

Substitute for HOUSE BILL No. 2002

By Committee on Federal and State Affairs

3-20

1 AN ACT concerning the division of post audit; relating to certain financial
2 and security audits; amending K.S.A. ~~2012~~ {2013} Supp. 46-1106, 46-
3 1118 and 74-4921 and repealing the existing sections; also repealing
4 K.S.A. 74-8707.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) At least once every three years, there shall be
8 conducted a security audit of the Kansas lottery. Any security audit
9 conducted pursuant to this section shall include a comprehensive study and
10 evaluation of all aspects of security in the operation of such state agency.
11 The auditor to conduct a security audit shall be specified in accordance
12 with K.S.A. 46-1122, and amendments thereto. If the legislative post audit
13 committee specifies under such statute that a person other than the post
14 auditor is to perform all or part of such audit work, such person shall be
15 selected and shall perform such audit work as provided in the applicable
16 provisions of K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-
17 1125 through 46-1127, and amendments thereto. The person selected to
18 perform a security audit shall be experienced in security procedures,
19 including, but not limited to, computer and systems security. A contract to
20 conduct a security audit required by this subsection shall not be awarded
21 until a background investigation is conducted by the executive director of
22 the Kansas lottery on the person or firm selected to perform the audit.
23 Such background investigation shall include: (1) The vendor to whom the
24 contract is to be awarded; (2) all persons who own a controlling interest in
25 such vendor; and (3) all applicable staff having involvement with the audit.

26 (b) For the purpose of conducting a security audit under this
27 subsection, a person or a firm selected to perform the security audit shall
28 not be limited to a legal entity permitted by law to engage in practice as a
29 certified public accountant.

30 ~~Sec. 2. K.S.A. 2012 Supp. 46-1106 is hereby amended to read as~~
31 ~~follows: 46-1106. (a) (1) A financial compliance audit shall be conducted~~
32 ~~each year of the general purpose financial statements prepared by the~~
33 ~~division of accounts and reports for its annual financial report. This audit~~
34 ~~shall be conducted in accordance with generally accepted governmental~~
35 ~~auditing standards. The resulting written audit report shall be issued as~~
36 ~~soon after the end of the fiscal year as is practicable.~~

1 ~~(2) In addition, separate written audit reports on the financial~~
2 ~~management practices of the office of the state treasurer and the pooled~~
3 ~~money investment board shall be prepared addressing the adequacy of~~
4 ~~financial management practices and compliance with applicable state laws.~~
5 ~~The separate audit of the pooled money investment board also shall~~
6 ~~include a comparative investment performance review and an analysis of~~
7 ~~the investment program, including an evaluation of investment policies~~
8 ~~and practices and of specific investments in the pooled money investment~~
9 ~~portfolio. The analysis of the specific investments in the pooled money~~
10 ~~investment portfolio shall review whether such investments meet the~~
11 ~~investment priorities of safety, liquidity and performance. The~~
12 ~~performance of such investments shall be measured by comparison to an~~
13 ~~appropriate market index.~~

14 ~~(3) Copies of the reports of audits conducted pursuant to this~~
15 ~~subsection (a) shall be furnished to the governor, director of accounts and~~
16 ~~reports, director of the budget, each state agency, the legislative post audit~~
17 ~~committee and other persons or agencies as may be required by law or by~~
18 ~~the specifications of the audit.~~

19 ~~(4) Any additional costs associated with preparing the separate~~
20 ~~additional reports on the office of the state treasurer and the pooled money~~
21 ~~investment board shall be borne by the office of the state treasurer and the~~
22 ~~pooled money investment board in accordance with K.S.A. 46-1121, and~~
23 ~~amendments thereto.~~

24 ~~(b) Including financial compliance audit work conducted as part of~~
25 ~~the audit conducted pursuant to subsection (a), financial compliance audit~~
26 ~~work shall be conducted at each state agency at least once every three~~
27 ~~years as directed by the legislative post audit committee. Written reports~~
28 ~~on the results of such auditing shall be furnished to the governor, director~~
29 ~~of accounts and reports, director of the budget, the state agency which is~~
30 ~~audited, the legislative post audit committee and such other persons or~~
31 ~~agencies as may be required by law or by the specifications of the audit.~~

32 ~~(c) Books and accounts of the state treasurer and the director of~~
33 ~~accounts and reports, including the bond register of the state treasurer, may~~
34 ~~be examined monthly if the legislative post audit committee so determines,~~
35 ~~and such examination may include detailed checking of every transaction~~
36 ~~or test checking.~~

37 ~~Any person receiving tax information under the provisions of~~
38 ~~subsection (a) or (b) shall be subject to the same duty of confidentiality~~
39 ~~imposed by law upon the personnel of the department of revenue and shall~~
40 ~~be subject to any civil or criminal penalties imposed by law for violations~~
41 ~~of such duty of confidentiality.~~

42 ~~(d) The post auditor shall report immediately in writing to the~~
43 ~~legislative post audit committee, governor and attorney general whenever~~

1 ~~it appears in the opinion of the post auditor that there may have occurred~~
2 ~~any violation of penal statutes or any instances of misfeasance,~~
3 ~~malfeasance or nonfeasance by a public officer or employee disclosed by~~
4 ~~any audit or audit work conducted under the legislative post audit act. The~~
5 ~~post auditor shall furnish the attorney general all information in the~~
6 ~~possession of the post auditor relative to any report referred to the attorney~~
7 ~~general. The attorney general shall institute and prosecute civil~~
8 ~~proceedings against any such delinquent officer or employee, or upon such~~
9 ~~officer or employee's official bond, or both, as may be needed to recover~~
10 ~~for the state any funds or other assets misappropriated. The attorney~~
11 ~~general shall also prosecute such ouster and criminal proceedings as the~~
12 ~~evidence in the case warrants. Any person receiving tax information under~~
13 ~~the provisions of this subsection shall be subject to the same duty of~~
14 ~~confidentiality imposed by law upon the personnel of the department of~~
15 ~~revenue and shall be subject to any civil or criminal penalties imposed by~~
16 ~~law for violations of such duty of confidentiality.~~

17 ~~(e) The post auditor shall immediately report to the committee on~~
18 ~~surety bonds and insurance when any audit or audit work conducted under~~
19 ~~the legislative post audit act discloses a shortage in the accounts of any~~
20 ~~state agency, officer or employee.~~

21 ~~(f) In the discharge of the duties imposed under the legislative post~~
22 ~~audit act, the post auditor may require state agencies to preserve and make~~
23 ~~available their accounts, records, documents, vouchers, requisitions,~~
24 ~~payrolls, canceled checks or vouchers and coupons, and other evidence of~~
25 ~~financial transactions.~~

26 ~~(g) In the discharge of the duties imposed under the legislative post~~
27 ~~audit act, the post auditor or firm conducting a financial-compliance audit~~
28 ~~or conducting any other audit or audit work shall have access to all books,~~
29 ~~accounts, records, files, documents and correspondence, confidential or~~
30 ~~otherwise, of any person or state agency subject to the legislative post~~
31 ~~audit act or in the custody of any such person or state agency. Except as~~
32 ~~otherwise provided in this subsection, the post auditor or firm conducting a~~
33 ~~financial-compliance audit or other audit or audit work under the~~
34 ~~legislative post audit act and all employees and former employees of the~~
35 ~~division of post audit or firm performing a financial-compliance audit or~~
36 ~~other audit or audit work shall be subject to the same duty of~~
37 ~~confidentiality imposed by law on any such person or state agency with~~
38 ~~regard to any such books, accounts, records, files, documents and~~
39 ~~correspondence, and any information contained therein, and shall be~~
40 ~~subject to any civil or criminal penalties imposed by law for violations of~~
41 ~~such duty of confidentiality. The duty of confidentiality imposed on the~~
42 ~~post auditor and on firms conducting financial-compliance audits or any~~
43 ~~other audits or audit work under the legislative post audit act and all~~

1 ~~employees of the division of post audit and all employees of such firms~~
2 ~~shall be subject to the provisions of subsection (d), and the post auditor~~
3 ~~may furnish all such books, accounts, records, files, documents and~~
4 ~~correspondence, and any information contained therein to the attorney~~
5 ~~general pursuant to subsection (d). Upon receipt thereof, the attorney~~
6 ~~general and all assistant attorneys general and all other employees and~~
7 ~~former employees of the office of attorney general shall be subject to the~~
8 ~~same duty of confidentiality with the exceptions that any such information~~
9 ~~contained therein may be disclosed in civil proceedings, ouster~~
10 ~~proceedings and criminal proceedings which may be instituted and~~
11 ~~prosecuted by the attorney general in accordance with subsection (d), and~~
12 ~~any such books, accounts, records, files, documents and correspondence~~
13 ~~furnished to the attorney general in accordance with subsection (d) may be~~
14 ~~entered into evidence in any such proceedings. Nothing in this subsection~~
15 ~~shall be construed to supersede any requirement of federal law.~~

16 ~~(h) Any firm or firms which develop information in the course of~~
17 ~~conducting a financial-compliance audit or other audit or audit work under~~
18 ~~the legislative post audit act which the post auditor is required to report~~
19 ~~under subsection (d) or (e) shall immediately report such information to~~
20 ~~the post auditor. The post auditor shall then make the report required in~~
21 ~~subsection (d) or (e).~~

22 ~~(i) (1) A financial-compliance audit shall be conducted annually on:~~
23 ~~the accounts and transactions of the Kansas lottery and the Kansas lottery~~
24 ~~commission, of the Kansas public employees retirement system and of any~~
25 ~~other state agency as may be required by law. The auditor to conduct this~~
26 ~~audit work shall be specified in accordance with K.S.A. 46-1122, and~~
27 ~~amendments thereto. If the legislative post audit committee specifies under~~
28 ~~such statute that a firm is to perform all or part of such audit work, such~~
29 ~~firm shall be selected and shall perform such audit work as provided in:~~
30 ~~K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-~~
31 ~~1127, and amendments thereto. The audits required pursuant to this~~
32 ~~subsection shall be conducted in accordance with generally accepted~~
33 ~~governmental auditing standards, and shall be conducted as soon after the~~
34 ~~close of the fiscal year as practicable, but shall be completed no later than~~
35 ~~six months after the close of the fiscal year.~~

36 ~~(2) The financial-compliance audit of the Kansas public employees~~
37 ~~retirement system shall include, but not be limited to, a review of~~
38 ~~alternative investments of the system with any estimates of permanent~~
39 ~~impairments to the value of such alternative investments reported by the~~
40 ~~system pursuant to K.S.A. 74-4907, and amendments thereto. The~~
41 ~~financial-compliance audit may include one or more performance audit~~
42 ~~subjects as directed by the legislative post audit committee. In considering~~
43 ~~performance audit subjects to be included in any such financial-~~

1 ~~compliance audit, the legislative post audit committee shall consider~~
2 ~~recommendations and requests for performance audits, relating to the~~
3 ~~system or the management thereof, by the joint committee on pensions,~~
4 ~~investments and benefits or by any other committee or individual member~~
5 ~~of the legislature. The legislative post audit committee shall specify if one~~
6 ~~or more performance audit subjects shall be included in such financial-~~
7 ~~compliance audit, in addition to such other subjects as may be directed to~~
8 ~~be included in such financial-compliance audit by the legislative post~~
9 ~~audit committee. Except as otherwise determined by the legislative post~~
10 ~~audit committee, one or more performance audit subjects specified by the~~
11 ~~legislative post audit committee shall be included at least once every two~~
12 ~~fiscal years in such financial-compliance audit. The legislative post audit~~
13 ~~committee may direct that one or more performance audit subjects are to~~
14 ~~be included in such financial-compliance audit not more than once during~~
15 ~~a specific period of three fiscal years, in lieu of once every two fiscal~~
16 ~~years.~~

17 *{Sec. 2. K.S.A. 2013 Supp. 46-1106 is hereby amended to read as*
18 *follows: 46-1106. (a) (1) A financial-compliance audit shall be*
19 *conducted each year of the general purpose financial statements*
20 *prepared by the division of accounts and reports for its annual financial*
21 *report. This audit shall be conducted in accordance with generally*
22 *accepted governmental auditing standards. The resulting written audit*
23 *report shall be issued as soon after the end of the fiscal year as is*
24 *practicable.*

25 *(2) In addition, once every two years, separate written audit reports*
26 *on the financial management practices of the office of the state*
27 *treasurer and the pooled money investment board shall be prepared*
28 *addressing the adequacy of financial management practices and*
29 *compliance with applicable state laws. The separate audit of the pooled*
30 *money investment board also shall include a comparative investment*
31 *performance review and an analysis of the investment program,*
32 *including an evaluation of investment policies and practices and of*
33 *specific investments in the pooled money investment portfolio. The*
34 *analysis of the specific investments in the pooled money investment*
35 *portfolio shall review whether such investments meet the investment*
36 *priorities of safety, liquidity and performance. The performance of such*
37 *investments shall be measured by comparison to an appropriate market*
38 *index.*

39 *(3) In addition, whenever an individual is first elected or appointed*
40 *and qualified to the office of the state treasurer, the legislative division*
41 *of post audit shall conduct a transition audit within two weeks after the*
42 *date such individual enters upon the duties of the office of the state*
43 *treasurer. The purpose of the transition audit shall be to review the*

1 *assets in the custody of the office of the state treasurer for significant*
2 *discrepancies at the time of the transition. A separate written report shall*
3 *be prepared for each transition audit.*

4 *(4) Copies of the reports of audits conducted pursuant to this*
5 *subsection (a) shall be furnished to the governor, director of accounts*
6 *and reports, director of the budget, each state agency, the legislative post*
7 *audit committee and other persons or agencies as may be required by*
8 *law or by the specifications of the audit.*

9 *(5) Any additional costs associated with preparing the separate*
10 *additional reports on the office of the state treasurer and the pooled*
11 *money investment board shall be borne by the office of the state*
12 *treasurer and the pooled money investment board in accordance with*
13 *K.S.A. 46-1121, and amendments thereto.*

14 *(b) Including financial-compliance audit work conducted as part of*
15 *the audit conducted pursuant to subsection (a), financial-compliance*
16 *audit work shall be conducted at each state agency at least once every*
17 *three years as directed by the legislative post audit committee. Written*
18 *reports on the results of such auditing shall be furnished to the*
19 *governor, director of accounts and reports, director of the budget, the*
20 *state agency which is audited, the legislative post audit committee and*
21 *such other persons or agencies as may be required by law or by the*
22 *specifications of the audit.*

23 *(c) (1) Books and accounts of the state treasurer and the director of*
24 *accounts and reports, including the bond register of the state treasurer,*
25 *may be examined monthly if the legislative post audit committee so*
26 *determines, and such examination may include detailed checking of*
27 *every transaction or test checking.*

28 *(2) Any person receiving tax information under the provisions of*
29 *subsection (a) or (b) shall be subject to the same duty of confidentiality*
30 *imposed by law upon the personnel of the department of revenue and*
31 *shall be subject to any civil or criminal penalties imposed by law for*
32 *violations of such duty of confidentiality.*

33 *(d) The post auditor shall report immediately in writing to the*
34 *legislative post audit committee, governor and attorney general*
35 *whenever it appears in the opinion of the post auditor that there may*
36 *have occurred any violation of penal statutes or any instances of*
37 *misfeasance, malfeasance or nonfeasance by a public officer or*
38 *employee disclosed by any audit or audit work conducted under the*
39 *legislative post audit act. The post auditor shall furnish the attorney*
40 *general all information in the possession of the post auditor relative to*
41 *any report referred to the attorney general. The attorney general shall*
42 *institute and prosecute civil proceedings against any such delinquent*
43 *officer or employee, or upon such officer or employee's official bond, or*

1 *both, as may be needed to recover for the state any funds or other assets*
2 *misappropriated. The attorney general shall also prosecute such ouster*
3 *and criminal proceedings as the evidence in the case warrants. Any*
4 *person receiving tax information under the provisions of this subsection*
5 *shall be subject to the same duty of confidentiality imposed by law upon*
6 *the personnel of the department of revenue and shall be subject to any*
7 *civil or criminal penalties imposed by law for violations of such duty of*
8 *confidentiality.*

9 *(e) The post auditor shall immediately report to the committee on*
10 *surety bonds and insurance when any audit or audit work conducted*
11 *under the legislative post audit act discloses a shortage in the accounts*
12 *of any state agency, officer or employee.*

13 *(f) In the discharge of the duties imposed under the legislative post*
14 *audit act, the post auditor may require state agencies to preserve and*
15 *make available their accounts, records, documents, vouchers,*
16 *requisitions, payrolls, canceled checks or vouchers and coupons, and*
17 *other evidence of financial transactions.*

18 *(g) In the discharge of the duties imposed under the legislative post*
19 *audit act, the post auditor or firm conducting a financial-compliance*
20 *audit or conducting any other audit or audit work shall have access to*
21 *all books, accounts, records, files, documents and correspondence,*
22 *confidential or otherwise, of any person or state agency subject to the*
23 *legislative post audit act or in the custody of any such person or state*
24 *agency. Except as otherwise provided in this subsection, the post auditor*
25 *or firm conducting a financial-compliance audit or other audit or audit*
26 *work under the legislative post audit act and all employees and former*
27 *employees of the division of post audit or firm performing a financial-*
28 *compliance audit or other audit or audit work shall be subject to the*
29 *same duty of confidentiality imposed by law on any such person or state*
30 *agency with regard to any such books, accounts, records, files,*
31 *documents and correspondence, and any information contained therein,*
32 *and shall be subject to any civil or criminal penalties imposed by law for*
33 *violations of such duty of confidentiality. The duty of confidentiality*
34 *imposed on the post auditor and on firms conducting financial-*
35 *compliance audits or any other audits or audit work under the legislative*
36 *post audit act and all employees of the division of post audit and all*
37 *employees of such firms shall be subject to the provisions of subsection*
38 *(d), and the post auditor may furnish all such books, accounts, records,*
39 *files, documents and correspondence, and any information contained*
40 *therein to the attorney general pursuant to subsection (d). Upon receipt*
41 *thereof, the attorney general and all assistant attorneys general and all*
42 *other employees and former employees of the office of attorney general*
43 *shall be subject to the same duty of confidentiality with the exceptions*

1 *that any such information contained therein may be disclosed in civil*
2 *proceedings, ouster proceedings and criminal proceedings which may be*
3 *instituted and prosecuted by the attorney general in accordance with*
4 *subsection (d), and any such books, accounts, records, files, documents*
5 *and correspondence furnished to the attorney general in accordance*
6 *with subsection (d) may be entered into evidence in any such*
7 *proceedings. Nothing in this subsection shall be construed to supersede*
8 *any requirement of federal law.*

9 *(h) Any firm or firms which develop information in the course of*
10 *conducting a financial-compliance audit or other audit or audit work*
11 *under the legislative post audit act which the post auditor is required to*
12 *report under subsection (d) or (e) shall immediately report such*
13 *information to the post auditor. The post auditor shall then make the*
14 *report required in subsection (d) or (e).*

15 *(i) (1) A financial-compliance audit shall be conducted annually on*
16 *the accounts and transactions of the Kansas lottery and the Kansas lottery*
17 *commission, of the Kansas public employees retirement system and of any*
18 *other state agency as may be required by law. The auditor to conduct this*
19 *audit work shall be specified in accordance with K.S.A. 46-1122, and*
20 *amendments thereto. If the legislative post audit committee specifies under*
21 *such statute that a firm is to perform all or part of such audit work, such*
22 *firm shall be selected and shall perform such audit work as provided in*
23 *K.S.A. 46-1123, and amendments thereto, and K.S.A. 46-1125 through 46-*
24 *1127, and amendments thereto. The audits required pursuant to this*
25 *subsection shall be conducted in accordance with generally accepted*
26 *governmental auditing standards, and shall be conducted as soon after the*
27 *close of the fiscal year as practicable, but shall be completed no later than*
28 *six months after the close of the fiscal year.*

29 *(2) The financial-compliance audit of the Kansas public employees*
30 *retirement system shall include, but not be limited to, a review of*
31 *alternative investments of the system with any estimates of permanent*
32 *impairments to the value of such alternative investments reported by the*
33 *system pursuant to K.S.A. 74-4907, and amendments thereto. The*
34 *financial-compliance audit may include one or more performance audit*
35 *subjects as directed by the legislative post audit committee. In considering*
36 *performance audit subjects to be included in any such financial-*
37 *compliance audit, the legislative post audit committee shall consider*
38 *recommendations and requests for performance audits, relating to the*
39 *system or the management thereof, by the joint committee on pensions,*
40 *investments and benefits or by any other committee or individual member*
41 *of the legislature. The legislative post audit committee shall specify if one*
42 *or more performance audit subjects shall be included in such financial-*
43 *compliance audit, in addition to such other subjects as may be directed to*

1 *be included in such financial-compliance audit by the legislative post*
2 *audit committee. Except as otherwise determined by the legislative post*
3 *audit committee, one or more performance audit subjects specified by the*
4 *legislative post audit committee shall be included at least once every two*
5 *fiscal years in such financial-compliance audit. The legislative post audit*
6 *committee may direct that one or more performance audit subjects are to*
7 *be included in such financial-compliance audit not more than once during*
8 *a specific period of three fiscal years, in lieu of once every two fiscal*
9 *years.}*

10 Sec. 3. K.S.A. ~~2012~~ {2013} Supp. 46-1118 is hereby amended to read
11 as follows: 46-1118. (a) (1) Except as otherwise provided by statute,
12 whenever the post auditor performs any additional audit work for any state
13 agency to satisfy federal government requirements, and incurs costs in
14 addition to those attributable to the operations of the division of post audit
15 in performance of other duties and responsibilities, the post auditor shall
16 make charges for such additional costs.

17 (2) Except as otherwise provided by statute, whenever the post
18 auditor performs any audit work for any state agency to satisfy financial-
19 compliance audit requirements prescribed by or pursuant to subsection (a)
20 (1) of K.S.A. 46-1106, and amendments thereto, and incurs costs in
21 addition to those attributable to the operations of the division of post audit
22 in performance of other duties and responsibilities, the post auditor shall
23 make charges for such additional costs.

24 (3) The legislative post audit committee may authorize the post
25 auditor to perform additional financial-related audit work at the request of
26 a state agency. Upon the authorization and in accordance with the direction
27 of the legislative post audit committee, the post auditor may make charges
28 for costs incurred for the performance of such financial-related audit work.

29 (4) *The post auditor shall compute the reasonably anticipated cost of*
30 *providing audits pursuant to section 1, and amendments thereto, subject to*
31 *review and approval by the contract audit committee. Upon such approval,*
32 *the state agency that is receiving the audit services shall reimburse the*
33 *division of post audit for the amount approved by the contract audit*
34 *committee.*

35 (5) The furnishing of any such audit services by the division of post
36 audit shall be a transaction between the post auditor and the state agency
37 receiving such services and such transaction shall be settled in accordance
38 with the provisions of K.S.A. 75-5516, and amendments thereto.

39 (b) All moneys received for reimbursement of the division of post
40 audit under this section shall be remitted to the state treasurer in
41 accordance with the provisions of K.S.A. 75-4215, and amendments
42 thereto. Upon receipt of each such remittance, the state treasurer shall
43 deposit the entire amount in the state treasury to the credit of the audit

1 services fund, which fund is hereby created in the state treasury. All
2 expenditures from the audit services fund shall be made in accordance
3 with appropriation acts upon warrants of the director of accounts and
4 reports issued pursuant to vouchers approved by the post auditor or a
5 person or persons designated by the post auditor.

6 Sec. 4. K.S.A. ~~2012~~ {2013} Supp. 74-4921 is hereby amended to read
7 as follows: 74-4921. (1) There is hereby created in the state treasury the
8 Kansas public employees retirement fund. All employee and employer
9 contributions shall be deposited in the state treasury to be credited to the
10 Kansas public employees retirement fund. The fund is a trust fund and
11 shall be used solely for the exclusive purpose of providing benefits to
12 members and member beneficiaries and defraying reasonable expenses of
13 administering the fund. Investment income of the fund shall be added or
14 credited to the fund as provided by law. All benefits payable under the
15 system, refund of contributions and overpayments, purchases or
16 investments under the law and expenses in connection with the system
17 unless otherwise provided by law shall be paid from the fund. The director
18 of accounts and reports is authorized to draw warrants on the state
19 treasurer and against such fund upon the filing in the director's office of
20 proper vouchers executed by the chairperson or the executive director of
21 the board. As an alternative, payments from the fund may be made by
22 credits to the accounts of recipients of payments in banks, savings and loan
23 associations and credit unions. A payment shall be so made only upon the
24 written authorization and direction of the recipient of payment and upon
25 receipt of such authorization such payments shall be made in accordance
26 therewith. Orders for payment of such claims may be contained on (a) a
27 letter, memorandum, telegram, computer printout or similar writing, or (b)
28 any form of communication, other than voice, which is registered upon
29 magnetic tape, disc or any other medium designed to capture and contain
30 in durable form conventional signals used for the electronic
31 communication of messages.

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

41 (3) Moneys in the fund shall be invested and reinvested to achieve the
42 investment objective which is preservation of the fund to provide benefits
43 to members and member beneficiaries, as provided by law and accordingly

1 providing that the moneys are as productive as possible, subject to the
2 standards set forth in this act. No moneys in the fund shall be invested or
3 reinvested if the sole or primary investment objective is for economic
4 development or social purposes or objectives.

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

16 (5) Notwithstanding subsection (4): (a) Total investments in common
17 stock may be made in the amount of up to 60% of the total book value of
18 the fund;

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

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

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

35 (vi) the individual alternative investment does not exceed more than
36 2.5% of the total alternative investments made under this subsection. If the
37 alternative investment is made pursuant to participation by the system in a
38 multi-investor pool, the 2.5% limitation contained in this subsection is
39 applied to the underlying individual assets of such pool and not to
40 investment in the pool itself. The total of such alternative investments
41 made pursuant to participation by the system in any one individual multi-
42 investor pool shall not exceed more than 20% of the total of alternative
43 investments made by the system pursuant to this subsection. Nothing in

1 this subsection requires the board to liquidate or sell the system's holdings
2 in any alternative investments made pursuant to participation by the
3 system in any one individual multi-investor pool held by the system on the
4 effective date of this act, unless such liquidation or sale would be in the
5 best interest of the members and beneficiaries of the system and be
6 prudent under the standards contained in this section. The 20% limitation
7 contained in this subsection shall not have been violated if the total of such
8 investment in any one individual multi-investor pool exceeds 20% of the
9 total alternative investments of the fund as a result of market forces acting
10 to increase the value of such a multi-investor pool relative to the rest of the
11 system's alternative investments; however, the board shall not invest or
12 reinvest any moneys of the fund in any such individual multi-investor pool
13 until the value of such individual multi-investor pool is less than 20% of
14 the total alternative investments of the fund;

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

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

22 (ix) the total of alternative investments does not exceed 15% of the
23 total investment assets of the fund. The 15% limitation contained in this
24 subsection shall not have been violated if the total of such alternative
25 investments exceeds 15% of the total investment assets of the fund, based
26 on the fund total market value, as a result of market forces acting to
27 increase the value of such alternative investments relative to the rest of the
28 system's investments. However, the board shall not invest or reinvest any
29 moneys of the fund in alternative investments until the total value of such
30 alternative investments is less than 15% of the total investment assets of
31 the fund based on the market value. If the total value of the alternative
32 investments exceeds 15% of the total investment assets of the fund, the
33 board shall not be required to liquidate or sell the system's holdings in any
34 alternative investment held by the system, unless such liquidation or sale
35 would be in the best interest of the members and beneficiaries of the
36 system and is prudent under the standards contained in this section.

37 For purposes of this act, "alternative investment" includes a broad
38 group of investments that are not one of the traditional asset types of
39 public equities, fixed income, cash or real estate. Alternative investments
40 are generally made through limited partnership or similar structures, are
41 not regularly traded on nationally recognized exchanges and thus are
42 relatively illiquid, and exhibit lower correlations with more liquid asset
43 types such as stocks and bonds. Alternative investments generally include,

1 but are not limited to, private equity, private credit, hedge funds,
2 infrastructure, commodities and other investments which have the
3 characteristics described in this paragraph; and

4 (c) except as otherwise provided, the board may invest or reinvest
5 moneys of the fund in real estate investments if the following conditions
6 are satisfied:

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

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

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

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

19 (a) Specific asset allocation standards and objectives;

20 (b) establishment of criteria for evaluating the risk versus the
21 potential return on a particular investment;

22 (c) a requirement that all investment managers submit such manager's
23 due diligence findings on each investment to the board or investment
24 advisory committee for approval or rejection prior to making any
25 alternative investment;

26 (d) a requirement that all investment managers shall immediately
27 report all instances of default on investments to the board and provide the
28 board with recommendations and options, including, but not limited to,
29 curing the default or withdrawal from the investment; and

30 (e) establishment of criteria that would be used as a guideline for
31 determining when no additional add-on investments or reinvestments
32 would be made and when the investment would be liquidated.

33 The board shall review such policies and objectives, make changes
34 considered necessary or desirable and readopt such policies and objectives
35 on an annual basis.

36 (7) The board may enter into contracts with one or more persons
37 whom the board determines to be qualified, whereby the persons undertake
38 to perform the functions specified in subsection (2) to the extent provided
39 in the contract. Performance of functions under contract so entered into
40 shall be paid pursuant to rates fixed by the board subject to provisions of
41 appropriation acts and shall be based on specific contractual fee
42 arrangements. The system shall not pay or reimburse any expenses of
43 persons contracted with pursuant to this subsection, except that after

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

15 (8) (a) In the acquisition or disposition of securities, the board may
16 rely on the written legal opinion of a reputable bond attorney or attorneys,
17 the written opinion of the attorney of the investment counselor or
18 managers, or the written opinion of the attorney general certifying the
19 legality of the securities.

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

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

33 (b) The state treasurer and the board shall collect the principal and
34 interest or other income of investments or the proceeds of sale of securities
35 in the custody of the state treasurer and pay same when so collected into
36 the fund.

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

40 (10) The board shall with the advice of the director of accounts and
41 reports establish the requirements and procedure for reporting any and all
42 activity relating to investment functions provided for in this act in order to
43 prepare a record monthly of the investment income and changes made

1 during the preceding month. The record will reflect a detailed summary of
2 investment, reinvestment, purchase, sale and exchange transactions and
3 such other information as the board may consider advisable to reflect a
4 true accounting of the investment activity of the fund.

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

15 ~~(12) (a) An annual financial compliance audit of the system,~~
16 ~~including any performance audit subjects which are directed to be included~~
17 ~~in such annual audit by the legislative post audit committee, performance~~
18 ~~audits of the system as prescribed under the Kansas governmental~~
19 ~~operations law, and such other audits as are directed by the legislative post~~
20 ~~audit committee under the Kansas legislative post audit act shall be~~
21 ~~conducted. The annual financial compliance audit shall include, but not be~~
22 ~~limited to, a review of alternative investments of the system with any~~
23 ~~estimates of permanent impairments to the value of such alternative~~
24 ~~investments reported by the system pursuant to K.S.A. 74-4907, and~~
25 ~~amendments thereto.~~

26 ~~(b) In accordance with this subsection (12), the annual financial-~~
27 ~~compliance audit may include one or more performance audit subjects as~~
28 ~~directed by the legislative post audit committee. In considering~~
29 ~~performance audit subjects to be included in any financial compliance~~
30 ~~audit conducted pursuant to this subsection (12), the legislative post audit~~
31 ~~committee shall consider recommendations and requests for performance~~
32 ~~audits, relating to the system or the management thereof, by the joint~~
33 ~~committee on pensions, investments and benefits or by any other~~
34 ~~committee or individual member of the legislature. Commencing with the~~
35 ~~financial compliance audit for the fiscal year ending June 30, 1998, the~~
36 ~~legislative post audit committee shall specify if one or more performance~~
37 ~~audit subjects shall be included in the financial compliance audit~~
38 ~~conducted pursuant to this subsection (12), in addition to such other~~
39 ~~subjects as may be directed to be included in the financial compliance~~
40 ~~audit by the legislative post audit committee. Except as otherwise~~
41 ~~determined by the legislative post audit committee pursuant to this~~
42 ~~subsection (12), commencing with the financial compliance audit for the~~
43 ~~fiscal year ending June 30, 1998, one or more performance audit subjects~~

1 specified by the legislative post audit committee shall be included at least
2 once every two fiscal years in a financial compliance audit conducted
3 pursuant to this subsection (12). The legislative post audit committee may
4 direct that one or more performance audit subjects are to be included in a
5 financial compliance audit conducted pursuant to this subsection (12) not
6 more than once during a specific period of three fiscal years, in lieu of
7 once every two fiscal years.

8 (e) ~~The auditor to conduct the financial compliance audit required~~
9 ~~pursuant to this subsection (12) shall be specified in accordance with~~
10 ~~K.S.A. 46-1122, and amendments thereto. If the legislative post audit~~
11 ~~committee specifies under such statute that a firm, as defined by K.S.A.~~
12 ~~46-1112, and amendments thereto, is to perform all or part of the audit~~
13 ~~work of such audit, such firm shall be selected and shall perform such~~
14 ~~audit work as provided in K.S.A. 46-1123, and amendments thereto, and~~
15 ~~K.S.A. 46-1125 through 46-1127, and amendments thereto. The audits~~
16 ~~required pursuant to this subsection (12) shall be conducted in accordance~~
17 ~~with generally accepted governmental auditing standards. The financial-~~
18 ~~compliance audit required pursuant to this subsection (12) shall be~~
19 ~~conducted as soon after the close of the fiscal year as practicable, but shall~~
20 ~~be completed no later than six months after the close of the fiscal year. The~~
21 ~~post auditor shall annually compute the reasonably anticipated cost of~~
22 ~~providing the financial compliance audit pursuant to this subsection (12),~~
23 ~~subject to review and approval by the contract audit committee established~~
24 ~~by K.S.A. 46-1120, and amendments thereto. Upon such approval, the~~
25 ~~system shall reimburse the division of post audit for the amount approved~~
26 ~~by the contract audit committee. The furnishing of the financial-~~
27 ~~compliance audit pursuant to this subsection (12) shall be a transaction~~
28 ~~between the legislative post auditor and the system and shall be settled in~~
29 ~~accordance with the provisions of K.S.A. 75-5516, and amendments~~
30 ~~thereto.~~

31 (d) (b) 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 ~~this subsection (12)~~ *K.S.A. 46-*
37 *1106, and amendments thereto.*

38 (e) (c) 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 Sec. 5. K.S.A. 74-8707 and K.S.A. ~~2012~~ {2013} Supp. 46-1106, 46-
2 1118 and 74-4921 are hereby repealed.

3 Sec. 6. This act shall take effect and be in force from and after its
4 publication in the statute book.