

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5110**

A bill to amend 1980 PA 300, entitled "The public school employees retirement act of 1979," by amending sections 4, 34, 36, 41, 43a, 46, 85, and 108 (MCL 38.1304, 38.1334, 38.1336, 38.1341, 38.1343a, 38.1346, 38.1385, and 38.1408), sections 4, 34, 36, and 41 as amended by 1997 PA 143, section 43a as amended by 1990 PA 298, section 46 as amended by 1991 PA 47, and sections 85 and 108 as amended by 1998 PA 213.

**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 pre-  
3 vious July 1 and computed at the rate of investment return deter-  
4 mined under section 104a(1) for the last completed state fiscal  
5 year.

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

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

6 (4) "Department" means the department of management and  
7 budget.

8 (5) "Designated date" means September 30, 1997.

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

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

17 (8) ~~Except~~ BEGINNING JANUARY 1, 2002, EXCEPT as otherwise  
18 provided in this subsection, "eligible retirement plan" means an  
19 individual retirement account described in section 408(a) of the  
20 internal revenue code, an individual retirement annuity described  
21 in section 408(b) of the internal revenue code, an annuity plan  
22 described in section 403(a) of the internal revenue code, or a  
23 qualified trust described in section 401(a) of the internal reve-  
24 nue code, AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(B) OF THE  
25 INTERNAL REVENUE CODE, OR AN ELIGIBLE PLAN UNDER SECTION 457(B)  
26 OF THE INTERNAL REVENUE CODE WHICH IS MAINTAINED BY A STATE,  
27 POLITICAL SUBDIVISION OF A STATE, OR AN AGENCY OR INSTRUMENTALITY

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1 OF A STATE OR POLITICAL SUBDIVISION OF A STATE AND WHICH AGREES  
2 TO SEPARATELY ACCOUNT FOR AMOUNTS TRANSFERRED INTO SUCH ELIGIBLE  
3 PLAN UNDER SECTION 457(B) OF THE INTERNAL REVENUE CODE FROM THIS  
4 RETIREMENT SYSTEM, that accepts the distributee's eligible roll-  
5 over distribution. However, in the case of an eligible rollover  
6 distribution to a surviving spouse, an eligible retirement plan  
7 means an individual retirement account or an individual retire-  
8 ment annuity described above.

9 (9) ~~"Eligible"~~ BEGINNING JANUARY 1, 2002, "ELIGIBLE roll-  
10 over distribution" means a distribution of all or any portion of  
11 the balance to the credit of the distributee. Eligible rollover  
12 distribution does not include any of the following:

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

16 (b) A distribution for a specified period of 10 years or  
17 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  
21 in federal gross income, determined without regard to the exclu-  
22 sion for net unrealized appreciation with respect to employer  
23 securities, EXCEPT TO THE EXTENT THAT THE PORTION OF A DISTRIBU-  
24 TION THAT IS NOT INCLUDABLE IN FEDERAL GROSS INCOME IS PAID TO  
25 EITHER OF THE FOLLOWING:

26 (i) AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN  
27 SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

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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 SEPA-  
4 RATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION THAT IS  
5 INCLUDABLE IN GROSS INCOME AND THE PORTION OF THE DISTRIBUTION  
6 WHICH IS NOT 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  
10 accept a position with a public school employee organization to  
11 which he or she belongs and which represents employees of a  
12 reporting unit in employment matters. The member shall be  
13 included in membership of the retirement system during a profes-  
14 sional services leave if all of the conditions of section 71(5)  
15 and (6) are satisfied.

16           (11) "Employee organization professional services released  
17 time" or "professional services released time" means a portion of  
18 the school fiscal year during which a member is released by the  
19 reporting unit from his or her regularly assigned duties to  
20 engage in employment matters for a public school employee organi-  
21 zation to which he or she belongs. The member's compensation  
22 received or service rendered, or both, as applicable, by a member  
23 while on professional services released time shall be reportable  
24 to the retirement system if all of the conditions of section  
25 71(5) and (6) are satisfied.

26           (12) "Final average compensation" means the aggregate amount  
27 of a member's compensation earned within the averaging period in

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1 which the aggregate amount of compensation was highest divided by  
2 the member's number of years, including any fraction of a year,  
3 of credited service during the averaging period. The averaging  
4 period shall be 36 consecutive calendar months if the member con-  
5 tributes to the member investment plan; otherwise, the averaging  
6 period shall be 60 consecutive calendar months. If the member  
7 has less than 1 year of credited service in the averaging period,  
8 the number of consecutive calendar months in the averaging period  
9 shall be increased to the lowest number of consecutive calendar  
10 months that contains 1 year of credited service.

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

15 (14) "Internal revenue code" means the United States inter-  
16 nal revenue code of 1986.

17 (15) "Member investment plan" means the program of member  
18 contributions described in section 43a.

19 Sec. 34. (1) The reserve for health benefits is the account  
20 to which payments of reporting units for health benefits are  
21 credited. Benefits payable pursuant to section 91 shall be paid  
22 from the reserve for health benefits. THE ASSETS AND ANY EARN-  
23 INGS ON THE ASSETS CONTAINED IN THE RESERVE FOR HEALTH BENEFITS  
24 AND THE HEALTH ADVANCE FUNDING SUBACCOUNT ARE NOT TO BE TREATED  
25 AS PENSION ASSETS FOR ANY PURPOSE.

26 (2) THE HEALTH ADVANCE FUNDING SUBACCOUNT IS THE ACCOUNT TO  
27 WHICH AMOUNTS TRANSFERRED PURSUANT TO SECTION 41 ARE CREDITED.

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1 EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY AMOUNTS  
2 RECEIVED IN THE HEALTH ADVANCE FUNDING SUBACCOUNT AND ACCUMULATED  
3 EARNINGS ON THOSE AMOUNTS SHALL NOT BE EXPENDED UNTIL THE ACTUAR-  
4 IAL ACCRUED LIABILITY FOR HEALTH BENEFITS UNDER SECTION 91 IS AT  
5 LEAST 100% FUNDED. THE DEPARTMENT MAY EXPEND FUNDS OR TRANSFER  
6 FUNDS TO ANOTHER ACCOUNT TO EXPEND FOR HEALTH BENEFITS UNDER  
7 SECTION 91 IF THE ACTUARIAL ACCRUED LIABILITY FOR HEALTH BENEFITS  
8 UNDER SECTION 91 IS AT LEAST 100% FUNDED. FOR EACH FISCAL YEAR  
9 THAT BEGINS AFTER THE FIRST FISCAL YEAR IN WHICH THE ACTUARIAL  
10 ACCRUED LIABILITY FOR HEALTH BENEFITS UNDER SECTION 91 IS AT  
11 LEAST 100% FUNDED BY THE HEALTH ADVANCE FUNDING SUBACCOUNT, THE  
12 AMOUNTS MAY BE EXPENDED OR CREDITED TO FUND HEALTH BENEFITS PRO-  
13 VIDED UNDER SECTION 91 AS PROVIDED IN SECTION 41(2).

14 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE  
15 DEPARTMENT MAY TRANSFER AMOUNTS FROM THE HEALTH ADVANCE FUNDING  
16 SUBACCOUNT TO THE RESERVE FOR EMPLOYER CONTRIBUTIONS ESTABLISHED  
17 IN SECTION 30 IF THE DEPARTMENT DOES BOTH OF THE FOLLOWING:

(A) AT LEAST 45 DAYS BEFORE THE INTENDED TRANSFER. SUBMITS A REQUEST  
TO THE CHAIRS OF THE SENATE AND HOUSE APPROPRIATIONS COMMITTEES AND. AT  
LEAST 15 DAYS BEFORE THE INTENDED TRANSFER. OBTAINS THE APPROVAL OF BOTH  
THE SENATE AND HOUSE APPROPRIATIONS COMMITTEES.

(B) ENSURES THAT THE REQUEST SUBMITTED TO THE SENATE AND HOUSE  
APPROPRIATIONS COMMITTEES CONTAINS AN ACTUARIAL VALUATION PREPARED  
18 PURSUANT TO SECTION 41 THAT DEMONSTRATES THAT AS OF THE BEGINNING OF A FISCAL  
19 YEAR, AND AFTER ALL CREDITS AND TRANSFERS REQUIRED BY THIS ACT  
20 FOR THE PREVIOUS FISCAL YEAR HAVE BEEN MADE, THE SUM OF THE ACTU-  
21 ARIAL VALUE OF ASSETS AND THE ACTUARIAL PRESENT VALUE OF FUTURE  
22 NORMAL COST CONTRIBUTIONS DOES NOT EXCEED THE ACTUARIAL PRESENT  
23 VALUE OF BENEFITS.

24 Sec. 36. (1) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS  
25 SECTION, THE reserve for undistributed investment income is the  
26 account to which all income from the investment of assets, all  
27 gifts and bequests received by the retirement system, and all



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1 other money received by the retirement system the disposition of  
2 which is not specifically provided for is credited. THE RETIRE-  
3 MENT BOARD SHALL DETERMINE THE INCOME, INTEREST, AND DIVIDENDS  
4 ATTRIBUTABLE TO THE HEALTH ADVANCE FUNDING SUBACCOUNT CREATED BY  
5 SECTION 34(2). THE INCOME, INTEREST, AND DIVIDENDS ATTRIBUTABLE  
6 TO THE HEALTH ADVANCE FUNDING SUBACCOUNT SHALL BE CREDITED TO THE  
7 HEALTH ADVANCE FUNDING SUBACCOUNT. In each fiscal year, the  
8 retirement board shall transfer from the reserve for undistrib-  
9 uted investment income all amounts necessary to credit the inter-  
10 est required under this act to the reserve for employee contribu-  
11 tions, the reserve for employer contributions, the reserve for  
12 member investment plan, the reserve for retired benefit payments,  
13 and the reserve for health benefits, to fund the reserve for  
14 administrative expenses, and any supplemental payments required  
15 pursuant to section 104a.

16 (2) The PENSION stabilization subaccount is the account to  
17 which the amounts transferred pursuant to subsection (3) to the  
18 reserve for undistributed investment income are credited. Except  
19 as otherwise provided in this subsection, no amounts shall be  
20 transferred from the stabilization subaccount to any other  
21 reserve. The director of the department may transfer ~~from~~ PART  
22 OR ALL OF the PENSION stabilization subaccount to the reserve for  
23 employer contributions. ~~part or all of the amount necessary to~~  
24 ~~reduce or eliminate any unfunded actuarial accrued liability, as~~  
25 ~~determined under sections 41 and 41a.~~ AFTER THE DEPARTMENT HAS  
26 TRANSFERRED THE ENTIRE BALANCE OF THE PENSION STABILIZATION  
27 SUBACCOUNT TO THE RESERVE FOR EMPLOYER CONTRIBUTIONS CREATED BY



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1 SECTION 30, THE PENSION STABILIZATION SUBACCOUNT CREATED BY THIS  
2 SUBSECTION SHALL BE CLOSED AND SUBSECTION (3) SHALL NO LONGER  
3 APPLY.

4 (3) Beginning on the designated date, if the actuarial valu-  
5 ation prepared pursuant to sections 41 and 41a demonstrates that  
6 as of the beginning of a fiscal year, and after all credits and  
7 transfers required by this act for the previous fiscal year have  
8 been made, the sum of the actuarial value of assets and the actu-  
9 arial present value of future normal cost contributions exceeds  
10 the actuarial present value of benefits, an amount equal to the  
11 excess shall be credited to the PENSION stabilization subaccount  
12 pursuant to subsection (2) and shall be debited against the  
13 reserve for employer contributions.

14 Sec. 41. (1) The annual level percentage of payroll contri-  
15 bution rate to finance benefits being provided and to be provided  
16 by the retirement system shall be determined by actuarial valua-  
17 tion pursuant to subsection (2) upon the basis of the risk  
18 assumptions that the retirement board and the department adopt  
19 after consultation with the state treasurer and an actuary. An  
20 annual actuarial valuation shall be made of the retirement system  
21 in order to determine the actuarial condition of the retirement  
22 system and the required contribution to the retirement system.  
23 An annual actuarial gain-loss experience study of the retirement  
24 system shall be made in order to determine the financial effect  
25 of variations of actual retirement system experience from  
26 projected experience.

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1 (2) The contribution rate for benefits payable in the event  
2 of the death of a member before retirement or the disability of a  
3 member shall be computed using a terminal funding method of  
4 valuation. Except as otherwise provided in this subsection, the  
5 contribution rate for other benefits shall be computed using an  
6 individual projected benefit entry age normal cost method of  
7 valuation. ~~For~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
8 FOR the 1995-96 state fiscal year and for each subsequent fiscal  
9 year, the contribution rate for health benefits provided under  
10 section 91 shall be computed using a cash disbursement method.  
11 FOR EACH FISCAL YEAR AFTER THE FISCAL YEAR IN WHICH THE ACTUARIAL  
12 ACCRUED LIABILITY FOR HEALTH BENEFITS UNDER SECTION 91 IS AT  
13 LEAST 100% FUNDED BY THE HEALTH ADVANCE FUNDING SUBACCOUNT CRE-  
14 ATED UNDER SECTION 34(2), THE CONTRIBUTION RATE FOR HEALTH BENE-  
15 FITS PROVIDED UNDER SECTION 91 SHALL BE COMPUTED USING AN INDI-  
16 VIDUAL PROJECTED BENEFIT ENTRY AGE NORMAL COST METHOD OF  
17 VALUATION. The contribution rate for service likely to be  
18 rendered in the current year, the normal cost contribution rate,  
19 shall be equal to the aggregate amount of individual projected  
20 benefit entry age normal costs divided by 1% of the aggregate  
21 amount of active members' valuation compensation. The contribu-  
22 tion rate for unfunded service rendered before the valuation  
23 date, the unfunded actuarial accrued liability contribution rate,  
24 shall be the aggregate amount of unfunded actuarial accrued  
25 liabilities divided by 1% of the actuarial present value over a  
26 period not to exceed 50 years of projected valuation  
27 compensation, where unfunded actuarial accrued liabilities are

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1 equal to the actuarial present value of benefits, reduced by the  
2 actuarial present value of future normal cost contributions and  
3 the actuarial value of assets on the valuation date.

4 (3) Before November 1 of each year, the executive secretary  
5 of the retirement board shall certify to the director of the  
6 department the aggregate compensation estimated to be paid public  
7 school employees for the current state fiscal year.

8 (4) On the basis of the estimate under subsection (3), the  
9 annual actuarial valuation, and any adjustment required under  
10 subsection (6), the director of the department shall compute the  
11 sum due and payable to the retirement system and shall certify  
12 this amount to the reporting units.

13 (5) The reporting units shall make payment of the amount  
14 certified under subsection (4) to the director of the department  
15 in 12 equal monthly installments.

16 (6) Not later than 90 days after termination of each state  
17 fiscal year, the executive secretary of the retirement board  
18 shall certify to the director of the department and each report-  
19 ing unit the actual aggregate compensation paid to public school  
20 employees during the preceding state fiscal year. Upon receipt  
21 of that certification, the director of the department shall com-  
22 pute any adjustment required to the amount due to a difference  
23 between the estimated and the actual aggregate compensation and  
24 the estimated and the actual actuarial employer contribution  
25 rate. The difference, if any, shall be paid as provided in sub-  
26 section (9). THIS SUBSECTION DOES NOT APPLY IN A FISCAL YEAR IN  
27 WHICH A DEPOSIT OCCURS PURSUANT TO SUBSECTION (14).

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1 (7) The director of the department may require evidence of  
2 correctness and may conduct an audit of the aggregate compensa-  
3 tion that the director of the department considers necessary to  
4 establish its correctness.

5 (8) A reporting unit shall forward employee and employer  
6 social security contributions and reports as required by the fed-  
7 eral old-age, survivors, disability, and hospital insurance pro-  
8 visions of title II of the social security act, chapter 531, 49  
9 Stat. 620, 42 U.S.C. 401 to 405, 406 to 418, 420 to 423, 424a to  
10 426-1, and 427 to 433.

11 (9) For an employer of an employee of a local public school  
12 district or an intermediate school district, for differences  
13 occurring in fiscal years beginning on or after October 1, 1993,  
14 a minimum of 20% of the difference between the estimated and the  
15 actual aggregate compensation and the estimated and the actual  
16 actuarial employer contribution rate described in subsection  
17 (6), if any, shall be paid by that employer in the next succeed-  
18 ing state fiscal year and a minimum of 25% of the remaining dif-  
19 ference shall be paid by that employer in each of the following 4  
20 state fiscal years, or until 100% of the remaining difference is  
21 submitted, whichever first occurs. For an employer of other  
22 public school employees, for differences occurring in fiscal  
23 years beginning on or after October 1, 1991, a minimum of 20% of  
24 the difference between the estimated and the actual aggregate  
25 compensation and the estimated and the actual actuarial employer  
26 contribution rate described in subsection (6), if any, shall be  
27 paid by that employer in the next succeeding state fiscal year

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1 and a minimum of 25% of the remaining difference shall be paid by  
2 that employer in each of the following 4 state fiscal years, or  
3 until 100% of the remaining difference is submitted, whichever  
4 first occurs. In addition, interest shall be included for each  
5 year that a portion of the remaining difference is carried  
6 forward. The interest rate shall equal the actuarially assumed  
7 rate of investment return for the state fiscal year in which pay-  
8 ment is made. THIS SUBSECTION DOES NOT APPLY IN A FISCAL YEAR IN  
9 WHICH A DEPOSIT OCCURS PURSUANT TO SUBSECTION (14).

10 (10) Beginning on the designated date, all assets held by  
11 the retirement system shall be reassigned their fair market  
12 value, as determined by the state treasurer, as of the designated  
13 date, and in calculating any unfunded actuarial accrued liabili-  
14 ties, any market gains or losses incurred before the designated  
15 date shall not be considered by the retirement system's  
16 actuaries.

17 (11) Beginning on the designated date, the actuary used by  
18 the retirement board shall assume a rate of return on investments  
19 of 8.00% per annum, as of the designated date, which rate may  
20 only be changed with the approval of the retirement board and the  
21 director of the department.

22 (12) Beginning on the designated date, the value of assets  
23 used shall be based on a method that spreads over a 5-year period  
24 the difference between actual and expected return occurring in  
25 each year after the designated date and such methodology may only  
26 be changed with the approval of the retirement board and the  
27 director of the department.

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1           (13) Beginning on the designated date, the actuary used by  
2 the retirement board shall use a salary increase assumption that  
3 projects annual salary increases of 4%. In addition to the 4%,  
4 the retirement board shall use an additional percentage based  
5 upon an age-related scale to reflect merit, longevity, and promo-  
6 tional salary increase. The actuary shall use this assumption  
7 until a change in the assumption is approved in writing by the  
8 retirement board and the director of the department.

9           (14) FOR FISCAL YEARS THAT BEGIN ON OR AFTER OCTOBER 1,  
10 2001, IF THE ACTUARIAL VALUATION PREPARED PURSUANT TO THIS SEC-  
11 TION DEMONSTRATES THAT AS OF THE BEGINNING OF A FISCAL YEAR, AND  
12 AFTER ALL CREDITS AND TRANSFERS REQUIRED BY THIS ACT FOR THE PRE-  
13 VIOUS FISCAL YEAR HAVE BEEN MADE, THE SUM OF THE ACTUARIAL VALUE  
14 OF ASSETS AND THE ACTUARIAL PRESENT VALUE OF FUTURE NORMAL COST  
15 CONTRIBUTIONS EXCEEDS THE ACTUARIAL PRESENT VALUE OF BENEFITS,  
16 THE AMOUNT BASED ON THE ANNUAL LEVEL PERCENT OF PAYROLL CONTRIBU-  
17 TION RATE PURSUANT TO SUBSECTIONS (1) AND (2) MAY BE DEPOSITED  
18 INTO THE HEALTH ADVANCE FUNDING SUBACCOUNT CREATED BY  
19 SECTION 34.

20           (15) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF THE  
21 RETIREMENT BOARD ESTABLISHES AN ARRANGEMENT AND FUND AS DESCRIBED  
22 IN SECTION 6 OF THE PUBLIC EMPLOYEE RETIREMENT BENEFIT PROTECTION  
23 ACT, THE BENEFITS THAT ARE REQUIRED TO BE PAID FROM THAT FUND  
24 SHALL BE PAID FROM A PORTION OF THE EMPLOYER CONTRIBUTIONS  
25 DESCRIBED IN THIS SECTION OR OTHER ELIGIBLE FUNDS. THE RETIRE-  
26 MENT BOARD SHALL DETERMINE THE AMOUNT OF THE EMPLOYER  
27 CONTRIBUTIONS OR OTHER ELIGIBLE FUNDS THAT SHALL BE ALLOCATED TO

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1 THAT FUND AND DEPOSIT THAT AMOUNT IN THAT FUND BEFORE IT DEPOSITS  
2 ANY REMAINING EMPLOYER CONTRIBUTIONS OR OTHER ELIGIBLE FUNDS IN  
3 THE PENSION FUND.

4 Sec. 43a. (1) The contributions of a member who contributes  
5 to the member investment plan shall be deducted by the employer  
6 and remitted as employer contributions to the retirement system  
7 pursuant to section 42. A member who contributes to the member  
8 investment plan is entitled to the benefits provided in sections  
9 43b and 43c.

10 (2) Until December 31, 1989, a member who first became a  
11 member on or before December 31, 1989, and who elected or elects  
12 on or before December 31, 1989 to contribute to the member  
13 investment plan shall contribute 4% of the member's compensation  
14 to the member investment plan and beginning January 1, 1990 shall  
15 contribute 3.9% of the member's compensation to the member  
16 investment plan.

17 (3) On or before January 1, 1993, a member who first became  
18 a member on or before December 31, 1989, except as otherwise pro-  
19 vided in subsection (4), and who did not elect to make contribu-  
20 tions to the member investment plan, may irrevocably elect to  
21 make the contributions described in subsection (2). In addition  
22 to making the contributions required under subsection (2), a  
23 member who elects to make contributions to the member investment  
24 plan under this subsection shall make a contribution of 4% of the  
25 compensation received on or after January 1, 1987 to December 31,  
26 1989, and 3.9% of the compensation received on or after  
27 January 1, 1990 to the date of the election, plus an amount equal

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1 to the compound interest that would have accumulated on those  
2 contributions as described in section 33, plus an amount equal to  
3 the net actuarial cost of the additional benefits attributable to  
4 service credited before January 1, 1987, as determined by the  
5 retirement board. The method and timing of payment by a member  
6 under this subsection shall be determined by the retirement  
7 board. The contributions made under this subsection shall be  
8 deposited into the reserve for employee contributions. ~~This~~  
9 ~~subsection shall not apply until the department receives notifi-~~  
10 ~~cation from the United States internal revenue service that this~~  
11 ~~subsection will not cause the retirement system not to be quali-~~  
12 ~~fied for tax purposes under the internal revenue code.~~

13 (4) Except as otherwise provided in subsection (8), a member  
14 who first became a member on or before December 31, 1986 but did  
15 not perform membership service between December 31, 1986 and  
16 January 1, 1990, and who returns to membership service on or  
17 after January 1, 1990 shall make the contributions described in  
18 subsection (7).

19 (5) Except as otherwise provided in subsection (8), a member  
20 who first became a member on or after January 1, 1990 shall make  
21 the contributions described in subsection (7).

22 (6) A member who first became a member on or after  
23 January 1, 1987 but before January 1, 1990 shall have 30 days  
24 from his or her first date of employment to irrevocably elect to  
25 make the contributions described in subsection (2).



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1 (7) Except as otherwise provided in subsection (8), a member  
2 who first became a member on or after January 1, 1990 shall  
3 contribute the following amounts to the member investment plan:

4

5 Member's annual school fiscal	Amount payable to the
6 <u>year earned compensation</u>	<u>member investment plan</u>
7 Not over \$5,000.00	3% of member's compensation
8 Over \$5,000.00 but not	\$150.00, plus 3.6% of the excess
9 over \$15,000.00	over \$5,000.00
10 Over \$15,000.00	\$510.00, plus 4.3% of the excess
11	over \$15,000.00

12 ~~-(8) A member who contributes to the member investment plan~~  
13 ~~pursuant to subsection (4) or (5) may irrevocably elect to dis-~~  
14 ~~continue contributions to the member investment plan as provided~~  
15 ~~in this subsection. The member may not elect to discontinue con-~~  
16 ~~tributions to the member investment plan until the expiration of~~  
17 ~~3 school fiscal years following the date he or she first contrib-~~  
18 ~~utes to the member investment plan or after the expiration of 4~~  
19 ~~school fiscal years following the date he or she first contrib-~~  
20 ~~uted to the member investment plan. A member who pursuant to~~  
21 ~~this subsection makes an election to discontinue contributions to~~  
22 ~~the member investment plan shall receive a refund of those con-~~  
23 ~~tributions plus interest, as determined by the retirement board,~~  
24 ~~payable before the expiration of 6 months after the date of noti-~~  
25 ~~fication by the reporting unit. A member who elects to discon-~~  
26 ~~tinue making contributions pursuant to this subsection is not~~  
27 ~~entitled to the benefits provided in sections 43b and 43c. A~~

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1 ~~member who contributes to the member investment plan shall be~~  
2 ~~given advance written notice of his or her opportunity to elect~~  
3 ~~to discontinue contributions to the member investment plan pursu-~~  
4 ~~ant to this subsection in a manner prescribed by the retirement~~  
5 ~~board. This subsection shall not apply until the department~~  
6 ~~receives notification from the United States internal revenue~~  
7 ~~service that this subsection will not cause the retirement system~~  
8 ~~not to be qualified for tax purposes under the internal revenue~~  
9 ~~code.~~

10 (8) ~~(9)~~ This section and sections 43b and 43c shall not  
11 apply until the department receives notification from the United  
12 States internal revenue service that contributions under this  
13 section picked up by the employer pursuant to section 42 shall  
14 not be included as gross income of the member until they are dis-  
15 tributed or made available to the member, retirant, retirement  
16 allowance beneficiary, or refund beneficiary.

17 Sec. 46. (1) ~~Except as otherwise provided in this section,~~  
18 ~~a~~ A retirement allowance, an optional benefit, or any other ben-  
19 efit accrued or accruing to a person under this act, the reserves  
20 created by this act, and the money, investments, or income of  
21 those reserves are exempt from state, county, municipal, or other  
22 local tax ~~and are not subject to execution, garnishment, attach-~~  
23 ~~ment, the operation of bankruptcy or insolvency laws, or other~~  
24 ~~process of law. The right to a retirement allowance, an optional~~  
25 ~~benefit, or any other benefit accrued or accruing to a person~~  
26 ~~under this act is unassignable, except as specifically provided~~

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1 ~~in this act~~ AND SUBJECT TO THE PUBLIC EMPLOYEE RETIREMENT  
2 BENEFIT PROTECTION ACT.

3 (2) The retirement system may offset retirement benefits or  
4 refunds payable under this act against amounts owed to the  
5 retirement system by a member, retirant, retirement allowance  
6 beneficiary, or refund beneficiary.

7 (3) If the retirement system is required by the federal gov-  
8 ernment pursuant to a court order to transmit a part of a  
9 member's contributions standing to the member's credit in the  
10 reserve for employee contributions to a federal agency, the serv-  
11 ice credit that is covered by the payment shall be forfeited in  
12 the same manner as if the employee had requested and been paid a  
13 refund of the member's most recent contributions.

14 ~~(4) A retirement allowance, an optional benefit, accumu-~~  
15 ~~lated contributions, or any other benefit to a member, a deferred~~  
16 ~~member, a retirement allowance beneficiary, or a retirant under~~  
17 ~~this act is subject to award by a court pursuant to section 88 of~~  
18 ~~chapter 84 of the Revised Statutes of 1846, being section 552.18~~  
19 ~~of the Michigan Compiled Laws, and to any other order of a court~~  
20 ~~pertaining to alimony or child support. However, this subsection~~  
21 ~~does not permit or require a benefit to be paid or to be provided~~  
22 ~~that is not otherwise available under this act.~~

23 ~~(5) If an award or order described in subsection (4)~~  
24 ~~requires the retirement system to withhold payment of a retire-~~  
25 ~~ment allowance, deferred retirement allowance, accumulated con-~~  
26 ~~tributions, or other benefit from the person to whom it is due or~~  
27 ~~requires the retirement system to pay or requires the person to~~

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1 ~~request that the retirement system pay a retirement allowance,~~  
2 ~~deferred retirement allowance, accumulated contributions, or~~  
3 ~~other benefit, for the purpose of meeting the person's obliga-~~  
4 ~~tions to a spouse, former spouse, or child, as provided in~~  
5 ~~subsection (4), the withholding or payment provisions of the~~  
6 ~~award or order are effective only against such amounts as they~~  
7 ~~become payable to the person otherwise entitled to receive the~~  
8 ~~retirement allowance unless otherwise provided in an eligible~~  
9 ~~domestic relations order under the eligible domestic relations~~  
10 ~~order act. The limitation contained in this subsection does not~~  
11 ~~apply to the accumulated contributions of a person who has termi-~~  
12 ~~nated employment before acquiring a vested member status.~~

13 ~~(6) A retirement allowance or an optional benefit payable to~~  
14 ~~a member, deferred member, or retirant under this act is subject~~  
15 ~~to an eligible domestic relations order under the eligible domes-~~  
16 ~~tic relations order act.~~

17 Sec. 85. (1) A retiring member or retiring deferred member  
18 who meets the requirements of section 81 or 81a or a member whom  
19 the retirement board finds to be totally and permanently disabled  
20 and eligible to receive a retirement allowance under section 86  
21 or 87 shall elect to receive his or her retirement allowance  
22 under 1 of the payment options provided in this subsection. The  
23 election shall be in writing and filed with the retirement board  
24 at least 15 days before the effective date of the retirement  
25 allowance except as provided for a disability retirant under sec-  
26 tion 86 or 87. The amount of retirement allowance under  
27 subdivision (b), (c), or (d) shall be the actuarial equivalent of

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1 the amount of retirement allowance under subdivision (a). The  
2 options are as follows:

3 (a) A retirant shall be paid a straight retirement allowance  
4 for life computed pursuant to section 84. An additional retire-  
5 ment allowance payment shall not be made upon the retirant's  
6 death.

7 (b) A retirant shall be paid a reduced retirement allowance  
8 for life with the provision that upon the retirant's death, pay-  
9 ment of the reduced retirement allowance is continued throughout  
10 the lifetime of the retirement allowance beneficiary whom the  
11 member or deferred member designates in a writing filed with the  
12 retirement board at the time of election of this option. A  
13 member or deferred member may elect this option and designate a  
14 retirement allowance beneficiary under the conditions set forth  
15 in section 82(2) or 89(3).

16 (c) A retirant shall be paid a reduced retirement allowance  
17 for life with the provision that upon the retirant's death, pay-  
18 ment of 1/2 of the reduced retirement allowance is continued  
19 throughout the lifetime of the retirement allowance beneficiary  
20 whom the member designated in a writing filed with the retirement  
21 board at the time of election of the option.

22 (d) On and after January 1, 2000, a retirant shall be paid a  
23 reduced retirement allowance for life with the provision that  
24 upon the retirant's death, payment of 75% of the reduced retire-  
25 ment allowance is continued throughout the lifetime of the  
26 retirement allowance beneficiary whom the member designated in a

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1 writing filed with the retirement board at the time of election  
2 of the option.

3 (2) In addition to the election under subsection (1), a  
4 retirant, other than a disability retirant who is 60 years of age  
5 or less, may elect to coordinate his or her retirement allowance  
6 with an estimated primary social security benefit. The retirant  
7 shall be paid an increased retirement allowance until 62 years of  
8 age and a reduced retirement allowance after 62 years of age.  
9 The increased retirement allowance paid until 62 years of age  
10 shall approximate the sum of the reduced retirement allowance  
11 payable after 62 years of age and the retirant's estimated social  
12 security primary insurance amount. The estimated social security  
13 primary insurance amount shall be determined by the retirement  
14 system. The election under this subsection shall be made at the  
15 same time and in the same manner as required under  
16 subsection (1).

17 (3) Except as otherwise provided in this section, the elec-  
18 tion of a payment option in subsections (1) and (2) shall not be  
19 changed on or after the effective date of the retirement  
20 allowance. Except as provided in subsection (5), the retirement  
21 allowance beneficiary selected under subsection (1)(b), (c), or  
22 (d) shall not be changed on or after the effective date of the  
23 retirement allowance and shall be either a spouse, brother,  
24 sister, parent, or child, including an adopted child, of the  
25 member, deferred member, retiring member, or retiring deferred  
26 member entitled to make the election under this act. Another  
27 retirement allowance beneficiary shall not be selected. If a

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1 member, deferred member, retiring member, or retiring deferred  
2 member is married at the retirement allowance effective date, an  
3 election under subsection (1), other than an election under  
4 subsection (1)(b), (c), or (d) naming the spouse as retirement  
5 allowance beneficiary, shall not be effective unless the election  
6 is signed by the spouse, except that this requirement may be  
7 waived by the board if the signature of a spouse cannot be  
8 obtained because of extenuating circumstances. For purposes of  
9 this subsection, "spouse" means the person to whom the member,  
10 deferred member, retiring member, or retiring deferred member is  
11 married at the retirement allowance effective date. Payment to a  
12 retirement allowance beneficiary shall start the first day of the  
13 month following the retirant's death.

14 (4) If the retirement allowance beneficiary selected under  
15 subsection (1)(b), (c), or (d) predeceases the retirant, the  
16 retirant's benefit shall revert to a straight retirement allow-  
17 ance including post-retirement adjustments, if any, shall be  
18 effective the first of the month following the death, and shall  
19 be paid during the remainder of the retirant's life. This sub-  
20 section applies to a retirant whose effective date of retirement  
21 is after June 28, 1976, but the straight retirement allowance  
22 shall not be payable for any month beginning before the later of  
23 the retirement allowance beneficiary's death or October 31,  
24 1980. This subsection also applies to a retirant whose effective  
25 date of retirement was on or before June 28, 1976, but the  
26 straight retirement allowance shall not be payable for any month  
27 beginning before the later of the retirement allowance

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1 beneficiary's death or January 1, 1986. A retirant who on  
2 January 1, 1986 is receiving a reduced retirement allowance  
3 because the retirant designated a retirement allowance benefi-  
4 ciary and the retirement allowance beneficiary predeceased the  
5 retirant is eligible to receive the straight retirement allowance  
6 beginning January 1, 1986, but the straight retirement allowance  
7 shall not be payable for any month beginning before January 1,  
8 1986.

9 (5) A retirant who returns to service pursuant to section 61  
10 and whose retirement allowance beneficiary selected under  
11 subsection (1)(b), (c), or (d) predeceases the member before he  
12 or she again becomes a retirant may again choose a retirement  
13 allowance beneficiary pursuant to subsection (1)(b), (c), or  
14 (d).

15 (6) If a retirant receiving a reduced retirement allowance  
16 under subsection (1)(b), (c), or (d) is divorced from the spouse  
17 who had been designated as the retirant's retirement allowance  
18 beneficiary under subsection (1)(b), (c), or (d), the election of  
19 a reduced retirement allowance payment option shall be considered  
20 void by the retirement system if the judgment of divorce or award  
21 or order of the court, or an amended judgment of divorce or award  
22 or order of the court, described in ~~section 46~~ THE PUBLIC  
23 EMPLOYEE RETIREMENT BENEFIT PROTECTION ACT and dated after  
24 June 27, 1991 provides that the election of a reduced retirement  
25 allowance payment option under subsection (1)(b), (c), or (d) is  
26 to be considered void by the retirement system and the retirant  
27 provides a certified copy of the judgment of divorce or award or



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1 order of the court, or an amended judgment of divorce or award or  
2 order of the court, to the retirement system. If the election of  
3 a reduced retirement allowance payment option under subsection  
4 (1)(b), (c), or (d) is considered void by the retirement system  
5 under this subsection, the retirant's retirement allowance shall  
6 revert to a straight retirement allowance, including postretire-  
7 ment adjustments, if any, subject to an award or order of the  
8 court as described in ~~section 46~~ THE PUBLIC EMPLOYEE RETIREMENT  
9 BENEFIT PROTECTION ACT. The retirement allowance shall revert to  
10 a straight retirement allowance under this subsection effective  
11 the first of the month after the date the retirement system  
12 receives a certified copy of the judgment of divorce or award or  
13 order of the court. This subsection does not supersede a judg-  
14 ment of divorce or award or order of the court in effect on  
15 June 27, 1991. This subsection does not require the retirement  
16 system to distribute or pay retirement assets on behalf of a  
17 retirant in an amount that exceeds the actuarially determined  
18 amount that would otherwise become payable if a judgment of  
19 divorce had not been rendered.

20 (7) If the retirement allowance payments terminate before an  
21 aggregate amount equal to the retirant's accumulated contribu-  
22 tions has been paid, the difference between the retirant's accu-  
23 mulated contributions and the aggregate amount of retirement  
24 allowance payments made shall be paid to the person designated in  
25 a writing filed with the retirement board on a form provided by  
26 the retirement board. If the designated person does not survive  
27 the retirant or retirement allowance beneficiary, the difference

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1 shall be paid to the deceased recipient's estate or to the legal  
2 representative of the deceased recipient.

3 ~~(8) A retirement allowance payable under a payment option~~  
4 ~~provided in this section is subject to an eligible domestic rela-~~  
5 ~~tions order under the eligible domestic relations order act, 1991~~  
6 ~~PA 46, MCL 38.1701 to 38.1711.~~

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

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

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

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1 benefits provided by the retirement system shall not exceed the  
2 lesser of the following:

3 (a) One of the following amounts that is applicable to the  
4 member:

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

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

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

19 (b) 100% of the member's average compensation for high 3  
20 years as described in section 415(b)(3) of the internal revenue  
21 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  
24 adjust the \$10,000.00 limitation described in subsection (2) and  
25 the \$90,000.00 limitation described in subsection (3)(a)(i) for  
26 increases in cost of living, beginning in 1988. This section  
27 shall be administered using the limitations applicable to each

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

6 (5) The assets of the retirement system shall be held in  
7 trust and invested for the sole purpose of meeting the legitimate  
8 obligations of the retirement system and shall not be used for  
9 any other purpose. The assets shall not be used for or diverted  
10 to a purpose other than for the exclusive benefit of the members,  
11 deferred members, retirants, and retirement allowance  
12 beneficiaries.

13 (6) The retirement system shall return post-tax member con-  
14 tributions made by a member and received by the retirement system  
15 to a member upon retirement, pursuant to internal revenue service  
16 regulations and approved internal revenue service exclusion ratio  
17 tables.

18 (7) The required beginning date for retirement allowances  
19 and other distributions shall not be later than April 1 of the  
20 calendar year following the calendar year in which the employee  
21 attains age 70-1/2 or April 1 of the calendar year following the  
22 calendar year in which the employee retires.

23 (8) If the retirement system is terminated, the interest of  
24 the members, deferred members, retirants, and retirement allow-  
25 ance beneficiaries in the retirement system is nonforfeitable to  
26 the extent funded as described in section 411(d)(3) of the

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1 internal revenue code and the related internal revenue service  
2 regulations applicable to governmental plans.

3 (9) Notwithstanding any other provision of this act to the  
4 contrary that would limit a distributee's election under this  
5 act, a distributee may elect, at the time and in the manner pre-  
6 scribed by the retirement board, to have any portion of an eligi-  
7 ble rollover distribution paid directly to an eligible retirement  
8 plan specified by the distributee in a direct rollover. This  
9 subsection applies to distributions made on or after January 1,  
10 1993.

11 (10) For purposes of determining actuarial equivalent  
12 retirement allowances under sections 45 and 85(1)(b), (1)(c),  
13 (1)(d), and (2), the actuarially assumed interest rate shall be  
14 8% with utilization of the 1983 group annuity and mortality  
15 table.

16 (11) Notwithstanding any other provision of this section,  
17 the retirement system shall be administered in compliance with  
18 the provisions of section 415 of the internal revenue code and  
19 revenue service regulations under that section that are applica-  
20 ble to governmental plans. If there is a conflict between this  
21 section and another section of this or any other act of this  
22 state, this section prevails.

23 (12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE  
24 COMPENSATION OF A MEMBER OF THE RETIREMENT SYSTEM SHALL BE TAKEN  
25 INTO ACCOUNT FOR ANY YEAR UNDER THE RETIREMENT SYSTEM ONLY TO THE  
26 EXTENT THAT IT DOES NOT EXCEED THE COMPENSATION LIMIT ESTABLISHED  
27 IN SECTION 401(a)(17) OF THE INTERNAL REVENUE CODE, AS ADJUSTED

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1 BY THE COMMISSIONER OF INTERNAL REVENUE. THIS SUBSECTION APPLIES  
2 TO ANY PERSON WHO FIRST BECOMES A MEMBER OF THE RETIREMENT SYSTEM  
3 ON OR AFTER OCTOBER 1, 1996.

4 (13) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, CON-  
5 TRIBUTIONS, BENEFITS, AND SERVICE CREDIT WITH RESPECT TO QUALI-  
6 FIED MILITARY SERVICE WILL BE PROVIDED UNDER THE RETIREMENT  
7 SYSTEM IN ACCORDANCE WITH SECTION 414(u) OF THE INTERNAL REVENUE  
8 CODE. THIS SUBSECTION APPLIES TO ALL QUALIFIED MILITARY SERVICE  
9 ON OR AFTER DECEMBER 12, 1994.

10 Enacting section 1. This amendatory act does not take  
11 effect unless House Bill No. 5108 of the 91st Legislature is  
12 enacted into law.