



Board of Commissioners

Agenda and Materials

July 22, 2022

**STATE BAR OF MICHIGAN
BOARD OF COMMISSIONERS
FRIDAY, July 22, 2022
Michael Franck Building
Lansing, MI
9:30 A.M.
AGENDA**

State Bar of Michigan Statement of Purpose

“...The State Bar of Michigan shall aid in promoting improvements in the administration of justice and advancements in jurisprudence, in improving relations between the legal profession and the public, and in promoting the interests of the legal profession in this state.”

Rule 1 of the Supreme Court Rules Concerning the State Bar of Michigan

- I. Call to Order.....Dana M. Warnez, President

CONSENT AGENDA

- II. **Minutes**
A. June 10, 2022 Board of Commissioners**
B. May 31, 2022 Executive Committee*
- III. **President’s Activities**.....Dana M. Warnez, President
A. Recent Activities*
- IV. **Executive Director’s Activities**.....Peter Cunningham, Executive Director
A. Recent Activities*
- V. **Communications and Member Services** Daniel D. Quick
A. 2023 Michigan Legal Milestone*
- VI. **Finance**..... Lisa J. Hamameh, Chairperson
A. FY 2022 Financial Reports through May 2022*
B. SBM Retirement Plan Restatement*

- VII. **Election of Officers**Dana M. Warnez, President
A. David Anderson**
B. Erika L. Bryant**
C. James W. Low**

LEADERSHIP REPORTS

- VIII. **President’s and Executive Director’s Report**Dana M. Warnez, President
Peter Cunningham, Executive Director
 - A. General Counsel Search Committee Report (Executive Session)
 - B. Workgroup on Sections Report
 - a) Proposed Guidelines for *MI Bar Journal* Submissions and Themed Issues*
 - b) Proposed Bylaw Amendments*
 - C. Strategic Planning Committee Report
 - D. Task Force on Lawyer Wellness
 - E. Justice for All Commission
- IX **Representative Assembly Report** Nicholas M. Ohanesian, Chairperson
- X. **Young Lawyers Section Report** Kristina A. Bilowus, Chairperson

COMMISSIONER COMMITTEES

- XI **Public Policy**.....James W. Heath, Chairperson
 - A. Court Rules**
 - B. Legislation**
 - C. Section Inconsistent Advocacy Request**
- XII. **Communications and Member Services** Daniel D. Quick, Chairperson
 - A. BLF/UMLI recap reports*
- XIII. **Professional Standards** Joseph P. McGill, Chairperson
 - A. ABA House of Delegates Appointments
 - B. ICLE Board of Directors Appointment
 - C. Michigan Indian Legal Services Board of Trustees Appointment
- XIV. **Finance**..... Lisa J. Hamameh, Chairperson
 - A. FY2022 Financial Update
 - B. FY 2023 Budget*
 - C. Credit Card Surcharges and Fee Analysis*
- XV. **Audit**..... Lisa J. Hamameh, Chairperson

FOR THE GOOD OF THE PUBLIC AND THE PROFESSION

- XVI. **Comments or questions from Commissioners**
- XVII. **Comments or questions from the public**
- XVIII. **Adjournment**

*Materials included with agenda.

**Materials delivered or to be delivered under separate cover or handed out.

**State Bar of Michigan
Executive Committee Virtual Meeting
Tuesday, May 31, 2022
4:00 p.m.**

President Warnez called the meeting to order at 4:03 p.m.

Members Present: President Dana M. Warnez; Vice President Daniel D. Quick; Secretary Joseph P. McGill; Representative Assembly Chair Nicholas M. Ohanesian; RA Chair-Elect Gerrow (Gerry) Mason; and Commissioners Erika L. Bryant and Hon. David Perkins

Members Absent: President-Elect James W. Heath, Treasurer Lisa Hamameh, and Commissioner Suzanne C. Larsen

State Bar Staff Present: Peter Cunningham, Executive Director; Margaret Bossenbery, Executive Coordinator; Nancy Brown, Assistant Executive Director; and Cliff Flood, Interim General Counsel

Minutes:

A motion was offered to approve the April 26, 2022 minutes. The motion was seconded and approved.

President and Executive Director's Report

Ms. Warnez provided the committee with a brief update on her activities since the last Board meeting.

Fee Increase Proposal

Mr. Cunningham stated that the public hearing on the proposed fee increase took place a few weeks ago and that it went well. He said there were about a dozen speakers who were all in favor of the \$80 increase. He thanked those from the Board who took the time to address the Court. Mr. Cunningham reported that before the public hearing he met with the chief justice and each of the justices and answered their questions about the proposed fee increase. He said that the conversations were positive.

FY2023 Budget Assumptions

Mr. Cunningham reported that the budget assumptions for the FY2023 budget will be reviewed with the Board at the June meeting. He said that preparing the budget has been a challenge without knowing the decision of the Court on the proposed fee increase.

June 10 Board meeting

Mr. Cunningham voiced his concern about the number of Board members attending the June 10 meeting. Legislation needs to be considered and voted on, and 27 Board members have confirmed attendance with 23 needed to take a position. A suggestion was offered to have a teleconference option available in case it is needed.

Interim Administrator Program (IAP)

Mr. Cunningham stated that he and Ms. Chandler continue to work with the Court on the IAP.

He said that a newly revised version of the IAP proposal was received last week. He said that most of the structure approved by the RA remains in place, but it limits the ability of the SBM to charge members if the SBM selects an administrator or administers for them, but it does scale down some of our responsibilities.

Juneteenth State Holiday

Mr. Cunningham stated that he plans to follow the direction of the Court and the state regarding the adoption of Juneteenth as a holiday for their employees this year.

Representative Assembly (RA)

Mr. Ohanesian stated that the RA is working on some reforms to the RA that will make it more effective and that he plans to discuss those items with the RA at its September meeting.

Mr. Cunningham stated that Oakland County attorney Clarence Dass, a member of the RA, passed away over the weekend. A request was received by Ms. Warnez from one of his colleagues for relief for his family from the SOLACE program. A conversation took place regarding the parameters of the SOLACE program, and it was decided to send this request to Mr. Mathis and Ms. Ranns, let them know the concerns of the EC, and ask them to discuss with the SOLACE Committee.

Mr. Cunningham stated he has been contacted by Sen. Jim Rumsted's office about his introducing legislation to make the State Bar voluntary. He said that they asked for a list of all the activities for which the Bar uses mandatory dues. Mr. Cunningham sent them the audited financial report that is sent to the Supreme Court each year as a starting point and offered to meet with the senator and staff along with Mr. Triplett.

June 10, 2022 Board Agenda

A motion was offered and seconded to approve the agenda for the June 10, 2022 Board meeting.

Ms. Bryant, chair of the Workgroup on Sections, stated that the workgroup will present recommended changes to the Bar Journal Submission Guidelines for the Board's consideration. She informed the committee about some concerns brought forward at the last meeting of the workgroup and let the members know there may be a spirited discussion about the standards included in the proposal. She also let the committee know that the workgroup has some proposed bylaw changes as they relate to sections. If approved by the Board, the bylaw changes will be posted on the webpage for 28 days prior to the July 22, 2022 meeting where they will be considered and voted on by the Board.

The motion to approve the June 10 Board agenda was approved.

Other

Ms. Warnez let the committee know that Reggie Turner, president of the ABA and former State Bar president, will address the Board at its June 10 meeting as well as the attendees at the BLF and UMLI.

Mr. Mason stated that he and his wife enjoyed attending the Barristers Ball.

Adjournment

The meeting was adjourned at 4:52 p.m.

President Dana M. Warnez
President's Activities
June 13 through July 22, 2022

Date	Event	Location
June 21	Notification of Election results for Candidates from The Board of Commission	Virtual
June 27	Race and Justice Forum	Virtual
June 29	Interviews with General Counsel Candidates	Virtual
June 30	Strategic Planning Committee meeting	Virtual
July 11	Panelist, along with Robert Mathis, and Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), and others.	Virtual
July 12	Executive Committee meeting	Virtual
July 12	General Counsel Search Committee meeting	Virtual
July 22	Board of Commissioners meeting	Lansing

Executive Director Peter Cunningham
Executive Director Activities
June 13 through July 22, 2022

Date	Event
June 13	Justice for All (JFA)Resource Committee meeting
June 13	Justice for All Commission meeting
June 14	Judicial Qualifications(JQ) meeting
June 15	Institute of Continuing Legal Education (ICLE) Executive Committee meeting
June 16	Meeting with Libby McGaughey, Chief of Staff, Michigan House of Representatives
June 16	JFA Communications Committee meeting
June 17	Diversity, Equity, and Inclusion Commission (DEI) Executive Team Meeting
June 23	JFA Executive Committee meeting
June 30	Strategic Planning Committee meeting
July 5	Meeting with Jennifer Bentley, Executive Director, Michigan Bar Foundation
July 7	Budget meetings with the Finance Committee and SBM Strategic Planning Committee member (staff)
July 7	JFAC Executive Committee meeting
July 8	Diversity, Equity, and Inclusion (DEI) Executive Team meeting
July 11	JFA Resource Committee meeting
July 12	Executive Committee meeting
July 19	Professional Standards Committee meeting
July 21	Public Policy Committee meeting
July 21	JFA Communications Committee meeting
July 21	JFA Executive Committee meeting
July 22	Board of Commissioners meeting



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To: BOC Communications & Member Services (CAMS) Committee

From: Public Outreach & Education Member Committee

Date: July 8, 2022

Re: Recommendation for 44th Michigan Legal Milestone: Percy Langster

306 Townsend Street
Michael Franck Building
Lansing, MI
48933-2012

The Public Outreach & Education Committee recommends the 44th Michigan Legal Milestone (MLM) commemorate Percy J. Langster, elected the first African-American Prosecuting Attorney in the United States. The committee proposes the title, “Michigan: America’s First African-American Prosecutor.”

Here are excerpts from the MLM nomination submitted by Nancy Vogl, of East Lansing, who is currently writing a screenplay about the life and career of Percy Langster:

On November 2, 1948, Percy J. Langster was elected as the first African-American prosecuting attorney in the United States. Newspapers in the U.S. and around the world reported the event with headlines that reflected the times, such as:

“First of Race in History to Win Such Office”

“Ex-Shoeshine Boy to Become Nation’s First Negro D.A.”

“Michigan Negro’s Career Reads Like Horatio Alger Fiction”

Langster ran and won against a 3-term incumbent in Lake County, but the election was not without some sticky business. Three years prior to the election, Michigan election laws had changed mandating that all counties, regardless of population, require every candidate to file an affidavit of identity.

However, nine candidates for various offices in Lake County, including several incumbents, were not advised of the new laws and were disqualified. Only Lake County Prosecuting Attorney Die I. Cooper and Lake County Clerk Bessie E. Duffing filed affidavits.

Therefore, Percy Langster ran as a sticker candidate in the primary election. Percy polled higher than incumbent Cooper by 208 votes, landing him on the ballot. Cooper then ran as a sticker candidate in the November election and lost to Langster by 152 votes. Of note, African-Americans accounted for only about 25% of registered voters in Lake County.

Growing up in and near Oil City, Pennsylvania, Langster was the only black child in the borough. Langster left school at age eight to support his invalid mother by getting a job in a hotel as their shoeshine boy. While shining the shoes of many attorneys and listening to their legal banter, Langster was inspired to become a lawyer.

At fourteen, Langster entered Oil City High School, became a member of the debate team, and a legendary football player. Langster was the only black student in his class. In addition to shining shoes, he worked at the YMCA and as a hotel Porter. All while attending school.

Following graduation in 1908, he won an athletic scholarship to Cornell, but his funds ran out in his first year. Deflated, he returned home and worked as a janitor until he was hired as a Pullman Porter with his main intent to earn enough money to return to school, his biggest dream in life. It took him fifteen years.

Finally, at the age of 35, Langster was accepted to Duquesne University where he received his bachelor's degree. Langster then entered Duquesne Law School and received his law degree at the age of 43. He was the first black student to receive both degrees at Duquesne, and surely the oldest. Langster graduated during the height of the Great Depression and was unable to find work as an attorney.

After working for a year as a butler, he moved to Newaygo County, Michigan, where he opened a law practice. He was the first African-American elected to serve on a township board in Newaygo and was also their township clerk.

Because of the hardships of maintaining a law practice, after three years, Langster took a position with the Civilian Conservation Corp. He was their first African-American educational advisor. Following four years with the CCC, Langster was a technical advisor with the Army Air Corps during World War II.

Following the War, Langster settled in Baldwin, Michigan, where he opened a law practice. In 1948, Langster ran for Prosecuting Attorney, and won. Langster was nearly 59 years old when he made political history and a clear legal milestone.

State Bar of Michigan Financial Results Summary

For the Eight Months Ended May 31, 2022
Fiscal Year 2022

Administrative Fund - Summary of Results as of May 31, 2022

Operating Revenue	\$6,295,175
Operating Expense	<u>\$6,726,102</u>
Operating Loss	(\$430,927)
Non-Operating Income (Loss)	<u>(\$693,859)</u>
Change in Net Position	<u><u>(\$1,124,786)</u></u>
Net Position, October 1, 2021	\$11,773,220
Net Position, May 31, 2022	\$10,648,434

As of May 31, 2022, Net Position excluding Retiree Healthcare Trust was \$8,000,205, a decrease of \$422,807 since the beginning of the year. Excluding the loss on investments of the retiree healthcare trust, the decrease was **favorable** to budget by **\$619,187¹**.

YTD Operating Revenue variance - \$40,358, favorable to budget 0.6%:

Operating revenue was higher due to higher license fees and related revenue, higher communications and lawyer referral services revenues, and lower C&F fees.

YTD Operating Expense variance - \$568,820, favorable to budget (7.8%):

Salaries and Employee Benefits/ Payroll Taxes – \$85,702, favorable (1.8%)

- Slightly under budget in salaries and benefits due to vacancies and health care.

Non-Labor Operating Expenses - \$483,118, favorable (19.5%)

- Legal - \$22,609, favorable (17.2%) – Under budget mainly due to lower expenses for C&F.

¹ Including the loss on investments of the retiree healthcare trust, the total budget to actual variance through May 31, 2022 was \$106,681.

- Public and Bar Services - \$153,341, favorable (26.9%) – Under budget primarily in IT and Outreach, partially due to timing.
- Operations and Policy - \$306,968, favorable (17.3%) – Under budget primarily in Finance due to depreciation expense, Bar Journal, EO/BOC and Facilities, partially due to timing.

YTD Non-Operating Revenue Budget Variance - \$715,859 unfavorable to budget:

- Operating investment income is favorable to budget by \$10,009 (45.5%).
- Retiree Health Care Trust net investment loss of \$725,868 (this amount is *not* budgeted).

Cash and Investment Balance

As of May 31, 2022, the cash and investment balance in the State Bar Admin Fund (net of “*due to Sections, Client Protection Fund, and Retiree Health Care Trust*”) was \$7,957,613, an increase of \$285,729 from the beginning of the year due to collection of FY 2022 license fees.

SBM Retiree Health Care Trust

As of May 31, 2022, the SBM Retiree Health Care Trust investments were \$4,028,934, a decrease of \$701,980 since the beginning of the year. The change was a result of the investment loss of \$715,896, SBM contributions of \$23,889, and investment advisor fees of \$9,976.

Capital Budget

As of May 31, 2022, YTD capital expenditures totaled \$139,200, with \$182,600 remaining in the budget and allocated to spending in future months.

Client Protection Fund

The Net Position of the Client Protection Fund as of May 31, 2022 totaled \$2,002,378, an increase of \$168,259 from the beginning of the year. Claims expenses totaled \$181,575.

SBM Membership

As of May 31, 2022, the active, inactive, and emeritus membership in good standing totaled 46,852 attorneys, a net increase of 59 attorneys since the beginning of the year; the number of paying attorneys decreased by 28. A total of 636 new attorneys have joined the SBM since the beginning of the year.

FY 2022 Forecast

Excluding income of the SBM retiree healthcare trust, which is not budgeted or forecasted, SBM projects FY 2022 operating loss of \$1,691,859, with a favorable year-end budget variance of \$395,831.

- **License fees and related revenues** are expected to be at the budgeted levels, with exception of late fees which are expected to be higher than budget, resulting in the overall positive variance of \$27k.
- **Other operating revenues** are expected to be lower than budget by \$49k primarily due to lower revenue for C&F and LJAP. **Interest income** is projected to be higher by \$12k due to higher interest rates.
- **Salaries and benefits** are expected to be slightly lower than the budgeted levels (\$56k).
- **Operating expenses** are expected to be lower than budget by \$350k due to lower travel and meeting expenses (LJAP, EO/BOC, RA, and Government Relations), Communications expenses (Bar Journal, Digital, and General Communications), depreciation, and IT.
- **Capital expenditures** for FY 2022 are expected to be at \$304.4k compared to the approved budget of \$321.8k.

**STATE BAR OF MICHIGAN
ADMINISTRATIVE FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
May 31, 2022**

FY 2022

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar of Michigan
Statement of Net Position
Administrative Fund
For the Eight Months Ending May 31, 2022

	4/30/2022	5/31/2022	Increase (Decrease)	%	Beginning of FY 2022 10/1/21
ASSETS AND DEFERRED OUTFLOWS					
Cash	\$4,396,612	\$3,395,016	(\$1,001,596)	(22.8%)	\$4,696,954
Investments	7,977,223	8,223,683	246,460	3.1%	5,979,540
Accounts Receivable	37,347	38,542	1,195	3.2%	73,941
Due from (to) CPF	(285)	(1,227)	(942)	330.5%	(21,276)
Due to Sections	(3,714,103)	(3,659,858)	54,245	(1.5%)	(2,983,335)
Prepaid Expenses	297,904	295,921	(1,983)	(0.7%)	466,629
Capital Assets	3,211,757	3,196,710	(15,046)	(0.5%)	3,343,587
SBM Retiree Health Care Trust	4,051,488	4,028,934	(22,554)	(0.6%)	4,730,914
Total Assets	\$16,257,942	\$15,517,721	(\$740,222)	(4.6%)	\$16,286,954
Deferred outflows of resources related to pensions	38,551	38,551		0.0%	38,551
Deferred outflows of resources related to OPEB	779,487	779,487		0.0%	779,487
Total Deferred outflows of resources	818,038	818,038		0.0%	818,038
Total Assets and Deferred Outflows of Resources	17,075,980	16,335,758	(740,222)	(4.3%)	17,104,992
LIABILITIES, DERERRED INFLOWS AND NET POSITION					
Liabilities					
Accounts Payable	\$3,283	\$2,303	(\$980)	(29.8%)	\$299,588
Accrued Expenses	663,456	660,879	(2,578)	(0.4%)	629,109
Deferred Revenue	3,075,970	2,461,483	(614,486)	(20.0%)	1,840,416
Net Pension Liability	402,467	402,467	-	0.0%	402,467
Net OPEB Liability	1,381,131	1,381,131	-	0.0%	1,381,131
Total Liabilities	5,526,307	4,908,263	(618,044)	(11.2%)	4,552,710
Deferred Inflows of resources related to OPEB	779,062	779,062	-	0.0%	779,062
Total Deferred inflows of resources	779,062	779,062	-	0.0%	779,062
Total Liabilities and Deferred Inflows	6,305,369	5,687,325	(618,044)	(9.8%)	5,331,772
Net Assets					
Invested in Capital Assets, Net of Related Debt	3,211,757	3,196,710	(15,046)	(0.5%)	3,343,587
Restricted for Retiree Health Care Trust	2,670,782	2,648,228	(22,554)	(0.8%)	3,350,208
Unrestricted	4,888,072	4,803,495	(84,577)	(1.7%)	5,079,425
Total Net Position	10,770,611	10,648,433	(122,178)	(1.1%)	11,773,220
Total Liabilities, Deferred Inflows and Net Position	\$17,075,980	\$16,335,758	(\$740,222)	(4.3%)	\$17,104,992
Net Position <u>excluding</u> the impacts of retiree health care	\$8,099,829	\$8,000,205	(\$99,624)	(0.3%)	\$8,423,012

Note: Cash and investments actually available to the State Bar Administrative Fund, after deduction of the "Due to Sections" and "Due to CPF" and not including the "Retiree Health Care Trust" is \$7,957,613 (see below)

	4/30/2022	5/31/2022	Increase (Decrease)	%	Beginning of FY 2022 10/1/21
CASH AND INVESTMENT BALANCES					
Cash (including CD's and Money Market)	\$4,396,612	\$3,395,016	(\$1,001,596)	(22.8%)	\$4,696,954
Investments	7,977,223	8,223,683	246,460	3.1%	5,979,540
Total Available Cash and Investments	12,373,835	11,618,698	(755,136)	(6.1%)	10,676,495
Less:					
Due to Sections	3,714,103	3,659,858	(54,245)	(1.5%)	2,983,335
Due to CPF	285	1,227	942	330.5%	21,276
Due to Sections and CPF	3,714,388	3,661,085	(53,303)	(1.4%)	3,004,611
Net Administrative Fund Cash and Investment Balance	8,659,446	7,957,613	(701,833)	(8.1%)	7,671,884

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
For the Eight Months Ending May 31, 2022

YTD FY 2022 Increase (Decrease) in Net Position Summary

	Actual	Budget	Variance	Percentage	Prior Year	Variance	Percentage
	YTD	YTD			Actual YTD		
Operating Revenue							
- License Fees, Dues & Related	5,203,414	5,167,242	36,172	0.7%	5,266,031	(62,617)	(1.2%)
- All Other Op Revenue	1,091,761	1,087,575	4,186	0.4%	1,066,040	25,721	2.4%
Total Operating Revenue	<u>6,295,175</u>	<u>6,254,817</u>	<u>40,358</u>	<u>0.6%</u>	<u>6,332,071</u>	<u>(36,896)</u>	<u>(0.6%)</u>
Operating Expenses							
- Labor-related Operating Expenses							
Salaries	3,497,044	3,522,360	(25,316)	(0.7%)	3,254,459	242,585	7.5%
Benefits and PR Taxes	1,235,069	1,295,455	(60,386)	(4.7%)	1,183,586	51,483	4.3%
Total Labor-related Operating Expenses	<u>4,732,113</u>	<u>4,817,815</u>	<u>(85,702)</u>	<u>(1.8%)</u>	<u>4,438,045</u>	<u>294,068</u>	<u>6.6%</u>
- Non-labor Operating Expenses							
Legal	108,956	131,565	(22,609)	(17.2%)	77,097	31,859	41.3%
Public and Bar Services	417,211	570,752	(153,541)	(26.9%)	510,533	(93,322)	(18.3%)
Operations and Policy	1,467,822	1,774,790	(306,968)	(17.3%)	1,542,616	(74,794)	(4.8%)
Total Non-labor Operating Expenses	<u>1,993,989</u>	<u>2,477,107</u>	<u>(483,118)</u>	<u>(19.5%)</u>	<u>2,130,246</u>	<u>(136,257)</u>	<u>(6.4%)</u>
Total Operating Expenses	<u>6,726,102</u>	<u>7,294,922</u>	<u>(568,820)</u>	<u>(7.8%)</u>	<u>6,568,291</u>	<u>157,811</u>	<u>2.4%</u>
Operating Income (Loss)	<u>(430,927)</u>	<u>(1,040,105)</u>	<u>609,178</u>	<u>(58.6%)</u>	<u>(236,220)</u>	<u>(194,707)</u>	<u>82.4%</u>
Non-operating Revenue (Expenses)							
Investment Income	32,009	22,000	10,009	45.5%	52,693	(20,684)	(39.3%)
Investment Income - Ret HC Trust	(725,868)	-	(725,868)	N/A	790,780	(1,516,648)	N/A
Loss on Disposal of Capital Asset	-	-	-	N/A	-	-	N/A
Net Non-operating Revenue (Expenses)	<u>(693,859)</u>	<u>22,000</u>	<u>(715,859)</u>	<u>(3,254%)</u>	<u>843,473</u>	<u>(1,537,332)</u>	<u>(182%)</u>
Increase (Decrease) in Net Position	<u>(1,124,786)</u>	<u>(1,018,105)</u>	<u>(106,681)</u>	<u>N/A</u>	<u>607,253</u>	<u>(1,732,039)</u>	<u>N/A</u>
Net Position - Beginning the Year	<u>11,773,220</u>	<u>11,773,220</u>	<u>-</u>	<u>0.0%</u>	<u>11,571,907</u>	<u>201,313</u>	<u>1.7%</u>
Net Position - Year-to-Date	<u>10,648,434</u>	<u>10,755,115</u>	<u>(106,681)</u>	<u>(1.0%)</u>	<u>12,179,160</u>	<u>(1,530,726)</u>	<u>(12.6%)</u>
Increase (Decrease) in Net Position Excluding Ret HC Trust Inv. Income	<u>(398,918)</u>	<u>(1,018,105)</u>	<u>619,187</u>	<u>(60.8%)</u>	<u>(183,527)</u>	<u>(215,391)</u>	<u>117.4%</u>

State Bar of Michigan
Statement of Revenue, Expense, and Net Assets
Administrative Fund
For the Eight Months Ending May 31, 2022

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Revenue							
Legal							
Ethics	\$1,625	\$3,900	(\$2,275)	(58.33%)	\$6,300	(\$4,675)	(74.21%)
Character & Fitness	257,850	327,833	(69,983)	(21.35%)	303,735	(45,885)	(15.11%)
Legal Total	259,475	331,733	(72,258)	(21.78%)	310,035	(50,560)	(16.31%)
Public and Bar Services							
Lawyer Services	148,868	143,500	5,368	3.74%	143,536	5,332	3.71%
Bar Leadership Forum	12,341	9,725	2,616	26.90%	-	12,341	0.00%
Upper Michigan Legal Institute	19,496	12,500	6,996	55.97%	-	19,496	0.00%
Practice Management Resource Center	-	2,333	(2,333)	(100.00%)	1,000	(1,000)	(100.00%)
Lawyer Referral Service	142,321	100,000	42,321	42.32%	98,776	43,545	44.08%
LJAP	33,437	40,000	(6,563)	(16.41%)	38,051	(4,614)	(12.13%)
Public and Bar Services Total	356,463	308,058	48,405	15.71%	281,363	75,100	26.69%
Operations and Policy							
License Fees	5,203,414	5,167,242	36,172	0.70%	5,266,031	(62,617)	(1.19%)
Other Revenue	246,526	247,017	(491)	(0.20%)	250,901	(4,375)	(1.74%)
Bar Journal Directory	-	-	-	0.00%	13,464	(13,464)	(100.00%)
Bar Journal	134,458	122,667	11,791	9.61%	120,249	14,209	11.82%
Print and Design	33,719	24,667	9,052	36.70%	29,354	4,365	14.87%
e-Journal	24,090	21,100	2,990	14.17%	23,370	720	3.08%
Digital	37,030	32,333	4,697	14.53%	37,304	(274)	(0.73%)
Operations and Policy Total	5,679,237	5,615,026	64,211	1.14%	5,740,673	(61,436)	(1.07%)
Non-Operating Revenue							
Investment Income - SBM Operations	32,009	22,000	10,009	45.50%	52,693	(20,684)	(39.25%)
Investment Income - Ret HC Trust	(725,868)	-	(725,868)	0.00%	790,780	(1,516,648)	(191.79%)
Total Non-Operating Revenue	(693,859)	22,000	(715,859)	(3,253.90%)	843,473	(1,537,332)	(182.26%)
Total Revenue	5,601,316	6,276,817	(675,501)	(10.76%)	7,175,544	(1,574,228)	(21.94%)

State Bar of Michigan
Statement of Revenue, Expense and Net Assets
Administrative Fund
For the Eight Months Ending May 31, 2022

	Actual YTD	Budget YTD	Variance	Percentage	Prior Year YTD	Variance	Percentage
Expense							
Legal							
Ethics	\$1,818	\$7,345	(\$5,527)	(75.25%)	\$1,640	\$178	10.85%
Client Protection Fund Dept	10,237	3,577	6,660	186.19%	1,580	8,657	547.91%
Character & Fitness	19,258	38,133	(18,875)	(49.50%)	33,080	(13,822)	(41.78%)
UPL	2,481	7,325	(4,844)	(66.13%)	2,560	(79)	(3.09%)
General Counsel	44,093	39,878	4,215	10.57%	11,170	32,923	294.74%
Human Resources	1,266,138	1,330,762	(64,624)	(4.86%)	1,210,653	55,485	4.58%
Salaries	764,945	817,514	(52,569)	(6.43%)	730,328	34,617	4.74%
Legal Total	2,108,970	2,244,534	(135,564)	(6.04%)	1,991,011	117,959	5.92%
Public and Bar Services							
Inaugural and Awards Luncheon (Formerly Annual Meeting)	-	-	-	0.00%	1,144	(1,144)	(100.00%)
Lawyer Services	19,081	22,431	(3,350)	(14.93%)	17,926	1,155	6.44%
UMLI	2	5	(3)	(60.00%)	-	2	0.00%
50 Yr. Golden Celebration	-	-	-	0.00%	1,178	(1,178)	(100.00%)
Practice Management Resource Center	3,787	6,605	(2,818)	(42.66%)	1,766	2,021	114.44%
Lawyer Referral Service	1,361	1,083	278	25.67%	6,137	(4,776)	(77.82%)
Outreach	35,169	86,805	(51,636)	(59.49%)	21,454	13,715	63.93%
Diversity	8,381	15,933	(7,552)	(47.40%)	21,076	(12,695)	(60.23%)
LJAP	4,028	10,767	(6,739)	(62.59%)	3,660	368	10.05%
Technical Services	345,402	427,123	(81,721)	(19.13%)	436,192	(90,790)	(20.81%)
Salaries	1,283,598	1,252,227	31,371	2.51%	1,124,784	158,814	14.12%
Total Public and Bar Services	1,700,809	1,822,979	(122,170)	(6.70%)	1,635,317	65,492	4.00%
Operations and Policy							
Administration	82,905	79,886	3,019	3.78%	66,760	16,145	24.18%
Financial Services	610,998	728,853	(117,855)	(16.17%)	719,386	(108,388)	(15.07%)
Bar Journal Directory	-	-	-	0.00%	1,519	(1,519)	(100.00%)
Bar Journal	227,172	263,469	(36,297)	(13.78%)	239,777	(12,605)	(5.26%)
Print and Design	29,483	33,183	(3,700)	(11.15%)	23,844	5,639	23.65%
Digital	84,441	99,933	(15,492)	(15.50%)	61,970	22,471	36.26%
e-Journal	8,825	11,005	(2,180)	(19.81%)	26,050	(17,225)	(66.12%)
General Communications	3,832	16,017	(12,185)	(76.08%)	9,340	(5,508)	(58.97%)
Executive Office	17,888	40,680	(22,792)	(56.03%)	18,658	(770)	(4.13%)
Board of Commissioners	13,355	41,100	(27,745)	(67.51%)	2,035	11,320	556.27%
Representative Assembly	12,401	19,850	(7,449)	(37.53%)	1,275	11,126	872.63%

	Actual		Variance	Percentage	Prior Year		
	YTD	YTD			YTD	Variance	Percentage
Governmental Relations	37,950	47,810	(9,860)	(20.62%)	37,045	905	2.44%
Research and Development	946	4,683	(3,737)	(79.80%)	904	42	4.65%
Facilities Services	209,470	258,133	(48,663)	(18.85%)	207,077	2,393	1.16%
Justice Initiatives	128,156	130,188	(2,032)	(1.56%)	126,976	1,180	0.93%
Salaries	1,448,501	1,452,619	(4,118)	(0.28%)	1,399,347	49,154	3.51%
Operations and Policy Total	2,916,323	3,227,409	(311,086)	(9.64%)	2,941,963	(25,640)	(0.87%)
Total Expense	6,726,102	7,294,922	(568,820)	(7.80%)	6,568,291	157,811	2.40%
Increase (Decrease) in Net Assets	(\$1,124,787)	(\$1,018,106)	(\$106,681)	10.48%	\$607,252	(\$1,732,039)	(285.23%)
Human Resources Detail							
Payroll Taxes	256,599	267,713	(11,114)	(4.15%)	237,962	18,637	7.83%
Benefits	978,470	1,027,742	(49,272)	(4.79%)	945,624	32,846	3.47%
Other Expenses	31,070	35,307	(4,237)	(12.00%)	27,067	4,003	14.79%
Total Human Resources	1,266,139	1,330,762	(64,623)	(4.86%)	1,210,653	55,486	4.58%
Financial Services Detail							
Depreciation	286,077	373,333	(87,256)	(23.37%)	373,277	(87,200)	(23.36%)
Other Expenses	324,921	355,520	(30,599)	(8.61%)	346,109	(21,188)	(6.12%)
Total Financial Services	610,998	728,853	(117,855)	(16.17%)	719,386	(108,388)	(15.07%)
Salaries							
Legal	764,945	817,514	(52,569)	(6.43%)	730,328	34,617	4.74%
Public and Bar Services	1,283,598	1,252,227	31,371	2.51%	1,124,784	158,814	14.12%
Operations and Policy	1,448,501	1,452,619	(4,118)	(0.28%)	1,399,347	49,154	3.51%
Total Salaries Expense	3,497,044	3,522,360	(25,316)	(0.72%)	3,254,459	242,585	7.45%
Non-Labor Expense Summary							
Legal	108,956	131,565	(22,609)	(17.18%)	77,097	31,859	41.32%
Public and Bar Services	417,211	570,752	(153,541)	(26.90%)	510,533	(93,322)	(18.28%)
Operations and Policy	1,467,822	1,774,790	(306,968)	(17.30%)	1,542,616	(74,794)	(4.85%)
Total Non-Labor Expense	1,993,989	2,477,107	(483,118)	(19.50%)	2,130,246	(136,257)	(6.40%)

State Bar of Michigan
Administrative Fund
FY 2022 Capital Expenditures vs Budget
For the Eight Months Ending May 31, 2022

	YTD Actual	YTD Budget	YTD Variance	Notes and Variance Explanations	Total Approved FY 2022 Budget	FY 2022 Year-End Forecast	Projected Year-end Variance
FACILITIES, FURNITURE & OFFICE EQUIPMENT							
Meeting room upgrades for virtual capabilities	-	-	-	Installed in April 2022, invoiced in June 2022.	\$ 20,000	\$ 16,600	\$ (3,400)
Replacement of Floor Copiers/Scanners	-	-	-	In process of confirming the quote.	\$ 35,000	\$ 27,000	\$ (8,000)
Total Facilities, Furniture & Office Equipment:	-	-	-		\$ 55,000	\$ 43,600	\$ (11,400)
INFORMATION TECHNOLOGY							
<u>IT Infrastructure:</u>							
Replacement of ethernet switches for rooms 2, 3, 4 and garden level	-	-	-	Ordered, waiting for delivery.	\$ 58,000	\$ 52,000	\$ (6,000)
<u>Application Software Development:</u>							
Receivership /Interim Administrator Program data portal	-	-	-	Pending MI Supreme Court program approval.	35,000	20,000	(15,000)
E-commerce Store	50,600	50,600	-		15,000	50,600	35,600
E-commerce Events	6,000	6,000	-	Not budgeted, to be offset by other projects	-	20,000	20,000
E-commerce License Fee Updates	13,700	13,700	-	Not budgeted, to be offset by other projects	-	20,000	20,000
e-Services Application to Court e-Filing (mi-File)	-	-	-		-	-	-
Firm Administration and Billing	34,700	34,700	-		30,000	30,000	-
Unauthorized Practice of Law Portal	-	-	-		20,000	-	(20,000)
Client Protection Fund Portal	-	-	-		20,000	-	(20,000)
Website Functionality Enhancements	11,800	11,800	-		28,800	28,800	-
Volunteer Application Portal	-	-	-		2,500	2,500	-
Character & Fitness Application Module (for BLE)	17,400	17,400	-		12,000	19,000	7,000
Character & Fitness Hearings Module	-	-	-		35,500	-	(35,500)
Consumer Portal (LRS)	5,000	5,000	-		10,000	17,900	7,900
Total Information Technology:	\$ 139,200	\$ 139,200	\$ -		\$ 266,800	\$ 260,800	\$ (6,000)
Total Capital Budget:	\$ 139,200	\$ 139,200	\$ -		\$ 321,800	\$ 304,400	\$ (17,400)

State Bar of Michigan Administrative Fund
Revenues, Expenses and Net Assets
FY 2022 - Year-End Forecast
Updated June 30, 2022

	FY 2022 Year-End Forecast	FY 2022 Budget	Variance	Percentage	FY 2021 Actual
Operating Revenue					
- License Fees, Dues & Related	7,679,600	7,653,000	26,600	0.35%	7,764,197
- All Other Op Revenue	1,418,797	1,467,850	(49,053)	(3.34%)	1,409,806
Total Operating Revenue	<u>9,098,397</u>	<u>9,120,850</u>	<u>(22,453)</u>	<u>(0.25%)</u>	<u>9,174,003</u>
Operating Expenses					
- Labor-related Operating Expenses					
Salaries	5,422,543	5,437,140	(14,597)	(0.27%)	5,089,955
Benefits, PR Taxes, and Ret HC Exp	1,870,818	1,912,006	(41,188)	(2.15%)	1,694,812
Total Labor-related Operating Expenses	<u>7,293,361</u>	<u>7,349,146</u>	<u>(55,785)</u>	<u>(0.76%)</u>	<u>6,784,767</u>
- Non-labor Operating Expenses					
Legal	218,352	224,875	(6,523)	(0.60%)	128,085
Public and Bar Services	1,000,703	1,079,949	(79,246)	(35.24%)	778,523
Operations and Policy	2,322,840	2,587,570	(264,730)	(10.23%)	2,167,124
Total Non-labor Operating Expenses	<u>3,541,895</u>	<u>3,892,394</u>	<u>(350,499)</u>	<u>(9.00%)</u>	<u>3,073,732</u>
Total Operating Expenses	<u>10,835,256</u>	<u>11,241,540</u>	<u>(406,284)</u>	<u>(3.61%)</u>	<u>9,858,499</u>
Operating Income (Loss)	<u>(1,736,859)</u>	<u>(2,120,690)</u>	383,831	N/A	<u>(684,496)</u>
Non-operating Revenue (Expenses)					
Investment Income	45,000	33,000	12,000	36.36%	70,185
Investment Income - Ret HC Trust*	-	-	-	N/A	824,417
Loss on Disposal of Capital Assets	-	-	-	N/A	(8,793)
Net Non-operating Revenue (Expenses)	<u>45,000</u>	<u>33,000</u>	<u>12,000</u>	<u>36.36%</u>	<u>885,809</u>
Increase (Decrease) in Net Position	<u>(1,691,859)</u>	<u>(2,087,690)</u>	395,831	<u>(18.96%)</u>	<u>201,313</u>

Operating Revenue Forecast:

- License fees and related - Expected to be close to budget for license fees and related revenues. Late fees expected to be higher by \$18k, delinquent dues by \$4k, and reinstatement fees by \$5k.
- All other operating revenue - Expected to be lower than budget primarily due to lower revenues for C&F (\$92k) and LJAP (\$9.6k), offset by higher revenue for LRS (\$15k), UMLI (\$8K), Bar Journal (\$3K), Digital (\$9K), LRS (\$15K), and Diversity (\$10K).

Labor Forecast:

- Salaries and benefits- Expected to be slightly under budget.

Non-labor Forecast:

Legal

- Expected to be under budget primarily due to savings in C&F.

Public and Bar Services

- Expected to be under budget in LJAP (\$6k) due to lower travel and meeting expenses.
- Expected to be under budget in IT primarily due to lower telephone (\$46K).
- Expected to be under budget in Annual Meeting (\$7k).

Operations and Policy

- Executive Offices & BOC- Expected to be under budget primarily in meetings and travel (\$19k and \$19k).
- Finance & Administration - Expected to be under budget (\$123k), primarily due to lower depreciation (\$107k), and staffing expenses (\$12k).
- Expected to be under budget in RA (\$15k) and Governmental Relations (\$11k) primarily due to lower meeting and travel expenses.
- Expected to be under budget in Bar Journal (\$31k), Digital (\$17k), and General Communications (\$22k) primarily due to lower design and typesetting costs, outside contractor fees, website maintenance, and promotion of the Bar.

Non-Operating Income forecast:

- Investment Income - Expected to be higher than budget due to higher interest rates.
- Retiree Health Care Trust Investment Income was not budgeted nor forecasted.

**STATE BAR OF MICHIGAN
CLIENT PROTECTION FUND**

Unaudited and For Internal Use Only

**FINANCIAL REPORTS
May 31, 2022**

FY 2022

Note: License fee revenue is recognized and budgeted as earned each month throughout the year.

State Bar Of Michigan
Client Protection Fund
Comparative Statement of Net Assets
For the Eight Months Ending May 31, 2022

	4/30/2022	5/31/2022	Increase (Decrease)	%	Beginning of FY 2022 10/1/21
Assets					
Cash-Checking	\$18,304	\$11,701	(\$6,603)	(36.1%)	\$51,336
Savings	1,217,239	1,212,423	(4,816)	(0.4%)	2,134,669
Investments	995,650	996,280	630	0.1%	-
Account Receivable	519	-	(519)	(100.0%)	-
Due From SBM	285	1,227	942	330.5%	21,276
Total Assets	\$2,231,997	\$2,221,631	(\$10,366)	(0.5%)	\$2,207,281
Liabilities					
Accounts Payable	\$4,885	\$2,585	(\$2,300)	(47.1%)	\$241,237
Deferred Revenue	269,115	216,668	(52,447)	(19.5%)	131,925
Total Liabilities	274,000	219,253	(54,747)	(20.0%)	373,162
Fund Balance					
Fund Balance at Beginning of Year	1,834,119	1,834,119	-	0.0%	1,635,719
Net Income (Expense) Year to Date	123,878	168,259	44,381	35.8%	198,400
Total Fund Balance	1,957,998	2,002,378	44,381	2.3%	1,834,119
Total Liabilities and Fund Balance	\$2,231,997	\$2,221,631	(\$10,366)	(0.5%)	\$2,207,281

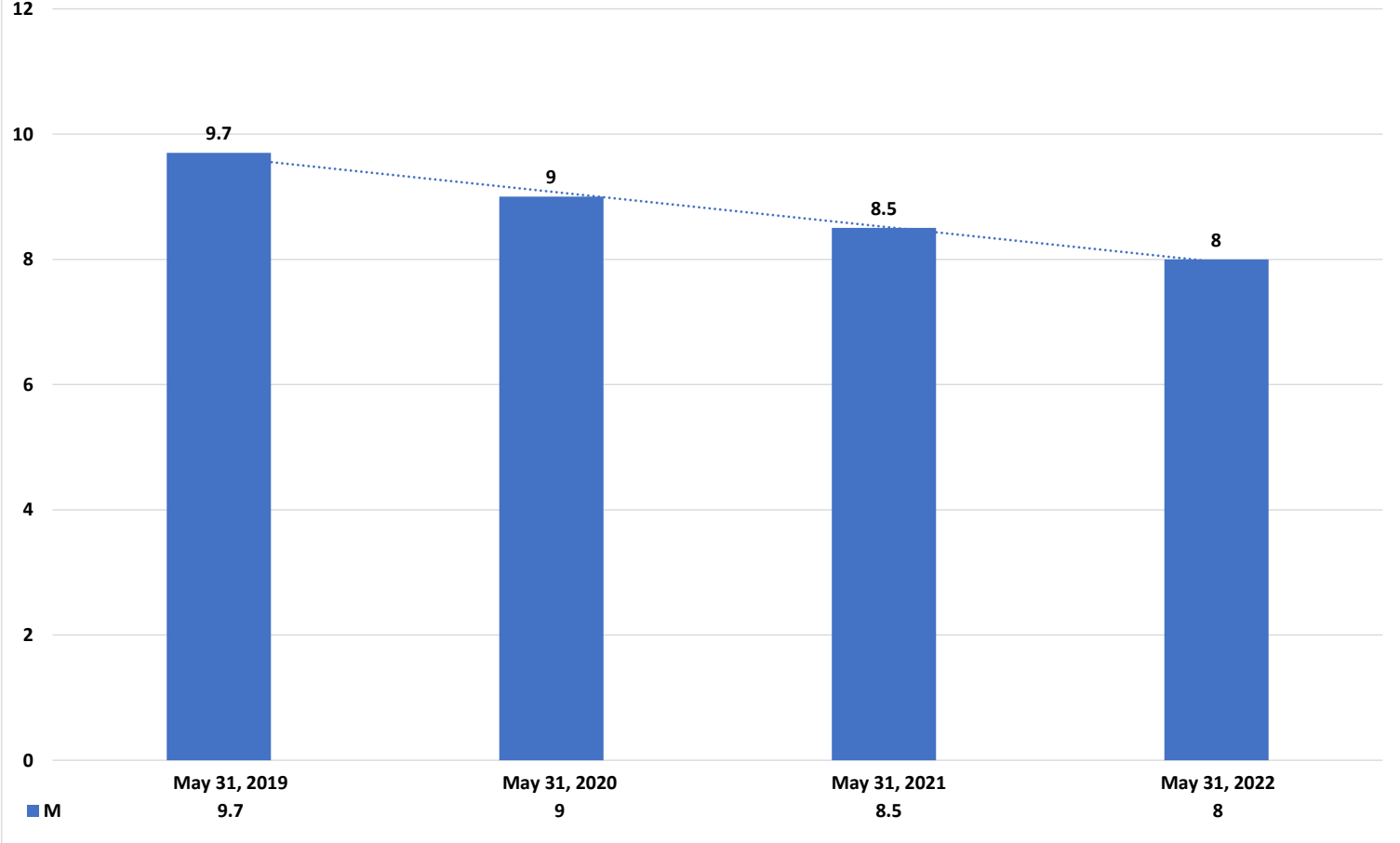
Note: As of May 31, 2022, CPF had \$2,585 claims that were approved and were awaiting signed subrogation agreements.

Client Protection Fund
Statement of Revenue, Expenses, and Changes in Net Assets□
For the Eight Months Ending May 31, 2022

	2022 YTD	2021 YTD (1)
Income:		
3-7-00-000-0005 Contributions Received	1,916	6,025
3-7-00-000-0050 License Fees Assessment	426,896	421,445
3-7-00-000-0051 Pro Hac Vice Fees	7,470	8,850
3-7-00-000-0890 Claims Recovery	26,659	23,835
3-7-00-000-0891 Claims Income	-	-
Total Income	462,941	476,093
 Expenses:		
3-9-00-000-0200 Claims Payment	181,575	53,301
3-9-00-000-0910 Administrative Fee	115,000	110,111
3-9-00-000-0994 Bank Service Charges	280	287
Total Expenses	296,855	342,625
 3-7-00-000-0921 Gain or Loss on Investment	755	-
3-7-00-000-0920 Interest and Dividends	1,418	3,163
	2,173	3,163
 Increase/Decrease in Net Position	 168,259	 136,631
 3-5-00-000-1010 Fund Balance	 1,834,119	 1,635,718
 Net Position, End of Period	 2,002,378	 1,772,349

⁽¹⁾ In FY 2022 CPF is recording claim recoveries on cash basis and claim expenses as they are approved. FY 2021 is restated to show both years consistently.

State Bar of Michigan Cash & Investments
Excluding Sections, Client Protection Fund and Retiree Health Care Trust
For the Eight Months Ending May 31, 2022
\$8M



Note: The State Bar of Michigan has no bank debt outstanding

Summary of Cash and Investment Balances by Financial Institution

5/31/2022

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Fund Summary
		SBM Chase Checking	\$ 143,785.62	
		SBM Chase Credit Card	\$ 3,169.50	
		SBM Chase E Checking	\$ 1,418.75	
		SBM Chase Payroll	\$ -	
		SBM Chase Savings	\$ 115,461.04	0.05%
		ADS Chase Checking	\$ 8,978.01	
		ADS Chase Petty Cash	\$ 6,857.47	
		CPF Chase Checking	\$ 11,700.79	
		CPF Chase Savings	\$ 200,443.20	0.05%
\$3.31 Trillion	5 stars	** Chase Total	\$ 491,814.38	
		SBM Horizon Bank Money Market	\$ 10,036.99	0.15%
\$7.3 Billion	5 stars	Horizon Bank Total w/CD	\$ 1,510,036.99	
		SBM Fifth Third Commercial Now	\$ 36,517.90	0.10% *
\$210 Billion	4 stars	Fifth Third Total	\$ 36,517.90	
		Grand River Bank Money Market	\$ 10,039.49	0.20%
\$489 Million	5 stars	Grand River Bank Total w/CD	\$ 750,039.49	
		MSUCU Savings	\$ 56.09	0.00%
		MSUCU Checking	\$ 8,128.16	0.00%
\$6.7 Billion	5 stars	MSU Credit Union Total	\$ 8,184.25	
		MSU Credit Union Total w/CD	\$ 2,000,308.17	
		LAFUCU Savings	\$ 5.00	
\$939 Million	5 stars	LAFUCU Total w/CD	\$ 5.00	
		CASE Cr Un	\$ 6.00	
		CASE Cr Un Total w/CD	\$ 1,000,006.00	
		SBM Flagstar ICS Checking	\$ 70,804.00	0.40%
		ADS Flagstar ICS Checking Account	\$ 2,532,136.52	0.40%
		CPF Flagstar ICS Checking	\$ 1,011,979.79	0.40%
\$25 Billion	5 stars	Flagstar Bank FDIC Insured	\$ 3,614,920.31	
		Client Protection Fund	\$ 2,220,404	
		State Bar Admin Fund (including Sections)	\$ 11,618,698	
		Attorney Discipline System	\$ 4,544,052	
		SBM Retiree Health Care Trust	\$ 4,028,934	
		ADB Retiree Health Care Trust	\$ 1,316,272	
		AGC Retiree Health Care Trust	\$ 4,168,112	
		Total	\$ 27,896,472	
		State Bar Admin Fund Summary		
		Cash and Investments	\$ 11,618,698	
		Less:		
		Due (to)/from Sections	\$ (3,659,858)	
		Due (to)/from CPF	\$ (1,227)	
		Due to Sections and CPF	\$ (3,661,085)	
		Net Administrative Fund	\$ 7,957,613	
		SBM Average Weighted Yield:	0.55%	
		ADS Average Weighted Yield:	0.74%	
		CPF Average Weighted Yield:	0.60%	
		Notes:		
		- Average weighted yields exclude retiree health care trusts		
		- All amounts are based on reconciled book balance and interest rates as of		
		- CDARS when used are invested in multiple banks up to the FDIC limit for each bank		
		- Funds held in bank accounts are FDIC insured up to \$250,000 per bank		
		- The SBM funds held with Charles Schwab in the Retiree Health Care Trusts are invested in 74% equity securities, 24% in bonds, and 2% in money market funds		
		- As of 05/31/2022, the funds held by SBM attributable to ADS were \$5,092.10		
		- Bank Star rating from Bauer Financial.		
		- Lockbox fees are offset by 0.10% (annual rate) on average monthly balance (*)		
		- Actual unreconciled Chase balance per statements was \$610,517.27 (**)		

Assets	Bank Rating	Financial Institution Summary	Interest Rates	Maturity	
N/A	N/A				
		US Treasuries - SBM	\$ 249,706.60	0.78%	07/21/22
			\$ 997,133.09	0.63%	09/01/22
			\$ 249,569.89	0.77%	08/04/22
			\$ 249,489.69	0.88%	08/11/22
		SBM US Treasuries Total	\$ 1,745,899.27		
		US Treasuries - CPF	\$ 996,280.42	0.91%	09/22/22
		US Treasuries - ADS	\$ 993,028.75	1.47%	11/17/22
			\$ 997,958.75	0.88%	08/11/22
			\$ 1,990,987.50		
		US Treasuries Total	\$ 4,733,167.19		
\$25 Billion	5 stars	SBM Flagstar Savings	\$ 3,000,679.08	0.40%	n/a
			\$ 3,000,679.08		
\$489 Million	5 stars	SBM - Grand River Bank	\$ 250,000.00	0.85%	08/11/22
		SBM - Grand River Bank	\$ 245,000.00	0.60%	09/29/22
		SBM - Grand River Bank	\$ 245,000.00	0.60%	09/29/22
		SBM - Grand River Bank	\$ 250,000.00	0.85%	08/09/22
\$3.3 Billion	3.5 stars	SBM-CD First National Bank of America	\$ 245,659.68	0.65%	10/12/22
		SBM-CD First National Bank of America	\$ 250,000.00	0.65%	10/16/22
		SBM-CD First National Bank of America	\$ 250,000.00	0.65%	10/16/22
		SBM-CD First National Bank of America	\$ 250,000.00	0.65%	10/16/22
\$6.7 Billion	5 stars	SBM-CD MSU Credit Union	\$ 250,530.98	0.60%	10/28/22
		SBM-CD MSU Credit Union	\$ 250,530.98	0.60%	10/28/22
		SBM-CD MSU Credit Union	\$ 250,530.98	0.60%	10/28/22
		SBM-CD MSU Credit Union	\$ 250,530.98	0.60%	10/28/22
		SBM-CD MSU Credit Union	\$ 250,000.00	0.60%	11/21/22
		SBM-CD MSU Credit Union	\$ 250,000.00	0.60%	11/21/22
		SBM-CD MSU Credit Union	\$ 250,000.00	0.60%	11/21/22
\$385 Million	5 stars	SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
		SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
		SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
		SBM - Case Credit Union	\$ 250,000.00	0.40%	07/01/22
\$7.3 Billion	5 stars	Horizon Bank	\$ 250,000.00	0.57%	08/09/22
		Horizon Bank	\$ 250,000.00	0.57%	08/09/22
		Horizon Bank	\$ 250,000.00	0.57%	08/09/22
		Horizon Bank	\$ 250,000.00	0.57%	08/09/22
		Horizon Bank	\$ 250,000.00	0.67%	08/18/22
		Horizon Bank	\$ 250,000.00	0.67%	08/18/22
		Bank CD Totals	\$ 6,477,783.60		
		Total Cash & Investments (excluding Schwab)	\$ 18,383,154.19		
		SBM - Charles Schwab (Ret HC Trust)	\$ 4,028,934.09		Mutual Funds
		ADB - Charles Schwab (Ret HC Trust)	\$ 1,316,271.75		Mutual Funds
		AGC - Charles Schwab (Ret HC Trust)	\$ 4,168,112.21		Mutual Funds
		Charles Schwab Totals	\$ 9,513,318.05		
		Grand Total (including Schwab)	\$ 27,896,472.24		
		Total amount of cash and investments (excluding Schwab) not FDIC insured	\$ 7,998,543.79	43.51%	

Assets & Ratings updated 5/06/2022

Monthly SBM Attorney and Affiliate Report - May 31, 2022

FY 2022

	September 30 2014	September 30 2015	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	May 31 2022	FY Increase (Decrease)
Attorneys and Affiliates In Good Standing										
Active	41,093	41,608	41,921	42,100	42,342	42,506	42,401	42,393	42,249	(144)
Less than 50 yrs serv	40,036	40,490	40,725	40,833	40,973	41,036	40,559	40,504	40,510	6
50 yrs or greater	1,057	1,118	1,196	1,267	1,369	1,470	1,842	1,889	1,739	(150)
Voluntary Inactive	1,211	1,218	1,250	1,243	1,169	1,139	1,192	1,097	1,061	(36)
Less than 50 yrs serv	1,184	1,195	1,230	1,217	1,142	1,105	1,149	1,055	1,021	(34)
50 yrs or greater	27	23	20	26	27	34	43	42	40	(2)
Emeritus	1,552	1,678	1,841	1,973	2,204	2,447	2,727	3,033	3,272	239
Total Attorneys in Good Standing	43,856	44,504	45,012	45,316	45,715	46,092	46,320	46,523	46,582	59
Fees paying Attorneys (Active & Inactive less than 50 yrs of Serv)	41,220	41,685	41,955	42,050	42,115	42,141	41,708	41,559	41,531	(28)
Affiliates										
Legal Administrators	14	13	13	13	10	10	8	5	5	-
Legal Assistants	413	425	405	400	401	393	317	219	253	34
Total Affiliates in Good Standing	427	438	418	413	411	403	325	224	258	34
Total Attorneys and Former Attorneys in the Database										
	September 30 2014	September 30 2015	September 30 2016	September 30 2017	September 30 2018	September 30 2019	September 30 2020	September 30 2021	May 31 2022	FY Increase (Decrease)
State Bar of Michigan Attorney and Affiliate Type										
Attorneys in Good Standing:										
ATA (Active)	41,093	41,608	41,921	42,100	42,342	42,506	42,401	42,393	42,249	(144)
ATVI (Voluntary Inactive)	1,211	1,218	1,250	1,243	1,169	1,139	1,192	1,097	1,061	(36)
ATE (Emeritus)	1,552	1,678	1,841	1,973	2,204	2,447	2,727	3,033	3,272	239
Total Attorneys in Good Standing	43,856	44,504	45,012	45,316	45,715	46,092	46,320	46,523	46,582	59
Attorneys Not in Good Standing:										
ATN (Suspended for Non-Payment of Dues)	5,427	5,578	5,743	5,888	6,072	6,246	6,416	6,472	6,643	171
ATDS (Discipline Suspension - Active)	407	415	418	430	439	440	445	449	450	1
ATDI (Discipline Suspension - Inactive)	12	11	18	19	19	24	25	25	25	-
ATDC (Discipline Suspension - Non-Payment of Court Costs)	1	3	3	16	15	16	16	14	14	-
ATNS (Discipline Suspension - Non-Payment of Other Costs)	83	92	99	94	95	98	100	102	107	5
ATS (Attorney Suspension - Other)*	1	1	1	-	1	1	2	-	-	-
ATR (Revoked)	521	517	534	562	583	596	613	623	630	7
ATU (Status Unknown - Last known status was inactive)**	2,088	2,076	2,074	2,070	2,070	2,070	2,070	2,070	2,047	(23)
Total Attorneys Not in Good Standing	8,540	8,693	8,890	9,079	9,294	9,491	9,687	9,755	9,916	161
Other:										
ATSC (Former special certificate)	136	140	145	152	155	157	158	164	165	1
ATW (Resigned)	1,429	1,483	1,539	1,612	1,689	1,798	1,907	2,036	2,126	90
ATX (Deceased)	8,127	8,445	8,720	9,042	9,287	9,524	9,793	10,260	10,586	326
Total Other	9,692	10,068	10,404	10,806	11,131	11,479	11,858	12,460	12,877	417
Total Attorneys in Database	62,088	63,265	64,306	65,201	66,140	67,062	67,865	68,738	69,375	637

* ATS is a new status added effective August 2012 - suspended by a court, administrative agency, or similar authority

** ATU is a new status added in 2010 to account for approximately 2,600 attorneys who were found not to be accounted for in the IMIS database
The last known status was inactive and many are likely deceased. We are researching these attorneys to determine a final disposition.

N/R - not reported

Notes: Through May 31, 2022 a total of 636 new attorneys joined SBM.

STATE BAR OF MICHIGAN RETIREMENT PLAN

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STATE BAR OF MICHIGAN RETIREMENT PLAN

THIS PLAN, hereby adopted on the date specified on the signature page, by the State Bar of Michigan, the Attorney Discipline Board, and the Attorney Grievance Commission (herein collectively referred to as the "Employer").

WITNESSETH:

WHEREAS, the Employer heretofore established a Profit Sharing Plan effective January 1, 2004, (hereinafter called the "Effective Date") known as State Bar of Michigan Retirement Plan (herein referred to as the "Plan") in recognition of the contribution made to its successful operation by its Employees and for the exclusive benefit of its Eligible Employees; and

WHEREAS, in accordance with the terms of a Settlement Agreement entered into between the State of Michigan's State Employees' Retirement System, including the Department of Management and Budget's Office of Retirement Services, and the Employer, effective as of December 29, 2003, the Employer established this Plan, a qualified plan under Code §401(a) and a governmental plan under Code §414(d), and such Plan received a transfer of all assets and accounts of current and former employees of the Employer, whether vested or unvested, under the State of Michigan 401K Plan; and

NOW, THEREFORE, effective January 1, 2022, except as otherwise provided herein, the Employer in accordance with the provisions of the Plan pertaining to amendments thereof, hereby amends and restates the Plan to provide as follows:

ARTICLE I DEFINITIONS

1.1 **"Account"** means any separate notational account established and maintained by the Administrator for each Participant under the Plan. The term **"Participant's Account"** or **"Participant's Account Balance"** generally means the sum of all Accounts being maintained for the Participant, which represents the Participant's total interest in the Plan. Section 6.8 contains a definition of "Participant's Account Balance" for purposes of that Section. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

- (a) the Nonelective Contribution Account
- (b) the Rollover Account
- (c) the Transfer Account

1.2 **"Administrator"** means the Employer unless another person or entity has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.3 **"Affiliated Employer"** means any corporation which is a member of a controlled group of corporations (as defined in Code §414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code §414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code §414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Regulations under Code §414(o).

1.4 **"Alternate Payee"** means an alternate payee pursuant to a qualified domestic relations order that meets the requirements of Code §414(p).

1.5 **"Anniversary Date"** means the last day of the Plan Year.

1.6 **"Annual Additions"** means, for purposes of applying the limitations of Code §415, the sum credited to a Participant's Accounts for any Limitation Year of (1) Employer contributions, (2) Employee contributions, (3) Forfeitures, (4) amounts allocated to an individual medical account, as defined in Code §415(l)(2) which is part of a pension or annuity plan maintained by the Employer, (5) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit plan (as defined in Code §419(e)) maintained by the Employer and (6) allocations under a simplified employee pension plan.

Annual Additions shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). This includes payments to the Plan made pursuant to a court-approved settlement, to restore losses to the Plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a

reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered Annual Additions.

Annual Additions shall not include: (1) The direct transfer of a benefit or employee contributions from a Qualified Plan to this Plan (unless required by an applicable regulation); (2) rollover contributions (as described in Code §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (3) repayments of loans made to a Participant from the Plan; or (4) repayments of amounts described in Code §411(a)(7)(B) (in accordance with Code §§411(a)(7)(C) and 411(a)(3)(D)).

1.7 **"Basic Compensation"** means the Participant's wages as defined in Code §3401(a) and all other payments of compensation by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Participant a written statement under Code §§6041(d), 6051(a)(3) and 6052 (Form W-2 wages), as well as amounts that would have been received and includable in taxable compensation but for an election under Code §125(a), Code §132(f)(4), Code §402(e)(3), Code §402(h)(1)(B), Code §402(k), or Code §457(b), plus Military Differential Pay. Compensation must be determined without regard to any rules under Code §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

Basic Compensation shall not include amounts paid as Compensation to a nonresident alien, as defined in Code §7701(b)(1)(B), who is not a Participant in the Plan to the extent the compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States.

1.8 **"Beneficiary"** means the person (or entity) to whom the share of a deceased Participant's interest in the Plan is payable. In addition, Section 6.8 ("Minimum Required Distributions") contains a definition of "designated Beneficiary" for purposes of that Section.

1.9 **"Code"** means the Internal Revenue Code of 1986, as amended or replaced from time to time.

1.10 **"Compensation"** means a Participant's Basic Compensation, adjusted by this Section, actually paid during the Compensation Computation Period, adjusted as follows:

(a) including the following adjustments for amounts that are paid after a Participant's severance from employment with the Employer.

(1) **Regular pay.** Compensation shall include regular pay after severance of employment if paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer, and if:

(i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cashouts.** Compensation shall include post-severance leave cash-outs paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred Compensation.** Compensation shall include post-severance deferred compensation paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer maintaining the Plan, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid if the Participant had continued in employment with the Employer and only to the extent that the payment is includable in the Participant's gross income.

(b) **Dollar Limitation.** Compensation in excess of the dollar limit imposed by Code §401(a)(17) shall be disregarded for all purposes. For 2018, that dollar limit was \$275,000. Such amount shall be adjusted for increases in the cost-of-living in accordance with Code §401(a)(17)(B), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Compensation Computation Period ("determination period") beginning with or within such calendar year. For any determination period of less than twelve months, the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the determination period begins multiplied by the ratio obtained by dividing the number of full months in the short determination period by twelve. A determination period is not less than twelve months solely because a Participant's Compensation does not include Compensation paid during a determination period while the Participant was not a Participant in the Plan.

(c) **Non-eligible Employee.** If any Employees are excluded from the Plan, then Compensation for any such Employees who become eligible or cease to be eligible to participate in the Plan during a Plan Year shall only include Compensation while such Employees are Eligible Employees of the Plan.

(d) **Amendment.** If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

1.11 **"Compensation Computation Period"** means the Plan Year.

1.12 **"Contract" or "Policy"** means any life insurance policy, retirement income policy or annuity contract (group or individual) issued pursuant to the terms of the Plan. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

1.13 **"Custodian"** means a person or entity that has custody of all or any portion of the Plan assets.

1.14 **"Directed Account"** means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

1.15 **"Early Retirement Date."** This Plan does not provide for a retirement date prior to Normal Retirement Date.

1.16 [RESERVED]

1.17 **"Effective Date of the Plan"** means January 1, 2004, and the Effective Date of the Restatement means January 1, 2022.

1.18 **"Eligible Employee"** means any Employee who is classified as a full-time employee or a part-time employee under the Employer's policies, except as provided below, and except as provided in any other particular provision for the limited purposes of such provision. The following Employees shall not be eligible to participate in this Plan:

(a) Employees of Affiliated Employers, unless such Affiliated Employers have specifically adopted this Plan in writing with the consent of the State Bar of Michigan.

(b) An individual shall not be an Eligible Employee if such individual is not reported on the payroll records of the Employer as a common law employee. In particular, it is expressly intended that individuals shall not be treated as common law employees by the Employer on its payroll records and out-sourced workers, are neither Employees nor Eligible Employees, and are excluded from Plan participation even if a court or administrative agency determines that such individuals are common law employees and not independent contractors. A Self-Employed Individual shall not be an Eligible Employee.

(c) Unless or until otherwise provided, Employees who became Employees as the result of a "Code §410(b)(6)(C) transaction" will not be Eligible Employees until the expiration of the transition period beginning on the date of the transaction and ending on the last day of the first Plan Year beginning after the date of the transaction. A Code §410(b)(6)(C) transaction is an asset or stock acquisition, merger, or similar transaction involving a change in the Employer of the Employees of a trade or business that is subject to the special rules set forth in Code §410(b)(6)(C).

(d) Employees who are participants in the Michigan State Employees Retirement System Pension Plan.

1.19 **"Employee"** means any common law employee, Self-Employed Individual, Leased Employee or other person to the extent that the Code treats such an individual as an employee of the Employer for purposes of the Plan, such as (for certain purposes) any person who is employed by an Affiliated Employer. A Self-Employed Individual shall be treated as an Employee.

1.20 **"Employer"** means the State Bar of Michigan, the Attorney Discipline Board, and the Attorney Grievance Commission and any successor which shall maintain this Plan. The Employers are a public body corporate, with principal offices in the State of Michigan.

1.21 **"Fiduciary"** means any person who (a) exercises any discretionary authority or discretionary control respecting management of the Plan or exercises any authority or control respecting management or disposition of its assets, (b) renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Plan or has any authority or responsibility to do so, or (c) has any discretionary authority or discretionary responsibility in the administration of the Plan.

1.22 **"Fiscal Year"** means the Employer's accounting year.

1.23 **"Five-Year Break in Service"** means a period of five consecutive One-Year Breaks in Service.

1.24 **"Forfeiture"** means that portion of a Participant's Account that is not Vested, and which becomes a Forfeiture at the time described below:

The earlier of:

- (a) the distribution of the entire Vested portion of the Participant's Account of a Participant who has severed employment with the Employer. For purposes of this provision, if the Participant has a Vested benefit of zero (determined without regard to the Participant's Rollover Account), then such Participant shall be deemed to have received a distribution of such Vested benefit as of the date on which the severance of employment occurs, or
- (b) the last day of the Plan Year in which a Participant who has severed employment with the Employer incurs a Five-Year Break in Service.

In addition, the term "Forfeiture" shall also include amounts deemed to be Forfeitures pursuant to any other provisions of this Plan.

Regardless of the preceding provisions, if a Participant is eligible to share in the allocation of Forfeitures in the year in which the Participant's own Forfeiture would otherwise occur, then that Participant will not share in such allocation.

For purposes of this Plan, any Forfeiture will be disposed of not later than the end of the Plan Year following the Plan Year in which the Forfeiture occurred.

1.25 **"Former Employee"** means an Employee who has severed employment with the Employer or an Affiliated Employer.

1.26 **"415 Compensation"** means the Participant's Basic Compensation during the Compensation Computation Period as adjusted by this Section.

(a) **Back Pay.** Back pay, within the meaning of Regulation § 1.415(c)-2(g)(8), shall be treated as 415 Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under the definition of Basic Compensation.

(b) **Post-Severance Pay.** 415 Compensation shall include payments paid after severance from employment that, absent a severance from employment, would have been paid to the Employee had the Employee continued in employment with the Employer to the extent that such amounts are described below:

(1) **Post-severance regular pay.** 415 Compensation shall include regular pay after severance of employment if the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the Limitation Year that includes the date of such severance from employment.

(2) **Post-severance leave cash-outs.** Leave cash-outs shall be included in 415 Compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued, and such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the Limitation Year that includes the date of such severance from employment.

(3) **Post-severance deferred compensation.** In addition, deferred compensation shall be included in 415 Compensation if the compensation would have been included in the definition of 415 Compensation if it had been paid prior to the Participant's severance from employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income, and such amounts are paid by the later of 2 1/2 months after severance from employment or by the end of the Limitation Year that includes the date of such severance from employment.

1.27 **"414(s) Compensation"** means 415 Compensation or any other definition of compensation that satisfies the nondiscrimination requirements of Code §414(s) and the Regulations thereunder. An Employer may limit the period taken into account to that part of the Plan Year (or other 12-month period described in the preceding sentence) in which an Employee was a Participant in the component of the Plan being tested. The period used to determine 414(s) Compensation must be applied uniformly to all Participants for the Plan Year.

1.28 **"Highly Compensated Employee"** means an Employee described in Code §414(q) and the Regulations thereunder, and generally means any Employee who:

- (a) for the "look-back year" had 415 Compensation from the Employer in excess of the dollar limit. The dollar limit for 2018 was \$120,000. The limit is adjusted at the same time and in the same manner as under Code §415(d).

The "determination year" means the Plan Year for which testing is being performed, and the "look-back year" means the immediately preceding twelve month period.

In determining who is a Highly Compensated Employee, Employees who are nonresident aliens and who received no earned income (within the meaning of Code §911(d)(2)) from the Employer constituting United States source income within the meaning of Code §861(a)(3) shall not be treated as Employees. If an Employee who is a nonresident alien has U.S. source income, that Employee is treated as satisfying this definition if all of such Employee's U.S. source income from the Employer is exempt from U.S. income tax under an applicable income tax treaty. Additionally, all Affiliated Employers shall be taken into account as a single employer and Leased Employees within the meaning of Code §§414(n)(2) and 414(o)(2) shall be considered Employees unless such Leased Employees are covered by a plan described in Code §414(n)(5) and are not covered in any Qualified Plan maintained by the Employer. The exclusion of Leased Employees for this purpose shall be applied on a uniform and consistent basis for all of the Employer's retirement plans. Highly Compensated Former Employees shall be treated as Highly Compensated Employees without regard to whether they performed services during the "determination year."

1.29 **"Highly Compensated Participant"** means, for a particular Plan Year, a Participant who meets the definition of a Highly Compensated Employee in effect for that Plan Year.

1.30 **"Hour of Service"** means each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer. For purposes of this Section, Hours of Service will be credited for employment with any Affiliated Employers.

1.31 **"IDP-Formatted"** means this IRS Pre-Approved plan that is drafted in the style of a narrative document, i.e., without a separate adoption agreement. This document, therefore, constitutes the entire plan document. Amendments to this document must generally be made via a complete restatement in order to ensure that all language and cross references throughout the document conform to the specimen document approved by the IRS, which could involve changes to the organization of the document, its table of contents, etc. The hard-copy checklist, which was used by the IRS to facilitate the drafting of this document, may contain important Notes that were required to be included on such checklist to ensure that the drafter remains within the confines of stated parameters on the checklist whenever IRS reliance on the finished document is desired.

1.32 **"IDP-Formatted Nonstandardized Pre-Approved Addendum" (...Appendix)** means any Addendum or Appendix explicitly permitted or required by the preapproved language of the Plan and approved by the IRS for use with this document.

1.33 **"Insurer"** means the legal reserve life insurance company (as elected by the Administrator), which shall issue one or more Contracts under the Plan.

1.34 **"Investment Manager"** means any Fiduciary described in Section 2.1(b).

1.35 **"Late Retirement Date"** means a Participant's actual Retirement Date after having reached Normal Retirement Date.

1.36 **"Leased Employee"** means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include Compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated work force.

1.37 **"Limitation Year"** means the Plan Year. All Qualified Plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change to a new Limitation Year, the Limitation Year will be a twelve consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve consecutive month period ending on the last day of the initial Plan Year. If the Limitation Year is amended to a different twelve consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year (to end on the date of plan termination).

1.38 **"Military Differential Pay"** means any differential wage payments made to an individual that represents an amount which, when added to the individual's military pay, approximates the amount of compensation that was paid to the individual while working for the Employer. An individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment.

The Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding plan provisions) by reason of any contribution or benefit which is based on the differential wage payment. The preceding sentence applies only

if all Employees of the Employer performing service in the uniformed services described in Code §3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code §3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code §§410(b)(3), (4), and (5)).

- 1.39 **"Nonelective Contribution"** means any Employer Profit Sharing contribution.
- 1.40 **"Nonelective Contribution Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Nonelective Contributions.
- 1.41 **"Nonhighly Compensated Employee"** means any Employee who is not a Highly Compensated Employee.
- 1.42 **"Nonhighly Compensated Participant"** means a Participant who is not a Highly Compensated Employee.
- 1.43 **"Normal Retirement Age"** means the later of the Participant's 65th birthday or the date on which the Participant completes four Years of Service. A Participant shall become fully Vested in the Participant's Account upon attaining Normal Retirement Age (if the Participant is still employed by the Employer on or after that date).
- 1.44 **"Normal Retirement Date"** means the date a Participant attains Normal Retirement Age.
- 1.45 **"One-Year Break in Service"** means the applicable computation period during which an Employee has not completed more than 500 Hours of Service with the Employer. However, the Employer may amend the Plan to provide a lesser number of Hours of Service in a Plan amendment for eligibility purposes, vesting purposes, or accrual purposes without adversely affecting the Plan's reliance on the IRS Opinion Letter.
- 1.46 **"Nonstandardized Pre-Approved Plan"** has the same meaning accorded by IRS Revenue Procedure 2017-41, and in the case of this particular document, a plan that would, prior to the publication of that Procedure, would have been referred to as a "volume submitter" plan.
- 1.47 **"Opinion Letter"** means the Letter issued by the IRS to the Provider conferring reliance on the terms of the IDP-formatted Nonstandardized Pre-Approved Plan.
- 1.48 **"Participant"** means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the individual has an Account Balance in the Plan). An Employee who is an active participant in the Michigan State Employees Retirement System Pension Plan shall be a Participant in this Plan solely with respect to the Participant's Transfer Account established for such Participant with respect to the transfer to this Plan of the Participant's interest in the State of Michigan 401K Plan, and such Participant shall not be eligible for an allocation of any Employer contributions made pursuant to Article IV.
- 1.49 **"Participant Direction Procedures"** means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.8 and observed by the Administrator and applied to Participants who have Participant Directed Accounts.
- 1.50 [RESERVED]
- 1.51 **"Plan"** means this instrument, including all amendments thereto. This Plan is classified, for IRS purposes, as a profit sharing plan without a cash or deferred arrangement (also known as a "straight profit sharing" plan).
- 1.52 **"Plan Year"** means the Plan's accounting year of twelve months commencing on January 1 of each year and ending the following December 31.
- 1.53 **"Provider"** means the organization described by Section 4.08 of Revenue Procedure 2017-41.
- 1.54 **"Qualified Military Service"** means military service described by Code §414(u). Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service will be provided in accordance with Code §414(u). Furthermore, loan repayments may be suspended under this Plan as permitted under Code §414(u)(4).
- 1.55 **"Qualified Plan"** means any Plan that is tax-qualified within the meaning of Code Section §401(a).
- 1.56 **"Regulation"** means the Income Tax Regulations as promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time.
- 1.57 **"Retirement" or "Retirement Date"** means the date as of which a Participant terminates employment whether such retirement occurs on a Participant's Normal Retirement Date or Late Retirement Date.

- 1.58 **"Rollover Account"** means the separate account established and maintained by the Administrator for each Participant with respect to such Participant's interest in the Plan resulting from amounts that are rolled over from a Qualified Plan (including this Plan) or Individual Retirement Account in accordance with Section 4.7. Amounts in the Rollover Account are nonforfeitable when made.
- 1.59 **"Self-Employed Individual"** means a self-employed individual as defined in Code §401(c)(1)(B).
- 1.60 **"Spouse"** means a spouse as determined under federal tax law.
- 1.61 **"Total Vested Benefit"** means the total Participant's Vested Account balances derived from Employer and Employee Contributions, including rollover contributions, whether Vested before or upon death.
- 1.62 **"Transfer Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from amounts transferred from another Qualified Plan pursuant to Section 4.5.
- 1.63 **"Trust"** means the separate trust agreement associated with this Plan. In the event of any conflict between the terms of this plan and any conflicting provision contained in any associated trust, custodial account document, or any document that is incorporated by reference, the terms of this Plan will govern.
- 1.64 **"Trustee"** means the person or entity named as trustee of the Plan pursuant to a separate agreement for that purpose, and who has accepted such appointment in writing.
- 1.65 **"Trust Fund"** means the assets of the Plan.
- 1.66 **"Valuation Date"** means the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of the Participants' Accounts during the Plan Year, which may include any day that the Trustee, any transfer agent appointed by the Trustee or the Employer or any stock exchange used by such agent, is open for business. Nothing in this Plan requires or implies a uniform Valuation Date for all Accounts; thus certain valuation provisions that apply to an Account that is not valued on each business day will have no application, in operation, to an Account that is valued on each business day.
- 1.67 **"Vested"** means the nonforfeitable portion of any account maintained on behalf of a Participant.
- 1.68 **"Year of Service"** means the computation period of twelve consecutive months, herein set forth, and during which an Employee has at least 750 Hours of Service. However, the Employer may amend the Plan to provide a lesser number of Hours of Service in a Plan amendment for eligibility purposes, vesting purposes, or accrual purposes without adversely affecting the Plan's reliance on the IRS Opinion Letter.

A Year of Service for eligibility purposes is not credited until the end of a participation computation period.

For vesting purposes, the computation periods shall be the Plan Year. Notwithstanding anything in this Section to the contrary, a Participant's Years of Service for vesting purposes, determined as of the Effective Date of the Plan, shall be the Participant's years of service for vesting purposes under the State of Michigan 401K Plan determined as of December 31, 2003.

The computation period shall be the Plan Year if not otherwise set forth herein.

Years of Service with any Affiliated Employer shall be recognized commencing with an Employee's first day of employment with the Affiliated Employer. Furthermore, Years of Service with any predecessor employer that maintained the Plan shall be recognized.

In the event the method of crediting service is amended from the elapsed-time method to the hour-of-service method, an Employee will receive credit for Years of Service equal to:

- (a) The number of Years of Service equal to the number of whole year One-Year Periods of Service credited to the Employee as of the date of the amendment; and
- (b) In the computation period which includes the date of the amendment, a number of Hours of Service (using the Hours of Service equivalency method elected in the Plan) to any fractional part of a year credited to the Employee under this Section as of the date of the amendment.

ARTICLE II ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

- (a) **Appointment of Trustee and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove the Trustee and the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. The Employer may appoint counsel, specialists,

advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

(b) **Appointment of Investment Manager.** The Employer may, by written agreement or designation, appoint, at its option, an Investment Manager (qualified under the Investment Company Act of 1940 as amended), investment adviser, or other agent to provide investment direction to the Trustee with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form acceptable to the Trustee and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have authority to direct the investment.

2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer may appoint one or more Administrators. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person (other than the Employer) so appointed shall signify acceptance by filing written acceptance with the Employer. An appointed Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. If at any time there is no longer any appointed Administrator, then the Employer shall be the Administrator. Nothing in this provision precludes the Employer from being a co-Administrator concurrently with an appointed Administrator.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is serving as Administrator, the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. In the event that no such delegation is made by the Employer, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee in writing of such action and specify the responsibilities of each Administrator. The Trustee thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee a written revocation of such designation.

2.4 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Benefits under this Plan will be paid only if the Administrator decides in its discretion that the applicant is entitled to them. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a Qualified Plan under the terms of Code §401(a). The Administrator shall have all powers necessary or appropriate to accomplish the Administrator's duties under the Plan.

The Administrator shall be charged with the duties of the general administration of the Plan as set forth under the terms of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's contribution or allocation formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (c) to compute, certify, and direct the Trustee with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (d) to authorize and direct the Trustee with respect to all discretionary or otherwise directed disbursements from the Trust Fund;
- (e) to maintain all necessary records for the administration of the Plan;
- (f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
- (g) to determine the size and type of any Contract to be purchased from any insurer, and to designate the insurer from which such Contract shall be purchased;
- (h) to compute and certify to the Employer and to the Trustee from time to time the sums of money necessary or desirable to be contributed to the Plan;

- (i) to consult with the Employer and the Trustee regarding the short and long-term liquidity needs of the Plan in order that the Trustee can exercise any investment discretion (if the Trustee has such discretion) in a manner designed to accomplish specific objectives;
- (j) to determine the validity of, and take appropriate action with respect to, any qualified domestic relations order received by it; and
- (k) to assist any Participant regarding the Participant's rights, benefits, or elections available under the Plan.

2.5 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, policies, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by law.

2.6 APPOINTMENT OF ADVISERS

The Administrator, or the Trustee with the consent of the Administrator, may appoint counsel, specialists, advisers, agents (including nonfiduciary agents) and other persons as the Administrator or the Trustee deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and to Plan Participants.

2.7 INFORMATION FROM EMPLOYER

The Employer shall supply full and timely information to the Administrator on all pertinent facts as the Administrator may require in order to perform its function hereunder and the Administrator shall advise the Trustee of such of the foregoing facts as may be pertinent to the Trustee's duties under the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

2.8 PAYMENT OF EXPENSES

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named Fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents) appointed for the purpose of assisting the Administrator or the Trustee in carrying out the instructions of Participants as to the directed investment of their accounts (if permitted) and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Trust Fund. In addition, unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or Alternate Payee. If liquid assets of the Plan are insufficient to cover the fees of the Trustee or the Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

2.9 CLAIMS PROCEDURE

Claims for benefits under the Plan may be filed in writing with the Administrator. Written notice of the disposition of a claim shall be furnished to the claimant within ninety (90) days after the application is filed, or such period as is required by applicable law. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claims review procedure

2.10 CLAIMS REVIEW PROCEDURE

Any Employee, former Employee, or Beneficiary of either, who has been denied a benefit by a decision of the Administrator pursuant to Section 2.9 shall be entitled to request the Administrator to give further consideration to a claim by filing with the Administrator a written request for a hearing. Such request, together with a written statement of the reasons why the claimant believes the claim should be allowed, shall be filed with the Administrator no later than sixty (60) days after receipt of the written notification provided for in Section 2.9. The Administrator shall then conduct a hearing within the next sixty (60) days, at which the claimant may be represented by an attorney or any other representative of such claimant's choosing and expense and at which the claimant shall have an opportunity to submit written and oral evidence and arguments in support of the claim. At the hearing (or prior thereto upon five (5) business days written notice to the Administrator) the claimant or the claimant's representative shall have an opportunity to review all documents in the possession of the Administrator which are pertinent to the claim at issue and its disallowance. Either the claimant or the Administrator may cause a court reporter to attend the hearing and record the proceedings. In such event, a complete written transcript of the proceedings shall be furnished to both parties by the court reporter. The full expense of any such court reporter and such transcripts shall be borne by the party causing the court reporter to attend the hearing. A final decision as to the allowance of the claim shall be made by the Administrator within sixty (60)

days of receipt of the appeal (unless there has been an extension of sixty (60) days due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the sixty (60) day period). Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based.

2.11 MAJORITY ACTIONS

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there is more than one Administrator, then they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf. Alternatively, the Administrators may allocate authority amongst themselves in a written document signed by all Administrators.

ARTICLE III ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

(a) **Eligibility.** Any Eligible Employee who has attained age 18 shall be eligible to participate hereunder as of the date such Employee has satisfied such requirements. However, any Employee who was a Participant in the Plan prior to the Effective Date of the Restatement shall continue to participate in the Plan provided such Employee is an Eligible Employee.

3.2 EFFECTIVE DATE OF PARTICIPATION

(a) **Effective date of participation.** An Eligible Employee shall become a Participant effective as of the date on which such Employee satisfies the eligibility requirements of Section 3.1, provided said Employee is still employed as of such date. If an Eligible Employee is not employed as of such date, the Eligible Employee's Effective Date of Participation shall be determined in accordance with Section 3.2(f).

(b) **Recognition of other employer service.** If an Eligible Employee satisfies the eligibility requirement conditions of a specific component of the Plan by reason of recognition of service with an entity that is not an Affiliated Employer, then such Employee shall become a Participant in such component of the Plan as of the day that the Plan credits such service with the entity or, if later, the date the Employee would have otherwise entered such component of the Plan had the service with the entity been recognized for purposes of this Plan.

(c) **Ineligible to eligible classification.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant in a specific component of the Plan, shall go from a classification of an ineligible Employee to an Eligible Employee, such Employee shall become a Participant in such component of the Plan on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered such component of the Plan had the Employee always been an Eligible Employee.

(d) **Eligible to ineligible classification.** If an Employee who has satisfied the Plan's eligibility requirements and would otherwise become a Participant in a specific component of the Plan shall go from a classification of an Eligible Employee to an ineligible class of Employees, such Employee shall become a Participant in such component of the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered such component of the Plan had the Employee always been an Eligible Employee.

(e) **Effective date of participation upon reemployment.** If an Eligible Employee is not employed on the Effective Date of Participation as described in the preceding provisions of this Section 3.2, then such Eligible Employee shall become a Participant on the date of reemployment, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee not terminated employment.

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan. Such determination shall be subject to review pursuant to Sections 2.9 and 2.10.

3.4 CESSATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, then such Participant shall continue to Vest for each Year of Service completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund.

3.5 REHIRED EMPLOYEES

In the event a former Participant in the Plan is reemployed by the Employer, such Participant shall retain credit for Years of Service completed prior to the Participant's reemployment for purposes of determining the Participant's vesting percentage in any contributions made to the Plan after the Participant's reemployment

3.6 ELECTION NOT TO PARTICIPATE

(a) **Irrevocable election not to participate.** Except as provided in the next paragraph, an Employee may, subject to the approval of the Employer, elect voluntarily not to participate in the Plan. Such election must be made prior to the time the Employee first becomes eligible to participate under any Qualified Plan (i.e., a plan that is subject to Code §401(a) or any other plan or arrangement of the Employer that is described in Code §219(g)(5)(A) (whether or not terminated) maintained by the Employer. The election not to participate must be irrevocable and communicated to the Employer in writing. Such election must be made upon inception of the Plan or such other plan or arrangement or at any time prior to the time the Employee first becomes eligible to participate under any such plan maintained by the Employer.

(b) **Prior Plan document provision.** Notwithstanding anything in this Section to the contrary, if any prior Plan document of this Plan contained a provision permitting an Employee to make a revocable election not to participate and an Employee made such revocable election not to participate while that prior Plan document was in effect, then such Employee's waiver shall continue to be in effect.

3.7 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer shall apply the principles described by, and take corrective actions consistent with, the IRS Employee Plans Compliance Resolution System ("EPCRS") (see Section 9.12).

ARTICLE IV CONTRIBUTION AND ALLOCATION

4.1 FORMULA FOR DETERMINING EMPLOYER CONTRIBUTION

For each Plan Year, the Employer shall contribute to the Plan:

(a) **Nonelective Contributions.** An amount equal to the sum of the following, which amount, if any, shall be a Nonelective Contribution.

(1) On behalf of each Participant, an amount equal to four percent of the Participant's Compensation for the Plan Year.

(2) On behalf of each Participant, an amount equal to 100 percent of the Participant's voluntary Participant Contributions to the State Bar of Michigan Section 457(b) Plan (the "SBM 457 Plan") for each payroll period, but in no event greater than three percent of the Participant's Compensation for the payroll period. For all payroll periods occurring in January and February of 2004, for purposes of the preceding sentence, a Participant shall be deemed to have made voluntary Participant Contributions to the SBM 457 Plan based on the deferral election in effect with respect to the Participant under the State of Michigan 401K Plan as of December 31, 2003.

(3) For the Plan Year beginning on January 1, 2004 and ending on December 31, 2004, on behalf of each Participant who was first employed by the Employer on or after March 31, 1997 and who was an Employee of the Employer on December 31, 2003 (an "Eligible Pure Tier 2 Participant") an amount equal to \$76.92 times the number of payroll periods in which the Participant was employed by the Employer between March 31, 1997 and December 31, 2004. For each Plan Year beginning on and after January 1, 2005, the Employer may, but is not required to, make a discretionary contribution to be allocated among the Eligible Pure Tier 2 Participants in an amount determined by the Employer and stated as a flat dollar amount for each payroll period during the Plan Year in which the Participant was employed by the Employer. For purposes of the preceding sentence, the State Bar of Michigan, the Attorney Discipline Board and the Attorney Grievance Commission shall be treated as separate Employers, and they shall each separately determine what amount, if any, to contribute to the Plan pursuant to this paragraph (3) as a discretionary contribution to be allocated among those Eligible Pure Tier 2 Participants who are Employees of that separate Employer. Notwithstanding anything in this paragraph (3) to the contrary, an Eligible Pure Tier 2 Participant who is a part-time Employee shall receive an Employer contribution under this paragraph (3) that is one-half of the otherwise designated amount.

(4) For each Plan Year, the State Bar of Michigan, the Attorney Discipline Board and the Attorney Grievance Commission may, but none of them are required to, make a discretionary contribution to the Plan pursuant to this paragraph (4). Any discretionary contribution made by the State Bar of Michigan pursuant to this subsection shall be allocated to the account of its Executive Director. Any discretionary contribution made by the Attorney Discipline Board pursuant to this subsection shall be allocated to the account of its Executive Director. Any discretionary contribution made by the Attorney Grievance Commission pursuant to this subsection shall be allocated to the account of its Grievance Administrator. For purposes of this paragraph (4), the State Bar of Michigan, the Attorney Discipline Board and the Attorney Grievance Commission shall be treated as separate Employers, and

they shall each separately determine what amount, if any, to contribute to the Plan pursuant to this paragraph (4) as a discretionary contribution.

The Employer contribution shall not be limited to years in which the Employer has current or accumulated net profit.

(b) **Form of contribution.** All contributions by the Employer shall be made in cash or in such property as is acceptable to the Trustee. The Employer may make its contribution to the Plan in the form of property only if such contribution does not constitute a prohibited transaction under the Code.

4.2 TIME OF PAYMENT OF EMPLOYER CONTRIBUTION

(a) **Time of Payment.** Unless otherwise provided by a particular provision of the Plan, or by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, then the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

4.3 ALLOCATIONS

(a) **Separate accounting.** The Administrator shall establish and maintain an account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other Valuation Date, all amounts allocated to a particular Account of each such Participant as set forth herein.

(b) **Allocation of contributions.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer contributions for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate such contribution as follows:

(1) **Nonelective Contributions.** With respect to the Nonelective Contribution made pursuant to Section 4.1(a), to each Participant's Nonelective Contribution Account in the manner specified in Section 4.1(a).

(2) **Entitlement to Nonelective Contribution.** Any Participant employed during the Plan Year shall be eligible to share in the Nonelective Contribution made pursuant to Section 4.1(a) for the year.

(c) **Usage of Forfeitures.** On or before each Anniversary Date, any Forfeitures may be used to satisfy any contribution that may be required pursuant to Section 3.7 or 6.10, or may be used to pay any administrative expenses of the Plan. The remaining Forfeitures, if any, shall be allocated in the following manner:

(1) Forfeitures attributable to Nonelective Contributions made pursuant to Section 4.1(a) shall be used to reduce the Employer's contributions for the Plan Year. In the event Forfeitures are used to reduce an Employer discretionary contribution and the Forfeitures to be allocated under this subsection exceed such discretionary contribution (such as when no discretionary contribution is made), then the remaining Forfeitures will constitute an (additional) discretionary contribution. For purposes of this subsection (c), Forfeitures shall be tracked separately for Employees of the State Bar of Michigan, the Attorney Discipline Board and the Attorney Grievance Commission, and such Forfeitures shall be applied for the benefit of the particular Employer to whose Employees the Forfeitures relate.

(d) **Allocation of earnings.** Except with respect to participant-directed accounts, as of each Valuation Date, before allocation of any Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund (exclusive of assets segregated for distribution) shall be allocated in accordance with such rules and procedures that are established by the Administrator and that are applied in a uniform and nondiscriminatory manner based upon the investments of the Trust Fund and the Participants' accounts to which the net income is allocated. For purposes of this Section, the term "net income" means the net of any interest, dividends, unrealized appreciation and depreciation, capital gains and losses, and investment expenses of the Trust Fund determined on each Valuation Date. However, Participants' accounts which have been segregated for investment purposes (including any directed investment accounts will only have the net income earned thereon allocated thereto). Policy dividends or credits will be allocated to the Participant's Account for whose benefit the Policy is held.

(e) **Incoming transfers.** Participants' transfers from other Qualified Plans deposited in the general Trust Fund shall share in any earnings and losses (net appreciation or net depreciation) of the Trust Fund in the same manner provided above. Each segregated account maintained on behalf of a Participant shall be credited or charged with its separate earnings and losses.

(f) **Incoming rollovers.** Participants' Rollover Contributions deposited in the general Trust Fund shall share in any earnings and losses (net appreciation or net depreciation) of the Trust Fund in the same manner provided above. Each segregated account maintained on behalf of a Participant shall be credited or charged with its separate earnings and losses.

(g) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason or force

majeure (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and the correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

(h) **Recapture account.** The Administrator in its discretion may use a "recapture Account" to pay non-settlor Plan expenses and may allocate funds in the Account (or excess funds therein after payment of Plan expenses) as earnings or as otherwise permitted by applicable law. The Administrator will exercise its discretion in a reasonable, uniform and nondiscriminatory manner. A "recapture Account" is an account designated to receive amounts which a Plan service provider receives in the form of 12b-1 fees, sub-transfer agency fees, shareholder servicing fees or similar amounts (also known as "revenue sharing"), which are received by the service provider from a source other than the Plan and which the service provider may remit to the Plan.

(i) **Late trading and market timing settlement.** In the event the Plan becomes entitled to a settlement from a mutual fund or other investment relating to late trading, market timing or other activities, the Administrator will allocate the settlement proceeds to Participants and Beneficiaries in accordance with applicable law.

4.4 MAXIMUM ANNUAL ADDITIONS

(a) **Maximum permissible amount.** Notwithstanding the foregoing, the maximum Annual Additions credited to a Participant's Accounts for any Limitation Year shall equal the lesser of:

- (1) \$55,000 for 2018, adjusted annually as provided in Code §415(d) pursuant to the Regulations, or
- (2) one-hundred percent (100%) of the Participant's 415 Compensation for such Limitation Year.

The percentage limitation in paragraph (2) above shall not apply to: (1) any contribution for medical benefits (within the meaning of Code §419A(f)(2)) after separation from service which is otherwise treated as an annual addition, or (2) any amount otherwise treated as an annual addition under Code §415(l)(1).

For any short Limitation Year, the dollar limitation in paragraph (1) above shall be reduced by a fraction, the numerator of which is the number of full months in the short Limitation Year and the denominator of which is twelve. If the plan is terminated as of a date other than the last day of the Limitation Year, the Plan is deemed to have been amended to change its Limitation Year to a short Limitation Year ending on the date of plan termination, and the maximum permissible amount shall be determined for the resulting short Limitation Year as described in the preceding sentence.

(b) **Excess Annual Additions defined.** For purposes of this Article, the term "Excess Annual Additions" for any Participant for a Limitation Year means a Participant's Annual Additions under this Plan and such other plans of the Employer or Affiliated Employer that are in excess of the maximum permissible amount of this Section 4.4 for a Limitation Year. The Excess Annual Additions will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a simplified employee pension will be deemed to have been allocated first, followed by Annual Additions to a welfare benefit fund or individual medical account, and then by Annual Additions to a plan subject to Code §412, regardless of the actual allocation date.

(c) **Annual Additions can cease when maximum permissible amount reached.** If the Employer contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the Annual Additions for the Limitation Year to exceed the maximum permissible amount, then the amount that would otherwise be contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the maximum permissible amount, and any such amounts which would have been allocated to such Participant may be allocated to other Participants.

(d) **Multiple Plans.** The following provisions apply if a Participant is covered by more than one Qualified Plan maintained by the Employer.

- (1) If a Participant participates in more than one defined contribution plan maintained by the Employer that have different Anniversary Dates, then the maximum permissible amount under this Plan shall equal the maximum permissible amount for the Limitation Year minus any Annual Additions previously credited to such Participant's Accounts under all such plans during the Plan's Limitation Year.
- (2) If a Participant participates in both a defined contribution plan subject to Code §412 and a defined contribution plan not subject to Code §412 maintained by the Employer which have the same Anniversary Date, then Annual Additions will be credited to the Participant's Accounts under the defined contribution plan subject to Code §412 prior to crediting Annual Additions to the Participant's Accounts under the defined contribution plan not subject to Code §412.
- (3) If a Participant participates in more than one defined contribution plan not subject to Code §412 maintained by the Employer which have the same Anniversary Date, then the maximum permissible amount under this Plan shall equal the product of (A) the maximum permissible amount for the Limitation Year minus any Annual Additions previously credited under subsections (1) or (2) above, multiplied by (B) a fraction (i) the numerator of which is the Annual Additions which would be credited to such Participant's Accounts under this Plan without regard to the limitations of Code §415 and (ii) the denominator of which is such Annual Additions for all plans described in this subsection.

(e) **Aggregation of Plans.** For purposes of applying the limitations of Code §415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a "predecessor employer") under which the Participant receives Annual Additions are treated as one defined contribution plan. The "Employer" means the Employer that adopts this Plan and all members of a controlled group or an affiliated service group that includes the Employer (within the meaning of Code §414(b), Code §414(c), Code §414(m) or Code §414(o)), except that for purposes of this subsection, the determination shall be made by applying Code §415(h), and shall take into account tax-exempt organizations under Regulation §1.414(c)-5, as modified by Regulation §1.415(a)-1(f)(1). For purposes of this paragraph:

(1) A former employer is a "predecessor employer" with respect to a Participant in a plan maintained by an Employer if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former Employer, but only if that benefit is provided under the plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Regulation §1.415(f)-1(b)(2) apply as if the Employer and predecessor Employer constituted a single employer under the rules described in Regulation §§1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Regulation §§1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.

(2) With respect to an Employer of a Participant, a former entity that antedates the Employer is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.

(f) **Break-up of an affiliated employer or an affiliated service group.** For purposes of aggregating plans for Code §415, a "formerly affiliated plan" of an employer is taken into account for purposes of applying the Code §415 limitations to the Employer, but the formerly affiliated plan is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this paragraph, a "formerly affiliated plan" of an Employer is a plan that, immediately prior to the cessation of affiliation, was actually maintained by one or more of the entities that constitute the Employer (as determined under the employer affiliation rules described in Regulation §§1.415(a)-1(f)(1) and (2)), and immediately after the cessation of affiliation, is not actually maintained by any of the entities that constitute the Employer (as determined under the employer affiliation rules described in Regulation §§1.415(a)-1(f)(1) and (2)). For purposes of this paragraph, a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single employer under the employer affiliation rules described in Regulation §§1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the Employer under the employer affiliation rules of Regulation §§1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

(g) **Mid-year aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code §415(f) and the Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code §415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant's Account after the date on which the plans are required to be aggregated.

(h) **Correction of Excess Annual Additions.** Notwithstanding any provision of the Plan to the contrary, if Annual Additions exceed the limit on Annual Additions for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System ("EPCRS") (see Section 9.12).

(i) **Time when Annual Additions credited.** An Annual Addition is credited to the account of a Participant for a particular Limitation Year if it is allocated to the Participant's account under the Plan as of any date within that Limitation Year. However, an amount is not deemed allocated as of any date within a Limitation Year if such allocation is dependent upon participation in the Plan as of any date subsequent to such date.

For purposes of this subsection, Employer contributions are not deemed credited to a Participant's Account for a particular Limitation Year unless the contributions are actually made to the Plan no later than 30 days after the end of the period described in Code §404(a)(6) applicable to the taxable year with or within which the particular Limitation Year ends. In the case of an Employer that is exempt from federal income tax (including a governmental employer), Employer contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or Fiscal Year with or within which the particular Limitation Year ends.

4.5 PLAN-TO-PLAN TRANSFERS (OTHER THAN ROLLOVERS) TO THE PLAN

(a) **Transfers into this Plan.** With the consent of the Administrator (such consent must be exercised in a nondiscriminatory manner and applied uniformly to all Participants), amounts may be transferred (within the meaning of Code §414(l)) to this Plan from other Qualified Plan, provided that the plan from which such funds are transferred permits the transfer to be made, the funds are not subject to the notice and consent requirements of Code §417 (i.e., the qualified joint and survivor annuity requirements), and the transfer will not jeopardize the tax exempt status of the Plan or Trust or create adverse tax consequences for the Employer. Prior to accepting any transfers to which this Section applies, the Administrator may require satisfactory evidence that the amounts to be transferred meet the requirements of this Section. The transferred amounts shall be allocated to the Transfer Account of the Participant.

(b) **Accounting of transfers.** The Transfer Account of a Participant shall be held by the Trustee pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in paragraph (d) of this Section. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of this Plan.

(c) **Vesting.** At the time of the transfer, the nonforfeitable percentage of the funds under the transferor plan shall apply, but thereafter shall increase (if applicable) for each Year of Service that the Participant completes after such transfer in accordance with the Vesting provisions of this Plan applicable to the type of Account represented by the transferred funds (e.g., transferred Nonelective funds will be subject to the vesting schedule applicable to Nonelective Contributions under this Plan). If the vesting schedule applicable to a Transferred Account changes as a result of this paragraph, such change will be treated as an amendment to the vesting schedule for each affected Participant.

(d) **Distribution of Transfer Account.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Transfer Account of a Participant shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distributions of amounts held in the Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, the Transfer Account shall be considered as part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(e) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund or be directed by the Participant pursuant to Section 4.8.

(f) **Separate Accounts.** With respect to each Participant's Transfer Account, separate sub-accounts shall be maintained to the extent necessary to carry out the provisions of this Plan.

4.6 PLAN-TO-PLAN TRANSFERS (OTHER THAN ROLLOVERS) FROM THE PLAN

(a) **Transfers from this Plan.** Notwithstanding any other provision contained in this Plan and to the extent not prohibited under the terms of the Trust agreement, the Administrator may direct the Trustee to transfer the interest, if any, of a Participant to another trust forming part of a pension, profit sharing, or stock bonus plan that meets the requirements of Code §401(a), provided that the trust to which such transfers are made permits the transfer to be made and further provided that the terms of the transferee plan properly allocates the funds in each account to a transferee account that preserves all the required features and restrictions applicable to such account under this Plan. However, the transfer of amounts from this Plan to a nonqualified foreign trust is treated as a distribution and the transfer of assets and liabilities from this Plan to a plan that satisfies Section 1165 of the Puerto Rico Code is also treated as distribution from the transferor plan. This paragraph does not apply to any rollover distribution, including a direct rollover.

4.7 ROLLOVER CONTRIBUTIONS

(a) **Acceptance of rollovers into the Plan.** With the consent of the Administrator (such consent must be exercised in a nondiscriminatory manner and applied uniformly to all Participants), the Plan may accept a rollover by Participants, excluding Participants who are no longer employed as an Employee, provided the rollover will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The rollover amounts shall be allocated to the Rollover Account of the Participant. The Rollover Account of a Participant shall be 100% Vested at all times and shall not be subject to Forfeiture for any reason. The Plan does not accept rollovers of after-tax employee contributions.

(b) **Treatment of Rollover Account in the Plan.** The Rollover Account shall be held by the Trustee pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in paragraph (c) of this Section. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of this Plan.

(c) **Distribution of rollovers.** The Administrator, at the election of the Participant, shall direct the Trustee to distribute all or a portion of the amount credited to the Participant's Rollover Account when the Participant or the Participant's Beneficiary shall be entitled to receive benefits (including the time at which Employer contributions become available while the Participant is still in service as provided in Section 6.11). Furthermore, amounts in the Participant's Rollover Account shall be considered as part of a Participant's benefit in determining whether the \$5,000 threshold has been exceeded for purposes of the timing or form of payments under the Plan. Any distributions of amounts that are held in the Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6.

(d) **Limits on accepting rollovers.** Prior to accepting any rollovers to which this Section applies, the Administrator may (but need not) require the Employee to provide evidence that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally and on a nondiscriminatory basis, to limit the source of rollovers that may be accepted by the Plan.

(e) **Rollovers maintained in a separate account.** The Administrator may direct that rollovers received after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund or be directed by the Participant pursuant to Section 4.8.

(f) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) The term "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within 60 days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code.

(2) The term "eligible retirement plan" means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code §401(a) which is exempt from tax under Code §501(a)), an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by an eligible employer described in Code §457(e)(1)(A), and an annuity contract described in Code §403(b).

4.8 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed investments allowed.** Participants may, subject to a procedure established by the Administrator (the Participant Direction Procedures) and applied in a uniform nondiscriminatory manner, direct the Trustee, in writing (or in such other form which is acceptable to the Trustee), to invest their entire Accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the interest of any Participant so directing will thereupon be considered a Participant's Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform and nondiscriminatory manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

(c) **Administrative discretion.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

(d) **Allocation of earnings.** As of each Valuation Date, all Participant Directed Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

(1) to the extent that the assets in a Participant's Directed Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Directed Account shall be based upon the total amount of funds so invested in a manner proportionate to the Participant's share of such pooled investment; and

(2) to the extent that the assets in the Participant's Directed Account are accounted for as segregated assets, the allocation of earnings, gains and losses from such assets shall be made on a separate and distinct basis.

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or any discretionary Trustee reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or discretionary Trustee. Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason or force majeure (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Other documents.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to the Participant in one or more written documents (or in any other form including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

ARTICLE V VALUATIONS

5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee, as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee shall value the assets comprising the Trust Fund at their fair market value (or their contractual value in the case of a Contract or Policy) as of the Valuation Date and may deduct (when applicable) all expenses for which the Trustee has not yet been paid by the Employer or the Trust Fund. The Trustee may update the value of any shares held in the Participant Directed Account by reference to the number of shares held by that Participant, priced at the market value as of the Valuation Date.

5.2 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee, if a discretionary Trustee, may appraise such assets itself, or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers. The assets of the plan will be valued annually at fair market value as of the last day of the plan year. On such date, the earnings and losses of the Plan will be allocated to each Participant's Account in the ratio that such Account Balance bears to all Participants' Account Balances.

ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

(a) **Normal Retirement.** Every Participant may terminate employment with the Employer and retire for the purposes hereof on the Participant's Normal Retirement Date. However, a Participant may postpone the termination of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until such Participant's Late Retirement Date. Upon a Participant's Retirement Date, or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant, of the Participant's interest in the Plan (or any portion thereof), in accordance with Section 6.5.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) **100% Vesting upon death.** Upon the death of a Participant before the Participant's Retirement Date or other termination of employment, all amounts credited to such Participant's Account shall become fully Vested.

(b) **Distribution upon death.** Upon the death of a Participant before the Participant's Retirement Date or other termination of employment, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of all amounts credited to such Participant's Account to the Participant's Beneficiary.

(c) **Security for loans.** Any security interest held by the Plan by reason of an outstanding loan to the Participant shall be taken into account in determining the amount of the death benefit.

(d) **Determination of death benefit by Administrator.** The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(e) **Beneficiary designation.** The Beneficiary of the death benefit payable pursuant to this Section shall be the Participant's surviving Spouse. Except, however, the Participant may designate a Beneficiary other than the Spouse if:

- (1) the Spouse has waived the right to be the Participant's Beneficiary, or
- (2) the Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no qualified domestic relations order as defined in Code §414(p) which provides otherwise), or
- (3) the Participant has no Spouse, or
- (4) the Spouse cannot be located.

In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke a designation of a Beneficiary or change a Beneficiary by filing written notice (or in such other form as permitted by the Internal Revenue Service) of such revocation or change with the Administrator. However, the Participant's Spouse must again consent in writing (or in such other form as permitted by the Internal Revenue Service) to any change in Beneficiary unless the original consent acknowledged that the Spouse had the right to limit consent only to a specific Beneficiary and that the Spouse voluntarily elected to relinquish such right.

(f) **Beneficiary if no beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists with respect to all or a portion of the death benefit, or if the Beneficiary of such death benefit is not alive at the time of the Participant's death and no other Beneficiary has been designated, then to the extent that such death benefit is not automatically payable to the surviving Spouse in accordance with the other provisions of this Section, such death benefit will be paid in the following order of priority to:

- (1) the Participant's surviving Spouse;
- (2) the Participant's issue, including adopted children, per stirpes;
- (3) the Participant's surviving parents, in equal shares; or
- (4) the Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's estate.

(g) **Divorce revokes spousal beneficiary designation.** Notwithstanding anything in this Section to the contrary, if a Participant has designated the Spouse as a Beneficiary, then a divorce decree that relates to such Spouse shall revoke the Participant's designation of the Spouse as a Beneficiary unless the decree or a qualified domestic relations order (within the meaning of Code §414(p)) provides otherwise or a subsequent beneficiary designation is made.

(h) **Spousal consent.** Any consent by the Participant's Spouse to waive any rights to the death benefit must be in writing (or in such other form as permitted by the Internal Revenue Service), must acknowledge the effect of such waiver, and be witnessed by a Plan representative or a notary public. Further, the Spouse's consent must be irrevocable and must acknowledge the specific non-Spouse Beneficiary.

(i) **Death Benefits for Qualified Military Service.** If a Participant dies while performing Qualified Military Service, the Participant's Beneficiary is entitled to any additional benefits (including any ancillary life insurance or other survivor benefits that would have been provided under the Plan) as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's Qualified Military Service as service for vesting purposes as though the Participant had resumed employment under USERRA immediately prior to the Participant's death.

(j) **Simultaneous Death of Participant and Beneficiary.** If a Participant and his or her Beneficiary should die simultaneously, or under circumstances that render it difficult or impossible to determine who predeceased the other, then unless the Participant's Beneficiary designation otherwise specifies, the Administrator will presume conclusively that the Beneficiary predeceased the Participant.

(k) **Slayer statute.** The Administrator may apply slayer statutes, or similar rules which prohibit inheritance by a person whom he or she stands to inherit, under applicable state laws.

6.3 DISABILITY RETIREMENT BENEFITS

(a) **Disability Benefits.** No disability benefits, other than those payable upon termination of employment, are provided in this Plan.

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on termination of employment.** If a Participant's employment with the Employer is terminated for any reason other than death or attainment of the Participant's Retirement Date, then such terminated Participant shall be entitled to such benefits as are provided hereinafter pursuant to this Section 6.4.

Distribution of the funds due to a terminated Participant shall be made on the occurrence of an event which would result in a distributable event had the terminated Participant remained in the employ of the Employer (upon the Participant's death or Normal Retirement). However, at the election of the Participant, the Administrator shall direct the distribution of the entire Vested portion of the terminated Participant's Account be payable to such terminated Participant as soon as administratively feasible after termination of employment. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

For purposes of this Section 6.4, if the value of a terminated Participant's Vested benefit is zero, the terminated Participant shall be deemed to have received a distribution of such Vested benefit.

(b) **Full Vesting.** A Participant shall be fully Vested in the Participant's Rollover Account regardless of a Participant's number of Years of Service.

(c) **Vesting schedule.** The Vested portion of the Account of any Participant attributable to Employer Nonelective Contributions shall be a percentage of the total amount credited to the Participant's Accounts determined on the basis of the Participant's number of Years of Service.

		Vesting Schedule	
		Years of Service	Percentage
		0-1	0%
2	50%		
3	75%		
4	100%		

(d) **Time of application of vesting schedule liberalization.** In the absence of any provision to the contrary, any direct or indirect increase to a Participant's Vested percentage (at any point on a vesting schedule) will not apply to a Participant unless and until such Participant completes an Hour of Service after the effective date of such increase.

(e) **100% Vesting on partial or full Plan termination.** Notwithstanding any provision in this Plan to the contrary, upon the complete discontinuance of the Employer contributions to the Plan or upon any full or partial termination of the Plan, all amounts then credited to the account of any affected Participant shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(f) **No reduction of vested percentage upon amendment.** The computation of a Participant's nonforfeitable percentage of the Participant's Account attributable to Employer contributions (including future Contributions) shall not be reduced as the result of any direct or indirect amendment to this Plan (including this restatement of the Plan).

6.5 DISTRIBUTION OF BENEFITS

(a) The Administrator, pursuant to the election of the Participant, shall direct the Trustee to distribute to a Participant or such Participant's Beneficiary the amount (if any) to which the Participant (or Beneficiary) has become entitled under the Plan in one or more of the following methods: For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash, and such contracts and loan notes may be distributed as part of a cash distribution.

(1) One lump-sum payment in cash. This shall be the normal form of payment, except as otherwise provided below. For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash. The lump sum option shall be available as to all Participants who have commenced receiving benefits in the form of installments.

(2) Payments over a period certain in monthly, quarterly, semiannual, or annual cash installments. In order to provide such installment payments, the Administrator may (A) segregate the aggregate amount thereof in a separate, federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security or (B) purchase a nontransferable annuity Contract for a term certain (with no life contingencies) providing for such payment. The period over which such payment is to be made shall not extend beyond the Participant's life expectancy (or the life expectancy of the Participant and the Participant's designated Beneficiary). Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).

(b) Any distribution to a Participant who has a Total Vested Benefit which exceeds \$1,000 shall require such Participant's written consent (or in such other form as permitted by the Internal Revenue Service) if such distribution commences during the time the benefit is "immediately distributable." A benefit is "immediately distributable" if any part of the benefit could be distributed to the Participant (or surviving Spouse) before the Participant attains (or would have attained if not deceased) the later of the Participant's Normal Retirement Age or age 62.

(c) If a distribution is made to a Participant who has not severed employment and who is not fully Vested in the Participant's Account and the Participant may increase the Vested percentage in such account, then, at any relevant time the Participant's Vested portion of the account will be equal to an amount ("X") determined by the formula:

$$X = P(AB + D) - D$$

For purposes of applying the formula: P is the Vested percentage at the relevant time, AB is the account balance at the relevant time, and D is the amount of distribution, and the relevant time is the time at which, under the Plan, the Vested percentage in the account cannot increase.

(d) Required minimum distributions (Code §401(a)(9)). Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits shall be made in accordance with the requirements of Section 6.8.

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

(a) The death benefit payable pursuant to Section 6.2 shall be paid to the Participant's Beneficiary within a reasonable time after the Participant's death. Such benefit shall, if \$5,000 or less, be paid in the form of a lump sum distribution, or if greater than \$5,000 shall be paid in any of the following methods, as elected by the Participant (or if no election has been made prior to the Participant's death, by the Participant's Beneficiary) subject, however, to the rules specified in Section 6.8.

(1) One lump-sum payment in cash. For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash.

(2) Payment in monthly, quarterly, semi-annual, or annual cash installments over a period to be determined by the Participant or the Participant's Beneficiary. After periodic installments commence, the Beneficiary shall have the right to direct the Trustee to reduce the period over which such periodic installments shall be made, and the Trustee shall adjust the cash amount of such periodic installments accordingly. Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).

In the event the death benefit payable pursuant to Section 6.2 is payable in installments, then, upon the death of the Participant, the Administrator may direct the Trustee to segregate the death benefit into a separate account, and the Trustee shall invest such segregated account separately, and the funds accumulated in such account shall be used for the payment of the installments.

(b) Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.

6.7 LATEST TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable.

6.8 REQUIRED MINIMUM DISTRIBUTIONS

(a) General Rules

(1) **Precedence.** The requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and take precedence over any inconsistent provisions of the Plan.

(2) **Requirements of Treasury Regulations Incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G).

(b) Time and manner of distribution

(1) **Required beginning date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

(2) **Death of Participant before distributions begin.** If the Participant dies before distributions begin, the Participant's entire death benefit will be distributed, or begin to be distributed, as follows:

(i) If the Participant or Beneficiary elects, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or, if the Participant's surviving Spouse is the Participant's designated beneficiary, by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later. Alternatively, the Participant or Beneficiary may elect to have distribution of the Participant's death benefit be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death. In the absence of any election (including the failure to commence required minimum distributions described by this Section by the December 31 of the calendar year immediately following the calendar year in which the Participant died), distribution of the Participant's death benefit shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(ii) If there is no beneficiary as of September 30 of the year following the year of the Participant's death, the distribution of the Participant's death benefit will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) If the Participant's surviving Spouse is the Participant's sole designated beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 6.8(b), other than this paragraph, will apply as if the surviving Spouse were the Participant. Thus, in all such cases, the time at which distributions must commence (or be completed by) shall be determined solely by reference to the year that the Participant died, and not the year in which the Participant would have attained age 70 1/2.

For purposes of this Section 6.8(b), unless a surviving Spouse is electing to commence benefits based upon the date that the Participant would have attained age 70 1/2, distributions are considered to begin on the Participant's required beginning date. If the surviving Spouse election applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6.8(b).

(3) **Forms of distribution.** Unless the Participant's interest is distributed in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 6.8(c) and 6.8(d). All distributions under this Section shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6.

(c) **Required minimum distributions during Participant's lifetime**

(1) **Amount of required minimum distribution for each distribution calendar year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(i) the quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in Regulation §1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(ii) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's Spouse and the Spouse is more than 10 years younger than the Participant, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Regulation §1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the distribution calendar year.

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) **Required minimum distributions after Participant's death**

(1) **Death on or after required beginning date.**

(i) **Participant survived by designated beneficiary.** Except as provided in Sections 6.8(b)(2) and 6.8(b)(3), if the Participant dies on or after the required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:

(A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's surviving Spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving Spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For distribution calendar years after the year of the surviving Spouse's death, the remaining life expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving Spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) **No designated beneficiary.** If the Participant dies on or after the required beginning date and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) **Death before required beginning date.**

(i) **Participant survived by designated beneficiary.** Except as provided in Section 6.8(b)(3), if the Participant dies before the required beginning date and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 6.8(d)(1).

(ii) **No designated beneficiary.** If the Participant dies before the required beginning date and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iii) **Death of surviving Spouse before distributions to surviving Spouse are required to begin.** If the Participant dies before the required beginning date, the Participant's surviving Spouse is the Participant's sole designated beneficiary, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 6.8(b)(2), this Section 6.8(d)(2) will apply as if the surviving Spouse were the Participant.

(e) **Definitions.** For purposes of this Section, the following definitions apply:

(1) "Designated beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Regulation §1.401(a)(9)-4, Q&A-4.

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's "required beginning date." For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 6.8(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's "required beginning date." The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's "required beginning date" occurs, will be made on or before December 31 of that distribution calendar year.

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation §1.401(a)(9)-9, Q&A-1.

(4) "Participant's account balance" means the "Participant's account balance" as of the last Valuation Date in the calendar year immediately preceding the Distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or Forfeitures allocated to the account balance as of dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution calendar year if distributed or transferred in the valuation calendar year.

(5) "Required beginning date" means, with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires, except that benefit distributions to a 5-percent owner must commence by April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2.

(6) "5-percent owner" means a Participant who is a 5-percent owner as defined in Code §416 at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70 1/2. Once distributions have begun to a 5-percent owner under this Section they must continue to be distributed, even if the Participant ceases to be a 5-percent owner in a subsequent year.

6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL

If, in the opinion of the Administrator, a Participant or Beneficiary entitled to a distribution is not able to care for his or her affairs because of a mental or physical condition, then the Administrator shall direct the distribution of the Participant's or Beneficiary's benefits to (1) a person who has a valid power of attorney, a court appointed guardian, or any other person authorized under state law, upon furnishing evidence of such status satisfactory to the Administrator. The Administrator and the Trustee do not have any liability with respect to payments so made and neither the Administrator nor the Trustee (or Insurer) has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN (MISSING PARTICIPANTS)

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid (as when, for example, a check remains uncashed) solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture pursuant to the Plan or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). In addition, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed \$1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) at the time it is determined

that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer contribution if necessary. Notwithstanding the preceding provisions, upon Plan termination, the portion of the distributable amount that is an eligible rollover distribution as defined in Plan Section 6.14 may be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) (consistent with the requirements of Section 8.2). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

6.11 DISTRIBUTIONS UPON DEEMED SEVERANCE

(a) **Distributions Upon Deemed Severance.** The Plan permits distributions upon a deemed severance of employment. Except with respect to amounts described by Section 6.15, severance from employment is deemed to occur if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, even if the Participant is receiving Military Differential Pay. However, the Plan will not distribute such Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant would be entitled to a distribution on account of a deemed severance and also a distribution on account of another Plan provision, then the other Plan provision will control (and the 6-month suspension described in the previous sentence will not apply).

6.12 DISTRIBUTION FOR HARDSHIP

(a) **Definition of Hardship.** A hardship distribution may only be made on account of an immediate and heavy financial need of the Participant and where the distribution is necessary to satisfy the immediate and heavy financial need. Such distributions may also be made from those Accounts from which such distributions are authorized by the remaining provisions of this Section. Any distribution made pursuant to this Section shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution. Any withdrawal made pursuant to this Section shall be authorized if the distribution is on account of:

- (1) Expenses for (or necessary to obtain) medical care (for the Participant or the Spouse or dependent of the Participant) that would be deductible under Code §213(d);
- (2) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children or dependents (as defined in Code §152, and without regard to Code §152(d)(1)(B));
- (4) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve months of post-secondary education for the Participant, the Participant's Spouse, children, or dependents (as defined in Code §152, and without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B));
- (5) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence;
- (6) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to whether the loss exceeds 10% of adjusted gross income); or
- (7) Any other immediate and heavy financial need of the Participant, provided that the Administrator then recognizes that same need for all similarly situated Participants in a uniform and nondiscriminatory manner.

(b) **Establishing hardship under the "facts and circumstances" method.** No distribution shall be made pursuant to this Section unless the Administrator determines, based upon all relevant facts and circumstances, that the amount to be distributed is not in excess of the amount required to relieve the financial need and that such need cannot be satisfied from other resources reasonably available to the Participant. For this purpose, the Participant's resources shall be deemed to include those assets of the Participant's Spouse and minor children that are reasonably available to the Participant. The amount of the immediate and heavy financial need may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution. A distribution may be treated as necessary to satisfy a financial need if the Administrator relies upon the Participant's representation that the need cannot be relieved:

- (1) Through reimbursement or compensation by insurance or otherwise;
- (2) By reasonable liquidation of the Participant's assets, to the extent such liquidation would not itself increase the amount of the need; or
- (3) By other distributions or loans from the Plan or any other qualified retirement plan, or by borrowing from commercial sources on reasonable commercial terms, to the extent such amounts would not themselves increase the amount of the need.

(c) **Notice and consent.** Any distribution made pursuant to this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5, including, but not limited to, all notice and consent requirements of Code § 411(a)(11) and the Regulations thereunder.

(d) **Other Limitations.** A hardship withdrawal may not be paid from any portion of the Participant's Transfer Account consisting of earnings on the Participant's elective contributions to the State of Michigan 401K Plan or any amounts transferred directly to the State of Michigan 401K Plan from the Michigan State Employees Retirement System Pension Plan and any earnings thereon

6.13 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All benefits provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a qualified domestic relations order. Furthermore, a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a qualified domestic relations order, even if the affected Participant has not separated from service and has not reached the earliest retirement age. For the purposes of this Section, the terms "qualified domestic relations order" and "earliest retirement age" shall have the meaning set forth under Code §414(p).

A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because the order is issued after the Participant's death.

6.14 DIRECT ROLLOVER

(a) **Right to direct rollover.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have all or only a portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, if less than the entire amount of an eligible rollover distribution is paid directly to an eligible retirement plan, the minimum partial rollover must equal at least \$500.

(b) **Definitions.** For purposes of this Section the following definitions shall apply:

(1) **Eligible rollover distribution.** An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) 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, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code §401(a)(9); the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution that is reasonably expected to total less than \$200 during a year.

Any amount that is distributed on account of hardship pursuant to Section 6.12 shall not be an eligible rollover distribution, and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

(2) **Eligible retirement plan.** An "eligible retirement plan" is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), (other than an endowment contract), a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a) and which agrees to separately account for amounts transferred into such plan from this Plan, an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality thereof which agrees to separately account for amounts transferred into such plan from this Plan, an annuity contract described in Code §403(b) that accepts the distributee's eligible rollover distribution, and for distributions made after December 18, 2015, a SIMPLE IRA to the extent permitted under Code §408(p)(1)(B). The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is an Alternate Payee. In the case of a "distributee" who is a non-Spouse designated beneficiary, (1) the direct rollover may be made only to a traditional or Roth individual retirement account that is established on behalf of the designated non-Spouse beneficiary for the purpose of receiving that distribution and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (2) the determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

Roth IRA rollover. A Participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b).

(3) **Distributee.** A "distributee" includes an Employee or Former Employee. In addition, the Employee's or Former Employee's surviving Spouse and the Employee's or Former Employee's Spouse or former Spouse who is an Alternate Payee, are distributees with regard to the interest of the Spouse or former Spouse.

(4) **Direct rollover.** A "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the distributee.

(c) **Non-Spouse Beneficiary Rollover.** A non-Spouse Beneficiary who is a "designated beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must be an "eligible rollover distribution."

(1) **Trust Beneficiary.** If the Participant's named Beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated Beneficiary."

(d) **Participant Notice.** A Participant entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections. The notice must be provided no less than 30 days and no more than 180 days before such distribution. The direct rollover notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than \$200.

6.15 RESTRICTIONS ON DISTRIBUTIONS OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's attainment of Normal Retirement Age, death, disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code §414(l), to this Plan from a money purchase pension plan qualified under Code §401(a) (other than any portion of those assets and liabilities attributable to employee voluntary contributions under that money purchase plan or that constitute a Rollover Contribution to this Plan of an eligible rollover amount from that other plan).

6.16 CORRECTIVE DISTRIBUTIONS

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with Section 9.12.

6.17 SOURCE OF DISTRIBUTIONS

If a distribution is to be made with respect to a Participant who has an Account with tax basis and a pre-tax Account, the Administrator may allow the Participant or Beneficiary to elect the Account source(s) and composition (contributions or Earnings) of the distribution. This paragraph does not apply to the extent that a Participant or Beneficiary is eligible under the Plan to receive a distribution only from one specific Account source. In the absence of a Participant or Beneficiary election, the Administrator operationally will determine the Account source(s) from which the Trustee will make the distribution and will determine whether such amounts distributed consist of the Account contributions or of Account earnings or both.

ARTICLE VII PROVISIONS RELATING TO TRUST FUND

7.1 POWERS OF THE CUSTODIAN

The Employer may appoint a Custodian of the Plan assets. A Custodian has the same powers, rights and duties as a nondiscretionary Trustee. Any reference in the Plan to a nondiscretionary Trustee also is a reference to a Custodian unless the context of the Plan indicates otherwise.

ARTICLE VIII AMENDMENT, TERMINATION, MERGERS AND LOANS

8.1 AMENDMENT

(a) **General rule on Employer amendment.** The Executive Director of the State Bar of Michigan shall have the right at any time to amend this Plan, subject to the limitations of this Section. However, any amendment to the Plan which affects the substantive rights under the Plan of Employees may only be made by action of the governing Boards of the State Bar of Michigan, the Attorney Discipline Board and the Attorney Grievance Commission. For purposes of the preceding sentence, technical amendments required to maintain the qualified status of the Plan shall be deemed to not affect the substantive rights of any Employees. Further, any amendment which affects the rights, duties or responsibilities of the Trustee may only be made with the Trustee's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee hereunder.

(b) **Permissible amendments without affecting reliance.** The Employer may make the modifications described below without affecting reliance on the terms of the Plan. An Employer that amends the Plan for any other reason may not rely on the Opinion Letter that the terms of the Plan meet the qualification requirements of the Code. Permitted changes include: (1) adding or deleting features that are optional under the Nonstandardized Pre-Approved specimen plan; (2) changing effective dates within the parameters of the Nonstandardized Pre-Approved specimen plan; (3) adding overriding language when such language is necessary to satisfy § 415 or § 416 of the Code because of the required aggregation of multiple plans (whether or not such plans are preapproved plans); (4) changing the administrative provisions of the Plan, such as provisions relating to investments, plan claims procedures, and employer contact

information, provided the amended provisions are not in conflict with any other provision of the Plan and do not cause the plan to fail to qualify under Code § 401; (5) amendments to adjust the limitations under Code §§ 415, 402(g), 401(a)(17) and 414(q)(1)(B) to reflect annual cost-of-living increases; and (6) the adoption of any sample or model amendment published by the IRS which specifically provide that their adoption will not cause the plan to be treated as an individually designed plan for purposes of reliance; and (7) make interim amendments or discretionary amendments that are related to a change in qualification requirements. An Employer that amends the Plan for any other reason will no longer have reliance on the Opinion Letter.

(c) **Provider interim required amendments.** The Employer (and every Participating Employer) expressly delegates authority to the Provider the right (but not the obligation) to amend the Plan by submitting a copy of the amendment to each Employer (and Participating Employer) who has adopted this Nonstandardized Pre-Approved Plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the Pre-Approved Plan as amended qualifies under Code §401(a) (unless a ruling or determination is not required by the IRS).The Provider will maintain a record of the Employers that have adopted the Plan, and the Provider will make reasonable and diligent efforts to ensure that adopting Employers adopt new documents when necessary. This subsection supersedes other provisions of the Plan to the extent those other provisions are inconsistent with this subsection.

(d) **Amendments that violate Revenue Procedure 2017-41.** The Provider will no longer have the authority to amend the Plan on behalf of the Employer (for purposes of retaining reliance on an IRS Opinion Letter or an individual determination letter, as of the date (1) the Employer amends the Plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre-Approved plan program, or (2) the Internal Revenue Service notifies the Employer, in accordance with section 8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan (i.e., no longer a Pre-Approved Plan) due to the nature and extent of Employer amendments to the plan.

(e) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates, or causes any reduction in the amount credited to the account of any Participant, or causes or permits any portion of the Trust Fund to revert to or become property of the Employer. The Employer is also precluded from amending the plan to discontinue or decrease the allocation of Employer contributions or Forfeitures solely because of the Participant's attainment of any age.

8.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee and Administrator written notice of such termination. Upon any full or partial termination, all amounts credited to the affected Participants' Accounts shall become 100% Vested as provided in Section 6.4 and shall not thereafter be subject to forfeiture, and all unallocated amounts, including Forfeitures, shall be allocated to the accounts of all Participants in accordance with the provisions hereof.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets of the Plan to Participants as soon as administratively feasible, and in a manner that is consistent with the provisions of Section 6.5 except that no Participant or spousal consent is required. Distributions to a Participant shall be made in cash or through the purchase of irrevocable nontransferable deferred commitments from an insurer. For purposes of the preceding sentence, life insurance contracts and Participant loan notes may be treated as cash, and such contracts and loan notes may be distributed as part of a cash distribution.

8.3 LOANS TO PARTICIPANTS

(a) **Permitted loans.** The Administrator may make Plan loans to Participants or Beneficiaries under the following circumstances: (1) loans shall be made available to Participants and Beneficiaries on a reasonably equivalent basis; (2) loans shall not be made available to Highly Compensated Employees in an amount greater than the amount that is made available to other Participants and Beneficiaries; (3) loans shall bear a reasonable rate of interest; (4) loans shall be adequately secured; and (5) loans shall provide for periodic repayment over a reasonable period of time. Furthermore, no Plan loan shall exceed a Participant's Vested interest in the Plan.

(b) **Prohibited assignment or pledge.** An assignment or pledge of any portion of a Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance Contract purchased under the Plan, shall be treated as a Plan loan under this Section.

(c) **Loan program.** The Administrator shall be authorized to establish a Participant Loan Program to provide for loans under the Plan. In order for the Administrator to implement such Participant Loan Program, a separate written document forming a part of this Plan must be adopted, which document shall specifically include, but need not be limited to, the following:

- (1) the identity of the person or positions authorized to administer the Participant loan program;
- (2) a procedure for applying for loans;
- (3) the basis on which loans will be approved or denied;
- (4) limitations, if any, on the types and amounts of loans offered;

- (5) the procedure under the program for determining a reasonable rate of interest;
- (6) the types of collateral which may secure a Participant loan; and
- (7) the events constituting default and the steps that will be taken to preserve Plan assets in the event such default.

Such Participant Loan Program shall be contained in a separate written document which, when properly executed, is hereby incorporated by reference and made a part of the Plan. Furthermore, such Participant Loan Program may be modified or amended in writing from time to time without the necessity of amending this Plan.

(d) **Loan default.** Notwithstanding anything in this Plan to the contrary, if a Participant or Beneficiary defaults on a Plan loan made pursuant to this Section and such loan is secured by the Participant's interest in the Plan, then, to the extent provided in the Participant loan program, a Participant's interest may be offset by the amount subject to the security to the extent there is a distributable event permitted by the Code or Regulations.

(e) **Loans subject to Plan terms.** Notwithstanding anything in this Section to the contrary, any Plan loans made prior to the date this amendment and restatement is adopted shall be subject to the terms of the Plan in effect at the time such loan was made.

ARTICLE IX MISCELLANEOUS

9.1 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant of this Plan.

9.2 ALIENATION OF BENEFITS

(a) **General rule.** Subject to the exceptions provided below, and as otherwise permitted by the Code, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized, except to such extent as may be required by law.

(b) **Exception for loans from Plan to Participant.** Subsection (a) shall not apply to the extent a Participant or Beneficiary is indebted to the Plan, by reason of a loan made pursuant to Section 8.3. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such proportion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given written notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's Account.

(c) **Exception for QDRO.** Subsection (a) shall not apply to a qualified domestic relations order defined in Code §414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a qualified domestic relations order, a former Spouse of a Participant shall be treated as the Spouse or surviving Spouse for all purposes under the Plan.

(d) **Exception for certain debts to Plan.** Subsection (a) shall not apply to an offset to a Participant's accrued benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into in accordance with Code §§401(a)(13)(C) and (D).

9.3 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION

(a) **Applicable laws.** This Plan shall be construed and enforced according to the Code and the laws of the State of Michigan, other than its laws respecting choice of law, to the extent not preempted by federal law.

(b) **Single subsections.** This Plan may contain single subsections. The existence of such single subsections shall not constitute scrivener's errors and is not evidence that the Section is incomplete.

(c) **Separate Accounts.** Unless otherwise specified by a particular provision, the term "separate account" does not require a separate fund, only a notational entry in a recordkeeping system.

(d) **Headings.** The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

- (e) **Masculine and feminine.** Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply.
- (f) **Singular and plural.** Whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.
- (g) **Tense.** Whenever any words are used herein in the past or present tense, they shall be construed as though they were also used in the other form in all cases where they would so apply.
- (h) **Administrator's discretion.** The Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Administrator makes under the Plan is final and binding upon any affected person. The Administrator must exercise all of its Plan powers and discretion, and perform all of its duties in a uniform and nondiscriminatory manner.
- (i) **Communications.** All Participant or Beneficiary notices, designations, elections, consents or waivers must be made in a form the Administrator (or, as applicable, the Trustee) specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to applicable law.
- (j) **Evidence.** Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Administrator and Trustee are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.
- (k) **Plan terms binding.** The Plan is binding upon all parties, including but not limited to, the Employer, Trustee, Insurer Administrator, Participants and Beneficiaries.
- (l) **Parties to litigation.** Except as otherwise provided by applicable law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, the Trustee or any Fiduciary. Any final judgment (not subject to further appeal) entered in any such proceeding will be binding upon all parties, including the Employer, the Administrator, Trustee, Insurer, Participants and Beneficiaries.
- (m) **Fiduciaries not insurers.** The Trustee, Administrator and the Employer in no way guarantee the Plan assets from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Plan. The liability of the Employer, the Administrator and the Trustee to make any distribution from the Trust Fund at any time and all times is limited to the then available assets of the Trust Fund.
- (n) **Construction/severability.** The Plan, the separate Trust Agreement, Contracts, and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.
- (o) **Uniformity.** All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. In the event of any conflict between the terms of this Plan and any Contract purchased hereunder, the Plan provisions shall control.

9.4 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee, the Employer or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee, the Employer or the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

9.5 PROHIBITION AGAINST DIVERSION OF FUNDS

- (a) **General rule.** Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries.
- (b) **Mistake of fact.** In the event the Employer shall make an excessive contribution under a mistake of fact, the Employer may demand repayment of such excessive contribution at any time within one year following the time of payment and the Trustees shall return such amount to the Employer within the one year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

9.6 EMPLOYER'S PROTECTIVE CLAUSE

The Employer and Administrator, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

9.7 INSURER'S PROTECTIVE CLAUSE

Except as otherwise agreed upon in writing between the Employer and the Insurer, an Insurer which issues any Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Trustee, and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

9.8 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee and the Employer, either of whom may require such Participant, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Trustee or Employer.

9.9 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

9.10 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification filed by or on behalf of the Plan by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan is adopted, or such later date that the Secretary of the Treasury may prescribe, the Commissioner of Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code §§401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan by the Employer, less expenses paid, shall be returned within one year after the date the initial qualification is denied, and the Plan shall terminate, and the Trustee shall be discharged from all further obligations. If the disqualification relates to an amended plan, then the Plan shall operate as if it had not been amended.

9.11 ELECTRONIC MEDIA

The Administrator may use any electronic medium to give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under applicable law. A Participant or a Participant's Spouse, to the extent authorized by the Administrator, may use any electronic medium to make or provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under applicable law. Any reference in this Plan to a "form," a "notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under applicable law. Notwithstanding the foregoing, any Participant or Beneficiary notices and consent that are required pursuant to the Code must satisfy Regulation §1.401(a)-21.

9.12 PLAN CORRECTION

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §401(a) or to correct a fiduciary breach. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") as set forth in IRS Revenue Procedure 2019-19 or any superseding guidance.) The Administrator, as it determines to be reasonable and appropriate, also may undertake or assist the appropriate Fiduciary or Plan official in undertaking correction of a fiduciary breach.

IN WITNESS WHEREOF, this Plan ("State Bar of Michigan Retirement Plan") has been executed as of the latest date set forth below.

SIGNATURE(S)

State Bar of Michigan

DATE

AUTHORIZED SIGNATURE ON BEHALF OF EMPLOYER

Attorney Discipline Board

DATE

AUTHORIZED SIGNATURE ON BEHALF OF EMPLOYER

Attorney Grievance Commission

DATE

AUTHORIZED SIGNATURE ON BEHALF OF EMPLOYER

The "document provider" for this document (within the meaning of IRS Revenue Procedure 2017-41) is FIS Business Systems LLC ("FIS"). FIS will notify its clients of any amendment to this Pre-Approved Plan or of any abandonment or discontinuance by the Provider of its maintenance of this Pre-Approved Plan. For inquiries regarding the adoption of the Pre-Approved Plan, the Provider's intended meaning of any Plan provisions or the effect of the Opinion Letter issued to the Provider, please contact the Provider at the following address and telephone number:

Address: 701 San Marco Blvd
Jacksonville, FL 32207
Telephone: (904) 399-5888

Reliance on Provider Opinion Letter. The Provider has obtained from the IRS an Opinion Letter specifying the form of this document satisfies Code §401 as of the date of the Opinion Letter. An adopting Employer may rely on the Provider's IRS Opinion Letter *only* to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter and in Rev. Proc. 2017-41 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, the Employer must apply for a determination letter to Employee Plans Determinations of the IRS.

**RESOLUTIONS OF THE BOARD OF COMMISSIONERS OF THE
STATE BAR OF MICHIGAN**

RESOLVED, that the restatement of the State Bar of Michigan Retirement Plan (the "Plan") is adopted in the form presented to the meeting, effective as of January 1, 2022, except as otherwise provided therein;

RESOLVED FURTHER, that Peter Cunningham, Executive Director of the State Bar of Michigan, is authorized and directed to sign the Plan; and

RESOLVED FURTHER, that Miller Canfield, P.L.C. is authorized and directed to submit the Plan to the Internal Revenue Service to obtain a favorable determination letter on the Plan's qualified status.

I certify that the above is a true and complete record of action taken by the Board of Commissioners of the State Bar of Michigan on the ____ day of _____, 2022.

By: _____

Name: _____
Secretary, State Bar of Michigan

GUIDELINES FOR ALL SUBMISSIONS ADOPTED BY
MICHIGAN BAR JOURNAL STANDING COMMITTEE
APRIL 27, 2022

Criteria Applicable to All Submissions, Solicited and Unsolicited (Submission Criteria)

1. In General. The *Michigan Bar Journal* welcomes submissions that:

- address specific issues in areas of law that are widely practiced,
- cover new fields of law or subspecialties, or
- are otherwise of interest to our members

2. Unacceptable Submissions. The *Michigan Bar Journal* will decline submissions that:

- denigrate the legal profession,
- do not meet **professional** writing standards,
- promote a specific business or type of business,
- **do not present a balanced analysis or critique, supported by sufficient legal authority (such submissions may be appropriate for the *Bar Journal*'s Point–Counterpoint feature),**
or
- do not otherwise conform to these guidelines.

3. Reprints. The *Michigan Bar Journal* does not typically publish content that has been published elsewhere.

4. Specific Requirements.

- A. Length:** Articles should be no longer than 2,500 words including endnotes. Columns should be no longer than 1,500 words including endnotes. Book reviews should be no longer than 2,000 words including endnotes.
- B. Format:** All content must be submitted in electronic format, preferably as a Word document. At the top of the file include author names (how they should appear in the author credit), author email addresses, and author phone numbers where they can be reached. Contact information will not be published. It is for internal use only.
- C. Endnotes:** All citations must be included in endnote form — not in the body of the submission. Although the *Michigan Bar Journal* is not a law review, it is peer reviewed; thus, statements of fact and law must be supported by endnotes. Use endnotes to cite authority only and do not include extended side discussion.
- D. Citation Form:** The *Michigan Bar Journal* uses the *Michigan Appellate Opinion Manual* as a citation-style guide. The manual is available in a searchable online format at <http://www.courts.mi.gov>. Please consult and follow the manual when preparing a submission. Accurate quotations and citations are important. Please include complete

citations (for example, include parallel citations) and, when citing material other than cases, statutes, or rules, give the reader enough information to locate that material.

- E. Title/Subtitle:** Compose a suggested title — and subtitle, if appropriate — that conveys the essence of the submission.
- F. At a Glance:** Include a suggested “At a Glance” sidebar consisting of two to three brief sentences that summarize the submission’s key points, if possible. The sentences can be taken verbatim from the submission or paraphrased.
- G. Author Bio and Photo:** For each author, provide a brief biography —no longer than 70 words — emphasizing credentials related to the subject of the submission. Submit a photo of each author. Photos should be 300 DPI (dots per inch) and no smaller than 2 by 3 inches. We accept color or grayscale TIFF, JPEG, EPS, or PDF files.
- H. Copyright License:** The author(s) must sign the State Bar of Michigan copyright license before publication.

Review, Editing, and Appeal Process Applicable to All Submissions

1. Initial Review. The *Michigan Bar Journal* reserves the right to refuse to publish any submission (including one solicited for a theme issue) and to determine when approved articles will be published. Editors may request that a submission be shortened or edited before completing the review process.

2. Right to Edit. The *Michigan Bar Journal* reserves the right to edit all submissions for length, clarity, organization, and style; substantive changes are subject to author approval.

3. Theme Articles. The Michigan Bar Journal Standing Committee appoints theme editors to solicit, coordinate, review, and edit feature articles in conjunction with a schedule of themes scheduled by the Committee for upcoming issues of the *Bar Journal*.

4. Unsolicited Articles. Unsolicited articles providing legal analysis or education also may be submitted for consideration by a three-member article-review committee appointed by the Michigan Bar Journal Standing Committee. An unsolicited article will be considered for publication based on how well it meets the submission criteria, as well as its timeliness, clarity, and organization. If the review committee determines that an article is appropriate for publication, it will be edited by a general-articles editor, unless determined to be appropriate for a theme issue; in that case, the article will be sent to the appropriate theme editor for editing unless the author objects.

5. Appeals. The *Michigan Bar Journal* seeks to resolve all issues with authors through consensus. But if the author and editors cannot come to an agreement on any submission, it will not be published. Authors may appeal for future publication of their submission. All appeals must first be made to the Executive Director of the State Bar of Michigan. If the author wishes to appeal the Executive Director’s determination, the author may appeal to the Board of

Commissioners' Communications and Member Services Committee. To appeal, email Marge Bossenbery at mbossenbery@michbar.org.

6. Final Edits. The managing editor of the *Michigan Bar Journal* also reviews and edits all articles accepted for publication, and a cite-checker reviews the endnotes.

7. Inquiries. To determine the status of a submission, email barjournal@michbar.org.

PROPOSED THEME-EDITOR GUIDELINES AND TIMELINE

Selecting Topics

As a theme editor, you should:

- Check the online archive for recently published articles on the topic area (<http://www.michbar.org/journal/archive>).
- Contact the chairs of any relevant SBM sections and committees to help identify topics and authors (<http://www.michbar.org/sections/home>).
- Identify related articles in section newsletters/publications within the past two years.
- Follow the timeline below.

Working with Authors – Soliciting Articles

1. Word Count. The maximum word count for theme articles is 10,000 words, including endnotes. Solicit three to five 2,500-word articles (including endnotes). A theme issue with three articles — or about 7,500 words — will allow the inclusion of a general-interest article. If individual articles are fewer than 2,500 words, more than four articles may be included. Soliciting five articles may also prove wise if one or more authors fails to produce an article in a timely fashion; if necessary, a fifth 2,500-word article may be published in a later issue. Finally, invite the section liaison to write a short (750 word) introduction to the issue that introduces readers to the section and highlights each article

2. Need for Authors to Know the Submission Guidelines. It is critical that authors read the Guidelines for All Submissions before they begin writing to ensure that they know what to expect and understand the submission criteria; the specific requirements; and the review, editing, and appeal process.

3. Items Needed with Each Article. You should ensure that each article has:

- A signed copyright license (a blank license is attached to these guidelines).
- A biography, maximum of 70 words, for each author.
- Two or three brief sentences that will be formatted in a sidebar called “At a Glance” to emphasize key points of the article or entice readers to read the full article. They can be taken verbatim from the article or paraphrased.

- A photo, if desired. Photos should be 300 DPI (dots per inch) and no smaller than 2 by 3 inches. We accept color or grayscale TIFF, JPEG, EPS, or PDF files.

Working with Articles – Editing Articles

1. Meeting the *Bar Journal's* Guidelines. You are responsible for ensuring that the articles you review meet the *Michigan Bar Journal's* Guidelines for All Submissions, including our submission criteria. If you have questions or concerns about whether an article meets these criteria, you can contact the managing editor of the *Bar Journal* at barjournal@michbar.org.

2. Editing Process.

You should edit each article as appropriate for length, clarity, and organization and review all endnotes as well. Ask authors to correct endnotes that do not contain proper citations (for example, missing parallel citations) or that do not give the reader enough information to locate the source. Authors should use endnotes to cite authority only, and all citations must be included in endnote form at the end of the article — not in the body of the submission.

As each article is reviewed and edited, remember that substantive changes are subject to author approval, which needs to be obtained before submitting the article to the editor of the *Bar Journal*. The editor of the *Bar Journal* also will obtain author approval on substantive changes made after the theme editor's review.

Timeline

Refer to http://www.michbar.org/generalinfo/pwac/Theme_Issue_Schedule.pdf for the current theme-issue schedule. The copy-due deadline (see the last bullet point below) is the deadline for submitting copy to barjournal@michbar.org. Submitting articles late jeopardizes their publication.

- **10-11 months before the issue date (the first day of the month of publication)**

Develop a plan that outlines the scope of the issue and suggestions for possible articles. This plan will help you and the theme-issue liaison from the relevant SBM section (if any) in soliciting authors and avoiding articles that overlap.

Obtain the authors' commitment, in writing, to the schedule below and confirm the subjects assigned. Send each author the Guidelines for All Submissions, together with a

blank copyright license. Submit as soon as possible a list of the articles to barjournal@michbar.org. Include working titles and the authors' contact information.

Remember that practicing attorney authors often leave publications to the very last minute because they tend to be under the gun, so in creating and executing an issue plan, you need to calendar dates to ask the authors for regular status reports, and to establish a succession of deadlines for milestones (e.g., submission dates for an outline, a rough draft, and a draft), so that you don't find yourself rudely surprised that no one has done anything when the copy-due deadline is upon you.

- **4 ½ months before the issue date:**

This is the deadline for the authors' submission of a final draft of their articles to the section liaison. It will provide the liaison an opportunity to review the articles to ensure that they align with the theme-issue plan and reflect favorably on the section, and also allow the liaison to do preliminary editing before forwarding them to you. This date is just a suggestion and is entirely up to you; you may want to set it earlier, to leave room for error (in a volunteer project, deadlines often are missed).

If there is no section liaison, then you can ignore this deadline.

- **3 ½ months before the issue date:**

This is the deadline for the section liaison to send edited drafts of all articles to you. You will need time to review and edit the articles, if necessary, after the liaison sends them and, if necessary, return them to the author for reworking. Remember that substantive changes are subject to author approval.

If there is no liaison, this is the deadline for the authors' submission of their final draft directly to you.

- **2 ½ months before the issue date**

This is the copy-due date—the deadline for submitting edited versions of all articles to the editor of the *Bar Journal*. If possible, send each article separately — along with the author's signed copyright license, bio, photo, and other required materials — to barjournal@michbar.org.

Proposed Amendments to Articles VII and VIII of the Bylaws of the State Bar of Michigan

[Additions to the text are indicated in bold underlining and deleted text is shown by strikeover.]

Article VII—Sections

Section 1—Establishment, Purpose, and Discontinuance.

(1) At the discretion of the Board of Commissioners, a Section may be established or discontinued, and existing Sections may be combined and their names changed, upon motion by a Commissioner or upon written petition from an existing Section or a group of **active members** ~~SBM licensees~~ in good standing requesting to form a new Section.

(2) The purpose of a Section is to:

(a) Develop and facilitate education and training on topics within the Section’s jurisdiction as a means of protecting the public by promoting subject matter expertise and the highest standards of professional competence, ethics, and civility.

(b) Provide opportunities for skills-building, professional development, and leadership.

(c) Communicate and collaborate with other State Bar Sections and Committees, and with affinity bar associations, law schools, and other related entities, where appropriate, to advance the objectives of the State Bar and the Section.

(d) Welcome active participation among a diverse array of members and foster an inclusive atmosphere that encourages the expression of a wide range of points of view. Unless the Board of Commissioners expressly restricts membership in a particular Section, membership in all Sections must be open to all active members in good standing.

(e) To the extent that doing so advances the goals of the Section, consistent with the purposes of the State Bar of Michigan, review and take positions concerning proposed legislation, regulations, court rules, and other matters of public policy within the section’s jurisdiction. Section activities in public policy advocacy should be thoughtful, deliberate, and restrained, and comply with all SBM policies and procedures.

(3) Formation of a New Section ~~To be valid, a request to form a new Section must show substantial compliance with the following requirements:~~

(a) The proponents of the proposed new Section must **submit the following to the Executive Director of the State Bar:** ~~file with the the Board of Commissioners a petition setting forth:~~

(i) A statement of need **that describes a substantial and continuing need not being addressed by any Section, Standing Committee or Special Committee** ~~for the proposed new Section;~~

(ii) **A proposed jurisdiction;**

~~(ii) A statement confirming that the contemplated jurisdiction of the proposed Section will address a substantial need not currently being addressed by any Section, Standing Committee or Special Committee of the Bar that will continue after the proposed Section is established;~~

~~(iii) The Proposed B bylaws of the Section, which shall contain a definition of its jurisdiction;~~

~~(iv) The Names of any the proposed committees of the Section;~~

~~(v) The An estimated proposed budget for the Section for the first two years of operation, **including the initial dues amount, with** projected annual expenses not to exceed **projected** ~~anticipated~~ annual revenues;~~

~~(vi) A **petition signed by at least 150 active members in good standing, requesting creation of the Section and expressing intent to join the proposed Section and pay the proposed Section dues** list of active licensees of the State Bar of Michigan, totaling at least 150 in number, who have demonstrated a commitment to apply for membership in the Section and pay the proposed dues.~~

~~(b) **If a proposed new Section would be formed from a combination of existing Sections,** in the case of a combination of Sections, in addition to the foregoing a statement of any jurisdiction **of the existing Sections** that will not **be included in the jurisdiction of the new Section** be carried into the combination.~~

Article VIII—Section and State Bar Entity Activity; Public Policy

Section 1—Annual Reports.

For purposes of this Article:

(1) "State Bar entity" means a body created by action of the Board of Commissioners or Representative Assembly, and any suborganization of such a body, but does not include a Section or suborganization of a Section. **As used in this Article, "Section" includes a suborganization of a Section.**

(2) – (4) [Unchanged]

Section 2—Reports Containing Recommendations.

(1) Every Section or State Bar entity requesting State Bar endorsement of a recommended position shall submit a report to the Board of Commissioners and/or Representative Assembly using a template format provided by the State Bar. The report may be submitted electronically. Any report containing a recommendation shall:

(a) – (d) [Unchanged]

(e) Include the text of any legislation, court rule, or administrative regulation, **amicus brief, or other written declaration of policy** that is the subject of the request or is otherwise referenced in the report. If the report is submitted electronically, the text and references may be included by hyperlink.

(f) Not exceed the equivalent of five 8 1/2" x 11" typewritten pages, **excluding the text required by Section 2(e)**, unless a waiver of this limitation is obtained from the Executive Director.

(2) [Unchanged]

Section 7—Public Advocacy by Sections

(1) The only State Bar bodies permitted to take positions on policy issues other than Keller-permissible policy issues are Sections funded by the voluntary dues of their members.

Before a Section may publicly advocate any public policy position in a new bar year, the officers of the Section shall submit to the Executive Director a signed acknowledgement that they have reviewed, understand, and agree to abide by the provisions of this Article. This acknowledgement shall be made on a form provided by the State Bar no later than October 1 of each year.

A Section shall notify the Executive Director of the adoption of a public policy position, **whether Keller-permissible or not**, within 10 days of taking the position **and may not publicly advocate a public policy position until the Executive Director reviews the public policy position for compliance with the provisions of this Article within 2 days of notification.** A Section may not publicly advocate a public policy position unless **the subject matter is within the jurisdiction of the Section and the policy position is adopted in accordance with the Section's bylaws and the requirements of this Article.**

the following requirements are met:

(a) The subject matter is within the jurisdiction of the Section.

(b) The policy position is adopted in accordance with the Section's bylaws and the requirements of this Article;

(c)

The Executive Director of the State Bar **must** receive ~~has received~~ the following by mail or e-mail:

(i) a copy of the report, recommendation, amicus brief, or other written declaration of the policy;

(ii) a statement that the requirements of this Article have been satisfied.

(2) – (5) [Unchanged]

Section 8—Public Policy Activity by Entities other than Sections Funded by Voluntary Member Dues

A State Bar entity created by the Board of Commissioners or Representative Assembly may make recommendations to the Board of Commissioners or Representative Assembly on a Keller-permissible

policy as directed by the Board of Commissioners or Representative Assembly, respectively. The State Bar entity shall not publicly advocate a public policy position that has not been adopted by the Board of Commissioners or Representative Assembly unless authorized to do so **by a majority vote of the Board of Commissioners or Representative Assembly.**

Section 9—Conditions for Public Advocacy

(1) A Section **funded by voluntary dues** or entity of the State Bar that publicly advocates a public policy position on a matter must include ~~the following information~~ in **any** its written communication to any external entity concerning the public policy position **the following statements:**

(a) The Section or State Bar entity is not the State Bar of Michigan but rather a State Bar entity or a Section whose membership is voluntary.

~~(ab) If the State Bar has no position on the matter, a statement that the position expressed is that of the State Bar entity only, and that the State Bar has no position on the matter.~~

~~(b) If the State Bar has a position on the matter, a statement of the State Bar entity's position and a statement of the position of the State Bar. **The position expressed is that of the Section or State Bar entity only, and that the State Bar has no position on the matter, or, if the State Bar has a position on the matter, what that position is.**~~

(2) In any oral public advocacy, Sections and entities of the State Bar are responsible for ensuring that the information above has been effectively communicated to the audience ~~to which the advocacy is addressed~~ **receiving the communication.**

(3) For written communications other than amicus briefs, a Section **or State Bar entity** publicly advocating a public policy position shall also include the following information:

(a) ~~The number of members~~ **total membership** of the Section **or State Bar entity.**

(b) The process **used by the Section or State Bar entity to take a public policy position.** ~~by which the position of the State Bar entity was taken.~~

(c) The number of members in the body that adopted the position on behalf of the Section.

~~(ed) **The number who voted in favor and opposed to the position.** vote by which the position was adopted.~~

(4) The information required above must be effectively communicated in any amicus briefs, but may be provided in a footnote, attachment, or statement of interest.

(4) [Unchanged]

**State Bar of Michigan
Bar Leadership Forum
Event Summary**

Name of Event/Date: 2022 Bar Leadership Forum, June 10-11
 Location of Event: Grand Hotel, Mackinac Island, MI
 Registration Fee: \$179.00 before May 20; \$219.00 after May 20
 Hotel Registration Fee: \$527.98 single (tax & fees included); \$88.39 guest

***2020 and 2021 were canceled due to Covid**

	2016	2017	2018	2019	2022
Total Attendees	123	116	124	116	102
Registered Attendees (includes scholarships)	72	71	76	70	56
Board of Commissioners Registration	28	29	30	29	28
Exhibitors	6	7	6	4	N/A
Staff/Speakers	17	9	12	13	16
Guests	90	69	88	87	45

Evaluation Summary:

A joint keynote session with Upper Michigan Legal Institute attendees on *COVID Lessons Learned and the Use of Technology in the Judicial System* kicked off the 2022 Bar Leadership Forum, Hon. Bridget McCormack left an overall positive impression on attendees with her presentation. Afterwards Justice Elizabeth Welch and Judge Cynthia Stephens continued the BLF program with *Commission on Diversity, Equity, and Inclusion in the Michigan Judiciary*. Most BLF attendees found this session to be informative, however they would like more information on how to get involved.

The weather was picture perfect, and the Grand Reception was held in the traditional, much anticipated location of the front porch. Leaders continue to find a lot of value in networking opportunities and wanting more time to brainstorm ideas about common issues. Also appreciated was the concrete information provided by staff on Saturday. Overall, the conference received high ratings - most attendees rated it above average to excellent.

State Bar of Michigan Upper Michigan Legal Institute Event Summary

Name of Event/Date: 2022 Upper Michigan Legal Institute, June 10-11
 Location of Event: Grand Hotel, Mackinac Island, MI
 Registration Fee: \$149 before May 20, \$199 after May 20
 Hotel Registration Fee: \$527.98 single (tax & fees included); \$88.39 guest

***2020 and 2021 were canceled due to Covid**

	2016	2017	2018	2019	2022
Registered Attendees (includes speakers)	88	89	88	96	110
Exhibitors	6	7	6	4	N/A
Guests	53	74	66	85	86

Evaluation Summary

A joint keynote session shared with Bar Leadership Forum attendees on *COVID Lessons Learned and the Use of Technology in the Judicial System* kicked off the 2022 Upper Michigan Legal Institute, Hon. Bridget McCormack left an overall positive impression on attendees with her presentation. John Cameron (*Real Property Law: New Developments and Practice Tips*) and Jim Harrington (*Family Law Updates*) continue to receive rave reviews by keeping the audience engaged, and Hon. Farah's return *Evidence Jeopardy 3* session was highly anticipated and loved by attendees. Attendance at Sarah Ostahowski's breakout on *Increase Revenue and Decrease Stress with Technology* remained small but was well received with excellent ratings. The *Criminal Law Update: You Can't Win if You Don't Know the Law* session with Kurt Krause and Takura Nyamfukudza was also a favorite, though some felt like they needed more time to digest so much valuable information.

Overall, attendees found the substantive law updates and practical information from this program worthwhile. They love the fast-moving sessions, top notch presenters, and the one-of-a-kind venue. The opportunity to network with colleagues and bar leaders in person is an invaluable experience acknowledged by many attendees.

MEMORANDUM

To: Members of the Finance Committee
From: SBM Staff
Date: July 7, 2022
Re: **FY 2023 Budget Review Summary**

Dear Finance Committee Members:

Attached is the package of detailed materials for your review ahead of the July 7, 2022 Finance Committee meeting.

SBM FY 2023 budget is projecting an increase in Net Position of \$1,113,675 vs FY 2022 budgeted decrease of \$2,087,690. The variance of \$3,201,365 is driven by the following trends in revenues and expenses:

Revenues

- **License Fees and Related Revenues** are projected to be higher by \$3,276,500 due to MSC approved license fee increase of \$80 effective October 1, 2022.
- **Other Operating Revenues** are projected to be higher by \$279,585, mainly due to credit card processing fee.
- **Non-operating Revenues** (investment income) is projected to be higher by \$161,000 (average interest rate of 2% is assumed for FY 2023).

Operating Expenses

- **Salaries, Benefits and Payroll Taxes** are budgeted higher by \$558,169, reflecting the proposed cost of living adjustment, mid-grade adjustments, and some inflationary increases in costs of benefits. SBM is budgeting a 0% float rate (2% float was projected in FY 2022 budget).
- **Non-labor Operating Expenses** are budgeted lower by \$42,449 due to:
 - **Cost reductions and savings** in the following areas (total net cost reductions of \$156,404):
 - \$59,540 in Finance due to lower depreciation expense, offset by higher card processing fees.
 - \$54,640 in Bar Journal, Digital, and General Communications, due to restructuring of expenses.
 - \$15,750 in General Counsel due to expected lower litigation costs.
 - \$6,544 in IT.

- **Higher budgeted expenses** in the following areas (total net cost increases of \$113,955):
 - \$37,000 in Facilities due to planned repair and maintenance work.
 - \$18,065 in IAP due to program expenses.
 - \$12,750 in Research & Development due to planned Economics of Law Practice survey conducted every three years.
 - \$12,580 in HR mainly due to consulting.
 - \$9,750 in Print & Design Center due to higher paper and maintenance expenses.

FY 2023 Proposed Budget

Key Budget Assumptions

Ver. 07.07.2022

General

The FY 2023 budget is based on the following assumptions related to SBM operations:

- SBM will continue the programs and services as directed by the SBM Strategic Plan with no planned changes in the scope of SBM activities in the upcoming year.
- License fees and related revenues are projected to be higher by \$3.3m in FY 2023 reflecting the approved license fee increase. Other operating revenues are expected to be consistent with FY 2022, except for higher ADS service fees and lower C&F revenues.
- As a result of operational savings made in FY 2022 and FY 2021, SBM does not foresee an increase in FY 2023 non-labor operating expenses compared to FY 2022. Non-labor operating expenses are projected to decrease by \$42k or 1.1%.
- Conducting committee and other meetings virtually will be preferred when practical in order to save costs and increase participation. For most committee meetings, the default is one in-person meeting, and the rest of the meetings continuing to be virtual. For BOC, meetings will return to in-person meetings. The annual meeting will consist of the BOC/RA meeting in person.
- SBM will be continuing with a combination of in-office/remote work in FY 2023. In FY 2022 and FY 2021 SBM observed lower operating costs and increased staff productivity due to remote work. Modest savings associated with hybrid work will continue.
- SBM is committed to investments in IT infrastructure and systems to improve services and member experience, which includes website development and software upgrades. These investments are included in the proposed budget.
- Staff out-of-state travel will be resuming in FY 2023, but likely at reduced levels compared to pre-pandemic. Any out-of-state travel continues to require pre-approval by the Executive Director.
- No separate fees are assumed for the proposed Interim Administrator program (pending final approval by MSC).
- Total labor costs are projected to increase by 7.7%, a combination of mid-market adjustments, COLA increase of 5%, and no vacancy float.
- 75.5 FTE budget maximum (same as FY 2022).

Labor

Salaries

- Zero percent vacancy float is assumed for FY 2023 (2% budgeted in FY 2022). \$50k incentive compensation remains constant from prior year. Compensation adjustments to market mid-range of pay are estimated at \$86k for 30 positions, to remain competitive and improve employee retention. Cost of living adjustment of 5% is planned for other positions, which is consistent with the State of Michigan and the Attorney Discipline System COLA increase of 5% (CPI May 2022 8.6%).

Benefits

- Maintain the existing employee insurance benefits, with the following estimated inflationary increases:
 - Medical insurance (Blue Cross Blue Shield of Michigan and Blue Care Network) is offered at current coverage levels.
 - Continued application of the hard cap established by PA 152, the Publicly Funded Health Insurance Contributions Act (PFHICA), which sets the limits on the amounts an employer can contribute to the employee insurance coverage and requires that employees pay the premium amount over the caps. Blended FY 2023 rates (3 months at 2022 and 9 months at 2023) are \$7,375.73 single, \$15,424.95 two person, and \$20,115.69 family (this represents an annual increase of 1.3%).
 - Continued Medical insurance opt-out payment of \$1,800 to eligible employees to encourage employees to opt-out of medical coverage (no change).
 - Vision - 0% increase (rate lock, no change).
 - Dental - 5% increase (employees pay 10% of the dental insurance premium).
 - Long-term Disability (LTD), Short-term Disability (STD), Group Term Life (GTL) and Accidental Death and Dismemberment (AD&D) – 0% increase (rate lock, no change).
 - Maintain existing Retirement Plans, with estimated adjustments:
 - Defined Benefit Pension for 2 eligible Tier 1 employees – the rate is anticipated to remain flat at 23.97% applied to Tier 1 payroll. Total recognized defined benefit pension expense is based on allocation from the State of Michigan Office of Retirement Services per accounting standard GASB 68.
 - Defined Contribution Retirement for all Tier 2 employees – no change (4% contribution plus matching up to 3% of employee contributions).
 - Retiree Health Care premiums paid to the State of Michigan – budgeted 3% increase in premiums for current retirees paid to the State. Total recognized retiree health care expense is based on allocation from the State of Michigan Office of Retirement Services per accounting standard GASB 75.

Payroll Taxes

- No changes to the employer FICA and Medicare tax rates – taxes are based on budgeted salaries, no wage cap for Medicare tax, and 2022 social security wage cap of \$147,074 which is increased to \$250,000 for 2023.

Non-Labor

- Licensing fee revenue reflects the approved license fee increase of \$80 effective FY 2023. The FY 2022 baseline was adjusted for the forecasted number of active and inactive paying members, trends in new attorney applications, and estimated attorney attrition (est. 0.2% decrease in paying members).
- Investment Income – projecting average interest rate of 2%, earned on available average cash and investment balances (est. \$161k higher than FY 2022 budget).
- Administrative Fee charged to the Client Protection Fund – consistent with FY 2022 fees, subject to a labor cost increase.
- Attorney Discipline System (ADS) fee revenue – new fee structure, reflecting direct costs and payment processing fees.
- Michigan State Bar Foundation (MSBF) rent revenue – 5% CPI increase over the FY 2022 amount.
- Administrative support to Sections for managing their dues and expenses is provided free of charge. Any additional direct costs are passed on to Sections.
- Postage – USPS rates in effect in FY 2022 with an estimated 6.5% increase in July 2022 and an additional 5% increase expected in FY 2023; mail volumes consistent with FY 2022 levels.
- Depreciation Expense – no change in the depreciation policy; depreciation expense is based on book value of assets and projected FY 2023 capital expenditures.
- Payment in Lieu of Property Tax (PILOT) – millage tax rates presumed flat; changes in the appraised value of the building, real property additions and disposals impact calculation of the assessed value (est. increase \$3k).
- No short-term or long-term debt.

Specific Teams Assumptions

Legal

General Counsel

- Programs and staffing at FY 2022 budgeted levels except for litigation expenses, which are budgeted at \$35k, a decrease given that the litigation in Taylor v. Buchanan has concluded following the denial of cert by the United States Supreme Court. However, a number of other integrated bar challenges remain pending in circuit courts that could require the filing of an amicus brief should the United States Supreme Court grant a cert petition in any of those cases.

UPL

- Programs and staffing at FY 2022 budgeted levels except for:
 - Investigation and litigation expenses are anticipated to increase with increased litigation of UPL matters. Litigation travel expenses expected to decrease due to virtual hearings.
 - Public outreach expenses are anticipated to decrease due to trending away from printed materials and in-person presentations toward virtual presentations and resources available on demand or online.

Regulatory Services

- Ethics – Staffing at FY 2022 budgeted levels. Program costs assume a combination of in-person and virtual events.
- CPF – Programs and staffing at FY 2022 budgeted levels. Meeting costs may be reduced with virtual meetings.
- IAP – Assuming SBM will take on receivership administration from AGC, the program costs will be borne by SBM (est. costs \$19.2k).

C&F

- Programs and staffing at FY 2022 budgeted levels except for:
 - Decrease in bar exam applications resulting in lower FY 2023 revenue (est. \$54k) and late filing fees (est. \$12k).

Human Resources

- Programs and staffing at FY 2022 budgeted levels except for.
 - Consulting services (est. \$7.5k).

Operations and Policy

Governance

- Executive Office Programs and staffing at FY 2022 budgeted levels.
- BOC programs at FY 2022 budgeted levels, with in-person meetings resuming.
- RA programs at FY 2022 budgeted levels, with in-person meetings resuming in Lansing. Meetings may be offered in hybrid format.

Facilities

- Expenses and staffing at FY 2022 budgeted levels, except for:
 - Modest additional expenses associated with office re-opening, higher utilities and trash removal costs due to inflation, and higher HVAC costs due to new VAV boxes required. Planned fixed assets additions are listed in the Capital Expenditures budget.
 - MSBF office space new carpet and paint (est. \$20k).
 - Increase in cyber insurance costs (est. \$1k).

Finance

- Programs and staffing at FY 2022 budgeted levels except for:
 - Implementation of the processing fees for credit card transactions in the amount of 2.5% of the mandatory license and related fees (est. 88% recovery of card processing fees). Sections will continue to be billed for their portion of credit and debit card fees at 2% of total section dues and seminar revenue (est. \$10k).
 - Pro hac vice fees increasing due to increase in the ADS portion of the license fee (est. \$13k)
 - Elimination of temporary help for license fees processing (est. \$12k).
 - Increase in audit fees due to inflation, new auditing standards, and GASB 87 and 96 implementation (est. \$4k).
 - Increase in card processing fees due to license fee increase for both SBM and ADS portion of the license fee (from est. \$245k to \$298k).
 - Increase in expense report processing fees by Nexonia (est. \$1k).

Administration

- Programs and staffing at FY 2022 budgeted levels except for:
 - Increase in ADS service fees (\$116k in FY 2023 vs. \$64k in FY 2022) to align with the direct operational costs for services provided to ADS.

Governmental Relations

- Programs and staffing at FY 2022 budgeted levels.

Justice Initiatives

- Programs and staffing at FY 2022 budgeted levels:
 - Continuing support for Michigan Legal Help (\$50k) and ATJ Fundraising (\$75k), same as in FY 2022.

Research & Development

- Programs and staffing at FY 2022 budgeted levels except for the Economics of Law Practice

Survey which will be conducted in FY 2023 (est. \$15k), an increase in research and development projects for a possible member survey in FY 2023 (est. \$2.5k), and a decrease in consulting fees (est. \$5k).

Communications

Programs and staffing at FY 2022 budgeted levels except for:

- Bar Journal
 - Revenues
 - Development of an online advertising option planned for FY 2023 (est. new revenue \$5k).
 - Expenses
 - Printing costs increased 7% in FY 2022. A reduction in the number of pages of the Bar Journal is helping to offset some costs.
 - Paper costs increased by 10.8% (cover) and 16.8% (interior) so far in 2022 with another 10% increase expected later this year. A reduction in the number of pages of the Bar Journal is helping to offset some costs.
 - Postage costs are expected to increase by 7% in July 2022 and 5% in January 2023.
 - Design & typesetting costs reduced due to new contract with Ciesa. Estimated savings of 50% over FY 2022 budget.
- Digital
 - Consulting expenses to assess website needs and options for the future (est. \$10k).
- General Communications
 - Contract with Getty Images will not be renewed (est. savings \$3k).
 - Photography budget of \$1.5k to replace Getty Images with Shutterstock; includes leadership headshots.
- Print Center:
 - Planning moderate increases in revenues and expenditures based on current trends.
 - Replacement of print center color printer is included in the Capital Expenditures budget.

Public and Bar Services

Outreach

- Programs and staffing at FY 2022 budgeted levels. Funding of the Judicial and Young Lawyer sections will be based on actual expenses up to the annual amount approved in the budget (same as in FY 2022).

Diversity

- Programs and staffing at FY 2022 budgeted levels except for:
 - Diversity initiatives budget is separated into diversity leadership training and pipeline initiatives.
 - Corporate partnerships and/or sponsorships to offset diversity initiatives and training costs will be pursued.

Lawyer Services

- Programs and staffing at FY 2022 budgeted levels except:
 - FY 2023 Annual Meeting (as defined as the meeting of the Board of Commissioners and Representative Assembly) will be held in person in Lansing, BOC meeting at the SBM building and RA meeting TBA in Lansing (same as in FY 2022).
 - The Awards/Inaugural Luncheon will be held in person as a standalone event in the fall at a location TBA.
 - The 50-Year Honoree Luncheon will be held in May in person.
 - BLF and UMLI are rebranded as a combined event in FY 2023.
- Advertising and partnership revenues are projected to remain largely at FY 2022 budgeted levels.

Lawyer Referral Service

- Programs and staffing at FY 2022 budgeted levels except for:
 - Re-evaluation of local bar collaboration based on targeted analysis of consumer needs by county and statewide (est. savings \$1.5k).

PMRC

- Programs and staffing at FY 2022 budgeted levels. SBM will continue expanding virtual offerings to increase attorney technical competency practice management utilizing existing resources and staff.

Technical Services

- Programs and staffing at FY 2022 budgeted levels except for:
 - IT contractor support for cyber and network security services is decreased (est. \$32k). IT contractor support for IMIS database is decreased from FY 2022 budget (est. \$15k). The decrease is due to in-house expertise and no major projects planned for next year.
 - Software subscription expenses include spending for a new cloud-based accounting system (\$24k annual fee, \$40k implementation cost to be amortized over 3 years, and est. \$7k for add-ons and integration tools). Also new are server utilization software (\$19k one-time fee and \$6k annual fee), SQL license (est. \$21k), contract management software (est. \$4k), and software to replace Total Office for CPF and UPL as current software is outdated and is no

longer supported (est. \$7.7k).

- Computer budget is decreased from FY 2022 budget (est. \$15k).
- New wiring for new Wi-Fi access points (est. \$3k).
- The annual phone expenses are estimated to decrease due to utilization of Teams for all calls, implementing the new phone system (Altigen) and changing providers for the internet and required land lines in FY 2022 (est. \$50k).

LJAP

- Programs and staffing at FY 2022 budgeted levels except:
 - LJAP staff will access funds donated to the Program by SBM members through the license renewal process to the Michigan State Bar Foundation. These funds are to be utilized to educate lawyers and judges about alcohol abuse, chemical dependency, stress, depression, and other related issues. The funds are restricted to the provision of information, education, and marketing of program resources, and LJAP plans to utilize the funds to help offset a portion of expenses.
 - LJAP and Justice Initiatives staff have implemented the SOLACE Program which has added a significant benefit to the members of the State Bar of Michigan with no additional cost.

Capital Expenditures Summary

- The proposed FY 2023 Capital Budget of \$369.1k (\$448.1k with FY 2022 carryover items), as compared to \$321.8k for FY 2022 and \$405k for FY 2021, includes the following:
 - Portal development (est. \$208.8k for three developers at \$17.4k per month).
 - HVAC controller replacement (est. \$35.6k).
 - Wiring closet racks (est. \$10k).
 - Wiring upgrade for the data center (est. \$10k).
 - New microfiche machine (est. \$8k).
 - Upgrade of the virtual meeting room equipment for BOC meetings (est. \$20k).
 - New color printer for Print Center (est. \$46.7k), option to lease is considered.
 - Replacement of meeting rooms projectors (est. \$20k).
 - New security system camera and DVR replacement (est. \$10k).
- Potential carryover from FY 2022 budget (ordered in FY 2022, but not received in FY 2022 (est. \$79k):
 - Multi-function floor scanners/printers/copiers were budgeted for FY 2022. Due to supply chain issues, installation of the new copiers may not take place until FY 2023, requiring the budget to be moved to FY 2023 (est. \$27k).
 - Network ethernet switches have been ordered to upgrade the Wi-Fi throughout the building. Due to supply chain issues, installation may not take place until FY 2023 requiring the budget to be moved to FY 2023 (est. \$52k).

FY 2022 Proposed Budget Potential Upsides & Risks

Potential Upsides

- Labor savings due to vacancy float and lower benefits expenses.
- Additional savings due to virtual meetings and events.

Potential Risks

- Lower-than-anticipated license fee revenue resulting from unforeseen reduction in paying members.
- Lower-than-anticipated other operating revenues (advertising, print, lawyer referral services, character & fitness, and interest income).
- Higher-than-anticipated operating costs due to inflation.
- Unexpected litigation.
- Business interruption costs associated with spikes in COVID-19.
- Requirements for enhanced security and protection of personal data in the Character and Fitness portal for services provided to the Board of Law Examiners may require a purchase of third-party software (est. \$80k) and on-going annual maintenance expenses. This amount has not been budgeted. Purchase of new software may impact the FY 2023 capital expenditures and previously capitalized internal development costs.
- Due to a steep decline in the stock market in 2022, SBM retiree healthcare trust may not be able to start payments for retiree healthcare premiums in FY 2023, and premium payments may require use of SBM operating funds.

**State Bar of Michigan
FY 2023 Proposed Budget Summary**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Actual	FY 2022 Budget	FY 2022 Forecast	FY 2023 Proposed Budget	FY 2023 Prop. Budget vs. FY 2022 Forecast	FY 2023 Prop. Budget vs. FY 2022 Budget
Operating Revenues										
- License Fees and Related	7,732,040	7,750,310	7,732,165	7,641,000	7,764,197	7,653,000	7,679,600	10,929,500	3,249,900	3,276,500
- All Other Operating Revenue	1,632,612	1,601,163	1,390,417	1,494,890	1,409,807	1,467,850	1,418,797	1,747,435	328,638	279,585
Total Operating Revenue	9,364,652	9,351,473	9,122,582	9,135,890	9,174,004	9,120,850	9,098,397	12,676,935	3,578,538	3,556,085
Operating Expenses										
- Labor-related Operating Expenses										
Salaries	4,819,766	5,051,419	5,281,014	5,330,899	5,089,955	5,437,140	5,422,543	5,894,701	472,158	457,561
Employee Benefits & Payroll Taxes	1,775,841	1,833,191	1,776,147	1,915,358	1,694,812	1,912,006	1,870,818	2,012,614	141,796	100,608
Retiree Health Care Liability Exp	-	-	-	-	-	-	-	-	-	-
Total Labor-related Operating Expenses	6,595,607	6,884,610	7,057,161	7,246,257	6,784,767	7,349,146	7,293,361	7,907,315	613,954	558,169
- Non-labor Operating Expenses										
Legal	152,260	215,715	183,249	191,920	128,086	224,875	218,352	234,090	15,738	9,215
Public and Bar Services	938,232	906,733	746,721	1,027,080	778,524	1,079,949	1,000,703	1,073,875	73,172	(6,074)
Operations and Policy	2,566,982	2,558,329	2,281,205	2,713,645	2,167,121	2,587,570	2,322,840	2,541,980	219,140	(45,590)
Total Non-labor Operating Expenses	3,657,474	3,680,777	3,211,175	3,932,645	3,073,732	3,892,394	3,541,895	3,849,945	308,050	(42,449)
Total Operating Expenses	10,253,081	10,565,387	10,268,336	11,178,902	9,858,499	11,241,540	10,835,256	11,757,260	922,004	515,720
Total Operating Income (Loss)	(888,429)	(1,213,914)	(1,145,754)	(2,043,012)	(684,494)	(2,120,690)	(1,736,859)	919,675	2,656,534	3,040,365
Non-Operating Rev / (Exp)										
- Investment Income	179,640	249,731	199,067	94,000	70,185	33,000	45,000	194,000	149,000	161,000
- Investment Income - Retiree Health Care Trust	202,417	384,630	318,946	-	824,417	-	-	-	-	-
- Capital Contributions	-	-	-	-	-	-	-	-	-	-
- Loss on Disposal of Capital Asset	(34,963)	(4,000)	(17,570)	-	(8,793)	-	-	-	-	-
Total Non-OperRev / (Exp)	347,094	630,361	500,443	94,000	885,809	33,000	45,000	194,000	149,000	161,000
Incr / (Decr) in Net Position	(541,335)	(583,553)	(645,311)	(1,949,012)	201,315	(2,087,690)	(1,691,859)	1,113,675	2,805,534	3,201,365

**FY 2023 Proposed Budget Summary
Legal**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Actual	FY 2022 Budget	FY 2022 Forecast	FY 2023 Proposed Budget	FY 2023 Prop. Budget vs. FY 2022 Forecast	FY 2023 Prop. Budget vs. FY 2022 Budget
Legal										
Operating Revenues										
- Ethics	8,620	7,895	6,090	6,700	7,325	4,875	4,875	4,875	-	-
- Character & Fitness	218,495	294,335	325,940	358,625	312,885	358,125	266,135	291,310	25,175	(66,815)
Total Op Revenues	<u>227,115</u>	<u>302,230</u>	<u>332,030</u>	<u>365,325</u>	<u>320,210</u>	<u>363,000</u>	<u>271,010</u>	<u>296,185</u>	<u>25,175</u>	<u>(66,815)</u>
Legal Salaries	-	-	1,062,557	1,224,066	1,148,305	1,261,316	1,261,316	1,360,946	99,630	99,630
Other Operating Expenses										
- Ethics	10,531	16,490	7,201	7,005	2,124	10,795	8,068	10,285	2,217	(510)
- Client Protection Fund	16,735	11,096	2,461	6,865	3,285	12,930	18,230	10,660	(7,570)	(2,270)
- Interim Administrator Program	-	-	-	4,500	-	1,150	1,150	19,215	18,065	18,065
- Character & Fitness	45,350	52,843	40,663	52,000	49,705	61,750	50,174	60,050	9,876	(1,700)
- Unauthorized Practice of Law	16,718	16,582	15,704	12,750	4,489	13,050	9,410	11,850	2,440	(1,200)
- General Counsel	7,019	40,749	64,581	55,800	27,268	61,000	57,960	45,250	(12,710)	(15,750)
- Human Resources	55,907	77,955	52,639	53,000	41,214	64,200	73,360	76,780	3,420	12,580
- Employee Benefits & Payroll Taxes	1,775,841	1,833,191	1,776,147	1,915,358	1,694,812	1,912,006	1,870,818	2,012,614	141,796	100,608
- Retiree Health Care Liability Contribution	-	-	-	-	-	-	-	-	-	-
Total Other Operating Expense	<u>1,928,101</u>	<u>2,048,906</u>	<u>1,959,396</u>	<u>2,107,278</u>	<u>1,822,898</u>	<u>2,136,881</u>	<u>2,089,170</u>	<u>2,246,704</u>	<u>157,534</u>	<u>109,823</u>

**FY 2023 Proposed Budget Summary
Public and Bar Services**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Actual	FY 2022 Budget	FY 2022 Forecast	FY 2023 Proposed Budget	FY 2023 Prop. Budget vs. FY 2022 Forecast	FY 2023 Prop. Budget vs. FY 2022 Budget
Public and Bar Services										
Operating Revenues										
- Annual Meeting	115,388	26,246	-	31,000	-	31,000	25,000	25,000	-	(6,000)
- Lawyer Services	288,154	235,016	195,734	204,650	213,887	205,025	210,818	207,800	(3,018)	2,775
- Bar Leadership Forum	11,377	12,097	946	11,725	-	11,725	13,605	12,000	(1,605)	275
- UMLI	12,193	14,030	597	12,500	-	12,500	20,500	20,000	(500)	7,500
- 50 Year Golden Celebration	-	-	-	2,350	-	3,350	4,350	3,350	(1,000)	-
- Practice Management Resource Center	125	20	530	1,000	1,375	3,500	3,500	3,000	(500)	(500)
- Lawyer Referral Service	148,667	190,605	127,560	140,000	137,775	150,000	165,000	150,000	(15,000)	-
- Diversity	-	-	-	-	-	-	10,000	-	(10,000)	-
- Lawyers & Judges Assistance Program	40,718	42,724	41,315	51,990	51,876	60,000	50,400	60,000	9,600	-
Total Op Revenues	616,622	520,738	366,683	455,215	404,913	477,100	503,173	481,150	(22,023)	4,050
Public and Bar Services Salaries	-	-	2,201,813	1,875,536	1,814,327	1,934,171	1,976,477	2,123,242	146,765	189,071
Other Operating Expenses										
- Inaugural and Awards Luncheon (Annual Meeting)	187,706	57,660	21,186	56,400	4,124	69,000	62,500	64,500	2,000	(4,500)
- Lawyer Services	96,441	93,380	77,518	31,500	32,464	34,150	31,636	31,100	(536)	(3,050)
- Bar Leadership Forum	28,736	24,801	847	33,000	-	34,500	32,000	37,650	5,650	3,150
- UMLI	23,644	25,409	3,393	28,900	-	31,400	31,450	34,400	2,950	3,000
- 50 Year Golden Celebration	-	-	1,643	27,225	2,790	38,200	42,200	37,900	(4,300)	(300)
- Practice Management Resource Center	6,105	3,697	5,118	5,455	3,041	10,505	10,525	10,725	200	220
- Lawyer Referral Service	17,640	5,052	1,270	7,750	6,692	10,350	6,210	8,850	2,640	(1,500)
- Outreach, Committees, Sections & Local / Affinity Bars	110,617	110,914	41,716	136,500	59,249	134,500	133,360	133,000	(360)	(1,500)
- Diversity	47,464	42,182	5,919	35,000	20,462	36,700	34,950	37,250	2,300	550
- Lawyers & Judges Assistance Program	38,461	25,991	14,800	24,450	6,491	23,600	18,070	28,000	9,930	4,400
- Information Technology Services	381,418	517,647	573,310	640,900	643,211	657,044	597,802	650,500	52,698	(6,544)
Total Other Operating Expense	938,232	906,733	746,721	1,027,080	778,524	1,079,949	1,000,703	1,073,875	73,172	(6,074)

**FY 2023 Proposed Budget Summary
Operations and Policy**

	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Actual	FY 2022 Budget	FY 2022 Forecast	FY 2023 Proposed Budget	FY 2023 Prop. Budget vs. FY 2022 Forecast	FY 2023 Prop. Budget vs. FY 2022 Budget
Operations and Policy										
Operating Revenues										
- License Fees & Related	7,732,040	7,750,310	7,732,165	7,641,000	7,764,197	7,653,000	7,679,600	10,929,500	3,249,900	3,276,500
- Chargeback to CPF	217,479	211,833	171,626	169,000	162,439	172,500	172,500	180,000	7,500	7,500
- ADS Service Fee	59,313	61,452	61,507	63,000	63,045	64,300	66,449	116,000	49,551	51,700
- Credit Card Fee	-	-	-	-	-	-	-	263,000	263,000	263,000
- Other Revenues	132,017	152,721	146,927	132,900	147,258	134,400	131,900	147,100	15,200	12,700
- Bar Journal Directory	74,358	40,231	39,645	32,750	13,914	-	-	-	-	-
- Bar Journal	167,549	149,326	146,149	148,400	151,511	146,050	149,465	150,500	1,035	4,450
- Print & Design Center	64,559	67,921	50,219	54,300	48,944	37,000	39,800	41,000	1,200	4,000
- Digital (Website)	40,547	59,109	51,610	49,000	70,659	48,500	57,500	47,500	47,500	(1,000)
- e-Journal	33,053	25,602	24,022	25,000	26,913	25,000	27,000	25,000	(2,000)	-
- Misc Revenue	-	10,000	-	-	-	-	-	-	-	-
Total Operating Revenues	8,520,915	8,528,505	8,423,870	8,315,350	8,448,881	8,280,750	8,324,214	11,899,600	3,632,886	3,618,850
Non-Operating Revenue										
- Investment Income	179,640	249,731	94,000	94,000	70,185	33,000	45,000	194,000	149,000	161,000
- Investment Income - Retiree Health Care Trust	202,417	384,630	328,761	-	824,417	-	-	-	-	-
- Capital Contributions	-	-	-	-	-	-	-	-	-	-
- Loss on Disposal of Capital Asset	(34,963)	(4,000)	(17,570)	-	(8,793)	-	34,963	-	(34,963)	-
Total Non-Operating Revenues	347,094	630,361	405,191	94,000	885,809	33,000	79,963	194,000	114,037	161,000
Operations & Policy Salaries	-	-	2,016,644	2,231,297	2,127,323	2,241,653	2,184,750	2,410,513	283,190	179,216
Other Operating Expenses										
- Admin	32,522	36,865	31,454	82,800	82,289	97,200	102,175	106,500	4,325	9,300
- Depreciation	436,514	476,985	528,855	558,000	530,042	560,000	453,000	462,000	9,000	(98,000)
- Property Taxes (in lieu of)	69,178	74,405	77,839	78,000	74,321	78,000	81,000	81,000	-	3,000
- Financial Services	258,599	286,625	274,438	324,295	311,600	348,590	329,650	384,050	54,400	35,460
- Bar Journal Directory	83,164	53,908	53,165	6,000	1,650	-	-	-	-	-
- Bar Journal	509,212	504,917	440,712	510,550	397,960	381,040	349,625	353,350	3,725	(27,690)
- Print & Design Center	61,487	65,391	42,139	61,500	37,144	53,850	50,960	63,600	12,640	9,750
- Digital (Website)	127,015	87,783	105,383	147,500	89,476	129,100	111,955	121,500	9,545	(7,600)
- e-Journal	36,080	32,932	36,228	33,050	31,342	16,005	15,945	16,245	300	240
- General Communications (Media Relations)	67,742	56,936	31,658	30,700	11,586	33,350	11,225	14,000	2,775	(19,350)
- Executive Office	65,147	89,965	59,943	60,200	29,255	65,950	47,450	63,950	16,500	(2,000)
- Board of Commissioners	147,100	141,644	35,261	134,900	47,581	133,250	114,430	132,800	18,370	(450)
- Representative Assembly	54,723	48,078	788	41,000	13,800	54,200	39,200	55,700	16,500	1,500
- Governmental Relations	66,629	70,482	57,300	68,830	56,735	68,620	58,030	67,670	9,640	(950)
- Research & Development	26,855	21,751	29,773	21,310	14,584	21,640	16,400	34,390	17,990	12,750
- Facilities Services	382,921	375,834	343,909	419,760	310,602	409,500	407,700	446,500	38,800	37,000
- Justice Initiatives (Combines PBI, RDI, JPI & CII)	51,888	137,828	132,363	135,250	127,156	137,275	134,095	138,725	4,630	1,450
- Criminal Issues Initiative	228	-	-	-	-	-	-	-	-	-
- Pro Bono Initiative/ Pro Bono	13,490	-	-	-	-	-	-	-	-	-
- Resource Development Initiative	76,356	-	-	-	-	-	-	-	-	-
- Justice Policy Initiative	132	-	-	-	-	-	-	-	-	-
Total Other Operating Expense	2,566,982	2,562,329	2,281,207	2,713,645	2,167,121	2,587,570	2,322,840	2,541,980	219,140	(45,590)

Administrative Fund	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Budget	FY 2021 Actual	FY 2022 Budget	FY 2022 Forecast	FY 2023 Budget
Beginning Position	12,277,875	12,800,771	12,217,220	11,571,909	11,571,909	11,773,223	11,773,223	10,081,364
Ending Position	12,800,771	12,217,220	11,571,909	9,622,897	11,773,223	9,685,534	10,081,364 (1)	11,195,039 (1)
Retiree H/C Restricted Assets**	1,500,028	1,953,454	2,389,256		3,350,208		2,648,228 (4)	
Change	(541,335) 2)(3)	(583,551) (3)	(645,311) (3)	(1,949,012)	201,315 (3)	(2,087,690)	(1,691,859) (1)	1,113,675 (1)

Notes:

- (1) Budget and forecast do not include income of healthcare trust and GASB 68/75 year-end adjustments for pensions and retiree healthcare liability.
- (2) Excludes the effect of FY 2018 accounting adjustment.
- (3) Actuals include Retiree Healthcare Trust income.
- (4) Estimate only - Retiree Healthcare Trust assets as of May 2022 less state's allocation of GASB 75 liability as of September 2021. This amount includes YTD May 2022 H/C Trust loss of \$725,868.

**State Bar of Michigan
Administrative Fund
FY 2023 Capital Expenditures Budget**

	FY 2023 Budget	Comments
FACILITIES, FURNITURE & OFFICE EQUIPMENT		
Replacement of Floor Copiers/Scanners	\$ 27,000	Carry-over from FY 2022
HVAC System Controller Upgrade	35,600	
Projector replacement for meeting rooms	20,000	
Wiring closet racks	10,000	
New microfiche machine	8,000	
New security system camera and DVR replacement	10,000	
Print center color printer	46,700	
Upgrade of the virtual meeting room equipment for BOC meetings	20,000	
Total Facilities, Furniture & Office Equipment:	\$ 177,300	
INFORMATION TECHNOLOGY		
<u>IT Infrastructure:</u>		
Replacement of ethernet switches for rooms 2, 3, 4 and garden level	\$ 52,000	Carry-over from FY 2022
Wiring upgrade for the data center	10,000	
<u>Application Software Development:</u>		
Receivership /Interim Administrator Program data portal	40,600	
E-commerce Store	11,600	
E-commerce Events	29,000	
API Development for NetSuite or Sage Intacct	11,600	
E-commerce License Fee Updates	34,800	
e-Services Application to Court e-Filing (mi-File)	11,600	
Firm Administration and Billing	23,200	

Website Functionality Enhancements	11,600
Character & Fitness Application Module (for BLE)	11,600
Volunteer Application (Accessibility updates)	5,800
Consumer Portal (LRS)	<u>17,400</u>
Total Information Technology:	\$ 270,800
Total Capital Budget:	<u><u>\$ 448,100</u></u>

To: SBM Board of Commissioners

From: Finance Committee

Date: July 13, 2022

Re: Credit Card Surcharges and Fee Analysis

Background

In FY 2020/2021, the Finance Committee began exploring options to recoup online credit card fees related to attorney annual licensing fee payments. In FY 2022, 78% of licensing fee payments were made by credit card or debit card. Other forms of payment included e-check (ACH) (5%) and physical check payment by mail or in-person (17%). On average, it costs \$7.91 to process a license fee payment with a credit card, compared to \$1.58 for debit cards, \$1.27 for e-checks, and \$1.48 for checks physically mailed to our lockbox.

In FY 2021 SBM spent \$2,899 on e-check processing, \$9,828 on lockbox, and \$237,413 on credit card and debit card processing (FY 2022 budget for credit cards, debit cards, and e-checks is \$245,000). This amount, however, includes costs associated with ADS and CPF payments, and ADS is billed a portion of the fees. Processing of debit and credit card transactions for the SBM portion of the license fee alone in FY 2021 was estimated to cost SBM \$117k.

Benchmarking by SBM staff showed that the state courts and MiFILE charge on average a 3% credit card processing fee.

Recovery of the Credit Card Processing Fees

Visa/Mastercard define a surcharge as any fee charged in connection with a transaction that is not charged if another payment method is used. Implementing a surcharge for processing of mandatory license fee payments when an attorney chooses to use a credit card will result in recovery of a significant portion of SBM costs, including those that are currently not passed onto CPF/ADS.

Criteria and Considerations:

- 1) SBM may not charge a fee higher than its actual processing costs (which are not specifically defined in the Visa and Mastercard Merchant agreement), and the fee is capped at 4%. Indirect costs associated with processing payments, such as posting and reconciliation of payments, can be included in the fee.
 - SBM actual direct credit card processing fees in the last six months varied from 2.21% to 2.71%, including Affinipay's 0.10% service fee. The average processing cost was **2.51%**.
- 2) Surcharges cannot be applied to debit or prepaid cards.

- Affinipay currently does not differentiate whether the card is a credit card or a debit card, processed as a credit card. This functionality may become available in the future. Asking attorneys to self-identify whether their payment method is a debit card or credit card is acceptable in determining whether to charge the processing fee.
 - SBM could switch to a governmental merchant code in Visa/Mastercard categorization which will allow fees on debit cards; however, this will result in a higher processing fee for some of the cards and negate the benefits of applying for the new merchant code. Per Affinipay, due to higher processing costs, changing the current merchant category is not recommended.
- 3) There are a handful of states which still do not allow credit card surcharges. Michigan does allow surcharging processing fees on credit cards, and as SBM does not have locations in other states the fee can be assessed on all license fee transactions.
 - 4) Prior to implementing the surcharge, SBM would need to notify Visa/Mastercard. The companies also require that SBM discloses the surcharge before processing the transaction and include the processing fee on the receipt as a separate line item.
 - The functionality to calculate, add and disclose the surcharge fee can be built into the SBM online renewal portal for the FY 2023 renewal period.

Recommendation

To recoup credit card processing costs, the Finance Committee is recommending to BOC to approve the implementation of a 2.5% credit card processing fee on the mandatory license fees in FY 2023. If approved, the attorneys will still have three free payment options – debit card, e-check, and a physical check.

SBM currently is not considering assessing the credit card processing fee for section selections (the 2% blended processing fee is being charged back to sections) or donations. Other online payments (COGS, LJAP, C&F, LRS, and events) are not included in the scope of assessing the credit card processing fees at this time.

MSC has been informed of the SBM’s intent to charge the fee.

**Credit Card Processing Fee of 2.5%
\$80 SBM/\$20 ADS License Fee Increase**

License Fee/Attorney Status	Payment Amount	2.5% Processing Fee
Active	\$415.00	\$10.38
Active over 50 years	\$155.00	\$3.88
Inactive*	\$277.50	\$6.94
Inactive over 50 years	\$147.50	\$3.69
New Active Attorney after April 1	\$207.50	\$5.19
New Inactive Attorney after April 1	\$138.75	\$3.47

Estimated Credit Card Expenses and Recovery - FY 2023 Budget

Payment Processing Expenses	\$298,000	Note: FY 2022 est. \$245,000
2.5% Processing Fee (Recovery)	\$263,000	n/a

* Per 2003 MSC Rules Concerning the State Bar of Michigan, Rule 4 states that “an inactive member shall be assessed one-half of the amounts assessed an active member for the client security fund and general expenses, but the full amount designated for the discipline agencies.”

SBM

STATE BAR OF MICHIGAN

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