

**SUBSTITUTE FOR
SENATE BILL NO. 797**

A bill to amend 1965 PA 314, entitled
"Public employee retirement system investment act,"
by amending sections 12b, 12c, 13, 14, 15, 17, 19, 19a, 20c, 20d,
20h, 20k, and 20m (MCL 38.1132b, 38.1132c, 38.1133, 38.1134,
38.1135, 38.1137, 38.1139, 38.1139a, 38.1140c, 38.1140d, 38.1140h,
38.1140k, and 38.1140m), sections 12b, 12c, 14, 17, and 20c as
amended by 2000 PA 307, section 13 as amended by 2009 PA 84,
section 15 as amended and section 20k as added by 1996 PA 485,
sections 19 and 20d as amended and section 19a as added by 2008 PA
425, section 20h as amended by 2002 PA 728, and section 20m as
amended by 2007 PA 22, and by adding sections 13e, 13f, and 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 revenue code, **26 USC 414**.

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

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

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

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

18 (4) ~~"Foreign"~~ **"GLOBAL** security" means any of the following:

19 (a) A fixed income security issued by a government, a
20 governmental agency, or a public or private company that is traded
21 outside of the United States and **MAY BE** issued in a currency other
22 than the United States dollar.

23 (b) An equity position in a company traded on an exchange
24 outside of the United States or a security **THAT MAY BE** issued in a
25 currency other than the United States dollar or an unregistered
26 American depository receipt.

27 (c) An equity or fixed income derivative that derives its

1 value from an investment described in subdivision (a) or (b) or a
2 ~~foreign stock~~ **GLOBAL SECURITY** or bond index traded on an exchange
3 outside of the United States.

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

8 (a) Exercises any discretionary authority or control in the
9 investment of a system's assets. **INVESTMENT FIDUCIARY UNDER THIS**
10 **SUBDIVISION INCLUDES THE STATE TREASURER AND HIS OR HER INVESTMENT**
11 **PERSONNEL FOR THE SYSTEMS DESCRIBED IN SECTION 13(4).**

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

14 (2) "Invest" or "investment" means the utilization of money in
15 the expectation of future returns in the form of income or capital
16 gain. Investments initially purchased in accordance with this act
17 ~~which~~ **THAT** subsequently do not qualify for purchase for any reason
18 ~~—~~ shall be considered to continue to meet the requirements of this
19 act. Investment includes a guarantee by an investment fiduciary **BUT**
20 **DOES NOT INCLUDE, AS A SOLE INVESTMENT, A PLEDGE OF THE SYSTEM'S**
21 **ASSETS AS COLLATERAL TO GUARANTEE THE REPAYMENT OF OBLIGATIONS MADE**
22 **BY A THIRD PARTY TO A BORROWER.**

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

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

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

12 (3) An investment fiduciary shall discharge his or her duties
13 solely in the interest of the participants and the beneficiaries,
14 and shall do all of the following:

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

19 (b) Act with due regard for the management, reputation, and
20 stability of the issuer and the character of the particular
21 investments being considered.

22 (c) Make investments for the exclusive purposes of providing
23 benefits to participants and participants' beneficiaries, and of
24 defraying reasonable expenses of investing the assets of the
25 system.

26 (d) Give appropriate consideration to those facts and
27 circumstances that the investment fiduciary knows or should know

1 are relevant to the particular investment or investment course of
2 action involved, including the role the investment or investment
3 course of action plays in that portion of the system's investments
4 for which the investment fiduciary has responsibility; and act
5 accordingly. For purposes of this subsection, "appropriate
6 consideration" includes, but is not limited to, a determination by
7 the investment fiduciary that a particular investment or investment
8 course of action is reasonably designed, as part of the investments
9 of the system, to further the purposes of the system, taking into
10 consideration the risk of loss and the opportunity for gain or
11 other return associated with the investment or investment course of
12 action; and consideration of the following factors as they relate
13 to the investment or investment course of action:

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

15 (ii) The liquidity and current return of the investments of the
16 system relative to the anticipated cash flow requirements of the
17 system.

18 (iii) The projected return of the investments of the system
19 relative to the funding objectives of the system.

20 (e) Give appropriate consideration to investments that would
21 enhance the general welfare of this state and its citizens if those
22 investments offer the safety and rate of return comparable to other
23 investments permitted under this act and available to the
24 investment fiduciary at the time the investment decision is made.

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

(g) Monitor the investment of the system's assets with regard to the limitations on those investments pursuant to this act. Upon discovery that an investment causes the system to exceed a limitation prescribed in this act, the investment fiduciary shall reallocate assets in a prudent manner in order to comply with the prescribed limitation.

(H) PREPARE AND MAINTAIN WRITTEN POLICIES REGARDING ETHICS AND PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL, WHICH POLICIES CONTAIN CLEARLY DEFINED ACCOUNTABILITY AND REPORTING REQUIREMENTS FOR THE SYSTEM'S INVESTMENT FIDUCIARIES.

(I) PUBLISH A SUMMARY ANNUAL REPORT THAT INCLUDES ALL OF THE FOLLOWING:

(i) THE NAME OF THE SYSTEM.

(ii) THE NAMES OF THE SYSTEM'S INVESTMENT FIDUCIARIES.

(iii) THE NAMES OF THE SYSTEM'S SERVICE PROVIDERS.

(iv) THE SYSTEM'S ASSETS AND LIABILITIES AND CHANGES IN NET PLAN ASSETS ON A PLAN-YEAR BASIS.

(v) THE SYSTEM'S FUNDED RATIO BASED UPON THE RATIO OF VALUATION ASSETS TO ACTUARIAL ACCRUED LIABILITIES ON A PLAN-YEAR BASIS.

(vi) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH, THE SYSTEM'S INVESTMENT PERFORMANCE NET OF FEES ON A ROLLING CALENDAR-YEAR BASIS FOR THE PREVIOUS 1-, 3-, 5-, 7-, AND 10-YEAR PERIODS. FOR A SYSTEM FOR WHICH THE STATE TREASURER IS THE INVESTMENT FIDUCIARY, THE SUMMARY ANNUAL REPORT SHALL INCLUDE THE SYSTEM'S INVESTMENT PERFORMANCE NET OF FEES ON A ROLLING CALENDAR-YEAR AND FISCAL-YEAR BASIS FOR THE PREVIOUS 1-, 3-, 5-, 7-, AND 10-YEAR

1 PERIODS.

2 (vii) THE SYSTEM'S ADMINISTRATIVE AND INVESTMENT EXPENDITURES
3 PURSUANT TO STANDARDS OF THE GOVERNMENTAL ACCOUNTING STANDARDS
4 BOARD, INCLUDING, BUT NOT LIMITED TO, A LIST OF ALL EXPENDITURES
5 MADE WITH SOFT DOLLARS AND ALL EXPENDITURES FOR PROFESSIONAL
6 TRAINING AND EDUCATION, INCLUDING TRAVEL EXPENDITURES, BY OR ON
7 BEHALF OF SYSTEM BOARD MEMBERS THAT ARE PAID BY THE SYSTEM, IF ANY.

8 (viii) THE SYSTEM'S ITEMIZED BUDGET CONTAINING ALL PROJECTED
9 EXPENDITURES, INCLUDING, BUT NOT LIMITED TO, EXPENDITURES FOR
10 PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL EXPENDITURES,
11 BY OR ON BEHALF OF SYSTEM BOARD MEMBERS THAT ARE PAID BY THE
12 SYSTEM.

13 (ix) THE FOLLOWING INFORMATION AS PROVIDED IN THE SYSTEM'S MOST
14 RECENT ANNUAL ACTUARIAL VALUATION REPORT:

15 (A) THE NUMBER OF ACTIVE MEMBERS.

16 (B) THE NUMBER OF RETIREES AND BENEFICIARIES.

17 (C) THE AVERAGE ANNUAL RETIREMENT ALLOWANCE.

18 (D) THE TOTAL ANNUAL RETIREMENT ALLOWANCES BEING PAID.

19 (E) THE VALUATION PAYROLL.

20 (F) THE EMPLOYER'S COMPUTED NORMAL COST OF BENEFITS EXPRESSED
21 AS A PERCENTAGE OF VALUATION PAYROLL.

22 (G) THE EMPLOYER'S TOTAL CONTRIBUTION RATE EXPRESSED AS A
23 PERCENTAGE OF VALUATION PAYROLL.

24 (H) THE WEIGHTED AVERAGE OF MEMBER CONTRIBUTIONS, IF ANY.

25 (I) THE ACTUARIAL ASSUMED RATE OF INVESTMENT RETURN.

26 (J) THE ACTUARIAL ASSUMED RATE OF LONG-TERM WAGE INFLATION.

27 (K) THE SMOOTHING METHOD UTILIZED TO DETERMINE THE FUNDING

1 VALUE OF ASSETS.

2 (L) THE AMORTIZATION METHOD AND PERIOD UTILIZED FOR FUNDING
3 THE SYSTEM'S UNFUNDED ACTUARIAL ACCRUED LIABILITIES, IF ANY.

4 (M) THE SYSTEM'S ACTUARIAL COST METHOD.

5 (N) WHETHER SYSTEM MEMBERSHIP IS OPEN OR CLOSED TO SPECIFIC
6 GROUPS OF EMPLOYEES.

7 (4) An investment fiduciary who is an investment fiduciary of
8 any of the following shall comply with the divestment from terror
9 act, 2008 PA 234, MCL 129.291 to 129.301, in making investments
10 under this act:

11 (a) The Tier 1 retirement plan available under the state
12 employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

13 (b) The Tier 1 retirement plan available under the judges
14 retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

15 (c) The **MICHIGAN** state police retirement system created under
16 the state police retirement act of 1986, 1986 PA 182, MCL 38.1601
17 to 38.1648.

18 (d) The **MICHIGAN** public school ~~employees~~**EMPLOYEES'** retirement
19 system created under the public school employees retirement act of
20 1979, 1980 PA 300, MCL 38.1301 to ~~38.1408~~**38.1437**.

21 (5) An investment fiduciary may use a portion of the income of
22 the system to defray the costs of investing, managing, and
23 protecting the assets of the system; may retain investment and all
24 other **GOODS AND** services necessary for the conduct of the affairs
25 of the system, **INCLUDING INVESTMENT ADVISORS, CONSULTANTS,**
26 **CUSTODIANS, ACCOUNTANTS, AUDITORS, ATTORNEYS, ACTUARIES, INVESTMENT**
27 **PERSONNEL, ADMINISTRATORS, AND PHYSICIANS;** and may **ENTER INTO**

1 CONTRACTS FOR AND pay reasonable compensation for those services.
2 Subject to an annual appropriation by the legislature, a deduction
3 from the income of a state-administered system resulting from the
4 payment of those costs shall be made.

5 (6) SUBJECT TO THIS SUBSECTION, AN INVESTMENT FIDUCIARY MAY
6 USE A PORTION OF THE INCOME OF THE SYSTEM TO DEFRAY THE COSTS OF
7 PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL COSTS, OF
8 SYSTEM BOARD MEMBERS, WHICH PROFESSIONAL TRAINING AND EDUCATION,
9 INCLUDING TRAVEL, ARE DIRECTLY RELATED TO THE ADMINISTRATION,
10 MANAGEMENT, AND OPERATION OF THE SYSTEM. THE GOVERNING BOARD VESTED
11 WITH THE GENERAL ADMINISTRATION, MANAGEMENT, AND OPERATION OF THE
12 SYSTEM OR OTHER DECISION-MAKING BODY THAT IS RESPONSIBLE FOR
13 IMPLEMENTATION AND SUPERVISION OF THE SYSTEM SHALL ADOPT AN ANNUAL
14 BUDGET FOR PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL,
15 AUTHORIZED UNDER THIS SUBSECTION. THE BUDGET ADOPTED UNDER THIS
16 SUBSECTION SHALL REFLECT THE NUMBER OF BOARD MEMBERS, THE SIZE OF
17 THE SYSTEM, AND THE EDUCATIONAL OBJECTIVES OF THE SYSTEM. THE
18 SYSTEM'S TOTAL AGGREGATE COST FOR PROFESSIONAL TRAINING AND
19 EDUCATION, INCLUDING TRAVEL COSTS, AUTHORIZED UNDER THIS SUBSECTION
20 FOR A FISCAL YEAR SHALL NOT EXCEED \$150,000.00 OR AN AMOUNT THAT IS
21 EQUAL TO THE TOTAL NUMBER OF SYSTEM BOARD MEMBERS MULTIPLIED BY
22 \$12,000.00, WHICHEVER IS LESS. THE SYSTEM'S TOTAL COST FOR
23 PROFESSIONAL TRAINING AND EDUCATION, INCLUDING TRAVEL COSTS,
24 AUTHORIZED UNDER THIS SUBSECTION FOR AN INDIVIDUAL SYSTEM BOARD
25 MEMBER IN A FISCAL YEAR SHALL NOT EXCEED \$30,000.00. BEGINNING
26 JANUARY 1, 2013, THE DEPARTMENT OF TREASURY SHALL ADJUST THE DOLLAR
27 AMOUNTS IN THIS SUBSECTION BY AN AMOUNT DETERMINED BY THE STATE

1 TREASURER AT THE END OF THE IMMEDIATELY PRECEDING CALENDAR YEAR TO
2 REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER
3 PRICE INDEX. AS USED IN THIS SUBSECTION, "CONSUMER PRICE INDEX"
4 MEANS THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES AVAILABLE FOR
5 THIS STATE FROM THE BUREAU OF LABOR STATISTICS OF THE UNITED STATES
6 DEPARTMENT OF LABOR.

7 (7) BEFORE ANY INVESTMENT SERVICES ARE PROVIDED, AN INVESTMENT
8 SERVICE PROVIDER SHALL PROVIDE THE INVESTMENT FIDUCIARY OF THE
9 SYSTEM WITH A COMPLETE WRITTEN DISCLOSURE OF ALL FEES OR OTHER
10 COMPENSATION ASSOCIATED WITH ITS RELATIONSHIP WITH THE SYSTEM.
11 AFTER INVESTMENT SERVICES ARE PROVIDED TO THE INVESTMENT FIDUCIARY
12 OF THE SYSTEM, AN INVESTMENT SERVICE PROVIDER SHALL PROVIDE ON AN
13 ANNUAL BASIS WRITTEN DISCLOSURE OF ALL FEES INCLUDING, BUT NOT
14 LIMITED TO, COMMISSIONS, 12B-1 AND RELATED FEES, COMPENSATION PAID
15 OR TO BE PAID TO THIRD PARTIES, AND ANY OTHER COMPENSATION PAID BY
16 THE SYSTEM TO THE INVESTMENT FIDUCIARY OF THE SYSTEM. AS USED IN
17 THIS SUBSECTION, "INVESTMENT SERVICE PROVIDER" MEANS ANY
18 INDIVIDUAL, THIRD-PARTY AGENT OR CONSULTANT, OR OTHER ENTITY THAT
19 RECEIVES DIRECT OR INDIRECT COMPENSATION FOR CONSULTING, INVESTMENT
20 MANAGEMENT, BROKERAGE, OR CUSTODY SERVICES RELATED TO THE SYSTEM'S
21 ASSETS. INVESTMENT SERVICE PROVIDER DOES NOT INCLUDE A RETIREMENT
22 SYSTEM.

23 (8) ~~(6)~~—The system shall be a separate and distinct trust fund
24 and the assets of the system shall be for the exclusive benefit of
25 the participants and their beneficiaries and of defraying
26 reasonable expenses of investing the assets of the system. With
27 respect to a system, an investment fiduciary shall not cause the

1 system to engage in a transaction if he or she knows or should know
2 that the transaction is any of the following, either directly or
3 indirectly:

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

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

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

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

20 (9) ~~(7)~~—With respect to a system subject to this act, an
21 investment fiduciary shall not do any of the following:

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

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

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

4 (10) ~~(8)~~—This section does not prohibit an investment
5 fiduciary from doing any of the following:

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

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

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

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

16 (11) ~~(9)~~—Except for an employee of a system, this state, or
17 the political subdivision sponsoring a system, when acting in the
18 capacity as an investment fiduciary, an investment fiduciary who is
19 qualified under section 12c(1)(b) shall meet 1 of the following
20 requirements:

21 (a) Be a registered investment adviser under ~~either the~~
22 investment advisers act of 1940, 15 USC 80b-1 to 80b-21, ~~the~~
23 ~~uniform securities act, 1964 PA 265, MCL 451.501 to 451.818,~~ or the
24 uniform securities act (2002), 2008 PA 551, MCL 451.2101 to
25 451.2703.

26 (b) Be a bank as defined under the investment advisers act of
27 1940, 15 USC 80b-1 to 80b-21.

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

(12) ~~(10)~~ An investment fiduciary shall not invest in a debt instrument issued by a foreign country that has been identified **DESIGNATED** by the United States ~~state~~ department **OF STATE** as ~~engaging in or sponsoring terrorism.~~ **A STATE SPONSOR OF TERROR.**

~~—— (11) A system shall annually publish and make available to the plan participants and beneficiaries a list of all expenses paid by soft dollars.~~

SEC. 13E. (1) AN INVESTMENT FIDUCIARY SHALL NOT MAKE A PAYMENT FROM THE ASSETS OF A SYSTEM TO A SERVICE PROVIDER IF THE SERVICE PROVIDER OR A COVERED ASSOCIATE OF THE SERVICE PROVIDER HAS MADE A CONTRIBUTION TO AN OFFICIAL OF A GOVERNMENTAL ENTITY DURING THE IMMEDIATELY PRECEDING 24-CALENDAR-MONTH PERIOD, WHICH PERIOD DOES NOT INCLUDE ANY CALENDAR MONTH BEFORE THE EFFECTIVE DATE OF THIS SECTION. AN INVESTMENT FIDUCIARY, A SERVICE PROVIDER, OR A COVERED ASSOCIATE OF A SERVICE PROVIDER SHALL NOT DO ANYTHING INDIRECTLY THAT, IF DONE DIRECTLY, WOULD VIOLATE THIS SUBSECTION. THIS SUBSECTION DOES NOT APPLY UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

(A) THE CONTRIBUTION WAS MADE BY A SERVICE PROVIDER OR COVERED ASSOCIATE OF THE SERVICE PROVIDER TO AN OFFICIAL OF A GOVERNMENTAL ENTITY FOR WHOM THE SERVICE PROVIDER OR COVERED ASSOCIATE OF THE SERVICE PROVIDER WAS ENTITLED TO VOTE AT THE TIME OF THE CONTRIBUTION AND THE CONTRIBUTIONS BY THE SERVICE PROVIDER OR COVERED ASSOCIATE OF THE SERVICE PROVIDER TO THAT OFFICIAL IN THE AGGREGATE DO NOT EXCEED \$350.00 PER ELECTION.

(B) THE CONTRIBUTION WAS MADE BY A SERVICE PROVIDER OR COVERED ASSOCIATE OF THE SERVICE PROVIDER TO AN OFFICIAL OF A GOVERNMENTAL

1 ENTITY FOR WHOM THE SERVICE PROVIDER OR COVERED ASSOCIATE OF THE
2 SERVICE PROVIDER WAS NOT ENTITLED TO VOTE AT THE TIME OF THE
3 CONTRIBUTION AND THE CONTRIBUTIONS BY THE SERVICE PROVIDER OR
4 COVERED ASSOCIATE OF THE SERVICE PROVIDER TO THAT OFFICIAL IN THE
5 AGGREGATE DO NOT EXCEED \$150.00 PER ELECTION.

6 (C) THE CONTRIBUTION WAS MADE TO AN OFFICIAL OF A GOVERNMENTAL
7 ENTITY BY AN INDIVIDUAL MORE THAN 6 MONTHS BEFORE HE OR SHE BECAME
8 A COVERED ASSOCIATE OF THE SERVICE PROVIDER.

9 (D) THE CONTRIBUTION WAS MADE TO AN OFFICIAL OF A GOVERNMENTAL
10 ENTITY BY A COVERED ASSOCIATE OF THE SERVICE PROVIDER AND ALL OF
11 THE FOLLOWING REQUIREMENTS ARE MET:

12 (i) THE SERVICE PROVIDER DISCOVERS THE CONTRIBUTION THAT
13 VIOLATES THIS SUBSECTION ON OR BEFORE THE EXPIRATION OF 4 MONTHS
14 AFTER THE CONTRIBUTION WAS MADE.

15 (ii) THE CONTRIBUTION THAT VIOLATES THIS SUBSECTION WAS FOR
16 \$350.00 OR LESS.

17 (iii) THE COVERED ASSOCIATE OF THE SERVICE PROVIDER OBTAINS THE
18 RETURN OF THE CONTRIBUTION THAT VIOLATES THIS SUBSECTION ON OR
19 BEFORE THE EXPIRATION OF 60 CALENDAR DAYS AFTER THE DATE OF THE
20 DISCOVERY OF THE CONTRIBUTION UNDER SUBPARAGRAPH (i) .

21 (2) AS USED IN THIS SECTION:

22 (A) "CONTRIBUTION" MEANS A PAYMENT MADE UNDER ANY OF THE
23 FOLLOWING CIRCUMSTANCES:

24 (i) FOR THE PURPOSE OF INFLUENCING AN ELECTION FOR FEDERAL,
25 STATE, OR LOCAL OFFICE.

26 (ii) FOR A DEBT INCURRED IN CONNECTION WITH AN ELECTION FOR
27 FEDERAL, STATE, OR LOCAL OFFICE.

1 (iii) FOR TRANSITION OR INAUGURAL EXPENSES OF A SUCCESSFUL
2 CANDIDATE FOR FEDERAL, STATE, OR LOCAL OFFICE.

3 (iv) TO A LEGAL DEFENSE FUND ESTABLISHED BY OR ON BEHALF OF AN
4 OFFICIAL OF A GOVERNMENTAL ENTITY.

5 (B) "COVERED ASSOCIATE OF THE SERVICE PROVIDER" MEANS ANY OF
6 THE FOLLOWING:

7 (i) A GENERAL PARTNER, MANAGING MEMBER, AGENT, OR OFFICER OF
8 THE SERVICE PROVIDER OR ANY OTHER INDIVIDUAL WITH A SIMILAR STATUS
9 OR FUNCTION FOR THE SERVICE PROVIDER.

10 (ii) AN EMPLOYEE OF THE SERVICE PROVIDER WHO SOLICITS A
11 GOVERNMENTAL ENTITY ON BEHALF OF THE SERVICE PROVIDER AND ANY
12 INDIVIDUAL EMPLOYED BY THE SERVICE PROVIDER WHO DIRECTLY OR
13 INDIRECTLY SUPERVISES THAT EMPLOYEE.

14 (iii) A POLITICAL ACTION COMMITTEE CONTROLLED BY THE SERVICE
15 PROVIDER OR BY ANY INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (i) OR (ii).
16 AS USED IN THIS SUBPARAGRAPH, "POLITICAL ACTION COMMITTEE" MEANS A
17 POLITICAL COMMITTEE OR AN INDEPENDENT COMMITTEE AS THOSE TERMS ARE
18 DEFINED IN THE MICHIGAN CAMPAIGN FINANCE ACT, 1976 PA 388, MCL
19 169.201 TO 169.282.

20 (C) "GOVERNMENTAL ENTITY" MEANS THIS STATE OR A POLITICAL
21 SUBDIVISION OF THIS STATE. GOVERNMENTAL ENTITY INCLUDES A SYSTEM
22 AND AN AGENCY, AUTHORITY, OR INSTRUMENTALITY OF THIS STATE OR OF A
23 POLITICAL SUBDIVISION OF THIS STATE.

24 (D) "OFFICIAL OF A GOVERNMENTAL ENTITY" MEANS AN INDIVIDUAL
25 WHO, AT THE TIME OF THE CONTRIBUTION, WAS AN INCUMBENT, CANDIDATE,
26 OR SUCCESSFUL CANDIDATE FOR AN ELECTIVE OFFICE IN A GOVERNMENTAL
27 ENTITY IF THE OFFICE MEETS ANY OF THE FOLLOWING REQUIREMENTS:

1 (i) IS DIRECTLY OR INDIRECTLY RESPONSIBLE FOR OR CAN INFLUENCE
2 THE OUTCOME OF THE HIRING OF A SERVICE PROVIDER BY A SYSTEM
3 SPONSORED BY THE GOVERNMENTAL ENTITY.

4 (ii) HAS THE AUTHORITY TO APPOINT AN INDIVIDUAL WHO IS DIRECTLY
5 OR INDIRECTLY RESPONSIBLE FOR OR CAN INFLUENCE THE OUTCOME OF THE
6 HIRING OF A SERVICE PROVIDER BY A SYSTEM SPONSORED BY THE
7 GOVERNMENTAL ENTITY.

8 (E) "PAYMENT" MEANS A GIFT, SUBSCRIPTION, LOAN, ADVANCE, OR
9 DEPOSIT OF MONEY OR ANYTHING OF VALUE.

10 (F) "REGULATED INVESTMENT ADVISER" MEANS AN INVESTMENT ADVISER
11 OR COVERED ASSOCIATE OF AN INVESTMENT ADVISER THAT IS REGULATED
12 UNDER THE INVESTMENT ADVISERS ACT OF 1940, 15 USC 80B-1 TO 80B-21.

13 (G) "SERVICE PROVIDER" MEANS A PERSON RETAINED TO PROVIDE
14 SERVICES TO A SYSTEM AND INCLUDES INVESTMENT ADVISERS, CONSULTANTS,
15 CUSTODIANS, ACCOUNTANTS, AUDITORS, ATTORNEYS, ACTUARIES,
16 ADMINISTRATORS, AND PHYSICIANS. SERVICE PROVIDER INCLUDES AN
17 INVESTMENT SERVICE PROVIDER AS DEFINED IN SECTION 13(7). SERVICE
18 PROVIDER DOES NOT INCLUDE A REGULATED INVESTMENT ADVISER.

19 SEC. 13F. (1) AN INVESTMENT FIDUCIARY OR A SERVICE PROVIDER
20 WHO IS CONVICTED OF OR WHO ENTERS A NOLO CONTENDERE PLEA ACCEPTED
21 BY A COURT FOR A FELONY OR MISDEMEANOR ARISING OUT OF HIS OR HER
22 SERVICE TO A SYSTEM IS CONSIDERED TO HAVE BREACHED THE PUBLIC TRUST
23 AND SHALL REIMBURSE THE SYSTEM FOR ALL COSTS, INCLUDING LEGAL
24 DEFENSE FEES, THAT WERE PAID BY THE SYSTEM. THE SYSTEM SHALL USE
25 REASONABLE EFFORTS TO COLLECT ANY FEES AND COSTS RECOVERABLE UNDER
26 THIS SUBSECTION.

27 (2) AS USED IN THIS SECTION, "SERVICE PROVIDER" MEANS THAT

1 TERM AS DEFINED IN SECTION 13E.

2 Sec. 14. (1) An investment fiduciary ~~may~~ **SHALL NOT** invest ~~not~~
3 more than 70% of a system's assets in stock **OR THE TYPE OF GLOBAL**
4 **SECURITY DESCRIBED IN SECTION 12B(4)(B)**. An investment fiduciary
5 shall not invest in more than 5% of the outstanding stock of any 1
6 corporation, or invest more than 5% of a system's assets in the
7 stock of any 1 corporation, unless otherwise provided in this act.

8 (2) ~~Stock invested~~ **AN INVESTMENT FIDUCIARY MAY INVEST** in **STOCK**
9 **OR GLOBAL SECURITIES** under ~~this section shall meet~~ **SUBSECTION (1)**
10 **IF IT MEETS** 1 of the following requirements:

11 (a) ~~Be~~ **IS** registered on a national securities exchange
12 regulated under title I of the securities exchange act of 1934,
13 ~~chapter 404, 48 Stat. 881, 15 U.S.C. 78a to 78l, 78m to 78o, 78o-3~~
14 ~~to 78dd-1, 78ee to 78hh, and 78kk to 78ll~~ **15 USC 78A TO 78PP, OR ON**
15 **AN INDUSTRY-RECOGNIZED EXCHANGE OUTSIDE THE UNITED STATES.**

16 (b) ~~Be~~ **IS** on the national association of securities dealers
17 automated quotation system or a successor to this system **OR IS ON**
18 **AN INDUSTRY-RECOGNIZED SYSTEM OUTSIDE THE UNITED STATES.**

19 (c) ~~Be~~ **IS** issued pursuant to rule 144a under the securities
20 act of 1933, 17 ~~C.F.R.~~ **CFR** 230.144a.

21 (3) Notwithstanding subsection (2), an investment fiduciary
22 may designate an American depository receipt **OR THE TYPE OF GLOBAL**
23 **SECURITY DESCRIBED IN SECTION 12B(4)(B)** that satisfies the
24 requirements of subsection (2) as an investment qualified under
25 this section or as an investment in ~~foreign~~ **GLOBAL** securities
26 qualified under section 20k.

27 Sec. 15. An investment fiduciary may invest in investment

1 companies registered under the investment company act of 1940,
2 ~~title I of chapter 686, 54 Stat. 789, 15 U.S.C.~~ **USC** 80a-1 to 80a-
3 64. The management company of the investment company shall have
4 been in operation for at least 5 years and shall have assets under
5 management of more than \$500,000,000.00. **AN INVESTMENT COMPANY MAY**
6 **BE ESTABLISHED AS A LIMITED PARTNERSHIP, CORPORATION, LIMITED**
7 **LIABILITY COMPANY, TRUST, OR OTHER ORGANIZATIONAL ENTITY FOR WHICH**
8 **THE LIABILITY OF AN INVESTOR DOES NOT EXCEED THE AMOUNT OF THE**
9 **INVESTMENT UNDER THE LAWS OF THE UNITED STATES OR THE APPLICABLE**
10 **LAWS OF THE STATE, DISTRICT, TERRITORY, OR FOREIGN COUNTRY UNDER**
11 **WHICH THE INVESTMENT COMPANY WAS ESTABLISHED.** An investment in an
12 investment company shall be considered an investment in the
13 underlying assets for all purposes under this act.

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

16 (a) Obligations issued, assumed, or guaranteed by a solvent
17 entity created or existing under the laws of the United States or
18 of any state, district, or territory of the United States, which
19 are not in default as to principal or interest, including, but not
20 limited to, the following:

21 (i) Obligations secured by the mortgage of real property or the
22 pledge of adequate collateral if, during any 3, including 1 of the
23 last 2, of the 5 fiscal years immediately preceding the time of
24 investment, the net earnings of the issuing, assuming, or
25 guaranteeing entity available for fixed charges, as determined in
26 accordance with standard accounting practice, shall have been not
27 less than the total of its fixed charges for the year on an overall

1 basis, nor less than 1-1/2 times its fixed charges for the year on
2 a priority basis after excluding interest requirements on
3 obligations subordinate to the issue as to security.

4 (ii) Equipment trust certificates of railroad companies
5 organized under the laws of any state of the United States or of
6 Canada or any of its provinces, payable within 20 years from their
7 date of issue, in annual or semiannual installments, beginning not
8 later than the fifth year after the date of issue, which
9 certificates are a first lien on the specific equipment pledged as
10 security for the payment of the certificates, and which
11 certificates are either the direct obligations of the railroad
12 companies or are guaranteed by the railroad companies, or are
13 executed by trustees holding title to the equipment.

14 (iii) Obligations other than those described in subparagraphs

15 (i) and (ii) ~~, if the net earnings of the issuing, assuming, or~~
16 ~~guaranteeing entity available for fixed charges during each of any~~
17 ~~3, including 1 of the last 2, of the 5 fiscal years immediately~~
18 ~~preceding the time of investment, shall have been not less than 1-~~
19 ~~1/2 times the total of the entity's fixed charges for such year, or~~
20 ~~if the obligations are of investment grade.~~ **AND IN SECTION 12C(3).**

21 **THE AGGREGATE INVESTMENTS MADE UNDER THIS SUBPARAGRAPH SHALL NOT**
22 **EXCEED 15% OF THE SYSTEM'S TOTAL ASSETS.**

23 (b) Obligations secured by a security interest in real or
24 personal property and a lease obligation given by a solvent entity
25 whose obligations would be qualified investments under the
26 provisions of this act, if the investment does not exceed 100% of
27 the appraised value of the property subject to the lease, and if

1 all of the following requirements are met:

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

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

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

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

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

13 (c) Obligations issued, assumed, or guaranteed by the United
14 States, its agencies, or United States government-sponsored
15 enterprises.

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

26 (e) Banker's acceptances, commercial accounts, certificates of
27 deposit, or depository receipts issued by a bank, trust company,

1 savings and loan association, or a credit union.

2 (f) Commercial paper rated at the time of purchase within the
3 2 highest classifications established by not less than 2 national
4 rating services, and which matures within 270 days after the date
5 of issue.

6 (g) Repurchase agreements for the purchase of securities
7 issued by the United States government or its agencies and executed
8 by a bank or trust company or by members of the association of
9 primary dealers or other recognized dealers in United States
10 government securities.

11 (h) Reverse repurchase agreements for the sale of securities
12 issued by the United States government or its agencies and executed
13 with a bank or trust company or with members of the association of
14 primary dealers or other recognized dealers in United States
15 government securities.

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

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

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

27 (2) Except as otherwise provided in this act and except for

obligations described in subsection (1)(c), an investment fiduciary shall not do any of the following:

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

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

Sec. 19. (1) An investment fiduciary may invest up to ~~5%~~10% of a system's assets in publicly or privately issued real estate investment trusts or in real or personal property otherwise qualified pursuant to section 15, 16, or 20c.

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

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

(b) Develop, maintain, operate, or lease the real or personal property referred to in subdivision (a).

(c) Form or invest in 1 or more limited partnerships, corporations, limited liability companies, trusts, or other organizational entities for which liability of an investor cannot exceed the amount of the investment under the laws of the United States or of any state, district, or territory of the United States or foreign country. The limited partnership, corporation, limited liability company, trust, or other organizational entity may invest in, buy, sell, hold, develop, improve, lease, or operate real or personal property, or originate a mortgage or invest in an annuity

1 separate account that invests in real or personal property to hold
2 title to, improve, lease, manage, develop, maintain, or operate
3 real or personal property whether currently held or acquired after
4 ~~the effective date of the amendatory act that added this~~
5 ~~subdivision~~ **DECEMBER 27, 1996**. An entity formed under this
6 subdivision has the right to exercise all powers granted to the
7 entity by the laws of the jurisdiction of formation, including, but
8 not limited to, the power to borrow money in order to provide
9 additional capital to benefit and increase the overall return on
10 the investment held by the entity.

11 (d) Invest in investments otherwise qualified pursuant to
12 subsection (1).

13 (3) Except as otherwise provided in this section, the
14 aggregate investments made under subsection (2) shall not exceed ~~5%~~
15 **10%** of the assets of the system. The purchase price of an
16 investment made under this section shall not exceed the appraised
17 value of the real or personal property.

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

21 (5) An investment qualified under this section in which the
22 underlying asset is an interest in real or personal property
23 constitutes an investment under this section for the purpose of
24 meeting the asset limitations contained in this act. This
25 subsection applies even though the investment may be qualified
26 elsewhere in this act. Notwithstanding this subsection, an
27 investment fiduciary may designate a real estate investment trust

1 which satisfies the requirements of section 14(2) as an investment
2 qualified under this section or as an investment in stock under
3 section 14.

4 Sec. 19a. (1) If the investment fiduciary is the state
5 treasurer, investments in private equity shall not be more than 30%
6 of the **SYSTEM'S** total assets. **IF THE INVESTMENT FIDUCIARY IS NOT**
7 **THE STATE TREASURER AND THE SYSTEM HAS ASSETS OF \$1,000,000,000.00**
8 **OR MORE, INVESTMENTS IN PRIVATE EQUITY SHALL NOT BE MORE THAN 10%**
9 **OF THE SYSTEM'S TOTAL ASSETS. AN INVESTMENT FIDUCIARY DESCRIBED IN**
10 **THIS SUBSECTION MAY INVEST NOT MORE THAN AN ADDITIONAL 5% OF THE**
11 **SYSTEM'S ASSETS IN MICHIGAN PRIVATE EQUITY ONLY.**

12 (2) **AN INVESTMENT FIDUCIARY OF A SYSTEM THAT HAS ASSETS OF**
13 **\$250,000,000.00 OR MORE BUT LESS THAN \$1,000,000,000.00 SHALL NOT**
14 **INVEST MORE THAN 5% OF THE SYSTEM'S ASSETS IN MICHIGAN PRIVATE**
15 **EQUITY. AN INVESTMENT FIDUCIARY MAY OTHERWISE INVEST IN PRIVATE**
16 **EQUITY UNDER SECTION 20D.**

17 Sec. 20c. (1) A financial institution, a trust company, a
18 management company qualified under section 15, or any affiliate of
19 a person described in this section if that affiliate qualifies as
20 an investment fiduciary under section ~~13(8)(a)~~, **13(11)**, retained to
21 act as an investment fiduciary may invest the assets of a system in
22 any collective investment fund, common trust fund, or pooled fund
23 that is established and maintained for investment of those assets
24 ~~by the financial institution, trust company, or management company~~
25 under federal or state statutes or rules or regulations **OR AN**
26 **APPLICABLE FOREIGN LAW. THE INVESTMENT FIDUCIARY OF THE COLLECTIVE**
27 **INVESTMENT FUND, COMMON TRUST FUND, OR POOLED FUND SHALL BE A**

1 FINANCIAL INSTITUTION, A TRUST COMPANY, A MANAGEMENT COMPANY
 2 QUALIFIED UNDER SECTION 13(11)(A), OR AN AFFILIATE OF 1 OF THESE
 3 ENTITIES IF THAT AFFILIATE QUALIFIES AS AN INVESTMENT FIDUCIARY
 4 UNDER SECTION 13(11)(A). THE COLLECTIVE INVESTMENT FUND, COMMON
 5 TRUST FUND, OR POOLED FUND MAY BE ESTABLISHED AS A LIMITED
 6 PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, TRUST, OR
 7 OTHER ORGANIZATIONAL ENTITY FOR WHICH LIABILITY OF ANY INVESTOR
 8 DOES NOT EXCEED THE AMOUNT OF THE INVESTMENT UNDER THE LAWS OF THE
 9 UNITED STATES OR THE LAWS OF THE STATE, DISTRICT, TERRITORY, OR
 10 FOREIGN COUNTRY THAT APPLIED TO THE ORGANIZATION OF THE COLLECTIVE
 11 INVESTMENT FUND, COMMON TRUST FUND, OR POOLED FUND. A POOL IN WHICH
 12 THE STATE TREASURER HAS ADMINISTRATIVE OR INVESTMENT AUTHORITY AND
 13 THE INVESTMENT POOLS OF THE MUNICIPAL EMPLOYEES RETIREMENT SYSTEM
 14 AND RETIREMENT BOARD CREATED UNDER THE MUNICIPAL EMPLOYEES
 15 RETIREMENT ACT OF 1984, 1984 PA 427, MCL 38.1501 TO 38.1555, ARE
 16 NOT POOLED FUNDS FOR PURPOSES OF THIS SECTION. An investment in a
 17 collective investment fund, common trust fund, or pooled fund ~~shall~~
 18 ~~be~~ IS considered an investment in the underlying assets of that
 19 fund for all purposes under this act.

20 (2) As used in this section, "financial institution" means a
 21 state or nationally chartered bank or a state or federally
 22 chartered savings and loan association, savings bank, or credit
 23 union whose deposits are insured by an agency of the United States
 24 government and ~~which~~ THAT maintains a principal office or branch
 25 office located in this state under the laws of this state or the
 26 United States.

27 Sec. 20d. (1) An investment fiduciary of a system having

1 assets of less than \$250,000,000.00 may invest not more than ~~5%~~**15%**
2 of the system's assets in investments not otherwise qualified under
3 this act, except as qualified in section 19a, whether the
4 investments are similar or dissimilar to those specified in this
5 act.

6 (2) An investment fiduciary of a system having assets of
7 \$250,000,000.00 or more **BUT LESS THAN \$1,000,000,000.00** may invest
8 not more than ~~10%~~**20%** of the system's assets in investments
9 described in subsection (1).

10 (3) An investment fiduciary of a system having assets of
11 \$1,000,000,000.00 or more may invest not more than ~~15%~~**25%** of the
12 system's assets in investments described in subsection (1).

13 (4) An investment fiduciary of a system who is the state
14 treasurer may invest not more than ~~20%~~**30%** of the system's assets
15 in investments described in subsection (1).

16 (5) If an investment described in subsection (1) is
17 subsequently determined to be permitted under another section of
18 this act, then the investment shall no longer be included under
19 this section.

20 (6) This section shall not be used to exceed a percentage of
21 total assets limitation for an investment provided in any other
22 section of this act.

23 Sec. 20h. (1) In addition to the provisions of this act, a
24 system is subject to the applicable accounting, **AUDITING**, and
25 reporting requirements contained in the following acts and parts of
26 acts:

27 (a) 1919 PA 71, MCL 21.41 to 21.55.

1 (b) The uniform budgeting and accounting act, 1968 PA 2, MCL
2 ~~141.121-141.421~~ to 141.440a.

3 (c) Section 91 of the executive organization act of 1965, 1965
4 PA 380, MCL 16.191.

5 (2) A SYSTEM SHALL RETAIN ITS FINANCIAL RECORDS FOR A MINIMUM
6 PERIOD OF 6 YEARS FROM THE DATE OF THE CREATION OF THE RECORD
7 UNLESS STATE OR FEDERAL LAW REQUIRES A LONGER RETENTION PERIOD. AS
8 USED IN THIS SUBSECTION, "FINANCIAL RECORDS" INCLUDES, BUT IS NOT
9 LIMITED TO, RECORDS PERTAINING TO EXPENDITURES FOR PROFESSIONAL
10 TRAINING AND EDUCATION, INCLUDING TRAVEL EXPENDITURES, BY OR ON
11 BEHALF OF SYSTEM BOARD MEMBERS THAT ARE PAID BY THE SYSTEM.

12 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
13 INFORMATION REGARDING THE CALCULATION OF ACTUAL OR ESTIMATED
14 RETIREMENT BENEFITS FOR MEMBERS OF THE SYSTEM IS EXEMPT FROM
15 DISCLOSURE BY THE SYSTEM OR THE POLITICAL SUBDIVISION SPONSORING
16 THE SYSTEM PURSUANT TO SECTION 13(1)(D) OF THE FREEDOM OF
17 INFORMATION ACT, 1976 PA 442, MCL 15.243. UPON A MAJORITY VOTE OF
18 THE GOVERNING BODY OF THE POLITICAL SUBDIVISION SPONSORING THE
19 SYSTEM, THE SYSTEM SHALL PROVIDE THE DESIGNATED REPRESENTATIVE OF
20 THE POLITICAL SUBDIVISION WITH A REASONABLE OPPORTUNITY TO INSPECT,
21 COPY, OR RECEIVE COPIES OF ALL INFORMATION REGARDING THE
22 CALCULATION OF ACTUAL OR ESTIMATED RETIREMENT BENEFITS FOR MEMBERS
23 OF THE SYSTEM. THE SYSTEM MAY REQUIRE THAT INFORMATION PROVIDED BY
24 THE SYSTEM UNDER THIS SUBSECTION BE PROVIDED ONLY UPON A PROMISE OF
25 CONFIDENTIALITY BY THE POLITICAL SUBDIVISION SPONSORING THE SYSTEM.
26 A SYSTEM MAY MAKE REASONABLE RULES TO ENSURE THE CONFIDENTIALITY OF
27 RECORDS EXEMPT FROM DISCLOSURE UNDER APPLICABLE STATE AND FEDERAL

LAW. THE SYSTEM MAY CHARGE A FEE UNDER THIS SUBSECTION IN ACCORDANCE WITH SECTION 4 OF THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.234. ALL FEES AND EXPENSES INCURRED BY THE POLITICAL SUBDIVISION SPONSORING THE SYSTEM THAT ARE RELATED TO THIS SUBSECTION SHALL BE BORNE BY THE POLITICAL SUBDIVISION AND SHALL NOT BE DEDUCTED FROM OR OFFSET AGAINST THE POLITICAL SUBDIVISION'S REQUIRED PENSION CONTRIBUTIONS TO THE SYSTEM.

(4) ~~(2)~~ Except as otherwise provided in **THIS** subsection, ~~(4)~~, a system shall have an annual actuarial valuation with assets valued on a market-related basis. ~~A system shall prepare and issue a summary annual report. The system shall make the summary annual report available to the plan participants and beneficiaries and the citizens of the political subdivision sponsoring the system. The summary annual report shall include all of the following information:~~

~~_____ (a) The name of the system.~~

~~_____ (b) The names of the system's investment fiduciaries.~~

~~_____ (c) The system's assets and liabilities.~~

~~_____ (d) The system's funded ratio.~~

~~_____ (e) The system's investment performance.~~

~~_____ (f) The system's expenses.~~ **THE ACTUARIAL PRESENT VALUE OF TOTAL**

PROJECTED BENEFITS SHALL INCLUDE ALL PENSION BENEFITS TO BE PROVIDED BY THE SYSTEM TO MEMBERS OR BENEFICIARIES PURSUANT TO THE TERMS OF THE SYSTEM AND ANY ADDITIONAL STATUTORY OR CONTRACTUAL AGREEMENTS TO PROVIDE PENSION BENEFITS THROUGH THE SYSTEM THAT ARE IN FORCE AT THE ACTUARIAL VALUATION DATE, INCLUDING, BUT NOT LIMITED TO, SERVICE CREDITS PURCHASED BY MEMBERS, DEFERRED

1 RETIREMENT OPTION PLANS, EARLY RETIREMENT PROGRAMS, AND
 2 POSTRETIREMENT ADJUSTMENT PROGRAMS. A SYSTEM THAT HAS ASSETS OF
 3 LESS THAN \$20,000,000.00 IS ONLY REQUIRED TO HAVE AN ACTUARIAL
 4 VALUATION AS REQUIRED UNDER THIS SUBSECTION DONE EVERY OTHER YEAR.

5 (5) ~~(3)~~—A system shall provide a supplemental actuarial
 6 analysis before adoption of pension benefit changes. **SYSTEM ASSETS**
 7 **SHALL NOT BE USED FOR ANY ACTUARIAL EXPENSES RELATED TO THE**
 8 **SUPPLEMENTAL ACTUARIAL ANALYSIS UNDER THIS SUBSECTION.** The
 9 supplemental actuarial analysis shall be provided by the system's
 10 actuary and shall include an analysis of the long-term costs
 11 associated with any proposed pension benefit change. The
 12 supplemental actuarial analysis shall be provided to the board of
 13 the particular system and to the decision-making body that will
 14 approve the proposed pension benefit change at least 7 days before
 15 the proposed pension benefit change is adopted. For purposes of
 16 this subsection, "proposed pension benefit change" means a proposal
 17 to change the amount of pension benefits received by persons
 18 entitled to pension benefits under ~~a~~**THE** system. Proposed pension
 19 benefit change does not include a proposed change to a health care
 20 plan or health benefits.

21 ~~—— (4) A system that has assets of less than \$20,000,000.00 is~~
 22 ~~only required to have the actuarial valuation required under~~
 23 ~~subsection (2) done every other year.~~

24 (6) **THE SYSTEM SHALL MAKE THE SUMMARY ANNUAL REPORT CREATED**
 25 **UNDER SECTION 13 AVAILABLE TO THE PLAN PARTICIPANTS AND**
 26 **BENEFICIARIES AND THE CITIZENS OF THE POLITICAL SUBDIVISION**
 27 **SPONSORING THE SYSTEM. IF THE SYSTEM HAS A WEBSITE, THE SYSTEM**

1 SHALL PUBLISH THE SUMMARY ANNUAL REPORT ON THE WEBSITE. IF THE
 2 SYSTEM DOES NOT HAVE A WEBSITE, THE POLITICAL SUBDIVISION
 3 SPONSORING THE SYSTEM SHALL PUBLISH THE SUMMARY ANNUAL REPORT ON A
 4 WEBSITE THAT THE POLITICAL SUBDIVISION HAS CREATED OR MAY CREATE.

5 Sec. 20k. (1) Notwithstanding a percentage of total assets
 6 limitation for an investment provided in any other section of this
 7 act, an investment fiduciary WHO IS THE STATE TREASURER OR THE
 8 INVESTMENT FIDUCIARY OF A SYSTEM THAT HAS ASSETS OF
 9 \$2,000,000,000.00 OR MORE may invest not more than ~~20%~~30% of a
 10 system's assets in ~~foreign~~GLOBAL securities. AN INVESTMENT
 11 FIDUCIARY OF A SYSTEM THAT HAS ASSETS OF LESS THAN
 12 \$2,000,000,000.00 AND WHO IS NOT THE STATE TREASURER MAY INVEST NOT
 13 MORE THAN 20% OF A SYSTEM'S ASSETS IN GLOBAL SECURITIES. Except as
 14 otherwise provided in this act, an investment fiduciary shall not
 15 do any of the following:

16 (a) Invest in more than 5% of the outstanding ~~foreign~~GLOBAL
 17 securities of any 1 issuer.

18 (b) Invest more than 5% of a system's assets in the ~~foreign~~
 19 GLOBAL securities of any 1 issuer.

20 (2) Investments in ~~foreign~~GLOBAL securities under this
 21 section shall be made only by investment fiduciaries described in
 22 section ~~13(8)~~13(11) who have demonstrated expertise in investments
 23 of that type.

24 Sec. 20m. The governing board vested with the general
 25 administration, management, and operation of a system or other
 26 decision-making body that is responsible for implementation and
 27 supervision of any system shall confirm in the annual actuarial

1 valuation **REQUIRED UNDER SECTION 20H** and the summary annual report
2 required under section ~~20h(2)~~-13 that each ~~plan~~-**SYSTEM** under this
3 act provides for the payment of the required employer contribution
4 as provided in this section and shall confirm in the summary annual
5 report that the system has received the required employer
6 contribution for the year covered in the summary annual report. The
7 required employer contribution is the actuarially determined
8 contribution amount. An annual required employer contribution in a
9 ~~plan~~-**SYSTEM** under this act shall consist of a current service cost
10 payment and a payment of at least the annual accrued amortized
11 interest on any unfunded actuarial liability and the payment of the
12 annual accrued amortized portion of the unfunded principal
13 liability. For fiscal years that begin before January 1, 2006, the
14 required employer contribution shall not be determined using an
15 amortization period greater than 40 years. Except as otherwise
16 provided in this section, for fiscal years that begin after
17 December 31, 2005, the required employer contribution shall not be
18 determined using an amortization period greater than 30 years. For
19 the **TIER 1 RETIREMENT PLAN UNDER THE** state ~~employees~~-**EMPLOYEES'**
20 retirement system, **CREATED UNDER THE STATE EMPLOYEES' RETIREMENT**
21 **ACT, 1943 PA 240, MCL 38.1 TO 38.69;** the **MICHIGAN** public school
22 ~~employees~~-**EMPLOYEES'** retirement system, **—CREATED UNDER THE PUBLIC**
23 **SCHOOL EMPLOYEES RETIREMENT ACT OF 1979, 1980 PA 300, MCL 38.1301**
24 **TO 38.1437;** and the **MICHIGAN** state police retirement system **CREATED**
25 **UNDER THE STATE POLICE RETIREMENT ACT OF 1986, 1986 PA 182, MCL**
26 **38.1601 TO 38.1648,** only, for the fiscal year beginning October 1,
27 2006, the contribution for the unfunded actuarial accrued liability

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1 shall be equal to the product of the assumed real rate of
2 investment return times the unfunded actuarial accrued liability.
3 In a plan year, any current service cost payment may be offset by a
4 credit for amortization of accrued assets, if any, in excess of
5 actuarial accrued liability. A required employer contribution for a
6 ~~plan~~**SYSTEM** administered under this act shall allocate the
7 actuarial present value of future plan benefits between the current
8 service costs to be paid in the future and the actuarial accrued
9 liability. The governing board vested with the general
10 administration, management, and operation of a system or other
11 decision-making body **THAT IS RESPONSIBLE FOR IMPLEMENTATION AND**
12 **SUPERVISION** of a system shall act upon the recommendation of an
13 actuary and the board and the actuary shall take into account the
14 standards of practice of the actuarial standards board of the
15 American academy of actuaries in making the determination of the
16 required employer contribution.

17 **SEC. 21. (1) SUBJECT TO THIS SECTION, THE GOVERNING BOARD**
18 **VESTED WITH THE GENERAL ADMINISTRATION, MANAGEMENT, AND OPERATION**
19 **OF A SYSTEM OR OTHER DECISION-MAKING BODY THAT IS RESPONSIBLE FOR**
20 **IMPLEMENTATION AND SUPERVISION OF A SYSTEM MAY REMOVE A MEMBER OF**
21 **THE BOARD OR BODY AS PROVIDED IN SUBSECTION (2) BY <<ANY>> OF THE**
22 **FOLLOWING:**

23 (A) A UNANIMOUS VOTE OF ALL OF THE MEMBERS OF THE BOARD OR
24 BODY, OTHER THAN THE MEMBER WHO IS THE SUBJECT OF THE VOTE FOR
25 REMOVAL.

26 (B) AN ORDER OF A CIRCUIT COURT WITH JURISDICTION ENTERED IN
27 AN APPROPRIATE ACTION AUTHORIZED BY A MAJORITY VOTE OF THE MEMBERS

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1 OF THE BOARD OR BODY.

<<(C) THE PROCESS FOR THE REMOVAL OF A MEMBER OF THE BOARD OR BODY THAT IS CONTAINED IN THE SYSTEM'S PLAN PROVISIONS IF THAT PROCESS IS LESS RESTRICTIVE THAN EITHER PROCESS PROVIDED FOR IN SUBDIVISION (A) OR (B).>>

2 (2) THE GOVERNING BOARD VESTED WITH THE GENERAL
3 ADMINISTRATION, MANAGEMENT, AND OPERATION OF A SYSTEM OR OTHER
4 DECISION-MAKING BODY THAT IS RESPONSIBLE FOR IMPLEMENTATION AND
5 SUPERVISION OF A SYSTEM SHALL GIVE NOTICE AND HOLD A HEARING ON THE
6 REMOVAL OF A MEMBER OF THAT BOARD OR BODY FOR ANY OF THE FOLLOWING
7 REASONS:

8 (A) FOR AN ELECTED MEMBER OF THE BOARD OR BODY, UPON RECEIPT
9 OF A PETITION REQUESTING THE REMOVAL OF THE MEMBER, WHICH PETITION
10 IS SIGNED BY 2/3 OF THE INDIVIDUALS ELIGIBLE TO VOTE IN THE
11 ELECTION OF THE MEMBER OF THE BOARD OR BODY.

12 (B) THE MEMBER IS LEGALLY INCAPACITATED FROM EXECUTING HIS OR
13 HER DUTIES AS A MEMBER OF THE BOARD OR BODY AND NEGLECTS TO PERFORM
14 THOSE DUTIES.

15 (C) THE MEMBER HAS COMMITTED A MATERIAL BREACH OF THE SYSTEM
16 PROVISIONS OR SYSTEM POLICIES OR PROCEDURES AND THE REMOVAL OF THE
17 MEMBER IS IN THE INTERESTS OF THE SYSTEM OR THE INTEREST OF ITS
18 PARTICIPANTS OR PARTICIPANTS' BENEFICIARIES.

19 (D) THE MEMBER IS CONVICTED OF A VIOLATION OF LAW AND THE
20 REMOVAL OF THE MEMBER IS IN THE INTERESTS OF THE SYSTEM OR THE
21 INTEREST OF ITS PARTICIPANTS OR PARTICIPANTS' BENEFICIARIES.

22 (3) UPON THE REMOVAL OF A MEMBER OF A BOARD OR BODY UNDER THIS
23 SECTION BEFORE EXPIRATION OF THE MEMBER'S TERM, A NEW SUCCESSOR
24 MEMBER SHALL FILL THE VACANCY AS FOLLOWS:

25 (A) FOR AN ELECTED MEMBER OF THE BOARD OR BODY, BY ELECTION IN
26 THE SAME MANNER AS THE REMOVED MEMBER FOR THE REMAINDER OF THAT
27 TERM OF OFFICE.

1 (B) FOR AN APPOINTED MEMBER OF THE BOARD OR BODY, BY
2 APPOINTMENT BY THE APPOINTING AUTHORITY OF THE REMOVED MEMBER FOR
3 THE REMAINDER OF THAT TERM OF OFFICE.

4 (C) FOR AN EX OFFICIO MEMBER SERVING BY VIRTUE OF HIS OR HER
5 OFFICE, BY APPOINTMENT BY THE GOVERNING BODY OF THE POLITICAL
6 SUBDIVISION SPONSORING THE SYSTEM UNTIL THE TIME THAT A NEW
7 INDIVIDUAL IS ELECTED OR APPOINTED TO THE OFFICE FROM WHICH THE
8 REMOVED MEMBER SERVED AS A MEMBER.

9 (4) AN INDIVIDUAL WHO IS REMOVED FROM OFFICE AS A MEMBER OF A
10 BOARD OR BODY UNDER THIS SECTION MAY APPEAL THE REMOVAL TO THE
11 CIRCUIT COURT WITH JURISDICTION IF THE REMOVAL IS BY THE BOARD OR
12 BODY OR, IF THE REMOVAL IS BY THE CIRCUIT COURT, TO THE APPROPRIATE
13 COURT WITH JURISDICTION. A SUCCESSOR MEMBER OF A BOARD OR BODY MAY
14 BE ELECTED OR APPOINTED DURING THE PENDENCY OF AN APPEAL OF A
15 REMOVED MEMBER UNDER THIS SUBSECTION UNTIL THE APPEAL IS WITHDRAWN
16 OR THERE IS A FINAL JUDGMENT IN THE MATTER.

17 (5) IF, UPON AN APPEAL UNDER SUBSECTION (4), THE COURT FINDS
18 THAT THE PETITION FOR REMOVAL OF THE MEMBER WAS FILED IN BAD FAITH
19 AND THAT REMOVAL IS CONTRARY TO THE INTERESTS OF THE SYSTEM OR THE
20 INTEREST OF ITS PARTICIPANTS OR PARTICIPANTS' BENEFICIARIES, THE
21 COURT MAY ORDER THAT THE INDIVIDUALS SEEKING THE REMOVAL OF THE
22 MEMBER PAY ALL OR A PORTION OF THE COSTS OF THE PROCEEDINGS,
23 INCLUDING REASONABLE ATTORNEY FEES.