

SENATE BILL No. 23

By Joint Committee on Pensions, Investments and Benefits

1-11

1 AN ACT concerning retirement and pensions; relating to the Kansas public
2 employees retirement system; Kansas public employees retirement
3 fund; investment standards; eliminating the statutory 15% alternative
4 investment percentage limit thereto; requiring the board of trustees to
5 set alternative investment percentage limit; *{increasing the statutory*
6 *alternative investment percentage limit to 20%;}* amending K.S.A.
7 2022 *{2023}* Supp. 74-4921 and repealing the existing section.
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. ~~K.S.A. 2022 Supp. 74-4921 is hereby amended to read as~~
11 ~~follows: 74-4921. (1) There is hereby created in the state treasury the~~
12 ~~Kansas public employees retirement fund. All employee and employer~~
13 ~~contributions shall be deposited in the state treasury to be credited to the~~
14 ~~Kansas public employees retirement fund. The fund is a trust fund and~~
15 ~~shall be used solely for the exclusive purpose of providing benefits to~~
16 ~~members and member beneficiaries and defraying reasonable expenses of~~
17 ~~administering the fund. Investment income of the fund shall be added or~~
18 ~~credited to the fund as provided by law. All benefits payable under the~~
19 ~~system, refund of contributions and overpayments, purchases or~~
20 ~~investments under the law and expenses in connection with the system~~
21 ~~unless otherwise provided by law shall be paid from the fund. The director~~
22 ~~of accounts and reports is authorized to draw warrants on the state~~
23 ~~treasurer and against such fund upon the filing in the director's office of~~
24 ~~proper vouchers executed by the chairperson or the executive director of~~
25 ~~the board. As an alternative, payments from the fund may be made by~~
26 ~~credits to the accounts of recipients of payments in banks, savings and loan~~
27 ~~associations and credit unions. A payment shall be so made only upon the~~
28 ~~written authorization and direction of the recipient of payment and upon~~
29 ~~receipt of such authorization such payments shall be made in accordance~~
30 ~~therewith. Orders for payment of such claims may be contained on:-~~

31 (a) ~~A letter, memorandum, telegram, computer printout or similar~~
32 ~~writing,; or~~

33 (b) ~~any form of communication, other than voice, which is registered~~
34 ~~upon magnetic tape, disc or any other medium designed to capture and~~
35 ~~contain in durable form conventional signals used for the electronic~~
36 ~~communication of messages.~~

1 ~~(2) The board shall have the responsibility for the management of the~~
2 ~~fund and shall discharge the board's duties with respect to the fund solely~~
3 ~~in the interests of the members and beneficiaries of the system for the~~
4 ~~exclusive purpose of providing benefits to members and such member's~~
5 ~~beneficiaries and defraying reasonable expenses of administering the fund~~
6 ~~and shall invest and reinvest moneys in the fund and acquire, retain,~~
7 ~~manage, including the exercise of any voting rights and disposal of~~
8 ~~investments of the fund within the limitations and according to the powers,~~
9 ~~duties and purposes as prescribed by this section.~~

10 ~~(3) Moneys in the fund shall be invested and reinvested to achieve the~~
11 ~~investment objective which is preservation of the fund to provide benefits~~
12 ~~to members and member beneficiaries, as provided by law and accordingly~~
13 ~~providing that the moneys are as productive as possible, subject to the~~
14 ~~standards set forth in this act. No moneys in the fund shall be invested or~~
15 ~~reinvested if the sole or primary investment objective is for economic~~
16 ~~development or social purposes or objectives.~~

17 ~~(4) In investing and reinvesting moneys in the fund and in acquiring,~~
18 ~~retaining, managing and disposing of investments of the fund, the board~~
19 ~~shall exercise the judgment, care, skill, prudence and diligence under the~~
20 ~~circumstances then prevailing, which persons of prudence, discretion and~~
21 ~~intelligence acting in a like capacity and familiar with such matters would~~
22 ~~use in the conduct of an enterprise of like character and with like aims by~~
23 ~~diversifying the investments of the fund so as to minimize the risk of large~~
24 ~~losses, unless under the circumstances it is clearly prudent not to do so,~~
25 ~~and not in regard to speculation but in regard to the permanent disposition~~
26 ~~of similar funds, considering the probable income as well as the probable~~
27 ~~safety of their capital.~~

28 ~~(5) Notwithstanding subsection (4):~~

29 ~~(a) Total investments in common stock may be made in the amount of~~
30 ~~up to 60% of the total book value of the fund;~~

31 ~~(b) the board may invest or reinvest moneys of the fund in alternative~~
32 ~~investments if the following conditions are satisfied:~~

33 ~~(i) The total of the annual net commitment to alternative investments~~
34 ~~does not exceed 5% of the total market value of investment assets of the~~
35 ~~fund as measured from the end of the preceding calendar year;~~

36 ~~(ii) if in addition to the system, there are at least two other qualified~~
37 ~~institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities~~
38 ~~act of 1933;~~

39 ~~(iii) the system's share in any individual alternative investment is~~
40 ~~limited to an investment representing not more than 20% of any such~~
41 ~~individual alternative investment;~~

42 ~~(iv) the system has received a favorable and appropriate~~
43 ~~recommendation from a qualified, independent expert in investment~~

1 management or analysis in that particular type of alternative investment;

2 ~~(v) the alternative investment is consistent with the system's~~
3 ~~investment policies and objectives as provided in subsection (6);~~

4 ~~(vi) the individual alternative investment does not exceed more than~~
5 ~~2.5% of the total alternative investments made under this subsection. If the~~
6 ~~alternative investment is made pursuant to participation by the system in a~~
7 ~~multi-investor pool, the 2.5% limitation contained in this subsection is~~
8 ~~applied to the underlying individual assets of such pool and not to~~
9 ~~investment in the pool itself. The total of such alternative investments~~
10 ~~made pursuant to participation by the system in any one individual multi-~~
11 ~~investor pool shall not exceed more than 20% of the total of alternative~~
12 ~~investments made by the system pursuant to this subsection. Nothing in~~
13 ~~this subsection requires the board to liquidate or sell the system's holdings~~
14 ~~in any alternative investments made pursuant to participation by the~~
15 ~~system in any one individual multi-investor pool held by the system on the~~
16 ~~effective date of this act, unless such liquidation or sale would be in the~~
17 ~~best interest of the members and beneficiaries of the system and be~~
18 ~~prudent under the standards contained in this section. The 20% limitation~~
19 ~~contained in this subsection shall not have been violated if the total of such~~
20 ~~investment in any one individual multi-investor pool exceeds 20% of the~~
21 ~~total alternative investments of the fund as a result of market forces acting~~
22 ~~to increase the value of such a multi-investor pool relative to the rest of the~~
23 ~~system's alternative investments; however, the board shall not invest or~~
24 ~~reinvest any moneys of the fund in any such individual multi-investor pool~~
25 ~~until the value of such individual multi-investor pool is less than 20% of~~
26 ~~the total alternative investments of the fund;~~

27 ~~(vii) the board has received and considered the investment manager's~~
28 ~~due diligence findings submitted to the board as required by subsection (6)~~
29 ~~(e);~~

30 ~~(viii) prior to the time the alternative investment is made, the system~~
31 ~~has in place procedures and systems to ensure that the investment is~~
32 ~~properly monitored and investment performance is accurately measured;~~
33 ~~and~~

34 ~~(ix) the total~~*subject to the provisions of subsections (3), (4) and (5);*
35 ~~the board shall adopt a limitation for the investment of alternative~~
36 ~~investments does not exceed 15% expressed as a percentage of the total~~
37 ~~investment assets of the fund. The 15%~~*Such* ~~limitation contained in this~~
38 ~~subsection shall not have been violated if the total of such alternative~~
39 ~~investments exceeds 15% of the total investment assets of the fund~~*the*
40 ~~percentage adopted by the board, based on the fund total market value, as~~
41 ~~a result of market forces acting to increase the value of such alternative~~
42 ~~investments relative to the rest of the system's investments. However, the~~
43 ~~board shall not invest or reinvest any moneys of the fund in alternative~~

1 investments until the total value of such alternative investments is less than
2 15% of the total investment assets of the fund based on the market value
3 ~~the limitation adopted by the board or the board adopts a new limit.~~ If the
4 total value of the alternative investments exceeds 15% of the total
5 investment assets of the fund, The board shall not be required to liquidate
6 or sell the system's holdings in any alternative investment held by the
7 system, unless such liquidation or sale would be in the best interest of the
8 members and beneficiaries of the system and is prudent under the
9 standards contained in this section.;

10 (c) for purposes of this act ~~section~~, "alternative investment" includes
11 a broad group of investments that are not one of the traditional asset types
12 of public equities, fixed income, cash or real estate. Alternative
13 investments are generally made through limited partnership or similar
14 structures, are not regularly traded on nationally recognized exchanges and
15 thus are relatively illiquid, and exhibit lower correlations with more liquid
16 asset types such as stocks and bonds. Alternative investments generally
17 include, but are not limited to, private equity, private credit, hedge funds,
18 infrastructure, commodities and other investments which ~~that~~ have the
19 characteristics described in this paragraph; and

20 (c)(d) except as otherwise provided, the board may invest or reinvest
21 moneys of the fund in real estate investments if the following conditions
22 are satisfied:

23 (i) The system has received a favorable and appropriate
24 recommendation from a qualified, independent expert in investment
25 management or analysis in that particular type of real estate investment;

26 (ii) the real estate investment is consistent with the system's
27 investment policies and objectives as provided in subsection (6); and

28 (iii) the system has received and considered the investment manager's
29 due diligence findings.

30 (6) (a) Subject to the objective set forth in subsection (3) and the
31 standards set forth in subsections (4) and (5) the board shall formulate
32 policies and objectives for the investment and reinvestment of moneys in
33 the fund and the acquisition, retention, management and disposition of
34 investments of the fund. Such policies and objectives shall include:

35 (a)(i) Specific asset allocation standards and objectives;

36 (b)(ii) establishment of criteria for evaluating the risk versus the
37 potential return on a particular investment;

38 (c)(iii) a requirement that all investment managers submit such
39 manager's due diligence findings on each investment to the board or
40 investment advisory committee for approval or rejection prior to making
41 any alternative investment;

42 (d)(iv) a requirement that all investment managers shall immediately
43 report all instances of default on investments to the board and provide the

1 board with recommendations and options, including, but not limited to,
2 curing the default or withdrawal from the investment; and

3 ~~(e)(iv) establishment of criteria that would be used as a guideline for~~
4 ~~determining when no additional add-on investments or reinvestments~~
5 ~~would be made and when the investment would be liquidated.~~

6 ~~(b) The board shall review such policies and objectives, make~~
7 ~~changes considered necessary or desirable and readopt such policies and~~
8 ~~objectives on an annual basis.~~

9 ~~(7) The board may enter into contracts with one or more persons~~
10 ~~whom the board determines to be qualified, whereby the persons undertake~~
11 ~~to perform the functions specified in subsection (2) to the extent provided~~
12 ~~in the contract. Performance of functions under contract so entered into~~
13 ~~shall be paid pursuant to rates fixed by the board subject to provisions of~~
14 ~~appropriation acts and shall be based on specific contractual fee~~
15 ~~arrangements. The system shall not pay or reimburse any expenses of~~
16 ~~persons contracted with pursuant to this subsection, except that after~~
17 ~~approval of the board, the system may pay approved investment related~~
18 ~~expenses subject to provisions of appropriation acts. The board shall~~
19 ~~require that a person contracted with to obtain commercial insurance~~
20 ~~which provides for errors and omissions coverage for such person in an~~
21 ~~amount to be specified by the board, provided that such coverage shall be~~
22 ~~at least the greater of \$500,000 or 1% of the funds entrusted to such person~~
23 ~~up to a maximum of \$10,000,000. The board shall require a person~~
24 ~~contracted with to give a fidelity bond in a penal sum as may be fixed by~~
25 ~~law or, if not so fixed, as may be fixed by the board, with corporate surety~~
26 ~~authorized to do business in this state. Such persons contracted with the~~
27 ~~board pursuant to this subsection and any persons contracted with such~~
28 ~~persons to perform the functions specified in subsection (2) shall be~~
29 ~~deemed to be agents of the board and the system in the performance of~~
30 ~~contractual obligations.~~

31 ~~(8) (a) In the acquisition or disposition of securities, the board may~~
32 ~~rely on the written legal opinion of a reputable bond attorney or attorneys,~~
33 ~~the written opinion of the attorney of the investment counselor or~~
34 ~~managers, or the written opinion of the attorney general certifying the~~
35 ~~legality of the securities.~~

36 ~~(b) The board shall employ or retain qualified investment counsel or~~
37 ~~counselors or may negotiate with a trust company to assist and advise in~~
38 ~~the judicious investment of funds as herein provided.~~

39 ~~(9) (a) Except as provided in subsection (7) and this subsection, the~~
40 ~~custody of money and securities of the fund shall remain in the custody of~~
41 ~~the state treasurer, except that the board may arrange for the custody of~~
42 ~~such money and securities as it considers advisable with one or more~~
43 ~~member banks or trust companies of the federal reserve system or with one~~

1 or more banks in the state of Kansas, or both, to be held in safekeeping by
2 the banks or trust companies for the collection of the principal and interest
3 or other income or of the proceeds of sale. The services provided by the
4 banks or trust companies shall be paid pursuant to rates fixed by the board
5 subject to provisions of appropriation acts.

6 (b) ~~The state treasurer and the board shall collect the principal and~~
7 ~~interest or other income of investments or the proceeds of sale of securities~~
8 ~~in the custody of the state treasurer and pay same when so collected into~~
9 ~~the fund.~~

10 (c) ~~The principal and interest or other income or the proceeds of sale~~
11 ~~of securities as provided in clause (a) of this subsection (9) shall be~~
12 ~~reported to the state treasurer and the board and credited to the fund.~~

13 (10) ~~The board shall with the advice of the director of accounts and~~
14 ~~reports establish the requirements and procedure for reporting any and all~~
15 ~~activity relating to investment functions provided for in this act in order to~~
16 ~~prepare a record monthly of the investment income and changes made~~
17 ~~during the preceding month. The record will reflect a detailed summary of~~
18 ~~investment, reinvestment, purchase, sale and exchange transactions and~~
19 ~~such other information as the board may consider advisable to reflect a~~
20 ~~true accounting of the investment activity of the fund.~~

21 (11) ~~The board shall provide for an examination of the investment~~
22 ~~program annually. The examination shall include an evaluation of current~~
23 ~~investment policies and practices and of specific investments of the fund in~~
24 ~~relation to the objective set forth in subsection (3), the standard set forth in~~
25 ~~subsection (4) and other criteria as may be appropriate, and~~
26 ~~recommendations relating to the fund investment policies and practices~~
27 ~~and to specific investments of the fund as are considered necessary or~~
28 ~~desirable. The board shall include in its annual report to the governor as~~
29 ~~provided in K.S.A. 74-4907, and amendments thereto, a report or a~~
30 ~~summary thereof covering the investments of the fund.~~

31 (12) (a) ~~Any internal assessment or examination of alternative~~
32 ~~investments of the system performed by any person or entity employed or~~
33 ~~retained by the board which evaluates or monitors the performance of~~
34 ~~alternative investments shall be reported to the legislative post auditor so~~
35 ~~that such report may be reviewed in accordance with the annual financial-~~
36 ~~compliance audits conducted pursuant to K.S.A. 74-49,136, and~~
37 ~~amendments thereto.~~

38 (b) ~~The board shall prepare and submit an alternative investment~~
39 ~~report to the joint committee on pensions, investments and benefits prior to~~
40 ~~January 1, 2016. Such report shall include a review of alternative~~
41 ~~investments of the system with an emphasis on the effects of changes in~~
42 ~~law pursuant to this act and includes specific investment cost and market~~
43 ~~value information of each individual alternative investment.~~

1 *{Section 1. K.S.A. 2023 Supp. 74-4921 is hereby amended to read as*
2 *follows: 74-4921. (1) There is hereby created in the state treasury the*
3 *Kansas public employees retirement fund. All employee and employer*
4 *contributions shall be deposited in the state treasury to be credited to the*
5 *Kansas public employees retirement fund. The fund is a trust fund and*
6 *shall be used solely for the exclusive purpose of providing benefits to*
7 *members and member beneficiaries and defraying reasonable expenses*
8 *of administering the fund. Investment income of the fund shall be added*
9 *or credited to the fund as provided by law. All benefits payable under the*
10 *system, refund of contributions and overpayments, purchases or*
11 *investments under the law and expenses in connection with the system*
12 *unless otherwise provided by law shall be paid from the fund. The*
13 *director of accounts and reports is authorized to draw warrants on the*
14 *state treasurer and against such fund upon the filing in the director's*
15 *office of proper vouchers executed by the chairperson or the executive*
16 *director of the board. As an alternative, payments from the fund may be*
17 *made by credits to the accounts of recipients of payments in banks,*
18 *savings and loan associations and credit unions. A payment shall be so*
19 *made only upon the written authorization and direction of the recipient*
20 *of payment and upon receipt of such authorization such payments shall*
21 *be made in accordance therewith. Orders for payment of such claims*
22 *may be contained on:*

23 *(a) A letter, memorandum, telegram, computer printout or similar*
24 *writing; or*

25 *(b) any form of communication, other than voice, which is*
26 *registered upon magnetic tape, disc or any other medium designed to*
27 *capture and contain in durable form conventional signals used for the*
28 *electronic communication of messages.*

29 *(2) The board shall have the responsibility for the management of*
30 *the fund and shall discharge the board's duties with respect to the fund*
31 *solely in the interests of the members and beneficiaries of the system for*
32 *the exclusive purpose of providing benefits to members and such*
33 *member's beneficiaries and defraying reasonable expenses of*
34 *administering the fund and shall invest and reinvest moneys in the fund*
35 *and acquire, retain, manage, including the exercise of any voting rights*
36 *and disposal of investments of the fund within the limitations and*
37 *according to the powers, duties and purposes as prescribed by this*
38 *section.*

39 *(3) Moneys in the fund shall be invested and reinvested to achieve*
40 *the investment objective which is preservation of the fund to provide*
41 *benefits to members and member beneficiaries, as provided by law and*
42 *accordingly providing that the moneys are as productive as possible,*
43 *subject to the standards set forth in this act. No moneys in the fund shall*

1 *be invested or reinvested if any investment objective is for economic*
2 *development or social purposes or objectives.*

3 *(4) In investing and reinvesting moneys in the fund and in*
4 *acquiring, retaining, managing and disposing of investments of the*
5 *fund, the board shall exercise the judgment, care, skill, prudence and*
6 *diligence under the circumstances then prevailing, which persons of*
7 *prudence, discretion and intelligence acting in a like capacity and*
8 *familiar with such matters would use in the conduct of an enterprise of*
9 *like character and with like aims by diversifying the investments of the*
10 *fund so as to minimize the risk of large losses, unless under the*
11 *circumstances it is clearly prudent not to do so, and not in regard to*
12 *speculation but in regard to the permanent disposition of similar funds,*
13 *considering the probable income as well as the probable safety of their*
14 *capital.*

15 *(5) Notwithstanding subsection (4):*

16 *(a) Total investments in common stock may be made in the amount*
17 *of up to 60% of the total book value of the fund;*

18 *(b) the board may invest or reinvest moneys of the fund in*
19 *alternative investments if the following conditions are satisfied:*

20 *(i) The total of the annual net commitment to alternative*
21 *investments does not exceed 5% of the total market value of investment*
22 *assets of the fund as measured from the end of the preceding calendar*
23 *year;*

24 *(ii) if in addition to the system, there are at least two other qualified*
25 *institutional buyers, as defined by section (a)(1)(i) of rule 144A,*
26 *securities act of 1933;*

27 *(iii) the system's share in any individual alternative investment is*
28 *limited to an investment representing not more than 20% of any such*
29 *individual alternative investment;*

30 *(iv) the system has received a favorable and appropriate*
31 *recommendation from a qualified, independent expert in investment*
32 *management or analysis in that particular type of alternative*
33 *investment;*

34 *(v) the alternative investment is consistent with the system's*
35 *investment policies and objectives as provided in subsection (6);*

36 *(vi) the individual alternative investment does not exceed more than*
37 *2.5% of the total alternative investments made under this subsection. If*
38 *the alternative investment is made pursuant to participation by the*
39 *system in a multi-investor pool, the 2.5% limitation contained in this*
40 *subsection is applied to the underlying individual assets of such pool and*
41 *not to investment in the pool itself. The total of such alternative*
42 *investments made pursuant to participation by the system in any one*
43 *individual multi-investor pool shall not exceed more than 20% of the*

1 *total of alternative investments made by the system pursuant to this*
2 *subsection. Nothing in this subsection requires the board to liquidate or*
3 *sell the system's holdings in any alternative investments made pursuant*
4 *to participation by the system in any one individual multi-investor pool*
5 *held by the system on the effective date of this act, unless such*
6 *liquidation or sale would be in the best interest of the members and*
7 *beneficiaries of the system and be prudent under the standards*
8 *contained in this section. The 20% limitation contained in this*
9 *subsection shall not have been violated if the total of such investment in*
10 *any one individual multi-investor pool exceeds 20% of the total*
11 *alternative investments of the fund as a result of market forces acting to*
12 *increase the value of such a multi-investor pool relative to the rest of the*
13 *system's alternative investments; however, the board shall not invest or*
14 *reinvest any moneys of the fund in any such individual multi-investor*
15 *pool until the value of such individual multi-investor pool is less than*
16 *20% of the total alternative investments of the fund;*

17 *(vii) the board has received and considered the investment*
18 *manager's due diligence findings submitted to the board as required by*
19 *subsection (6);*

20 *(viii) prior to the time the alternative investment is made, the system*
21 *has in place procedures and systems to ensure that the investment is*
22 *properly monitored and investment performance is accurately measured;*
23 *and*

24 *(ix) ~~the total~~ subject to the provisions of subsections (3), (4) and (5),*
25 *the board shall adopt a limitation for the investment of alternative*
26 *investments ~~does not exceed 15% expressed as a percentage of the total~~*
27 *investment assets of the fund. ~~The 15% Such limitation contained in this~~*
28 *subsection shall not have been violated if the total of such alternative*
29 *investments exceeds ~~15% of the total investment assets of the fund~~ the*
30 *percentage adopted by the board, based on the fund total market value,*
31 *as a result of market forces acting to increase the value of such*
32 *alternative investments relative to the rest of the system's investments.*
33 *However, the board shall not invest or reinvest any moneys of the fund*
34 *in alternative investments until the total value of such alternative*
35 *investments is less than ~~15% of the total investment assets of the fund~~*
36 *based on the market value. If the total value of the alternative investments*
37 *exceeds ~~15% of the total investment assets of the fund~~, the limitation*
38 *adopted by the board or the board adopts a new limit. The board shall not*
39 *be required to liquidate or sell the system's holdings in any alternative*
40 *investment held by the system, unless such liquidation or sale would be*
41 *in the best interest of the members and beneficiaries of the system and is*
42 *prudent under the standards contained in this section;*

43 *(c) for purposes of this section, "alternative investment" includes a*

1 *broad group of investments that are not one of the traditional asset types*
2 *of public equities, fixed income, cash or real estate. Alternative*
3 *investments are generally made through limited partnership or similar*
4 *structures, are not regularly traded on nationally recognized exchanges*
5 *and thus are relatively illiquid, and exhibit lower correlations with more*
6 *liquid asset types such as stocks and bonds. Alternative investments*
7 *generally include, but are not limited to, private equity, private credit,*
8 *hedge funds, infrastructure, commodities and other investments that*
9 *have the characteristics described in this paragraph; and*

10 *(d) except as otherwise provided, the board may invest or reinvest*
11 *moneys of the fund in real estate investments if the following conditions*
12 *are satisfied:*

13 *(i) The system has received a favorable and appropriate*
14 *recommendation from a qualified, independent expert in investment*
15 *management or analysis in that particular type of real estate investment;*

16 *(ii) the real estate investment is consistent with the system's*
17 *investment policies and objectives as provided in subsection (6); and*

18 *(iii) the system has received and considered the investment*
19 *manager's due diligence findings.*

20 *(6) (a) Subject to the objective set forth in subsection (3) and the*
21 *standards set forth in subsections (4) and (5) the board shall formulate*
22 *policies and objectives for the investment and reinvestment of moneys in*
23 *the fund and the acquisition, retention, management and disposition of*
24 *investments of the fund. Such policies and objectives shall include:*

25 *(i) Specific asset allocation standards and objectives;*

26 *(ii) establishment of criteria for evaluating the risk versus the*
27 *potential return on a particular investment;*

28 *(iii) a requirement that all investment managers submit such*
29 *manager's due diligence findings on each investment to the board or*
30 *investment advisory committee for approval or rejection prior to making*
31 *any alternative investment;*

32 *(iv) a requirement that all investment managers shall immediately*
33 *report all instances of default on investments to the board and provide*
34 *the board with recommendations and options, including, but not limited*
35 *to, curing the default or withdrawal from the investment; and*

36 *(v) establishment of criteria that would be used as a guideline for*
37 *determining when no additional add-on investments or reinvestments*
38 *would be made and when the investment would be liquidated.*

39 *(b) The board shall review such policies and objectives, make*
40 *changes considered necessary or desirable and readopt such policies and*
41 *objectives on an annual basis.*

42 *(7) The board may enter into contracts with one or more persons*
43 *whom the board determines to be qualified, whereby the persons*

1 *undertake to perform the functions specified in subsection (2) to the*
2 *extent provided in the contract. Performance of functions under contract*
3 *so entered into shall be paid pursuant to rates fixed by the board subject*
4 *to provisions of appropriation acts and shall be based on specific*
5 *contractual fee arrangements. The system shall not pay or reimburse*
6 *any expenses of persons contracted with pursuant to this subsection,*
7 *except that after approval of the board, the system may pay approved*
8 *investment related expenses subject to provisions of appropriation acts.*
9 *The board shall require that a person contracted with to obtain*
10 *commercial insurance which provides for errors and omissions coverage*
11 *for such person in an amount to be specified by the board, provided that*
12 *such coverage shall be at least the greater of \$500,000 or 1% of the*
13 *funds entrusted to such person up to a maximum of \$10,000,000. The*
14 *board shall require a person contracted with to give a fidelity bond in a*
15 *penal sum as may be fixed by law or, if not so fixed, as may be fixed by*
16 *the board, with corporate surety authorized to do business in this state.*
17 *Such persons contracted with the board pursuant to this subsection and*
18 *any persons contracted with such persons to perform the functions*
19 *specified in subsection (2) shall be deemed to be agents of the board and*
20 *the system in the performance of contractual obligations.*

21 *(8) (a) In the acquisition or disposition of securities, the board may*
22 *rely on the written legal opinion of a reputable bond attorney or*
23 *attorneys, the written opinion of the attorney of the investment counselor*
24 *or managers, or the written opinion of the attorney general certifying the*
25 *legality of the securities.*

26 *(b) The board shall employ or retain qualified investment counsel*
27 *or counselors or may negotiate with a trust company to assist and advise*
28 *in the judicious investment of funds as herein provided.*

29 *(9) (a) Except as provided in subsection (7) and this subsection, the*
30 *custody of money and securities of the fund shall remain in the custody*
31 *of the state treasurer, except that the board may arrange for the custody*
32 *of such money and securities as it considers advisable with one or more*
33 *member banks or trust companies of the federal reserve system or with*
34 *one or more banks in the state of Kansas, or both, to be held in*
35 *safekeeping by the banks or trust companies for the collection of the*
36 *principal and interest or other income or of the proceeds of sale. The*
37 *services provided by the banks or trust companies shall be paid pursuant*
38 *to rates fixed by the board subject to provisions of appropriation acts.*

39 *(b) The state treasurer and the board shall collect the principal and*
40 *interest or other income of investments or the proceeds of sale of*
41 *securities in the custody of the state treasurer and pay same when so*
42 *collected into the fund.*

43 *(c) The principal and interest or other income or the proceeds of*

1 *sale of securities as provided in this subsection shall be reported to the*
2 *state treasurer and the board and credited to the fund.*

3 *(10) The board shall with the advice of the director of accounts and*
4 *reports establish the requirements and procedure for reporting any and*
5 *all activity relating to investment functions provided for in this act in*
6 *order to prepare a record monthly of the investment income and changes*
7 *made during the preceding month. The record will reflect a detailed*
8 *summary of investment, reinvestment, purchase, sale and exchange*
9 *transactions and such other information as the board may consider*
10 *advisable to reflect a true accounting of the investment activity of the*
11 *fund.*

12 *(11) The board shall provide for an examination of the investment*
13 *program annually. The examination shall include an evaluation of*
14 *current investment policies and practices and of specific investments of*
15 *the fund in relation to the objective set forth in subsection (3), the*
16 *standard set forth in subsection (4) and other criteria as may be*
17 *appropriate, and recommendations relating to the fund investment*
18 *policies and practices and to specific investments of the fund as are*
19 *considered necessary or desirable. The board shall include in its annual*
20 *report to the governor as provided in K.S.A. 74-4907, and amendments*
21 *thereto, a report or a summary thereof covering the investments of the*
22 *fund.*

23 *(12) Any internal assessment or examination of alternative*
24 *investments of the system performed by any person or entity employed or*
25 *retained by the board which evaluates or monitors the performance of*
26 *alternative investments shall be reported to the legislative post auditor so*
27 *that such report may be reviewed in accordance with the annual*
28 *financial-compliance audits conducted pursuant to K.S.A. 74-49,136,*
29 *and amendments thereto.*

30 *{Sec. 2. K.S.A. 2023 Supp. 74-4921 is hereby amended to read as*
31 *follows: 74-4921. (1) There is hereby created in the state treasury the*
32 *Kansas public employees retirement fund. All employee and employer*
33 *contributions shall be deposited in the state treasury to be credited to the*
34 *Kansas public employees retirement fund. The fund is a trust fund and*
35 *shall be used solely for the exclusive purpose of providing benefits to*
36 *members and member beneficiaries and defraying reasonable expenses*
37 *of administering the fund. Investment income of the fund shall be added*
38 *or credited to the fund as provided by law. All benefits payable under the*
39 *system, refund of contributions and overpayments, purchases or*
40 *investments under the law and expenses in connection with the system*
41 *unless otherwise provided by law shall be paid from the fund. The*
42 *director of accounts and reports is authorized to draw warrants on the*
43 *state treasurer and against such fund upon the filing in the director's*

1 *office of proper vouchers executed by the chairperson or the executive*
2 *director of the board. As an alternative, payments from the fund may be*
3 *made by credits to the accounts of recipients of payments in banks,*
4 *savings and loan associations and credit unions. A payment shall be so*
5 *made only upon the written authorization and direction of the recipient*
6 *of payment and upon receipt of such authorization such payments shall*
7 *be made in accordance therewith. Orders for payment of such claims*
8 *may be contained on:*

9 (a) *A letter, memorandum, telegram, computer printout or similar*
10 *writing; or*

11 (b) *any form of communication, other than voice, which is*
12 *registered upon magnetic tape, disc or any other medium designed to*
13 *capture and contain in durable form conventional signals used for the*
14 *electronic communication of messages.*

15 (2) *The board shall have the responsibility for the management of*
16 *the fund and shall discharge the board's duties with respect to the fund*
17 *solely in the interests of the members and beneficiaries of the system for*
18 *the exclusive purpose of providing benefits to members and such*
19 *member's beneficiaries and defraying reasonable expenses of*
20 *administering the fund and shall invest and reinvest moneys in the fund*
21 *and acquire, retain, manage, including the exercise of any voting rights*
22 *and disposal of investments of the fund within the limitations and*
23 *according to the powers, duties and purposes as prescribed by this*
24 *section.*

25 (3) *Moneys in the fund shall be invested and reinvested to achieve*
26 *the investment objective which is preservation of the fund to provide*
27 *benefits to members and member beneficiaries, as provided by law and*
28 *accordingly providing that the moneys are as productive as possible,*
29 *subject to the standards set forth in this act. No moneys in the fund shall*
30 *be invested or reinvested if any investment objective is for economic*
31 *development or social purposes or objectives.*

32 (4) *In investing and reinvesting moneys in the fund and in*
33 *acquiring, retaining, managing and disposing of investments of the*
34 *fund, the board shall exercise the judgment, care, skill, prudence and*
35 *diligence under the circumstances then prevailing, which persons of*
36 *prudence, discretion and intelligence acting in a like capacity and*
37 *familiar with such matters would use in the conduct of an enterprise of*
38 *like character and with like aims by diversifying the investments of the*
39 *fund so as to minimize the risk of large losses, unless under the*
40 *circumstances it is clearly prudent not to do so, and not in regard to*
41 *speculation but in regard to the permanent disposition of similar funds,*
42 *considering the probable income as well as the probable safety of their*
43 *capital.*

1 (5) *Notwithstanding subsection (4):*

2 (a) *Total investments in common stock may be made in the amount*
3 *of up to 60% of the total book value of the fund;*

4 (b) *the board may invest or reinvest moneys of the fund in*
5 *alternative investments if the following conditions are satisfied:*

6 (i) *The total of the annual net commitment to alternative*
7 *investments does not exceed 5% of the total market value of investment*
8 *assets of the fund as measured from the end of the preceding calendar*
9 *year;*

10 (ii) *if in addition to the system, there are at least two other qualified*
11 *institutional buyers, as defined by section (a)(1)(i) of rule 144A,*
12 *securities act of 1933;*

13 (iii) *the system's share in any individual alternative investment is*
14 *limited to an investment representing not more than 20% of any such*
15 *individual alternative investment;*

16 (iv) *the system has received a favorable and appropriate*
17 *recommendation from a qualified, independent expert in investment*
18 *management or analysis in that particular type of alternative*
19 *investment;*

20 (v) *the alternative investment is consistent with the system's*
21 *investment policies and objectives as provided in subsection (6);*

22 (vi) *the individual alternative investment does not exceed more than*
23 *2.5% of the total alternative investments made under this subsection. If*
24 *the alternative investment is made pursuant to participation by the*
25 *system in a multi-investor pool, the 2.5% limitation contained in this*
26 *subsection is applied to the underlying individual assets of such pool and*
27 *not to investment in the pool itself. The total of such alternative*
28 *investments made pursuant to participation by the system in any one*
29 *individual multi-investor pool shall not exceed more than 20% of the*
30 *total of alternative investments made by the system pursuant to this*
31 *subsection. Nothing in this subsection requires the board to liquidate or*
32 *sell the system's holdings in any alternative investments made pursuant*
33 *to participation by the system in any one individual multi-investor pool*
34 *held by the system on the effective date of this act, unless such*
35 *liquidation or sale would be in the best interest of the members and*
36 *beneficiaries of the system and be prudent under the standards*
37 *contained in this section. The 20% limitation contained in this*
38 *subsection shall not have been violated if the total of such investment in*
39 *any one individual multi-investor pool exceeds 20% of the total*
40 *alternative investments of the fund as a result of market forces acting to*
41 *increase the value of such a multi-investor pool relative to the rest of the*
42 *system's alternative investments; however, the board shall not invest or*
43 *reinvest any moneys of the fund in any such individual multi-investor*

1 *pool until the value of such individual multi-investor pool is less than*
2 *20% of the total alternative investments of the fund;*

3 *(vii) the board has received and considered the investment*
4 *manager's due diligence findings submitted to the board as required by*
5 *subsection (6);*

6 *(viii) prior to the time the alternative investment is made, the system*
7 *has in place procedures and systems to ensure that the investment is*
8 *properly monitored and investment performance is accurately measured;*
9 *and*

10 *(ix) the total of alternative investments does not exceed ~~15%~~ 20% of*
11 *the total investment assets of the fund. The ~~15%~~ 20% limitation*
12 *contained in this subsection shall not have been violated if the total of*
13 *such alternative investments exceeds ~~15%~~ 20% of the total investment*
14 *assets of the fund, based on the fund total market value, as a result of*
15 *market forces acting to increase the value of such alternative*
16 *investments relative to the rest of the system's investments. However, the*
17 *board shall not invest or reinvest any moneys of the fund in alternative*
18 *investments until the total value of such alternative investments is less*
19 *than ~~15%~~ 20% of the total investment assets of the fund based on the*
20 *market value. If the total value of the alternative investments exceeds*
21 *~~15%~~ 20% of the total investment assets of the fund, the board shall not*
22 *be required to liquidate or sell the system's holdings in any alternative*
23 *investment held by the system, unless such liquidation or sale would be*
24 *in the best interest of the members and beneficiaries of the system and is*
25 *prudent under the standards contained in this section;*

26 *(c) for purposes of this section, "alternative investment" includes a*
27 *broad group of investments that are not one of the traditional asset types*
28 *of public equities, fixed income, cash or real estate. Alternative*
29 *investments are generally made through limited partnership or similar*
30 *structures, are not regularly traded on nationally recognized exchanges*
31 *and thus are relatively illiquid, and exhibit lower correlations with more*
32 *liquid asset types such as stocks and bonds. Alternative investments*
33 *generally include, but are not limited to, private equity, private credit,*
34 *hedge funds, infrastructure, commodities and other investments that*
35 *have the characteristics described in this paragraph; and*

36 *(d) except as otherwise provided, the board may invest or reinvest*
37 *moneys of the fund in real estate investments if the following conditions*
38 *are satisfied:*

39 *(i) The system has received a favorable and appropriate*
40 *recommendation from a qualified, independent expert in investment*
41 *management or analysis in that particular type of real estate investment;*

42 *(ii) the real estate investment is consistent with the system's*
43 *investment policies and objectives as provided in subsection (6); and*

1 (iii) *the system has received and considered the investment*
2 *manager's due diligence findings.*

3 (6) (a) *Subject to the objective set forth in subsection (3) and the*
4 *standards set forth in subsections (4) and (5) the board shall formulate*
5 *policies and objectives for the investment and reinvestment of moneys in*
6 *the fund and the acquisition, retention, management and disposition of*
7 *investments of the fund. Such policies and objectives shall include:*

8 (i) *Specific asset allocation standards and objectives;*

9 (ii) *establishment of criteria for evaluating the risk versus the*
10 *potential return on a particular investment;*

11 (iii) *a requirement that all investment managers submit such*
12 *manager's due diligence findings on each investment to the board or*
13 *investment advisory committee for approval or rejection prior to making*
14 *any alternative investment;*

15 (iv) *a requirement that all investment managers shall immediately*
16 *report all instances of default on investments to the board and provide*
17 *the board with recommendations and options, including, but not limited to,*
18 *curing the default or withdrawal from the investment; and*

19 (v) *establishment of criteria that would be used as a guideline for*
20 *determining when no additional add-on investments or reinvestments*
21 *would be made and when the investment would be liquidated.*

22 (b) *The board shall review such policies and objectives, make*
23 *changes considered necessary or desirable and readopt such policies and*
24 *objectives on an annual basis.*

25 (7) *The board may enter into contracts with one or more persons*
26 *whom the board determines to be qualified, whereby the persons*
27 *undertake to perform the functions specified in subsection (2) to the*
28 *extent provided in the contract. Performance of functions under contract*
29 *so entered into shall be paid pursuant to rates fixed by the board subject*
30 *to provisions of appropriation acts and shall be based on specific*
31 *contractual fee arrangements. The system shall not pay or reimburse*
32 *any expenses of persons contracted with pursuant to this subsection,*
33 *except that after approval of the board, the system may pay approved*
34 *investment related expenses subject to provisions of appropriation acts.*
35 *The board shall require that a person contracted with to obtain*
36 *commercial insurance which provides for errors and omissions coverage*
37 *for such person in an amount to be specified by the board, provided that*
38 *such coverage shall be at least the greater of \$500,000 or 1% of the*
39 *funds entrusted to such person up to a maximum of \$10,000,000. The*
40 *board shall require a person contracted with to give a fidelity bond in a*
41 *penal sum as may be fixed by law or, if not so fixed, as may be fixed by*
42 *the board, with corporate surety authorized to do business in this state.*
43 *Such persons contracted with the board pursuant to this subsection and*

1 *any persons contracted with such persons to perform the functions*
2 *specified in subsection (2) shall be deemed to be agents of the board and*
3 *the system in the performance of contractual obligations.*

4 *(8) (a) In the acquisition or disposition of securities, the board may*
5 *rely on the written legal opinion of a reputable bond attorney or*
6 *attorneys, the written opinion of the attorney of the investment counselor*
7 *or managers, or the written opinion of the attorney general certifying the*
8 *legality of the securities.*

9 *(b) The board shall employ or retain qualified investment counsel*
10 *or counselors or may negotiate with a trust company to assist and advise*
11 *in the judicious investment of funds as herein provided.*

12 *(9) (a) Except as provided in subsection (7) and this subsection, the*
13 *custody of money and securities of the fund shall remain in the custody*
14 *of the state treasurer, except that the board may arrange for the custody*
15 *of such money and securities as it considers advisable with one or more*
16 *member banks or trust companies of the federal reserve system or with*
17 *one or more banks in the state of Kansas, or both, to be held in*
18 *safekeeping by the banks or trust companies for the collection of the*
19 *principal and interest or other income or of the proceeds of sale. The*
20 *services provided by the banks or trust companies shall be paid pursuant*
21 *to rates fixed by the board subject to provisions of appropriation acts.*

22 *(b) The state treasurer and the board shall collect the principal and*
23 *interest or other income of investments or the proceeds of sale of*
24 *securities in the custody of the state treasurer and pay same when so*
25 *collected into the fund.*

26 *(c) The principal and interest or other income or the proceeds of*
27 *sale of securities as provided in this subsection shall be reported to the*
28 *state treasurer and the board and credited to the fund.*

29 *(10) The board shall with the advice of the director of accounts and*
30 *reports establish the requirements and procedure for reporting any and*
31 *all activity relating to investment functions provided for in this act in*
32 *order to prepare a record monthly of the investment income and changes*
33 *made during the preceding month. The record will reflect a detailed*
34 *summary of investment, reinvestment, purchase, sale and exchange*
35 *transactions and such other information as the board may consider*
36 *advisable to reflect a true accounting of the investment activity of the*
37 *fund.*

38 *(11) The board shall provide for an examination of the investment*
39 *program annually. The examination shall include an evaluation of*
40 *current investment policies and practices and of specific investments of*
41 *the fund in relation to the objective set forth in subsection (3), the*
42 *standard set forth in subsection (4) and other criteria as may be*
43 *appropriate, and recommendations relating to the fund investment*

1 *policies and practices and to specific investments of the fund as are*
2 *considered necessary or desirable. The board shall include in its annual*
3 *report to the governor as provided in K.S.A. 74-4907, and amendments*
4 *thereto, a report or a summary thereof covering the investments of the*
5 *fund.*

6 *(12) Any internal assessment or examination of alternative*
7 *investments of the system performed by any person or entity employed or*
8 *retained by the board which evaluates or monitors the performance of*
9 *alternative investments shall be reported to the legislative post auditor so*
10 *that such report may be reviewed in accordance with the annual*
11 *financial-compliance audits conducted pursuant to K.S.A. 74-49,136,*
12 *and amendments thereto.*

13 ~~Sec. 2: {3,}~~ K.S.A.-2022 {2023} Supp. 74-4921 is hereby repealed.

14 ~~Sec. 3: {4,}~~ This act shall take effect and be in force from and after its
15 publication in the statute book.