEFICIARIES UNDER TIER 1.

17 SEC. 136. (1) A FORMER QUALIFIED PARTICIPANT MAY ELECT HEALTH
18 INSURANCE BENEFITS IN THE MANNER PRESCRIBED IN THIS SECTION IF HE
19 OR SHE MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

20 (A) THE FORMER QUALIFIED PARTICIPANT IS VESTED IN HEALTH
21 BENEFITS UNDER SECTION 132(2).

22 (B) THE FORMER QUALIFIED PARTICIPANT IS AT LEAST 60 YEARS OF
23 AGE OR HAS AT LEAST 30 YEARS OF CREDITED SERVICE.

24 (2) A FORMER QUALIFIED PARTICIPANT WHO IS ELIGIBLE TO ELECT
25 HEALTH INSURANCE COVERAGE UNDER SUBSECTION (1) MAY ELECT HEALTH
26 INSURANCE COVERAGE IN A HEALTH BENEFIT PLAN OR PLANS AS AUTHORIZED
27 BY SECTION 91 OR IN ANOTHER PLAN AS PROVIDED IN SUBSECTION (6). A

1 FORMER QUALIFIED PARTICIPANT WHO IS ELIGIBLE TO ELECT HEALTH
2 INSURANCE COVERAGE UNDER SUBSECTION (1) MAY ALSO ELECT HEALTH
3 INSURANCE COVERAGE FOR HIS OR HER HEALTH BENEFIT DEPENDENTS, IF
4 ANY. A SURVIVING HEALTH BENEFIT DEPENDENT OF A DECEASED FORMER
5 QUALIFIED PARTICIPANT WHO IS ELIGIBLE TO ELECT HEALTH INSURANCE
6 COVERAGE UNDER SUBSECTION (1) MAY ELECT HEALTH INSURANCE COVERAGE
7 IN THE MANNER PRESCRIBED IN THIS SECTION.

8 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), AN
9 INDIVIDUAL WHO ELECTS HEALTH INSURANCE COVERAGE UNDER THIS SECTION
10 SHALL BECOME A MEMBER OF A HEALTH INSURANCE COVERAGE GROUP
11 AUTHORIZED UNDER SECTION 91.

12 (4) FOR A FORMER QUALIFIED PARTICIPANT WHO IS ELIGIBLE TO
13 ELECT HEALTH INSURANCE COVERAGE UNDER SUBSECTION (1) AND WHO IS
14 VESTED IN THOSE BENEFITS UNDER SECTION 132(2)(A), AND FOR HIS OR
15 HER HEALTH BENEFIT DEPENDENTS, THE RETIREMENT SYSTEM SHALL PAY A
16 PORTION OF THE HEALTH INSURANCE PREMIUM AS CALCULATED UNDER THIS
17 SUBSECTION ON A CASH DISBURSEMENT METHOD. AN INDIVIDUAL DESCRIBED
18 IN THIS SUBSECTION WHO ELECTS HEALTH INSURANCE COVERAGE UNDER THIS
19 SECTION SHALL PAY TO THE RETIREMENT SYSTEM THE REMAINING PORTION OF
20 THE HEALTH INSURANCE COVERAGE PREMIUM NOT PAID BY THE RETIREMENT
21 SYSTEM UNDER THIS SUBSECTION. THE PORTION OF THE HEALTH INSURANCE
22 COVERAGE PREMIUM PAID BY THE RETIREMENT SYSTEM UNDER THIS
23 SUBSECTION SHALL BE EQUAL TO THE PRODUCT OF 3% AND THE FORMER
24 QUALIFIED PARTICIPANT'S YEARS OF SERVICE, UP TO 30 YEARS, AND SHALL
25 NOT EXCEED 90% OF THE PAYMENTS FOR HEALTH INSURANCE COVERAGE UNDER
26 SECTION 91.

27 (5) A FORMER QUALIFIED PARTICIPANT WHO IS ELIGIBLE TO ELECT

1 HEALTH INSURANCE COVERAGE UNDER SUBSECTION (1) AND WHO IS VESTED IN
2 THOSE BENEFITS UNDER SECTION 132(2)(B) MAY ELECT HEALTH INSURANCE
3 COVERAGE UNDER SECTION 91 FOR HIMSELF OR HERSELF AND FOR HIS OR HER
4 HEALTH BENEFIT DEPENDENTS, IN ALL RESPECTS AND UNDER THE SAME TERMS
5 AS WOULD A RETIRANT AND HIS OR HER HEALTH INSURANCE DEPENDENTS
6 UNDER TIER 1.

7 (6) A FORMER QUALIFIED PARTICIPANT OR HEALTH BENEFIT DEPENDENT
8 WHO IS ELIGIBLE TO ELECT HEALTH INSURANCE COVERAGE UNDER THIS
9 SECTION AND WHO ELECTS HEALTH INSURANCE COVERAGE UNDER A DIFFERENT
10 PLAN THAN THE PLAN AUTHORIZED UNDER SECTION 91 MAY ELECT TO HAVE AN
11 AMOUNT UP TO THE AMOUNT OF THE RETIREMENT SYSTEM'S SHARE OF THE
12 MONTHLY HEALTH INSURANCE PREMIUM SUBSIDY PROVIDED IN THIS SECTION
13 PAID BY THE RETIREMENT SYSTEM DIRECTLY TO THE OTHER HEALTH
14 INSURANCE PLAN OR TO A MEDICAL SAVINGS ACCOUNT ESTABLISHED PURSUANT
15 TO SECTION 220 OF THE INTERNAL REVENUE CODE, TO THE EXTENT ALLOWED
16 BY LAW OR UNDER THE PROVISIONS AND PROCEDURES OF TIER 2.

17 (7) IF THE DEPARTMENT RECEIVES NOTIFICATION FROM THE UNITED
18 STATES INTERNAL REVENUE SERVICE THAT THIS SECTION OR ANY PORTION OF
19 THIS SECTION WILL CAUSE THE RETIREMENT SYSTEM TO BE DISQUALIFIED
20 FOR TAX PURPOSES UNDER THE INTERNAL REVENUE CODE, THEN THE PORTION
21 THAT WILL CAUSE THE DISQUALIFICATION DOES NOT APPLY.

22 SEC. 137. (1) THE RIGHT OF A QUALIFIED PARTICIPANT OR A FORMER
23 QUALIFIED PARTICIPANT, OR HIS OR HER BENEFICIARIES, TO A
24 DISTRIBUTION DESCRIBED IN SUBSECTION (1) IS SUBJECT TO FORFEITURE
25 PURSUANT TO THE PUBLIC EMPLOYEE RETIREMENT BENEFITS FORFEITURE ACT,
26 1994 PA 350, MCL 38.2701 TO 38.2705.

27 (2) THE DIRECTOR HAS THE RIGHT OF SETOFF TO RECOVER

1 OVERPAYMENTS MADE UNDER THIS ARTICLE AND TO SATISFY ANY CLAIMS
2 ARISING FROM EMBEZZLEMENT OR FRAUD COMMITTED BY A QUALIFIED
3 PARTICIPANT, FORMER QUALIFIED PARTICIPANT, REFUND BENEFICIARY, OR
4 OTHER PERSON WHO HAS A CLAIM TO A DISTRIBUTION OR ANY OTHER BENEFIT
5 FROM TIER 2.

6 (3) THE DIRECTOR SHALL CORRECT ERRORS IN THE RECORDS AND
7 ACTIONS UNDER THIS ARTICLE, AND SHALL SEEK TO RECOVER OVERPAYMENTS
8 AND SHALL MAKE UP UNDERPAYMENTS.

9 Enacting section 1. If any section or part of a section of
10 this act is for any reason held to be invalid or unconstitutional,
11 the holding does not affect the validity of the remaining sections
12 of this act or the act in its entirety.