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Public Acts of 1996
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STATE OF MICHIGAN
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Introduced by Reps. DeLange, Gernaat, Voorhees, Johnson, Walberg, Jamian, Llewellyn and Perricone
Reps. Dalman, Dobb, Dolan, Gnodtke, Green, Horton, Jaye, Jellema, Kukuk, LeTarte, McBryde,
McManus, McNutt, Middleton, Munsell and Randall named co-sponsors

ENROLLED HOUSE BILL No. 6230

AN ACT to amend the title and sections 4, 8, 22, 25, 26, 34, 41a, and 91 of Act No. 300 of the Public Acts of 1980, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of management and budget; to prescribe penalties; and to repeal certain acts and parts of acts," section 4 as amended by Act No. 268 of the Public Acts of 1996, sections 22 and 26 as amended by Act No. 194 of the Public Acts of 1989, section 34 as amended by Act No. 272 of the Public Acts of 1994, section 41a as added by Act No. 272 of the Public Acts of 1995, and section 91 as amended by Act No. 193 of the Public Acts of 1989, being sections 38.1304, 38.1308, 38.1322, 38.1325, 38.1326, 38.1334, 38.1341a, and 38.1391 of the Michigan Compiled Laws; and to add sections 41b, 109, 110, 111, and 112 and article 7.

The People of the State of Michigan enact:

Section 1. The title and sections 4, 8, 22, 25, 26, 34, 41a, and 91 of Act No. 300 of the Public Acts of 1980, section 4 as amended by Act No. 268 of the Public Acts of 1996, sections 22 and 26 as amended by Act No. 194 of the Public Acts of 1989, section 34 as amended by Act No. 272 of the Public Acts of 1994, section 41a as added by Act No. 272 of the Public Acts of 1995, and section 91 as amended by Act No. 193 of the Public Acts of 1989, being sections 38.1304, 38.1308, 38.1322, 38.1325, 38.1326, 38.1334, 38.1341a, and 38.1391 of the Michigan Compiled Laws, are amended and sections 41b, 109, 110, 111, and 112 and article 7 are added to read as follows:

TITLE

An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

Sec. 4. (1) "Compound interest" means interest compounded annually on July 1 on the contributions on account as of the previous July 1 and computed at the rate of investment return determined under section 104a(1) for the last completed state fiscal year.

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

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

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

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

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

(7) Except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(8) "Eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

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

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

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

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

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

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

(11) "Final average compensation" means the aggregate amount of a member's compensation earned within the averaging period in which the aggregate amount of compensation was highest divided by the member's number of years, including any fraction of a year, of credited service during the averaging period. The averaging period shall be 36 consecutive calendar months if the member contributes to the member investment plan; otherwise, the averaging period shall be 60 consecutive calendar months. If the member has less than 1 year of credited service in the averaging period, the number of consecutive calendar months in the averaging period shall be increased to the lowest number of consecutive calendar months that contains 1 year of credited service.

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

(13) "Implementation date" means July 1, 1997, if full actuarial funding of the pension benefits, as certified by the retirement board, occurs. If full actuarial funding of the pension benefits does not occur before July 1, 1997, implementation date means the date established by the retirement board, which date shall be on or before January 1, 1998, if full actuarial funding of the pension benefits occurs before that date. If full actuarial funding of the pension benefits does not occur before January 1, 1998, the Tier 2 retirement plan shall not be implemented. The retirement board shall certify when full actuarial funding of the pension benefits occurs, and the determination shall be based upon the actuarial methods and assumptions in effect for the September 30, 1996 actuarial valuation.

(14) "Internal revenue code" means the United States internal revenue code of 1986.

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

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

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

(3) "State of Michigan service" means service performed as a state employee in the classified or unclassified service under the state employees' retirement act, Act No. 240 of the Public Acts of 1943, being sections 38.1 to 38.69 of the Michigan Compiled Laws.

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

(5) "Tier 1" means the retirement plan available to a member under this act who was first employed by a reporting unit before the implementation date and who does not elect to become a qualified participant of Tier 2 or to an individual who was first employed by a reporting unit on or after the implementation date and who elects to become a member of Tier 1.

(6) "Tier 2" means the retirement plan established pursuant to section 403(b) of the internal revenue code that is available to qualified participants under sections 109 to 112 and article 7.

(7) "Transitional public employment program" means participation in public service employment programs in the areas of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans' outreach, and other fields of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839.

Sec. 22. (1) The Michigan public school employees' retirement board is created in the department and shall consist of the superintendent of public instruction and 11 members appointed by the governor with the advice and consent of the senate as follows:

(a) Two members who are working as classroom teachers.

(b) One nonteacher member who is working in a noncertified educational support position or a retirant who retired from a noncertified educational support position.

(c) One member who is a school system superintendent.

(d) One member who is working in a school system in a finance or operations management position, but who is not a school system superintendent.

(e) One retirant who retired from a classroom teacher position.

(f) One retirant who retired from a finance or operations management position.

(g) One administrator or trustee of a community college, which community college is a reporting unit.

(h) Two from the general public, 1 of which shall have experience in health insurance or actuarial science and 1 of which shall have experience in institutional investments. An individual appointed under this subdivision shall not be a member, deferred member, retirant, or retirement allowance beneficiary under this act.

(i) One elected member of a reporting unit's board of control.

(2) One of the retirement board members under subsection (1) shall be a member who is an employee of a school district of the first class or a retirant who retired from a position as an employee of a school district of the first class. One of the retirant members of the retirement board shall be selected from the membership of the largest organization of retirants.

(3) The term of office of the retirement board members shall be 5 years. A vacancy of a member on the retirement board shall be filled in the same manner as the original appointment for the remainder of the unexpired term. A retirement board member shall continue to hold office until a successor is appointed and has qualified, but not to exceed an additional 5 years.

(4) The 7 members appointed and serving on the retirement board on July 1, 1997 shall have their respective terms extended by 2 years and shall serve for the remainder of their extended terms. As each board member's term expires under this subsection, the new appointment shall be made in accordance with subsection (1). On January 1, 1997, 2 new individuals shall be appointed as members of the retirement board in accordance with subsection (1). The initial terms of office of these 2 new members shall be set by the governor so that 1 term expires on March 30, 2001 and 1 term expires on March 30, 2003. The superintendent of public instruction and the state treasurer shall be considered to have terms that expire on March 30, 1997. On March 31, 1998, 2 new individuals shall be appointed as members of the retirement board in accordance with subsection (1). The initial terms of office of these 2 new members shall expire on March 30, 2003.

Sec. 25. (1) The board shall have only the rights, authority, and discretion in the proper discharge of its duties provided in this act and former Act No. 136 of the Public Acts of 1945.

(2) Except as otherwise provided in this section, the retirement board may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the

Michigan Compiled Laws, for the implementation and administration of this act. The retirement board shall not promulgate rules for the establishment, implementation, administration, operation, investment, or distribution of a Tier 2 retirement plan.

Sec. 26. (1) This section does not apply to Tier 2.

(2) The state treasurer shall be treasurer of the retirement system and shall have investment authority, including the custodianship of the funds of the retirement system, and shall have fiduciary responsibility with regard to the investment of funds of the retirement system.

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

Sec. 34. The reserve for health benefits is the account to which payments of reporting units, subscriber co-payments, and payments by the retirement system under section 136 for health benefits are credited. Benefits payable pursuant to sections 91 and 136 shall be paid from the reserve for health benefits.

Sec. 41a. For fiscal years that begin on or after March 28, 1996, the retirement system shall determine a separate contribution rate for a reporting unit that is a university listed in section 6(5). The retirement system shall determine the separate contribution rate in the manner prescribed in section 41, except that the unfunded actuarial accrued liability shall be amortized over 40 years beginning October 1, 1996 and ending on September 30, 2036, with the payment schedule for universities being based on and applied to the combined payrolls of the universities' employees who are members and who were hired before January 1, 1996 and the universities' employees who would have been members on or after January 1, 1996, but for the enactment of Act No. 272 of the Public Acts of 1995. The amount of the unfunded accrued liability on which the separate contribution rate is determined shall be that amount which a reporting unit that is a university listed in section 6(5) is legally responsible for and is calculated by actuarial analysis. Any reduction in the unfunded liability of the system pursuant to governmental action affecting the entire system will be allocated to all reporting units including universities as determined by the system's actuary.

Sec. 41b. For fiscal years that begin on or after the effective date of this section, the annual level percentage of payroll contribution rate as it applies to the unfunded actuarial accrued liability determined under section 41 shall be based on and applied to the combined payrolls for members of Tier 1 and qualified participants of Tier 2.

Sec. 91. (1) The retirement system shall pay the entire monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. This subsection does not apply to a member who first becomes a member on or after the implementation date.

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

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

(4) The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits for the benefit of a retirant or retirement allowance beneficiary who elects coverage in the plan authorized by the retirement board and the department. Payments shall begin under this subsection upon approval by the retirement board and the department of plan coverage and a plan provider. This subsection does not apply to a member who first becomes a member on or after the implementation date.

(5) The retirement system shall pay up to 90% of the maximum of the amount payable under subsection (1) toward the monthly premium or membership or subscription fee for hospital, medical-surgical, and sick care benefits coverage described in subsections (1) and (2) for each health insurance dependent of a retirant receiving benefits under subsection (1) or (2). Payment shall not exceed 90% of the actual monthly premium or membership or subscription fee. The retirement system shall pay 90% of the monthly premium or membership or subscription fee for dental, vision, and hearing benefits described in subsection (4) for the benefit of each health insurance dependent of a retirant receiving benefits under subsection (4). Payment for health benefits coverage for a health insurance dependent of a retirant shall not be made after the retirant's death, unless the retirant designated a retirement allowance beneficiary as provided in section 85 and the dependent was covered or eligible for coverage as a health insurance dependent of the retirant on the retirant's date of death. Payment for health benefits coverage shall not be made for a health insurance dependent after the later of the retirant's death or the retirement allowance beneficiary's death. Payment under this subsection

and subsection (6) shall begin October 1, 1985 for health insurance dependents who on July 10, 1985 are covered by the hospital, medical-surgical, and sick care benefits plan authorized by the retirement board and the department. Payment under this subsection and subsection (6) for other health insurance dependents shall not begin before January 1, 1986.

(6) The payment described in subsection (5) or (8) shall also be made for each health insurance dependent of a deceased member or deceased duty disability retiree if a retirement allowance is being paid to a retirement allowance beneficiary because of the death of the member or duty disability retiree as provided in section 43c(c), 89, 90, or 135a. Payment for health benefits coverage for a health insurance dependent shall not be made after the retirement allowance beneficiary's death.

(7) The payments provided by this section shall not be made on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member having less than 21 full years of attained credited service or the retiring deferred member's retirement allowance beneficiary, and shall not be made on behalf of a retirement allowance beneficiary of a deferred member who dies before retiring. The retirement system shall pay, on behalf of a retiring section 82 deferred member or health insurance dependent of a deferred member or a retirement allowance beneficiary of a deceased deferred member, either of whose allowance is based upon not less than 21 years of attained credited service, 10% of the payments provided by this section, increased by 10% for each attained full year of credited service beyond 21 years, not to exceed 100%. This subsection applies to any member who first becomes a member before the implementation date and who attains deferred status under section 82 after October 31, 1980.

(8) For a member or deferred member who first becomes a member on or after the implementation date, the retirement system shall pay the entire monthly premium or membership or subscription fee for the hospital, medical-surgical, and sick care benefits plan, the dental plan, vision plan, or hearing plan, or any combination of the plans for the benefit of the retiree and his or her health insurance beneficiaries, or for the benefit of the retiree's or deceased member's retirement allowance beneficiary if the retiree or deceased member has 30 years or more of service credit or 30 years or more of employment with a reporting unit or units under this act. If a retiree or deceased member described in this subsection has 10 or more but less than 30 years of service credit or years of reporting unit employment under this act, the retirement system shall pay a portion of the monthly premium or membership or subscription fee for the plans or combination of plans equal to the product of 3% and the retiree's or deceased member's years of service. Additionally, if a retiree or deceased member described in this subsection has less than 30 years of service credit and is less than 60 years of age, the retirement system shall reduce the amount payable under this subsection by the formula used to reduce a retirement allowance under section 84(2).

(9) The retirement system shall not pay the premiums or subscription fees under subsection (8) until the retiree or retirement allowance beneficiary requests enrollment in the plans or combination of plans in writing in the manner prescribed by the retirement system. Subsection (8) does not apply to a member who receives a disability retirement allowance under section 86, 87, or 135a or to a deceased member's retirement allowance beneficiary under section 90.

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

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

(a) If the person covered under the hospital, medical-surgical, and sick care benefits plan is also eligible for Medicare or Medicaid, or both, then the benefits under Medicare or Medicaid, or both, shall be determined before the benefits of the hospital, medical-surgical, and sick care benefits plan provided pursuant to this section.

(b) If the person covered under any of the plans provided by this section is also covered under another plan that contains a coordination of benefits provision, the benefits shall be coordinated as provided by the coordination of benefits act, Act No. 64 of the Public Acts of 1984, being sections 550.251 to 550.255 of the Michigan Compiled Laws.

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

(12) For purposes of this section:

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

(i) The spouse of the retiree or the surviving spouse to whom the retiree or deceased member was married at the time of the retiree's or deceased member's death.

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

(iii) An unmarried child, by birth or adoption, of the retiree or deceased member, until December 31 of the calendar year in which the child becomes 25 years of age, who is enrolled as a full-time student, and who is or was at the time of

the retirant's or deceased member's death a dependent of the retirant or deceased member as defined in section 152 of the internal revenue code.

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

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

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

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

Sec. 109. (1) An individual who is first employed by and entered upon the payroll of a reporting unit on or after the implementation date for employment for which the individual would have been eligible for membership under this act before the implementation date shall make an election as prescribed in subsection (3). An individual who is first employed by and entered upon the payroll of a state-supported institution of higher education described in section 2(d)(viii) and (ix) of the optional retirement act of 1967, Act No. 156 of the Public Acts of 1967, being section 38.382 of the Michigan Compiled Laws, on or after the implementation date, is eligible to elect to participate in the optional retirement program established under Act No. 156 of the Public Acts of 1967.

(2) An individual who was a deferred member or former nonvested member on the day before the implementation date, who is employed by a reporting unit on or after the implementation date, and who by virtue of that employment would be eligible for membership in Tier 1 shall make an election as prescribed in section 110.

(3) An individual who is first employed and entered upon the payroll of a reporting unit on or after the implementation date shall make an election in writing to become a member of Tier 1 or to become a qualified participant of Tier 2. An election made by an individual under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from an individual during the period beginning on the date of the individual's employment and ending upon the expiration of 60 days after the date of that employment. An individual who does not make a written election or who does not file the election during the period specified in this subsection becomes a qualified participant of Tier 2. The date of membership in Tier 1 or participation in Tier 2 under this subsection dates back to the date the individual was first employed and entered upon the payroll of a reporting unit.

Sec. 110. (1) Except as otherwise provided in subsection (2), the retirement system shall provide an opportunity for each member who is a Tier 1 member on the day before the implementation date, to elect in writing to terminate membership in Tier 1 and elect to become a qualified participant in Tier 2. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from members during the period beginning on the 180th day after the implementation date and ending on the 300th day after the implementation date. A member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. A member who makes and files a written election under this subsection elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight on the 330th day after the implementation date.

(b) Become a qualified participant in Tier 2 effective 12:01 a.m., on the 331st day after the implementation date.

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on the day described in subdivision (a). This subdivision does not affect a person's right to health benefits provided under this act pursuant to section 136.

(2) This subsection applies to an individual who was a vested member of Tier 1 on the day before the implementation date and who terminates the employment upon which that membership is based on or after the implementation date but on or before the 330th day after the implementation date. Before the termination of his or her employment, an individual described in this subsection may elect in writing to terminate membership in Tier 1 and become a qualified participant in Tier 2. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a member during the period beginning on the implementation date and ending on the 330th day after the implementation date. A member described in this subsection who does not make a written election or who does not file the election before the termination of his or her employment continues to be a member or deferred member of Tier 1. A member who makes and files a written election under this subsection to terminate membership in Tier 1 elects to do all of the following:

(a) Cease to be a member of Tier 1 and become a qualified participant in Tier 2 effective 12 midnight on the day immediately preceding the date of the termination of employment.

(b) Become a former qualified participant in Tier 2 effective 12:01 a.m. on the day immediately following the date described in subdivision (a).

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on the date described in subdivision (a). This subdivision does not affect an individual's right to health benefits provided under this act pursuant to section 136.

(3) If an individual who was a deferred member on the day before the implementation date or an individual who was a former nonvested member on the day before the implementation date is employed by a reporting unit on or after the implementation date and by virtue of that employment is again eligible for membership in Tier 1, the individual shall elect in writing to remain a member of Tier 1 or to terminate membership in Tier 1 and become a qualified participant in Tier 2. An election made by a deferred member or a former nonvested member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a deferred member or a former nonvested member during the period beginning on the date of the individual's reemployment and ending upon the expiration of 60 days after the date of that reemployment. A deferred member or former nonvested member who makes and files a written election to remain a member of Tier 1 retains all rights and is subject to all conditions as a member of Tier 1 under this act. A deferred member or former nonvested member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. A deferred member or former nonvested member who makes and files a written election to terminate membership in Tier 1 elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight on the last day of the payroll period that includes the date of the election.

(b) Become a qualified participant in Tier 2 effective 12:01 a.m. on the first day of the payroll period immediately following the date of the election.

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on the last day of the payroll period that includes the date of the election. This subdivision does not affect an individual's right to health benefits provided under this act pursuant to section 136.

(4) After consultation with the retirement system's actuary and the retirement board, the department of management and budget shall determine the method by which a member, deferred member, or former nonvested member shall make a written election under this section. If the member, deferred member, or former nonvested member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the retirement board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

(5) An election under this section is subject to the eligible domestic relations order act, Act No. 46 of the Public Acts of 1991, being sections 38.1701 to 38.1711 of the Michigan Compiled Laws.

(6) If an individual who was a deferred member of the state employees' retirement system on the day before the implementation date is first employed and entered upon the payroll of a reporting unit on or after the implementation date, the retirement system shall provide an opportunity for that individual to elect in writing to become a member of Tier 1 or to become a qualified participant of Tier 2. The retirement system and the individual shall follow the provisions and procedures provided in this section and by the state treasurer as if the individual were a deferred member of this retirement system on the day before the implementation date.

(7) If the department of management and budget receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

Sec. 111. (1) For a member who elects to terminate membership in Tier 1 under section 110(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate reserve created under article 2 to the qualified participant's account in Tier 2 on or before the 450th day after the implementation date. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions, if any, from the reserve for employee contributions as of 12 midnight the 330th day after the implementation date.

(b) For a member who is a participant in the member investment plan, the member's accumulated contributions, if any, from the reserve for member investment plan as of 12 midnight the 330th day after the implementation date.

(c) For a member who is vested under section 81 as of 12 midnight on the 330th day after the implementation date, the excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivisions (a) and (b), from the reserve for employer contributions. Except as provided in subsection (7), for the purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated credited service and estimated final average compensation as of 12 midnight on the 330th day after

the implementation date. The actuarial present value shall be computed as of 12 midnight the 330th day after the implementation date and shall be based on the following:

(i) Eight percent effective annual interest, compounded annually.

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project retirant longevity in the most recent actuarial valuation report.

(iii) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight the 330th day after the implementation date. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight the 330th day after the implementation date:

(A) Age 60.

(B) Age 55, if the member's estimated credited service equals or exceeds 30 years.

(C) The age of the member if the member's credited service equals or exceeds 30 years and the member contributes to the member investment plan.

(D) Interest on any amounts determined in subdivisions (a), (b), and (c) from the 331st day after the implementation date to the date of the transfer, based upon 8% annual interest, compounded annually.

(2) For each member who elects to terminate membership in Tier 1 under section 110(1), the retirement system shall recompute the amount transferred under subsection (1) not later than the 510th day after the implementation date based upon the member's actual credited service and actual final average compensation as of 12 midnight the 330th day after the implementation date. If the recomputed amount differs from the amount transferred under subsection (1) by \$10.00 or more, not later than the 525th day after the implementation date, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the reserve for employer contributions to the qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight the 330th day after the implementation date to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

(b) Direct the state treasurer to transfer from the qualified participant's account in Tier 2 to the reserve for employer contributions the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (1), based upon 8% effective annual interest, compounded annually.

(3) For a member who elects to terminate membership in Tier 1 under section 110(2), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate reserve created under article 2 to the former qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's termination of employment. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions, if any, from the reserve for employee contributions as of 12 midnight on the day immediately preceding the date of the termination of employment.

(b) For a member who is a participant in the member investment plan, the member's accumulated contributions, if any, from the reserve for member investment plan as of 12 midnight on the day immediately preceding the date of the termination of employment.

(c) The excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivisions (a) and (b), from the reserve for employer contributions. Except as provided in subsection (7), for the purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated credited service and estimated final average compensation as of 12 midnight on the day immediately preceding the date of the termination of employment. The actuarial present value shall be computed as of 12 midnight on that date and shall be based on the following:

(i) Eight percent effective annual interest, compounded annually.

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project retirant longevity in the most recent annual actuarial valuation report.

(iii) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight on the day immediately preceding the date of the termination of employment. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the day immediately preceding the date of the termination of employment:

(A) Age 60.

(B) Age 55, if the member's estimated credited service equals or exceeds 30 years.

(C) The age of the member if the member's credited service equals or exceeds 30 years and the member is a participant of the member investment plan.

(D) Interest on any amounts determined in subdivisions (a), (b), and (c) from the day immediately following the date described in subdivision (a) to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(4) For each member who elects to terminate membership in the retirement system under section 110(2), the retirement system shall recompute the amount transferred under subsection (3) not later than the expiration of 90 days after the transfer occurs under subsection (3) based upon the member's actual credited service and actual final average compensation as of 12 midnight on the day immediately preceding the date of the termination of employment. If the recomputed amount differs from the amount transferred under subsection (3) by \$10.00 or more, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the reserve for employer contributions to the former qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight on the day immediately preceding the date of the termination of employment to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

(b) Direct the state treasurer to transfer from the former qualified participant's account in Tier 2 to the reserve for employer contributions the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (3), based upon 8% effective annual interest, compounded annually.

(5) For a deferred member who elects to terminate membership in Tier 1 under section 110(3), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate reserve created under article 2 to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's election to terminate membership. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The deferred member's accumulated contributions, if any, from the reserve for employee contributions as of 12 midnight on the last day of the payroll period that includes the date of the election.

(b) For a deferred member who is a participant in the member investment plan, the deferred member's accumulated contributions, if any, from the reserve for member investment plan as of 12 midnight on the last day of the payroll period that includes the date of the election.

(c) The excess, if any, of the actuarial present value of the deferred member's accumulated benefit obligation, over the amount specified in subdivisions (a) and (b), from the reserve for employer contributions. Except as provided in subsection (7), for the purposes of this subsection, the present value of the deferred member's accumulated benefit obligation is based upon the deferred member's estimated credited service and estimated final average compensation as of 12 midnight on the last day of the payroll period that includes the date of the election. The actuarial present value shall be computed as of 12 midnight on that date and shall be based on the following:

(i) Eight percent effective annual interest, compounded annually.

(ii) A 50% male and 50% female gender neutral blend of the mortality tables used to project retirant longevity in the most recent annual actuarial valuation report.

(iii) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight on the last day of the payroll period that includes the date of the election. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the last day of the payroll period that includes the date of the election:

(A) Age 60.

(B) Age 55, if the deferred member's estimated credited service equals or exceeds 30 years.

(C) The age of the deferred member if the deferred member's credited service equals or exceeds 30 years and the deferred member is a participant of the member investment plan.

(D) Interest on any amounts determined in subdivisions (a), (b), and (c) from the first day of the payroll period immediately following the date of the election to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(6) For each deferred member who elects to terminate membership in the retirement system under section 110(3), the retirement system shall recompute the amount transferred under subsection (5) not later than the expiration of 90 days after the transfer occurs under subsection (5) based upon the deferred member's actual credited service and actual final average compensation as of 12 midnight on the last day of the payroll period that includes the date of the election. If the recomputed amount differs from the amount transferred under subsection (5) by \$10.00 or more, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the reserve for employer contributions to the qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight on the last day of the payroll period that includes the date of the election to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

(b) Direct the state treasurer to transfer from the participant's account in Tier 2 to the reserve for employer contributions the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (5), based upon 8% effective annual interest, compounded annually.

(7) For the purposes of subsections (1) to (6), the calculation of estimated and actual present value of the member's or deferred member's accumulated benefit obligation shall be based upon methods adopted by the department of management and budget and the retirement system's actuary in consultation with the retirement board. The retirement system shall utilize the same actuarial valuation report used to calculate the amount transferred under subsection (1), (3), or (5) when making the recomputation required under subsection (2), (4), or (6). Estimated and actual final average compensation shall be determined as provided in sections 3a and 4(11) as of 12 midnight on the date the member or deferred member ceases to be a member of Tier 1 under section 110.

(8) For a former nonvested member who elects to terminate membership in Tier 1 under section 110(3) and who has accumulated contributions standing to his or her credit in the reserve for employee contributions or the reserve for member investment plan, the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate reserve created under article 2 to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's election to terminate membership. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The former nonvested member's accumulated contributions, if any, from the reserve for employee contributions as of 12 midnight on the last day of the payroll period that includes the date of the election.

(b) For a former nonvested member who is a participant in the member investment plan, the former nonvested member's accumulated contributions, if any, from the reserve for member investment plan as of 12 midnight on the last day of the payroll period that includes the date of the election.

(c) Interest on any amounts determined in subdivisions (a) and (b) from the first day of the payroll period immediately following the date of the election to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(9) If the department of management and budget receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

Sec. 112. After consulting the retirement system's actuary, the department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this retirement system as a result of the implementation of the amendatory act that added this section over the costs that would have been incurred by this retirement system had the amendatory act that added this section not been implemented. The total amount of such cost savings shall not be used to decrease the actuarial rate charged to reporting units, and the total amount of such savings shall be deposited in the reserve for health benefits created by section 34. Any amount deposited in the reserve for health benefits pursuant to this section and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 91 is 100% funded.

ARTICLE 7

Sec. 121. For the purposes of this article, the words and phrases defined in sections 122 to 124 have the meanings ascribed to them in those sections.

Sec. 122. (1) "Accumulated balance" means the total balance in a qualified participant's, former qualified participant's, or refund beneficiary's individual account in Tier 2.

(2) "Compensation" means the remuneration paid a qualified participant on account of the qualified participant's services rendered to his or her employer. Compensation includes only medicare taxable wages as reported by the employer on the participant's federal form W-2, wage and tax statement.

Sec. 123. (1) "Employer" means a reporting unit.

(2) "Former qualified participant" means an individual who was a qualified participant and who terminates the employment upon which his or her participation is based for any reason.

(3) "Health benefit dependent" means an individual who would have been eligible for health insurance coverage as a health insurance dependent under section 91(10)(a) if the former qualified participant had become a retirant of Tier 1.

Sec. 124. (1) "Qualified participant" means an individual who is a participant of Tier 2 and who meets 1 of the following requirements:

(a) An individual who is first employed and entered upon the payroll of his or her employer on or after the implementation date, and who elects to become a qualified participant or is considered to have made the election to become a qualified participant of Tier 2 under section 109.

(b) An individual who elects to terminate membership in Tier 1 and who elects to participate in Tier 2 in the manner prescribed in section 110.

(2) "Refund beneficiary" means an individual nominated by a qualified participant or a former qualified participant under section 134 to receive a distribution of the participant's accumulated balance in the manner prescribed in section 135.

(3) "State treasurer" means the treasurer of this state.

Sec. 125. (1) The state treasurer shall administer Tier 2 and shall invest the assets of Tier 2. The state treasurer is the fiduciary and trustee of Tier 2. The state treasurer may appoint an advisory board to assist the state treasurer in carrying out his or her duties as fiduciary and trustee.

(2) The state treasurer shall determine the provisions and procedures of Tier 2 in conformity with this act and the internal revenue code.

(3) The state treasurer has the exclusive authority and responsibility to employ or contract with personnel and for services that the state treasurer determines necessary for the proper administration of and investment of assets of Tier 2 including but not limited to managerial, professional, legal, clerical, technical, and administrative personnel or services.

Sec. 126. (1) A qualified participant, former qualified participant, health benefit dependent, or refund beneficiary may request a hearing on a claim involving his or her rights under Tier 2. Upon written request, the state treasurer shall provide for a hearing that shall be conducted pursuant to chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws. An individual may be represented by counsel or other duly authorized agent at a hearing conducted under this section.

(2) Chapters 2, 3, and 5 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.224 to 24.264 and 24.291 to 24.292 of the Michigan Compiled Laws, do not apply to the establishment, implementation, administration, operation, investment, or distribution of Tier 2.

Sec. 127. Each qualified participant, former qualified participant, and refund beneficiary shall direct the investment of the individual's accumulated employer and employee contributions and earnings to 1 or more investment choices within available categories of investment provided by the state treasurer. The limitations on the percentage of total assets for investments provided in Act No. 314 of the Public Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan Compiled Laws, do not apply to Tier 2.

Sec. 128. The administrative expenses of Tier 2 shall be paid by the qualified participants, former qualified participants, and refund beneficiaries who have not closed their accounts in a manner determined by the state treasurer.

Sec. 129. A qualified participant shall not participate in any other public sector retirement benefits plan for simultaneous service rendered to the same public sector employer. Except as otherwise provided in this act or by the state treasurer, this section does not prohibit a qualified participant from participating in a retirement plan established by a public sector employer under the internal revenue code. For the purposes of this section, public sector employer includes, but is not limited to, a reporting unit.

Sec. 130. (1) The state treasurer shall promptly credit the Tier 2 account of a qualified participant or former qualified participant who makes an election under section 110 to terminate membership in Tier 1 with any amount transferred from Tier 1 pursuant to section 111.

(2) Not later than 30 days after receipt of a recomputed amount under section 111(2), (4), or (6), the state treasurer shall charge the participant's Tier 2 account for any amount of excess transfers under section 111(1), (3), or (5) and transfer that amount to the appropriate reserve in Tier 1. The state treasurer may determine which investment choice or choices within a participant's Tier 2 account will be used for this purpose.

Sec. 131. (1) This section is subject to the vesting requirements of section 132.

(2) A qualified participant's employer shall contribute to the qualified participant's Tier 2 account an amount equal to 4% of the qualified participant's compensation.

(3) A qualified participant may periodically elect to contribute up to 3% of his or her compensation to his or her Tier 2 account. The qualified participant's employer shall make an additional contribution to the qualified participant's Tier 2 account in an amount equal to the contribution made by the qualified participant under this subsection.

(4) A qualified participant may make contributions in addition to contributions made under subsection (3) to his or her Tier 2 account as permitted by the state treasurer and the internal revenue code. The qualified participant's employer shall not match contributions made by the qualified participant under this subsection.

Sec. 132. (1) A qualified participant is immediately 100% vested in his or her contributions made to Tier 2. A qualified participant shall vest in the employer contributions made on his or her behalf to Tier 2 according to the following schedule:

- (a) Upon completion of 2 years of service, 50%.
- (b) Upon completion of 3 years of service, 75%.
- (c) Upon completion of 4 years of service, 100%.

(2) A qualified participant is vested in the health insurance coverage provided in section 136 if the qualified participant meets 1 of the following requirements:

(a) The qualified participant has completed 10 years of service as a qualified participant and was not a member, deferred member, or former nonvested member of Tier 1.

(b) The qualified participant was a member, deferred member, or former nonvested member of Tier 1 who made an election to participate in Tier 2 pursuant to section 110, and who has met the service requirements he or she would have been required to meet in order to vest in health benefits under section 91.

Sec. 133. A qualified participant who was a member, deferred member, or former nonvested member of Tier 1 who makes an election to participate in Tier 2 pursuant to section 110, shall be credited with the years of service accrued under Tier 1 on the effective date of participation in Tier 2 for the purpose of meeting the vesting requirements for benefits under section 132.

Sec. 134. A qualified participant or former qualified participant may nominate 1 or more individuals as a refund beneficiary by filing written notice of nomination with the state treasurer. If the qualified participant or former qualified participant is married at the time of the nomination and the participant's spouse is not the refund beneficiary for 100% of the account, the nomination is not effective unless the nomination is signed by the participant's spouse. However, the state treasurer may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

Sec. 135. (1) A qualified participant is eligible to receive distribution of his or her accumulated balance in Tier 2 upon becoming a former qualified participant.

(2) Upon the death of a qualified participant or former qualified participant, the accumulated balance of that deceased participant is considered to belong to the refund beneficiary, if any, of that deceased participant. If a valid nomination of refund beneficiary is not on file with the state treasurer, the state treasurer, in a lump sum distribution, shall distribute the accumulated balance to the legal representative, if any, of the deceased participant or, if there is no legal representative, to the deceased participant's estate.

(3) A former qualified participant or refund beneficiary may elect 1 or a combination of several of the following methods of distribution of the accumulated balance:

- (a) A lump sum distribution to the recipient.
- (b) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
- (c) Periodic distributions, as authorized by the state treasurer.

(d) No current distribution, in which case the accumulated balance shall remain in Tier 2 until the former qualified participant or refund beneficiary elects a method or methods of distribution under subdivisions (a) to (c), to the extent allowed by federal law.

Sec. 135a. (1) A qualified participant whom the retirement board finds to have become totally and permanently disabled from any gainful employment by reason of personal injury or mental or physical illness while serving as an employee of that reporting unit shall be granted a supplemental benefit equivalent to the amount provided for in section 84 as if the former qualified participant had retired under section 87, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance upon becoming a former qualified participant pursuant to section 135.

(2) If a qualified participant dies as a result of injury or illness arising out of and in the course of the qualified participant's reporting unit service for which worker's disability compensation is paid, or a duty disability retiree who is in receipt of weekly worker's disability compensation on account of the retiree's reporting unit service dies from the same causes for which the former qualified participant retired within 36 months after the former qualified participant's retirement, and in either case the death or the illness or injury resulting in death is found by the retirement board to have resulted, without the qualified participant's or former qualified participant's willful negligence, from the performance of the qualified participant's or former qualified participant's reporting unit service, a supplemental benefit

shall be granted equivalent to the amount provided for in section 84 had the former qualified participant been considered retired under section 90, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance upon becoming a former qualified participant pursuant to section 135.

(3) A qualified participant who has at least 10 years of credited service whom the retirement board finds to have become totally and permanently disabled for purposes of employment by his or her reporting unit by reason of personal injury or mental or physical illness before termination of reporting unit service and employment shall be granted a supplemental benefit equivalent to the amount provided for in section 84 as if the former qualified participant had retired under section 86, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance upon becoming a former qualified participant pursuant to section 135.

(4) If a qualified participant who meets the service requirements of section 89 dies as a result of injury or illness that does not arise out of and in the course of the qualified participant's reporting unit service, a supplemental benefit shall be granted equivalent to the amount provided for in section 89 had the former qualified participant been considered retired under section 89, which supplemental benefit shall be offset by the value of the distribution of his or her accumulated balance upon becoming a former qualified participant pursuant to section 135.

(5) A qualified participant, former qualified participant, or beneficiary of a deceased participant, which participant is eligible for a disability retirement allowance pursuant to this section, is eligible for health insurance coverage under section 91 in all respects and under the same terms as would be a retirant and his or her beneficiaries under Tier 1.

Sec. 136. (1) A former qualified participant may elect health insurance benefits in the manner prescribed in this section if he or she meets both of the following requirements:

(a) The former qualified participant is vested in health benefits under section 132(2).

(b) The former qualified participant meets or exceeds the benefit commencement age employed in the actuarial present value calculation under section 111 and the service requirements that would have applied to that former participant under Tier 1 for receiving health insurance coverage under section 91, if that former participant was a member of Tier 1.

(2) A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in a health benefit plan or plans as authorized by section 91 or in another plan as provided in subsection (6). A former qualified participant who is eligible to elect health insurance coverage under subsection (1) may also elect health insurance coverage for his or her health benefit dependents, if any. A surviving health benefit dependent of a deceased former qualified participant who is eligible to elect health insurance coverage under subsection (1) may elect health insurance coverage in the manner prescribed in this section.

(3) Except as otherwise provided in subsection (6), an individual who elects health insurance coverage under this section shall become a member of a health insurance coverage group authorized pursuant to section 91.

(4) For a former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 132(2)(a), and for his or her health benefit dependents, the retirement system shall pay a portion of the health insurance premium as calculated under this subsection on a cash disbursement method. An individual described in this subsection who elects health insurance coverage under this section shall pay to the retirement system the remaining portion of the health insurance coverage premium not paid by the retirement system under this subsection. The portion of the health insurance coverage premium paid by the retirement system under this subsection shall be equal to the product of 3% and the former qualified participant's years of service, up to 30 years, and shall not exceed 90% of the payments for health insurance coverage under section 91. Additionally, if a former qualified participant described in this subsection has less than 30 years of service credit and is less than 60 years of age, the retirement system shall reduce the amount payable under this subsection by the formula used to reduce a retirement allowance under section 84(2). If the individual elects the health insurance coverage provided under section 91, the retirement system shall transfer its portion of the amount calculated under this subsection to the reserve for health benefits created by section 34.

(5) A former qualified participant who is eligible to elect health insurance coverage under subsection (1) and who is vested in those benefits under section 132(2)(b) may elect health insurance coverage under section 91 for himself or herself and for his or her health benefited dependents, in all respects and under the same terms as would a retirant and his or her health insurance dependents under Tier 1.

(6) A former qualified participant or health benefit dependent who is eligible to elect health insurance coverage under this section and who elects health insurance coverage under a different plan than the plan authorized under section 91 may elect to have an amount up to the amount of the retirement system's share of the monthly health insurance premium subsidy provided in this section paid by the retirement system directly to the other health insurance plan or to a medical savings account established pursuant to section 220 of the internal revenue code, to the extent allowed by law or under the provisions and procedures of Tier 2.

(7) If the department of management and budget receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

Sec. 137. (1) Distributions from employer contributions made pursuant to section 131(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 131(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax, and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and shall be unassignable except as otherwise provided in this act.

(2) The right of a qualified participant or a former qualified participant, or his or her beneficiaries, to a distribution described in subsection (1) is subject to forfeiture pursuant to the public employee retirement benefits forfeiture act, Act No. 350 of the Public Acts of 1994, being sections 38.2701 to 38.2705 of the Michigan Compiled Laws.

(3) The right of a qualified participant or former qualified participant to a distribution described in subsection (1) is subject to an award by a court pursuant to section 18 of chapter 84 of the Revised Statutes of 1846, being section 552.18 of the Michigan Compiled Laws; an eligible domestic relations order under the eligible domestic relations order act, Act No. 46 of the Public Acts of 1991, being sections 38.1701 to 38.1711 of the Michigan Compiled Laws; and to any other domestic relations order of a court pertaining to alimony or child support.

(4) If an award or order described in subsection (3) requires Tier 2 to withhold payment of a distribution described in subsection (1) or requires Tier 2 to make payment or requires the individual to request that Tier 2 make payment of a distribution described in subsection (1), for the purpose of meeting the individual's obligations to a spouse, former spouse, or child, as provided in subsection (3), the withholding or payment provisions of the award or order are effective only against such amounts as they become due and payable to the individual receiving the distribution, unless otherwise provided in an eligible domestic relations order under Act No. 46 of the Public Acts of 1991. The limitation contained in this subsection does not apply to the accumulated employee contributions of a former qualified participant who has terminated employment before acquiring a vested status pursuant to this article.

(5) The state treasurer has the right of setoff to recover overpayments made under this article and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(6) The state treasurer shall correct errors in the records and actions under this article, and shall seek to recover overpayments and shall make up underpayments.

Section 2. If any section or part of a section of this act is for any reason held to be invalid or unconstitutional, the holding does not affect the validity of the remaining sections of this act or the act in its entirety.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

- (a) House Bill No. 6206.
- (b) House Bill No. 6207.
- (c) House Bill No. 6229.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

Governor.