

December 31, 2025

Senator Michael Tipping, Senate Chair
Representative Amy Roeder, House Chair
Members, Joint Standing Committee on Labor
100 State House Station
Augusta, ME 04333-0100

Re: Divestment Report

Dear Sen. Tipping, Rep. Roeder, and Members of the Labor Committee:

I am pleased to submit the enclosed Divestment Report, which is required by 5 M.R.S. §1957.

We look forward to assisting the Committee in its review of this report.

Sincerely,



Dr. Rebecca M. Wyke
Chief Executive Officer

Enclosure



DIVESTMENT REPORT

Public Law 2021, c. 231

January 2026

Prepared by the Maine Public Employees Retirement System

Table of Contents

I.	About MainePERS.....	1
II.	Executive Summary.....	3
III.	Divestment Legislation	5
IV.	Legal and Policy Framework.....	5
V.	Investments at MainePERS	7
VI.	Fossil Fuel Exposures.....	12
VII.	Impacts of Divestment	17
VIII.	Implementation Update.....	20

Appendices

- A. Maine Constitution, Article IX, Section 18
- B. Divestment Legislation, Public Law 2021, c. 231
- C. Letter from Attorney General Aaron Frey to the Joint Standing Committee on Labor and Housing, April 9, 2021
- D. Letter from Assistant Attorney General Andrew Black to MainePERS, December 8, 2022
- E. MainePERS Governance Manual, 2.1 Investment Policy Statement in effect as of the year ended June 30, 2025
- F. Excerpt from MainePERS Investment General Practice 21.0 Engagement-Proxy Voting Implementation Guidelines on Shareholder Proposals

I. About MainePERS

Our Employers

Since 1942, the Maine Public Employees Retirement System (MainePERS) has partnered with public employers to help their employees prepare for retirement. Our employers include the State of Maine and 6 of its component units, as well as 234 local school districts and 335 other participating local districts across the state.

Our Members

The System has over 170,000 individual members, which include active and retired teachers; state, county, and municipal employees; legislators; judges; and others. Of these about a third are active in MainePERS covered employment and a third are retirees or their beneficiaries, currently receiving aggregate benefits in excess of \$110 million per month. The remaining members are inactive, having terminated their MainePERS covered employment and are either eligible for a future benefit or a refund of their contributions.

Our Trustees

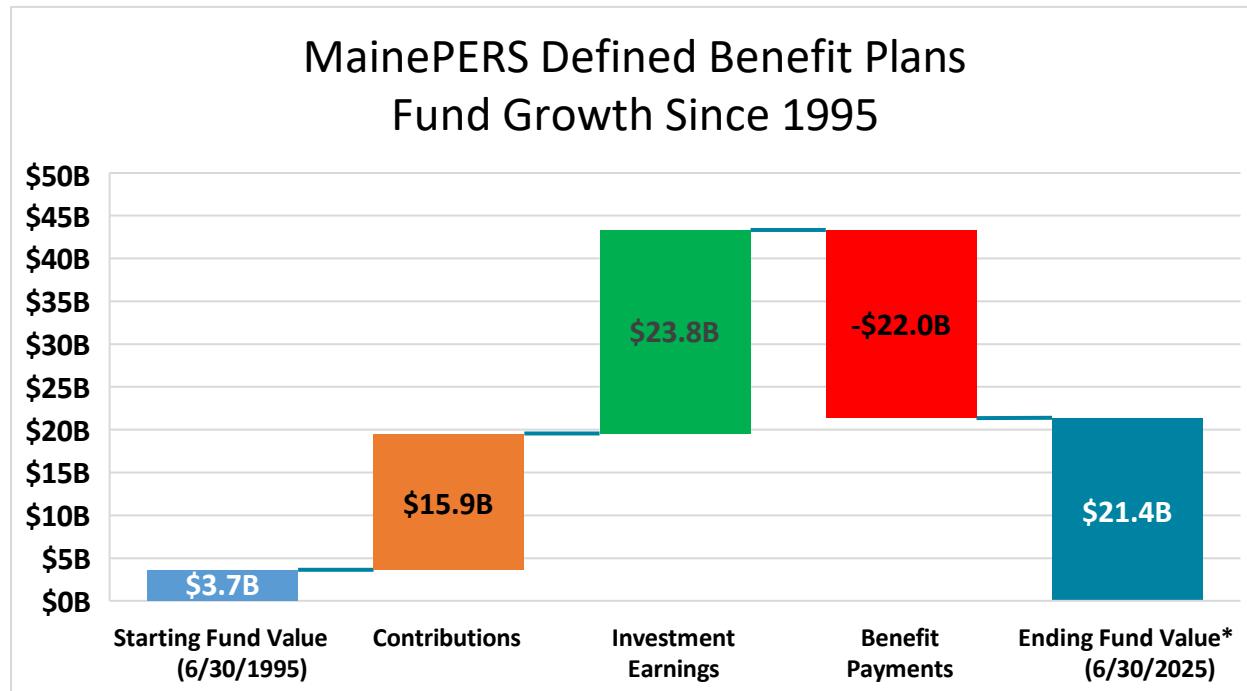
Responsibility for the operation of MainePERS rests with the System's Board of Trustees. State law specifies the composition of the eight-member Board, five of whom are MainePERS' members. Two trustees are active members, one of whom is elected by the Maine Education Association and one of whom is elected by the Maine State Employees Association. One trustee is an active or retired member of the Participating Local District (PLD) Consolidated Plan appointed by the governing body of the Maine Municipal Association. Four other trustees are appointed by the Governor. Of these, one must be a retiree selected by the Governor from a list of nominees submitted by the Maine Retired Teachers Association and one must be a retiree selected from a list of nominees submitted by State and/or PLD retirees. The remaining two appointees are direct gubernatorial appointments, both of whom must be qualified through training or experience in investments, accounting, banking, insurance, or as actuaries. The eighth trustee is the State Treasurer, who serves ex-officio.

Our Defined Benefit Plans

MainePERS administers four separate defined benefit plans: the State Employee and Teacher Plan, the Judicial Plan, the Legislative Plan, and the PLD Consolidated Plan. The System also administers retirement related benefits, including disability retirement, group life insurance, survivor services, and a tax-deferred retirement savings program known as MaineSTART.

The defined benefit plans are the prevailing programs administered by MainePERS. These plans provide a fixed, pre-established benefit for employees at retirement based on salary and years of service. The basic funding equation for defined benefit plans provides that, over the long term, contributions plus investment earnings must be equal to benefit obligations. While investment market performance affects plan funding levels and funding requirements, it does not affect

contractual benefit obligations owed to employees. The below chart demonstrates the components of this equation and the role of investment earnings in meeting these obligations over the last 30 years.



**Includes total investable and bank account assets.*

As noted in the chart, employer and employee contributions are not sufficient to meet the benefit obligations. The System is heavily reliant on earnings from investments. To illustrate this point, in fiscal year 2025 benefit payments for the defined benefit plans exceeded contributions by \$453 million. Contributions from employers and employees totaled \$895 million, while benefit payments to retirees and beneficiaries totaled \$1.35 billion.

Additionally, the aggregate funded status of the plans is currently 88% with an unfunded liability of \$2.3 billion, meaning the assets in the benefit trust fund are not sufficient to cover the full pension liability. On three occasions Maine voters have approved constitutional amendments to protect the integrity of the benefit trust fund. In 1962, by a 4 to 1 margin, voters ratified an amendment to enshrine the “exclusive benefit rule” in the Constitution. In 1991, voters ratified an amendment to protect the fund’s assets from diversion or deappropriation by the Legislature. In 1995, voters again ratified an amendment to further protect the fund by addressing unfunded liabilities and ensuring sound actuarial practices. Although not yet fully funded, the System’s funded status has significantly improved since passage of the 1995 amendment.

II. Executive Summary

Article IX, Section 18, of the Maine Constitution (Appendix A) establishes a fiduciary duty to hold, invest, and disburse MainePERS' pension trust funds solely in the best financial interest of the members as pension recipients. In fulfilling its fiduciary obligations, the Board of Trustees owes MainePERS' members, retirees and beneficiaries a duty of loyalty – to follow the exclusive benefit rule established in the Maine Constitution by acting solely in the interests of the members, retirees, and beneficiaries as recipients of retirement or related benefits. This duty includes not using the Board's position of trust for personal gain or to advance other causes. The Board also owes a duty of prudence. This requires the exercise of reasonable care, skill, and caution. In making investment decisions, this requires considering the portfolio as a whole, the role each investment plays in the portfolio, and diversification. Additionally, the Board may incur only costs that are reasonable in relation to the trust property, the purposes of the trust and the skills of the Board.

Public Law 2021, c. 231, An Act to Require the State to Divest Itself of Assets Invested in the Fossil Fuel Industry (Appendix B), became effective on October 18, 2021. This divestment statute (5 M.R.S. § 1957) directs the Board of Trustees of the Maine Public Employees Retirement System to refrain from future investment in fossil fuel companies and divest of any existing holdings by January 1, 2026, subject to the limitation that these actions be achieved "in accordance with sound investment criteria and consistent with fiduciary obligations." Additionally, the divestment statute requires MainePERS to report annually regarding the progress of divestment. This report includes an update on the status of MainePERS' fossil fuel investments as of June 30, 2025.

Following the enactment of Public Law 2021, c. 231, MainePERS expended considerable resources and the better part of a year working diligently to implement the law by exploring the financial implications of alternative strategies to avoid fossil fuel investments and the legal issues guiding the fiduciary duty of the Board of Trustees in implementing the new law. Prior Divestment Reports detail these efforts and may be found on our website at mainepers.org

During this time, MainePERS sought and received advice from the Office of the Attorney General on how to interpret certain provisions of the fossil fuel divestment statute. The Office of the Attorney General issued a letter dated December 8, 2022, (Appendix D). The letter states, in part:

The subject statutes do not affect the Board's exercise of its fiduciary duties. And they do not require the Board to either cease investing in or divest such holdings unless sound investment criteria and fiduciary obligations require such actions. Both statutes specifically condition their directives on "accordance with sound investment criteria" and "consisten[cy] with fiduciary obligations." As such, they reiterate rather than modify the Board's fiduciary obligations as a trustee – both constitutional and statutory.

The letter also states:

The Board's focus should remain on adhering to sound investment criteria and fulfilling its fiduciary obligations. However, if the Board encounters a situation where the application of sound investment criteria and its fiduciary obligations neither favors nor disfavors either of two potential investment options, the Board shall pursue the option that more closely complies with the directives of [the divestment statutes].

MainePERS projects that over the course of the current decade our exposure to fossil fuels will drop by more than half, from 8.1% in 2020 to 3.9% by 2028. MainePERS' current exposure to fossil fuels is 5.4%, down 2.7% since 2020. The exposure is diminishing because MainePERS has made no commitments to private market investments with a fossil-fuel focus since 2017 and expects the capital invested in these strategies will be returned by the end of the decade. At this time, MainePERS does not believe further active divestment from fossil fuels would be in the best financial interests of members as benefit recipients, as further action would conflict with both the Trustees' duty of loyalty and its duty of prudence to our members.

It is important to note the exposure to fossil fuels as reported here is based on values as of June 30, 2025 and reflects the definition of a fossil fuel company as outlined in 5 M.R.S. § 1957. This definition is broad and in the public markets includes financial companies such as Berkshire Hathaway, for which fossil fuel activities are a small part of overall operations, and utility companies such as Nextera and Southern Company that are actively participating in the energy transition. In addition, the fossil fuel exposures reported here include private market investments where MainePERS provides the capital required to transition to lower-emissions business practices, such as shifting the production of electricity from coal to natural gas. Companies and investments such as these account for a meaningful portion of the System's overall exposure to fossil fuel assets.

While MainePERS' exposure to fossil fuels is declining, its commitments to investments related to the energy transition are ramping up. In the private markets, MainePERS' investment approach is focused on selecting managers best able to assist MainePERS in meeting its obligations to members and this approach also includes an analysis of each manager's approach to responsible investing. MainePERS has committed over \$1.6 billion to funds raised by managers actively seeking to earn returns while incorporating sustainability and climate-related considerations into their investment approach. Additionally, MainePERS projects that over the next five years it will commit a further \$1 billion to similar funds.

Additionally, consistent with the advice provided by the Office of the Attorney General, MainePERS has revised its proxy voting practices to ensure that the System will vote in favor of

proposals aligned with the goal of combatting climate change, and against proposals promoting policies counter to that goal, in cases where the proposal is not expected to have a negative impact on shareholder financial value (Appendix F).

III. DIVESTMENT LEGISLATION

The 130th Legislature enacted Public Law 2021, c. 231, An Act to Require the State to Divest Itself of Assets Invested in the Fossil Fuel Industry, which became effective in October of 2021 (Appendix B). The divestment statute requires MainePERS to refrain from certain types of investments and to divest of any existing holdings of these investments to the extent doing so would be “in accordance with sound investment criteria and consistent with fiduciary obligations.” The statute includes an exception for de minimis exposure and sets a January 1, 2026 target for completing divestment.

The investments covered by the divestment statute are “stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.” PL 2021, c. 231, § 3. “Fossil fuel company” is defined as any company that:

- Is among the 200 publicly traded companies with the largest fossil fuel reserves;
- Is among the 30 largest public company owners in the world of coal-fired power plants;
- Has as its core business the construction or operation of fossil fuel infrastructure (e.g., wells, pipelines, refineries, power plants, storage tanks, export terminals);
- Has as its core business the exploration, extraction, refining, processing or distribution of fossil fuels; or
- Receives more than 50% of its gross revenues from companies meeting the above definitions.

IV. LEGAL AND POLICY FRAMEWORK

Constitutional, Statutory, and Regulatory Context

The Maine Constitution protects the retirement benefit of MainePERS’ members by establishing a fiduciary duty to hold, invest, and disburse pension trust funds solely in the best financial interest of members as pension recipients. Article IX, Section 18, of the Constitution (Appendix A) states:

All of the assets, and proceeds or income therefrom, of the Maine State Retirement System or any successor system and all contributions and payments made to the system to provide for retirement and related benefits shall be held, invested or disbursed as in trust for the exclusive purpose of providing for such benefits and shall not be encumbered for, or diverted to, other purposes.

This “exclusive benefit rule” is also reflected in the Maine Uniform Trust Code, which applies to the MainePERS Board of Trustees and states, “A trustee shall administer the trust solely in the

interests of the beneficiaries.” *18-B M.R.S. § 802(1); see also 5 M.R.S. § 17153(3)*. The exclusive benefit rule is further reflected in the federal statutes and regulations that qualify MainePERS’ retirement plans for federal tax deferment. Under federal law, qualified retirement fund assets must not be “used for, or diverted to purposes other than the exclusive benefit of [the] employees or their beneficiaries.” *26 U.S.C. § 401(a)(2)*. The “phrase ‘purposes other than for the exclusive benefit of [the] employees or their beneficiaries’ includes all objects or aims not solely designed for the proper satisfaction of all liabilities to employees or their beneficiaries covered by the trust.” *26 C.F.R. § 1.401-2(a)(3)*.

Additionally, the MainePERS Board of Trustees must comply with the Maine Uniform Prudent Investor Act, which requires the Board to “invest and manage trust assets, as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust.” *18-B M.R.S. § 902(1)*. The general provisions of Title 5, Part 20, Maine Public Employees Retirement System, lays out these purposes, terms, distribution requirements and other circumstances of the trust administered by the Board, and the findings declare “The Legislature finds that the State owes a great debt to its retired employees for their years of faithful and productive service. Part of that debt is repaid by the benefits provided to retirees...” through the retirement programs administered by MainePERS. *5 M.R.S. § 17151*.

Fiduciary Duty of Trustees

As noted above, the MainePERS Board of Trustees owes fiduciary duties to MainePERS’ members, retirees, and beneficiaries.

First, the Board owes a duty of loyalty – to follow the exclusive benefit rule established in the Maine Constitution by acting solely in the interests of the members, retirees, and beneficiaries as recipients of retirement or related benefits. This duty includes not using the Board’s position of trust for personal gain or to advance other causes.

Second, the Board owes a duty of prudence. This requires the exercise of reasonable care, skill, and caution. In making investment decisions, this requires considering the portfolio as a whole, the role each investment plays in the portfolio, and diversification. *See 18-B M.R.S. §§ 804, 902, 903*. Additionally, the Board “may incur only costs that are reasonable in relation to the trust property, the purposes of the trust and the skills of the” Board. *18-B M.R.S. § 805*.

The fossil fuel divestment statute does not alter these fiduciary duties. Analyzing this and the for-profit prison divestment statute, the Attorney General’s Office explains:

The subject statutes do not affect the Board’s exercise of its fiduciary duties. And they do not require the Board to either cease investing in or divest such holdings unless sound investment criteria and fiduciary obligations require such actions. Both statutes specifically condition their directives on “accordance with sound investment criteria” and “consisten[cy] with fiduciary obligations.” As such, they reiterate rather than modify the Board’s fiduciary obligations as a trustee – both constitutional and statutory.

The Attorney General's Office further explains:

The Board's focus should remain on adhering to sound investment criteria and fulfilling its fiduciary obligations. However, if the Board encounters a situation where the application of sound investment criteria and its fiduciary obligations neither favors nor disfavors either of two potential investment options, the Board shall pursue the option that more closely complies with the directives of [the divestment statutes].

(Appendix D). This analysis echoes that provided by the Attorney General to the Joint Standing Committee on Labor and Housing when the bills that became the divestment statutes were under consideration. (Appendix C). At that time, the Attorney General also alerted the Legislature that fiduciary duties would render the bill's divestment requirement "essentially hollow." "Unless a failure to divest an asset would be a breach of the Trustees' existing fiduciary duties (i.e., not in best interest of the members), any attempt to enforce the statutory requirement to divest would be meritless." (Appendix C).

V. INVESTMENTS AT MAINEPERS

The Board's Investment Policy Statement (Appendix E) directs staff in the investment of trust assets, by spelling out both high-level goals and specific implementation guidelines. Note that while this Policy was modified by the Board in November 2025, this section and the rest of this report refer to the Policy in effect as of fiscal year end as of June 30, 2025. As noted at the start of the Policy, all investments are made consistent with the need to balance two competing objectives:

- Generating investment returns (to ensure growth of the trust funds); and
- Minimizing investment risks (loss of capital and cash flow shortfalls);

while maintaining the volatility of contribution rates and the plan's funded status at acceptable levels. As the Policy notes, these two goals are in opposition – generating returns adequate to meet benefit obligations requires constructing a portfolio that exposes trust assets to investment risk.

The Policy defines a strategic asset allocation that specifies asset classes and target portfolio weights. These choices are the primary determinants of the level of investment risk contained in the System's portfolio. The below table groups asset classes and policy weights into three general categories – Public Markets, Risk Diversifiers, and Private Markets, and shows the allocation of the System's \$21.4 billion investment portfolio as of June 30, 2025.

Table 1 – FY25 MainePERS Investment Portfolio

Asset	Policy Weight	Value [\$M]	Actual Weight
Domestic Equity	19.2%	\$4,129.0	19.3%
International Equity	<u>10.8%</u>	<u>\$2,249.7</u>	<u>10.5%</u>
Total Public Equity	30.0%	\$6,378.7	29.9%
Traditional Credit	5.0%	\$1,047.6	4.9%
US Gov. Securities	<u>10.0%</u>	<u>\$2,083.6</u>	<u>9.8%</u>
Total Public Markets	45.0%	\$9,509.8	44.5%
Risk Diversifiers	7.5%	\$1,104.2	5.2%
Alternative Credit	10.0%	\$1,597.1	7.5%
Infrastructure	10.0%	\$2,383.3	11.2%
Natural Resources	5.0%	\$1,026.2	4.8%
Private Equity	12.5%	\$3,747.6	17.5%
Real Estate	<u>10.0%</u>	<u>\$1,997.8</u>	<u>9.4%</u>
Total Private Markets	47.5%	\$10,752.0	50.3%
Total Fund Value	100.0%	\$21,366.0	100.0%

Notes: Domestic and International Equity policy proportions are based on floating MSCI ACWI weights. Totals shown in tables may not sum due to rounding.

Public Market Investments

Public Market investments include Public Equities (Domestic and International), Traditional Credit, and US Government Securities. Each of these play a different role in the portfolio. Public Equities are “growth” assets that involve ownership of shares in a business. These are riskier investments and expected to produce commensurately higher returns, substantially through price appreciation. Their values are volatile and annual fluctuations in excess of 20% are to be expected.

Traditional Credit assets involve the lending of capital in return for contractual interest payments and return of capital. While these investments are exposed to the risk that borrowers will default, they are less risky than equity investments and are expected to earn lower returns. US Government Securities are the least risky of all asset classes and are viewed as having no default risk. This asset class generally benefits from a “flight to safety” when investors exit other asset classes due to a perceived increase in the risks of those asset classes. As such, this asset class is expected to serve MainePERS as a source of liquidity, if needed, in extreme market conditions.

Investment implementation within these asset classes is guided by three foundational principles:

- **Efficiency:** Public markets are generally efficient, with prices fairly reflecting investment risks.
- **Diversification:** Broad diversification allows exposure to the full spectrum of return sources and reduces exposure to uncompensated risks.
- **Costs:** Investment costs matter, and as a long term investor small cost savings will compound meaningfully over time. For example, the annual return difference between \$1 billion invested at 10% versus 9.9% is \$1 million. However, over 10 years a portfolio invested at 10% will be worth \$23 million more than one invested at 9.9%.

Based on these views, MainePERS employs a passive “buy the market” approach for its investments in public markets where the likelihood of generating outperformance is low. This allows the System to earn market returns at very low cost while maintaining a very high level of diversification and ensuring exposure to a broad spectrum of return sources.

A substantial body of evidence provides strong support for MainePERS’ low cost passive index-based investment approach for public markets. For example, S&P Dow Jones Indices measures the performance of active managers relative to their benchmarks on an annual basis. The results of this analysis are contained in their publicly available SPIVA (S&P Indices Versus Active) report. The most recent SPIVA study as of June 30, 2025, shows that nearly 94% of actively managed domestic (US) funds underperformed the S&P 1500 Composite over the trailing 20 years. Results are similar outside the US, where they report that over 90% of actively managed funds underperform a broad market index (S&P World Ex-US) over a 15 year period. Further support for MainePERS’ approach is provided by SPIVA’s Persistence Scorecard. Specifically, the year-end 2024 Scorecard reports that out of the 512 Domestic (US) Equity Funds ranked in the top quartile of performers as of December 2020 (based on prior 5-year performance), only 5.3% remained in the top quartile as of December 2021, and that 0% of the original 512 funds placed in the top quartile as of year ends 2022, 2023, or 2024. These results illustrate the difficulty investors have in identifying managers likely to add value in this asset class.

Risk Diversifiers

The System’s strategic asset allocation specifies a target weight of 7.5% for the Risk Diversifiers asset class. Investments in this asset class are made via private funds employing active strategies to invest in assets such as public stocks, bonds, and commodities. These strategies are expected to have little correlation to public markets (i.e., are just as likely to produce gains when public markets are down as they are to produce gains when public markets rise) and are intended to provide diversification away from growth assets. The principles guiding investment implementation within the Risk Diversifiers are:

- **Diversification:** Diversification across strategy types and managers
- **Complexity:** MainePERS devotes appropriate resources (staff & consultants) to

develop the ability to understand this asset class and to identify and invest with top managers in order to meet the goals of the asset class

These strategies are highly dependent upon manager skill and require close monitoring on the part of MainePERS investment staff.

Private Market Investments

A significant portion of the System's portfolio is invested in Private Market assets, encompassing the Infrastructure, Private Equity, Alternative Credit, Natural Resources, and Real Estate asset classes. While these asset classes play different roles in the overall portfolio, the below set of common core principles guide the System's investments in private market assets:

- **Diversification**
 - Across asset classes to provide exposure to a broad spectrum of return sources,
 - Across managers and strategies within asset classes to avoid undue concentration, and
 - Over time to avoid concentration of investments in any given year;
- **Efficiency:** Private markets are generally inefficient, and MainePERS is able to identify and invest with managers that are able to source and invest in opportunities that exploit inefficiencies;
- **Illiquidity Premium:** A return premium exists for illiquid assets, and as a patient long-term investor MainePERS is able to earn excess returns by investing in illiquid assets as compared to public markets; and
- **Complexity:** MainePERS devotes appropriate resources (staff & consultants) to develop the ability to understand this asset class and to identify and invest with top managers in order to meet the goals of the asset class.

MainePERS invests in private market assets by committing capital as a limited partner to long-term private investment funds. The general partners (GP) of these funds serve as fiduciaries to MainePERS and have wide discretion in the sourcing, managing, creating value, and timing of the acquisition and disposition of investments. Within private markets, MainePERS typically chooses to invest with managers pursuing a generalist investment approach, which allows the GP to direct capital into industries and sectors judged to be most attractive based on current market conditions and the long-term opportunity set. Investment outcomes within private markets are largely driven by GP skill with respect to choosing areas in which to invest and actively managing acquired assets.

The MainePERS' Investment Team and consultants work under the guidance of the Board to identify investment managers with proven expertise and alignment to the objectives of the

Investment Policy. Investments are made following completion of extensive due diligence regarding both investment acumen and operational capabilities of a manager, and ongoing monitoring is conducted during the life of the investment.

While this investment approach is focused on selecting managers best able to assist MainePERS in meeting obligations to members, it also includes an analysis of each manager's approach to responsible investing. As discussed in the System's 2026 ESG report, 62 of the System's investment managers (out of 89 total) are signatories to the Principles for Responsible Investing (PRI), a UN-supported effort that works with investors and asset managers around the world. PRI signatories commit to incorporating ESG issues into investment analysis and asset ownership and to appropriate levels of ESG-related disclosures. These 62 signatory managers have oversight responsibility for 88% of the System's investments.

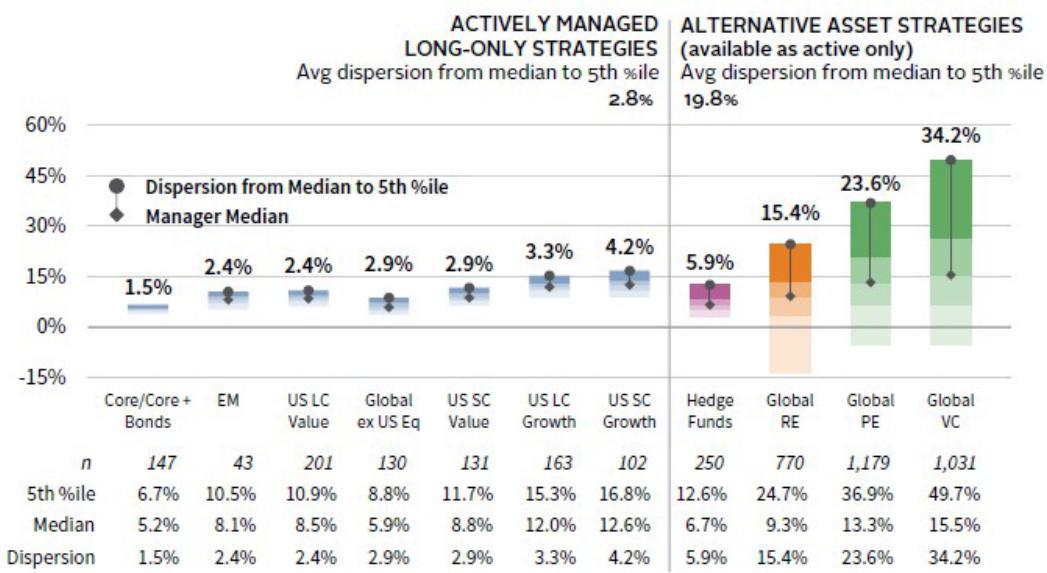
Data Supporting Private Market Investment Methodology

MainePERS "active" private market investment approach is also strongly supported by data. In contrast to public markets, where evidence supports a low cost, passive index-based approach, investing in private market assets is very different for several key reasons.

First, there is no such thing as a passive approach to private market investing. Unlike public markets, private market investors cannot "buy the market." In addition, the dispersion of returns for alternative asset managers is much wider than for public markets managers. For example, a recent study by Cambridge Associates documents that differences in returns between a median manager and one in the 5th percentile is 1.5% for core bond managers, 2-4% for public equity managers, and nearly 20% for strategies involving alternative assets, as shown below.

Average Annual Manager Returns by Asset Class

January 1, 2006 – December 31, 2020



Source: Cambridge Associates LLC.

This means that the sourcing, underwriting, due diligence, and selection of alternative asset managers is the primary key to achieving attractive long-term rates of return in those asset classes. This is a labor-intensive process that requires a skilled and dedicated team. MainePERS has deliberately focused the Investment Team's efforts on these alternative asset classes, where there is the best risk-return potential from active manager selection.

VI. FOSSIL FUEL EXPOSURES

In this section, we present and discuss the System's exposure to fossil fuel investments as defined by the divestment statute as of June 30, 2025.

A. Fossil Fuel Exposure: Total Fund

As shown below, the System's overall exposure to fossil fuel assets continued to decrease as projected, dropping to 5.4% of assets from 6.0% at the start of the year.

Table 2 – MainePERS Fossil Fuel Exposures

Asset	Asset Value [\$M]	Estimated FF [\$M]	FF as % of Asset Class	FF as % of Total Fund
Public Markets				
2022	\$6,914.6	\$445.5	6.4%	2.5%
2023	\$7,202.5	\$428.4	5.9%	2.3%
2024	\$8,284.9	\$479.3	5.8%	2.4%
2025	\$9,509.8	\$520.1	5.5%	2.4%
Risk Diversifiers				
2022	\$1,292.3	\$0.0	0.0%	0.0%
2023	\$1,220.9	\$0.0	0.0%	0.0%
2024	\$1,094.7	\$0.0	0.0%	0.0%
2025	\$1,104.2	\$24.6	2.2%	0.1%
Private Markets				
2022	\$9,817.3	\$962.3	9.8%	5.3%
2023	\$10,413.3	\$786.8	7.6%	4.2%
2024	\$10,543.7	\$725.0	6.9%	3.6%
2025	\$10,752.0	\$603.3	5.6%	2.8%
Total				
2022	\$18,024.2	\$1,407.8		7.8%
2023	\$18,836.6	\$1,215.2		6.5%
2024	\$19,923.4	\$1,204.4		6.0%
2025	\$21,366.0	\$1,147.9		5.4%

Note: Totals shown in tables may not sum due to rounding. For Risk Diversifiers, net FF exposure is presented. Gross figures are \$55.7 million long and \$31.1 million short exposure.

While the overall investment portfolio grew by over \$1.4 billion over the past fiscal year, fossil fuel assets decreased to \$1,148 million from \$1,204 million in 2024, driven by a decrease in private market fossil fuel exposures.

B. Fossil Fuel Exposure: Public Market Assets

Table 3 provides additional details on the System's public market investments. As noted earlier, the System passively invests in broad market indexes to ensure exposure to a wide spectrum of return sources. As a result, the System's exposure to individual sectors and industries (including fossil fuel industries) reflects the composition of the broad market. For example, the System's exposure to fossil fuel assets within Public Equities (6.9% of holdings) is reflective of the global equity market, rather than any decision to invest in or avoid particular sectors.

Over the last year, the *proportion* of fossil fuel holdings within the System's Public Market investments decreased to 5.5% of assets, from 5.8% in the prior year. However, the *dollar value* of fossil fuel holdings increased as the size of the System's Public Markets portfolio grew by over \$1 billion during the year, from \$8.3 billion to over \$9.5 billion, so that the smaller proportion (5.5%) was measured relative to a significantly larger total.

Table 3 – MainePERS Fossil Fuel Exposures – Public Markets

Asset	Asset Value [\$M]	Fossil Fuel Exposures		
		Total FF Value [\$M]	% of Asset Class	% of Fund
Total Public Equity				
2022	\$4,418.1	\$404.5	9.2%	2.2%
2023	\$4,822.1	\$376.0	7.8%	2.0%
2024	\$5,355.6	\$409.6	7.6%	2.1%
2025	\$6,378.7	\$440.1	6.9%	2.1%
Traditional Credit				
2022	\$1,029.3	\$41.0	4.0%	0.2%
2023	\$782.2	\$52.3	6.7%	0.3%
2024	\$952.2	\$69.8	7.3%	0.4%
2025	\$1,047.6	\$80.0	7.6%	0.4%
US Govt. Securities				
2022	\$1,467.2	\$0.0	0.0%	0.0%
2023	\$1,598.2	\$0.0	0.0%	0.0%
2024	\$1,977.1	\$0.0	0.0%	0.0%
2025	\$2,083.6	\$0.0	0.0%	0.0%
Total Public Markets				
2022	\$6,914.6	\$445.5	6.4%	2.5%
2023	\$7,202.5	\$428.4	5.9%	2.3%
2024	\$8,284.9	\$479.3	5.8%	2.4%
2025	\$9,509.8	\$520.1	5.5%	2.4%

Note: Totals shown in tables may not sum due to rounding.

Public Equities contain the majority of the System's exposure to fossil fuel assets within the Public Market allocation. Note that while fossil fuel assets decreased as a proportion of Public Equity holdings (from 7.6% to 6.9%), the growth in the System's equity portfolio (to nearly \$6.4 billion) led to an overall increase in holdings of fossil fuel assets.

The System's \$520 million in Public Market fossil fuel assets are diversified globally and by asset class, as well as by industry, with holdings spanning three distinct sectors: (Energy, Utilities, and Financial). The System's largest exposures within each of these sectors are discussed below.

Table 4 – MainePERS Fossil Fuel Exposures – Public Markets Detail [\$M]

Fossil Fuel Asset Sector	US Equity	International Equity	Traditional Credit	Total Public Markets
Energy Sector	\$124.1	\$100.9	\$33.6	\$258.6
Utilities Sector	\$90.0	\$64.9	\$45.0	\$199.9
Financial (Berkshire Hath.)	\$60.1	\$0.0	\$1.4	\$61.6
Total	\$274.2	\$165.8	\$80.0	\$520.1

Fossil Fuel Exposure: Energy Sector

This sector contains companies involved in oil and gas exploration and production, refining, storage and transport, as well as companies providing related equipment and services. The System's largest holding in this sector, at \$32 million, is Exxon Mobil Corporation.

Fossil Fuel Exposure: Utilities Sector

This sector encompasses independent power producers, gas utilities, and electric utilities. The System's largest investment in this sector, at \$11 million, is Nextera Energy. While classified as a fossil fuel asset due to its ownership of coal-powered generating facilities, Nextera is currently the US's largest generator of wind and sun-based renewable energy. The firm has committed to being net zero by 2045, at which point it will generate only carbon-free energy from wind, solar, nuclear, hydrogen and other renewable sources. Like many utilities, Nextera's ownership of electric transmission and distribution assets positions the company to benefit from the ongoing energy transition.

Fossil Fuel Exposure: Financial Sector

Berkshire Hathaway is the only financial sector company classified as a fossil fuel investment, and at \$62 million is the System's largest single fossil fuel exposure. Berkshire Hathaway is a conglomerate well known for its leadership by Warren Buffet and its ownership of brands such as Geico, Benjamin Moore, Duracell, and others. The firm meets the definition of a fossil fuel company under the divestment statute due to coal-fired power plants owned by its subsidiary Berkshire Hathaway Energy (BHE). This subsidiary contributes approximately 7% of the parent company's profits and revenues, and coal generation assets account for a small proportion (4%) of BHE's net plant, property, and equipment. BHE has invested over \$35 billion in wind, solar, and

geothermal energy projects, and non-carbon sources account for a majority of the company's generating capacity. In addition, BHE has also ceased coal operations at 18 generation units and plans to cease the coal generations completely by 2049.

C. Fossil Fuel Exposure: Risk Diversifiers

As noted above, Risk Diversifier investments employ active strategies in assets such as public stocks, bonds, and commodities. These strategies involve both long and short positions, and hold periods ranging from days to over a year in duration. As of June 30, 2025, approximately half of the managers within the Risk Diversifiers allocation contained exposure to fossil fuel assets, and the net exposure totaled 0.1% of Fund assets.

D. Fossil Fuel Exposure: Private Market Assets

The majority of the System's holdings of fossil fuel assets is contained in the Private Market allocation. Table 5 provides details on asset values and fossil fuel exposures within the System's \$10.75 billion Private Market portfolio. Total fossil fuel exposure continued on a downward trend, decreasing by over \$120 million to \$603.3 million during 2025. Fossil fuel exposure represents 5.6% of the System's Private Market investments, and exposure is concentrated in the Infrastructure and Private Equity asset classes.

The downward trend in fossil fuel exposure within these asset classes is expected to continue for two reasons. First, MainePERS made its last private market commitments to funds with a fossil fuel focus in 2017, and the capital invested in these strategies is being returned as those investments wind down. In addition, as the universe of potential infrastructure investments broadens to include more opportunities related to the energy transition, MainePERS' generalist managers are increasingly finding these types of investments more attractive relative to fossil fuel investments. The impact of these trends can be seen in the composition of the System's Private Market portfolio, where nearly 74% (\$445 million) of the System's \$603 million in fossil fuel exposure is held in funds committed to in 2017 or earlier.

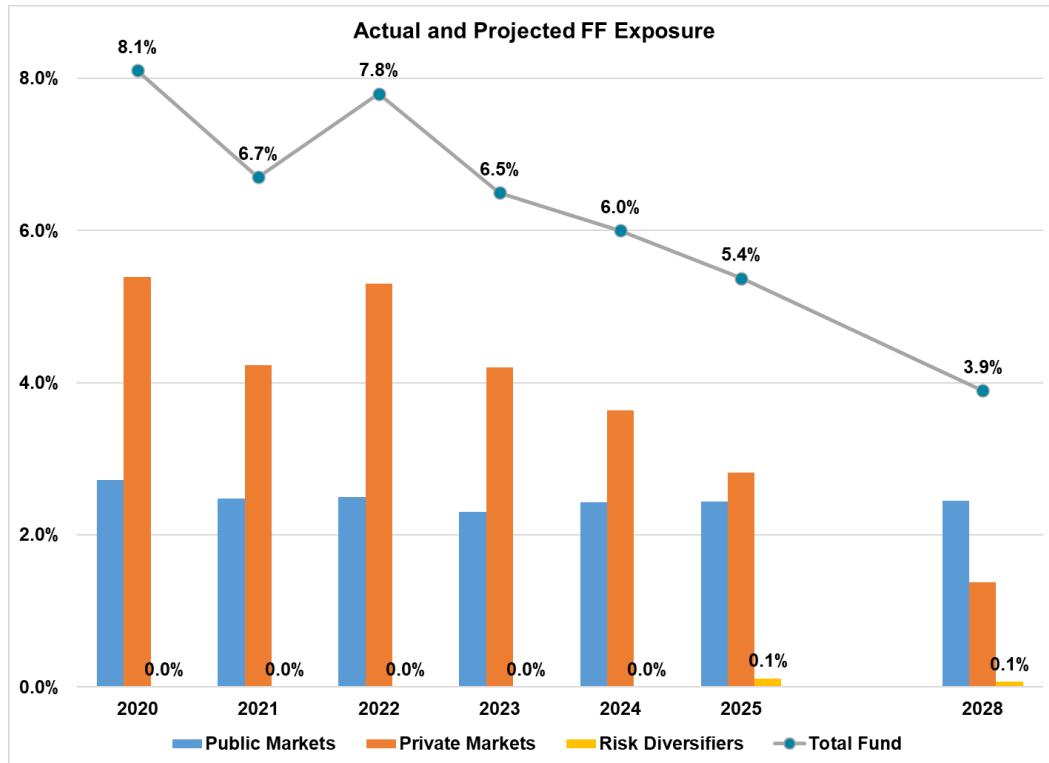
Table 5 – MainePERS Fossil Fuel Exposures – Private Markets

Asset	Asset Value [\$M]	FF Holdings [\$M]	FF % of Asset Class	FF % of Total Fund
Infrastructure				
2022	\$2,017.3	\$735.5	36.5%	4.1%
2023	\$2,305.7	\$565.4	24.5%	3.0%
2024	\$2,424.2	\$533.6	22.0%	2.7%
2025	\$2,383.3	\$436.3	18.3%	2.0%
Private Equity				
2022	\$3,793.5	\$197.3	5.2%	1.1%
2023	\$3,691.9	\$159.9	4.3%	0.8%
2024	\$3,673.7	\$152.8	4.2%	0.8%
2025	\$3,747.6	\$121.0	3.2%	0.6%
Alternative Credit				
2022	\$1,219.0	\$22.3	1.8%	0.1%
2023	\$1,538.7	\$57.3	3.7%	0.3%
2024	\$1,481.3	\$34.4	2.3%	0.2%
2025	\$1,597.1	\$29.7	1.9%	0.1%
Natural Resources				
2022	\$902.9	\$7.2	0.8%	0.0%
2023	\$982.9	\$4.3	0.4%	0.0%
2024	\$1,014.0	\$4.2	0.4%	0.0%
2025	\$1,026.2	\$16.2	1.6%	0.1%
Real Estate				
2022	\$1,884.6	\$0.0	0.0%	0.0%
2023	\$1,894.1	\$0.0	0.0%	0.0%
2024	\$1,950.5	\$0.0	0.0%	0.0%
2025	\$1,997.8	\$0.0	0.0%	0.0%
Total Private Markets				
2022	\$9,817.3	\$962.3	9.8%	5.3%
2023	\$10,413.3	\$786.8	7.6%	4.2%
2024	\$10,543.7	\$725.0	6.9%	3.6%
2025	\$10,752.0	\$603.3	5.6%	2.8%

Note: Totals shown in tables may not sum due to rounding.

E. Fossil Fuel Exposure: Looking Forward

As noted above, the System last committed capital to fossil fuel-focused funds in 2017, and its generalist managers have increasingly invested in the energy transition. Taken together, these factors have put the System on a path to reduce its exposure to fossil fuel investments by half during this decade, to 3.9% of total assets. The below chart is based on projections for fossil fuel intensity within each asset class.



As illustrated earlier, the System's current approach to investing within private markets has resulted in commitments exceeding \$1.6 billion to funds raised by managers actively seeking to earn returns while incorporating sustainability and climate-related considerations into their investment approach. MainePERS expects that following its current investment approach will result in an additional \$1 billion in commitments to similar funds over the next five years.

VII. IMPACTS OF DIVESTMENT

MainePERS' holdings of fossil fuel investments are widespread, with a majority of asset classes containing at least some fossil fuel exposure. Importantly, these exposures are not intentional, but rather arise as a result of investment decisions made in order to best balance the System's goals of generating returns while minimizing investment risks. Achieving and maintaining a completely fossil fuel-free portfolio in the near term would require both disposing of significant existing investments as well as making undesirable fundamental changes to MainePERS' investment approach, as discussed below.

A. Initial One-time Costs Associated with Divestment

Public Market Assets

Fossil fuel exposures in the Public Market portion of the portfolio are shown below.

Table 6 – MainePERS Fossil Fuel Exposures Within Public Markets

Asset	Asset Value [\$M]	FF Holdings [\$M]	Total # Securities	# FF Securities
Russell 1000	\$3,955.3	\$272.1	1,022	131
Russell 2000	\$173.7	\$2.2	2,117	78
ACWI ex US	\$2,249.7	\$165.8	2,080	200
Traditional Credit	\$1,047.6	\$80.0	15,649	1,966
TOTAL	\$7,426.3	\$520.1	20,868	2,375

Note: Totals shown in tables may not sum due to rounding.

Removing fossil fuel exposure from this portion of the portfolio would incur transactions costs associated with the sale and reinvestment of securities valued at \$520 million.

The System holds its Russell 1000 investments directly, in a Separately Managed Account (SMA). Investments in the other Public Market asset classes shown above are made via investments in commingled funds. In these cases, divestment would require exiting these commingled vehicles and redeploying capital into SMAs where the capital could be directly invested into the non-fossil fuel constituents of each benchmark index. In addition to the transactions costs associated with liquidating and then redeploying capital, SMA creation involves custodial and legal costs, in particular for those accounts holding non-US assets.

Risk Diversifiers

As noted above, approximately half of the funds held in the System's Risk Diversifier allocation contained exposure to fossil fuel assets. These investments are generally liquid and able to be redeemed at will, subject to any fund's specific redemption terms.

Private Market Assets

The System's private market investments generally consist of interests in fixed-life private partnerships. While these interests can be transferred, their illiquid nature requires a lengthy sales process and transactions typically occur at a discount to Net Asset Value (NAV). Complete removal of fossil fuel exposure would require MainePERS to sell its entire interest in any private market fund containing a fossil fuel asset. Based on indicative quotes obtained from secondary market participants, the System could expect to incur discounts in excess of 13% on the sale of its partnership interests. This suggests a discount of nearly \$400 million if the System were to

dispose of the \$2.9 billion of partnerships that hold some fossil fuel investments. The System would also incur substantial legal and other costs associated with the transfer of partnership interests.

B. Negative Investment Implications and Ongoing Costs

Public Market Assets

As discussed earlier, the System passively invests in broad market indexes in order to construct a highly diversified portfolio providing exposure to a wide spectrum of return sources. Excluding fossil fuel assets from these holdings would necessarily reduce the portfolio's level of diversification and expose MainePERS to a higher level of investment risk than it would otherwise bear by concentrating exposures into a smaller number of industries. An additional downside to avoiding fossil fuel securities involves costs – the System's current approach is consistent with its general fiduciary duty to manage expenses in a prudent manner. Investment management fees across the System's public market investments are very low. MainePERS achieves these low investment costs in large part due to structural choices made with respect to investment vehicles. As noted above, MainePERS holds public market assets in both SMAs and commingled funds. Investment via commingled funds allow MainePERS to benefit from economies of scale created via pooling capital with other institutional investors.

In fiscal year 2025 MainePERS paid approximately \$1.1 million in management fees on an average of \$8.9 billion of public market assets, or 0.012% (1.2 basis points). Based on indicative quotes from its current investment managers, MainePERS believes that employing customized strategies to avoid fossil fuel investments would involve paying fees in the range of 3 to 5 basis points on its US equity holdings and 5 to 8 basis points on its non-US equity holdings. The result would be a nearly tripling of management fees for public markets assets.

Risk Diversifiers

As noted above, the System's strategic asset allocation specifies a target weight of 7.5% for the Risk Diversifiers asset class. Investments in this asset class are made via private funds employing active strategies to invest in assets such as public stocks, bonds, and commodities. Strategies in this asset class involve taking both long and short positions, i.e., positions that benefit when prices rise as well as positions designed to produce gains when prices fall. These strategies are expected to have little correlation to public markets (i.e., are just as likely to produce gains when public markets are down as they are to produce gains when public markets rise) and are intended to provide diversification away from growth assets. Nearly all managers in the MainePERS Risk Diversifier allocation have the ability to invest in fossil fuel assets. Excluding fossil fuel investments would deprive the System of an important source of diversification and risk reduction.

Private Market Assets

MainePERS' investment policy calls for investing 47.5% of assets across five private market asset classes, and investment staff devote a majority of their time to the oversight of these asset classes. As discussed above, the decision to invest in private markets is driven by key principles related to efficiency, illiquidity, and complexity. MainePERS considers private markets to be inefficient, meaning that skilled managers must be retained to identify, invest, and manage assets that will provide returns that more than compensate for the risks being taken. These managers have wide discretion concerning the types and timing of investments, subject to broad limits specified in partnership documents. This flexibility is by design – MainePERS' private market investments intentionally provide GPs with the ability to devote capital to what they see as the most attractive investment opportunities. Excluding fossil fuel investments would deny MainePERS access to skilled managers with a generalist approach, which would tend to negatively impact returns. For reasons explained previously, MainePERS expects that fossil fuel assets will represent a small portion of investments held within future private market funds.

VIII. Implementation Update

In February of 2023, the Board of Trustees amended the Investment Policy Statement (Appendix E) to include the following provision:

Fossil Fuel and Private Prison Investments

The System may invest in strategies providing managers with broad discretion in the selection of investments. The potential for fossil fuel or for-profit prison investment must be disclosed to the Board prior to the Board's approval of a strategy. For those strategies likely to invest in stocks, securities or other obligations of fossil fuel or for-profit prison assets, disclosures will include a description of the expected role of such investments in the proposed strategy and discussion of the process leading to the selection of the strategy.

On an annual basis, the Board will be provided with a report summarizing the System's fossil fuel and for-profit prison investments. This report will include a discussion of the actual and expected changes in these exposures, and analysis of these exposures within the context of the divestment statutes, 5 M.R.S. §§ 1957 and 1958.

MainePERS is in compliance with revised Board Policy 2.1, including required disclosures along with a description of the expected role of the investments in proposed strategy and discussion of the process leading to the selection of the strategy.

Specifically, MainePERS has made a total of 38 commitments to private market investments subsequent to adopting the above language in revised Board Policy 2.1. As discussed in section V of this report, these private market investments take the form of interests in private partnerships. Five of the 38 commitments were made to infrastructure-related funds. It is typical for such funds

to include one or more fossil fuel sectors as potential investment areas, however these are expected to represent a minority of fund investments. Per revised Board Policy 2.1, this was disclosed along with a description of the expected role of the investments in proposed strategy and discussion of the process leading to the selection of the strategy.

In November 2024, MainePERS amended the Investment General Practice 21.0 Engagement – Proxy Voting Implementation Guidelines (Appendix F). This practice contains specific guidance for placing proxy votes on a broad variety of topics. The amendments serve to clarify that the System will vote in favor of proposals aligned with the goal of combatting climate change, and against proposals promoting policies counter to the objective of combatting climate change, in cases where the proposal is not expected to have a negative impact on shareholder financial value.

APPENDICES

- A. Maine Constitution, Article IX, Section 18
- B. Divestment Legislation, Public Law 2021, c. 231
- C. Letter from Attorney General Aaron Frey to the Joint Standing Committee on Labor and Housing, April 9, 2021
- D. Letter from Assistant Attorney General Andrew Black to MainePERS, December 8, 2022
- E. MainePERS Governance Manual, 2.1 Investment Policy Statement in effect as of the year ended June 30, 2025
- F. Excerpt from MainePERS Investment General Practice 21.0 Engagement-Proxy Voting Implementation Guidelines on Shareholder Proposals

Maine Constitution

Section 18. Limitation on use of funds of Maine State Retirement System. All of the assets, and proceeds or income therefrom, of the Maine State Retirement System or any successor system and all contributions and payments made to the system to provide for retirement and related benefits shall be held, invested or disbursed as in trust for the exclusive purpose of providing for such benefits and shall not be encumbered for, or diverted to, other purposes. Funds appropriated by the Legislature for the Maine State Retirement System are assets of the system and may not be diverted or deappropriated by any subsequent action.

Section 18-A. Funding of retirement benefits under the Maine State Retirement System. Beginning with the fiscal year starting July 1, 1997, the normal cost of all retirement and ancillary benefits provided to participants under the Maine Public Employees Retirement System must be funded annually on an actuarially sound basis. Unfunded liabilities may not be created except those resulting from experience losses. Unfunded liability resulting from experience losses must be retired over a period not exceeding 20 years.

Section 18-B. Payment of unfunded liabilities of the Maine State Retirement System. Each fiscal year beginning with the fiscal year starting July 1, 1997, the Legislature shall appropriate funds that will retire in 31 years or less the unfunded liabilities of the Maine State Retirement System that are attributable to state employees and teachers. The unfunded liabilities referred to in this section are those determined by the Maine State Retirement System's actuaries and certified by the Board of Trustees of the Maine State Retirement System as of June 30, 1996.

APPROVED

JUNE 16, 2021

BY GOVERNOR

CHAPTER

231

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

H.P. 65 - L.D. 99

An Act To Require the State To Divest Itself of Assets Invested in the Fossil Fuel Industry

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §135, as amended by PL 2005, c. 386, Pt. CC, §2 and PL 2013, c. 16, §10, is further amended by adding at the end a new paragraph to read:

The Treasurer of State may not invest in any prime commercial paper or corporate bonds issued by a fossil fuel company, as defined in section 1957, subsection 1, paragraph C.

Sec. 2. 5 MRSA §138, as amended by PL 2001, c. 44, §11 and affected by §14, is further amended by adding at the end a new paragraph to read:

The Treasurer of State shall review the extent to which the assets of any permanent funds held in trust by the State are invested in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company, as defined in section 1957, subsection 1, paragraph C. The Treasurer of State shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings and may not invest any assets in any such stocks, securities or other obligations. Divestment pursuant to this paragraph must be complete by January 1, 2026. Nothing in this paragraph precludes de minimis exposure of any permanent funds held in trust by the State to the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.

Sec. 3. 5 MRSA §1957 is enacted to read:

§1957. Limitation on investment in fossil fuel companies; divestment

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" means the Board of Trustees of the Maine Public Employees Retirement System.

B. "Fossil fuel" means coal, petroleum, natural gas or any derivative of coal, petroleum or natural gas that is used for fuel.

C. "Fossil fuel company" means any company that:

- (1) Is among the 200 publicly traded companies with the largest fossil fuel reserves in the world;
- (2) Is among the 30 largest public company owners in the world of coal-fired power plants;
- (3) Has as its core business the construction or operation of fossil fuel infrastructure;
- (4) Has as its core business the exploration, extraction, refining, processing or distribution of fossil fuels; or
- (5) Receives more than 50% of its gross revenue from companies that meet the definition under subparagraph (1), (2), (3) or (4).

D. "Fossil fuel infrastructure" means oil or gas wells, oil or gas pipelines and refineries; oil, coal or gas-fired power plants; oil and gas storage tanks; fossil fuel export terminals; and any other infrastructure used exclusively for fossil fuels.

2. Limitation on investment in fossil fuel company. The board, in accordance with sound investment criteria and consistent with fiduciary obligations, may not invest the assets of any state pension or annuity fund in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company. Nothing in this subsection precludes de minimis exposure of any funds held by the board to the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.

3. Review and divestment of assets. The board shall review the extent to which the assets of any state pension or annuity fund are invested in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company. The board shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings. Divestment pursuant to this subsection must be complete by January 1, 2026. Nothing in this subsection precludes de minimis exposure of any funds held by the board to the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.

4. Post on website. On a quarterly basis, the board shall post on the publicly accessible website of the Maine Public Employees Retirement System information detailing all its holdings in the public market and private equity investments.

5. Annual report. Beginning January 1, 2022 and annually thereafter, the board shall issue a report reviewing its environmental, social and governance investment policy. The report must disclose commonly available environmental performance metrics on the environmental effects of the board's investments.

Sec. 4. Report to Legislature. The Treasurer of State and the Board of Trustees of the Maine Public Employees Retirement System shall report annually to the joint standing committee of the Legislature having jurisdiction over retirement matters by January 1, 2023, 2024 and 2025 regarding the progress of divestment under and the implementation of the Maine Revised Statutes, Title 5, sections 138 and 1957. The Treasurer of State and the Board of Trustees of the Maine Public Employees Retirement

System shall make a final report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 1, 2026 regarding completion of the divestment pursuant to this section.

AARON M. FREY
ATTORNEY GENERAL

TEL: (207) 626-8800
TTY USERS CALL MAINE RELAY 711



STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

REGIONAL OFFICES
84 HARLOW ST. 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

125 PRESUMPSCOT ST., SUITE 26
PORTLAND, MAINE 04103
TEL: (207) 822-0260
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. I
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

April 9, 2021

The Honorable Craig Hickman, Senate Chair
The Honorable Michael Sylvester, House Chair
Joint Standing Committee on Labor and Housing
Cross Building, Room 202
Augusta, ME 04333

Re: LD 99, *An Act to Require the State to Divest Itself of Assets Invested in the Fossil Fuel Industry*
LD 319, *An Act to Promote Socially Responsible Investing by the Maine Public Employees Retirement System by Prohibiting Investment in the Fossil Fuel Industry or For-profit Prisons*

Dear Senator Hickman and Representative Sylvester:

Thank you for your letter of March 9, 2021 on behalf of the Joint Standing Committee on Labor and Housing regarding LD 99 and LD 319 of the 130th Legislature. Your letter poses two questions:

1. Whether LD 99 and LD 319 as drafted are contrary to the Maine Constitution; and
2. Whether the fiduciary responsibility in the Maine Constitution requiring MainePERS to get the most optimal return for members creates a constitutional issue that would prohibit the Maine Legislature from requesting MainePERS to get the most optimal return for members within specific parameters set by the Legislature.

The short answer to both questions is “yes.” Enactment of a statute will not amend constitutional mandates. Article IX, Section 18 of the Maine Constitution reads as follows:

Section 18. Limitation on use of funds of Maine State Retirement System. All of the assets, and proceeds or income therefrom, of the Maine State Retirement System or any successor system and all contributions and payments made to the system to provide for retirement and related benefits shall be held, invested or disbursed as in trust for the exclusive purpose of providing for such benefits and

shall not be encumbered for, or diverted to, other purposes. Funds appropriated by the Legislature for the Maine State Retirement System are assets of the system and may not be diverted or deappropriated by any subsequent action.

The mandate that all MainePERS “assets be held, invested or disbursed as in trust for the exclusive purpose of providing for [retirement and related] benefits” effectively prevents the Legislature from dictating how these funds may be invested. By requiring the assets to be held “as in trust,” the Constitution creates the legal framework under which these funds are to be held and managed. Property held in trust is managed by a trustee who is subject to fiduciary duties. The Constitution also defines both the purpose of the fund management and to whom those fiduciary duties run, that is, for retirement and related benefits for MainePERS beneficiaries.

As a fiduciary of a pension trust, the MainePERS Board of Trustees (“the Trustees”) has a duty of loyalty to administer the trust solely in the interest of the beneficiaries and for the articulated purpose of the trust – providing retirement and related benefits. A trustee’s duty of loyalty is a fundamental principle of common law reflected in the Restatement (Third) of Trusts,¹ the Maine Uniform Trust Code,² and the Employee Retirement Income Security Act of 1974 (“ERISA”).³ The constitutional intent is clear. By requiring the funds be held as in trust for the exclusive purpose of providing retirement benefits, the Constitution is mandating that the Trustees manage these funds solely in the best interest of MainePERS members as pension recipients.

As drafted, both LD 99 and LD 319 would: (1) prohibit the Trustees from acquiring assets in certain industries;⁴ and (2) require the Trustees to divest of any currently held assets in those industries “in accordance with sound investment criteria and consistent with the board’s fiduciary obligations.” The first requirement conflicts with the constitutional mandate because it requires the Trustees to refrain from certain investment activity regardless of whether it would be in the best interests of the beneficiaries.⁵ The second requirement, although arguably not in conflict with the Trustees’ fiduciary duties, is essentially hollow. Unless a failure to divest an asset would be a

¹ “Except as otherwise provided in the terms of the trust, a trustee has a duty to administer the trust solely in the interest of the beneficiaries.” Restatement (Third) of Trusts § 78 (2007).

² “A trustee shall administer the trust solely in the interests of the beneficiaries.” 18-B M.R.S. § 802(1).

³ “A fiduciary shall discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and (A) for the exclusive purpose of (i) providing benefits to participants and their beneficiaries and (ii) defraying reasonable expenses of administering the plan.” 29 U.S.C. § 1003(a)(1). “[A]t the heart of the fiduciary relationship is the duty of complete and undivided loyalty to the beneficiaries of the trust.” *Donovan v. Mazzola*, 716 F.2d 1226, 1238 (9th Cir. 1983) (quoting *Freund v. Marshall & Ilsley Bank*, 485 F. Supp. 629, 639 (W.D. Wis. 1979)).

⁴ LD 99 would prohibit investment “in any stocks or other securities of any corporation or company within in the fossil fuel industry.” LD 319 would prohibit investment “in any stocks or other securities of any corporation or company within the fossil fuel industry or any corporation or company that owns or operates prisons for profit.”

⁵ One New Hampshire case appears to conflict with this conclusion because the court concluded that a provision in the New Hampshire Constitution similar to that of Maine’s did not render New Hampshire’s Sudan Divestment Act unconstitutional. *Bd. of Trustees of N.H. Judicial Ret. Plan v. Sec’y of State*, 7 A.3d 1166, 1174 (N.H. 2010). In that case, the court reached its result by construing the language in the underlying ballot initiative, which did not contain the material provisions found in either the New Hampshire or Maine Constitutions. *Id.* at 1173. The case was remanded to the trial court “to determine whether the Act impermissibly interferes with the trustee’s statutory or common law fiduciary duties.” *Id.* at 1174. Before the trial court ruled on this issue, the New Hampshire Legislature repealed the Act, purportedly because of the high cost of compliance with the Act’s mandates. 2011 N.H. Laws ch. 53:1 (eff. May 9, 2011).

breach of the Trustees' existing fiduciary duties (i.e., not in best interest of the members), any attempt to enforce the statutory requirement to divest would be meritless.

On the other hand, a resolution encouraging the Trustees to consider certain non-pecuniary factors (e.g., environmental impact) when making investment decisions may be helpful to the Trustees. Such a resolution may help insulate the Trustees from lawsuits alleging breach of fiduciary duty if the Trustees used such a non-pecuniary factor as a "tiebreaker" when choosing between investment alternatives of comparable risk and return. Although ERISA is not applicable to MainePERS, regulations recently adopted by the U.S. Department of Labor pertaining to ERISA plans indicate that using such factors for tiebreakers would not be inconsistent with a trustee's duty of loyalty.⁶

Although this letter is not a formal Attorney General Opinion pursuant to 5 M.R.S. § 195, I hope it will be helpful to you in the Joint Committee's work sessions.

Sincerely,



Aaron M. Frey
Attorney General

cc. Sandy Matheson, MainePERS Executive Director
Henry E. M. Beck, Esq., State Treasurer and Member, MainePERS Board of Trustees
Members, Joint Standing Committee on Labor and Housing

⁶ 29 C.F.R. § 2550.404(a-1)(c)(2) reads as follows:

Notwithstanding the [pecuniary basis only] requirements of paragraph (c)(1) of this section, when choosing between or among investment alternatives that the plan fiduciary is unable to distinguish on the basis of pecuniary factors alone, the fiduciary may use non-pecuniary factors as the deciding factor in the investment decision provided that the fiduciary documents:

- (i) Why pecuniary factors were not sufficient to select the investment or investment course of action;
- (ii) How the selected investment compares to the alternative investments with regard to the factors listed in paragraphs (b)(2)(ii)(A) through (C) of this section; and
- (iii) How the chosen non-pecuniary factor or factors are consistent with the interests of participants and beneficiaries in their retirement income or financial benefits under the plan.

Although this regulation became effective on January 12, 2021, the Department of Labor issued an enforcement statement on March 10, 2021, stating that until further notice it would not enforce the new regulation.

AARON M. FREY
ATTORNEY GENERAL



TEL: (207) 626-8800
TTY USERS CALL MAINE RELAY 711

STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

REGIONAL OFFICES
84 HARLOW ST. 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

125 PRESUMPSCOT ST., SUITE 26
PORTLAND, MAINE 04103
TEL: (207) 822-0260
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. 1
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

December 8, 2022*

Dr. Rebecca M. Wyke
MainePERS Chief Executive Officer
P.O. Box 349
Augusta, ME 04332-0349

Dear Dr. Wyke,

You asked this Office for advice on how to interpret certain provisions of 5 M.R.S. §§ 1957 and 1958. Together, these statutes direct the Board of Trustees (“the Board”) of the Maine Public Employees Retirement System (“the System”) to (1) cease future investment in fossil fuel companies and for-profit prisons and (2) divest any such current holdings by January 1, 2026. Notably, these directives are subject to a limitation that they be accomplished “in accordance with sound investment criteria and consistent with fiduciary obligations.”¹

As I understand your request, your concerns are whether and to what extent these statutes may affect the Board’s exercise of its fiduciary duties and whether and to what extent the Board must adhere to the directives if ceasing to invest or divesting would be inconsistent with sound investment criteria or fiduciary obligations, such as the duty of loyalty or the prudent investor rule.

The subject statutes do not affect the Board’s exercise of its fiduciary duties. And they do not require the Board to either cease investing in or divest such holdings unless sound investment criteria and fiduciary obligations require such actions. Both statutes specifically condition their directives on “accordance with sound investment criteria” and “consisten[cy] with fiduciary obligations.” As such, they reiterate rather than modify the Board’s fiduciary obligations as a trustee—both constitutional² and statutory.³

* This version corrects a typographical error that appeared in the original letter.

¹ As an example, section 1957(2) reads in pertinent part: “The board, *in accordance with sound investment criteria and consistent with fiduciary obligations*, may not invest the assets of any state pension or annuity fund in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.” 5 M.R.S. § 1957(2) (emphasis added). Sections 1957(3) and 1958(2) and (3) contain the same emphasized language.

² All the assets of the System “shall be held, invested or disbursed as in trust for the exclusive purpose of providing [retirement and related] benefits.” Me. Const. art. IX, §18.

³ “The members of the board shall be the trustees of the several funds created by this Part [20 of Title 5].” 5 M.R.S. §17153(2). “The board may cause the funds created by this Part to be invested and reinvested in accordance with

Chiefly relevant in this context are the Board's duty of loyalty and its obligation to adhere to the prudent investor rule. Its duty of loyalty requires it to "administer the trust solely in the interests of the beneficiaries."⁴ The prudent investor rule requires it to "invest and manage trust assets, as a prudent investor would"⁵ and evaluate and make investment decisions "as part of an overall investment strategy having risk and return objectives reasonably suited to the trust."⁶ If adherence to sound investment criteria and fiduciary obligations prevents achievement of the investment and divestiture objectives of sections 1957 and 1958, failure to achieve those objectives is not a violation of the directives in those statutes. In short, the Board's focus should remain on adhering to sound investment criteria and fulfilling its fiduciary obligations. However, if the Board encounters a situation where the application of sound investment criteria and its fiduciary obligations neither favors nor disfavors either of two potential investment options, the Board shall pursue the option that more closely complies with the directives of sections 1957 and 1958.

Although this is not a formal Attorney General Opinion pursuant to 5 M.R.S. § 195, I hope it is of assistance to you.

Sincerely,



Andrew L. Black
Assistant Attorney General
Chief, PFR Division

cc: Aaron M. Frey, Attorney General

the standards defined in Title 18-B, sections 802 to 807 and chapter 9," 5 M.R.S. §17153(3), which provisions of the Maine Uniform Trust Code (sections 802 to 807) delineate the fiduciary duties of trustees and provisions of the Maine Uniform Prudent Investor Act (chapter 9) require adherence to the prudent investor rule.

⁴ 18-B M.R.S. § 802(1).

⁵ 18-B M.R.S. § 902(1).

⁶ 18-B M.R.S. § 902(2).

Board Responsibilities – Investment Policy for Defined Benefit Plans

2.1 – Investment Policy Statement

Date Adopted: June 9, 2016

Date Amended: November 10, 2016; May 11, 2017; June 8, 2017; September 14, 2017; December 14, 2017; November 12, 2020; January 14, 2021; May 12, 2022; February 9, 2023; March 14, 2024

Policy

The Board of Trustees of the Maine Public Employees Retirement System is authorized and responsible for administering defined benefit retirement programs at the State and local levels. The Board carries out this responsibility by adopting investment objectives and establishing an investment program through which the policy is implemented. In the case of conflicts, this policy statement supersedes previous policies and actions by the Board.

This policy covers the investment management of the assets of the following defined benefit programs administered by the Board:

- Legislative Retirement Program;
- Judicial Retirement Program;
- State Employee and Teacher Retirement Program, which includes State employees and public school members; and
- Participating Local District Retirement Program, which includes retirement plans of withdrawn participating local districts and the Consolidated Plan for Participating Local Districts.

Collectively, the assets of these programs are referred to as the DB Plan Assets. Statutes allow for the pooling of the DB Plan Assets for the purpose of investment. Pooling provides significant efficiencies. Because the relevant characteristics of the DB plans are sufficiently similar, all the DB Plan Assets are pooled for investment.

Statutory/Legal Provisions

- Me. Const. art. IX, § 18.
- 5 M.R.S. §§ 1957-1958 (divestment statutes)
- 5 M.R.S. §§ 17102, 17103, 17435; 18-B M.R.S. § 801, et seq. (Maine Uniform Trust Code); 18-B M.R.S. § 901, et seq. (Maine Uniform Prudent Investor Act).
- 5 M.R.S. §§ 17153(4).
- Restatement (Third) of Trusts § 78(1) (2007) (the “sole interest rule”).
- Restatement (Third) of Trusts formally permits, and in some cases requires, the delegation of investment decisions from trustees to internal staff or external agents with the necessary skills and knowledge.

Governance Manual

MainePERS Board of Trustees

- The Employee Retirement Income Security Act (“ERISA”), codified at 29 U.S.C. § 1002, *et seq.*, provides a description of the standard of care that applies to trustees of private sector retirement plans. Although the System as a public retirement plan is not specifically governed by the fiduciary duty standard set forth in ERISA, courts will often consider the standard set forth in ERISA when addressing public pension plan issues. Under ERISA, a fiduciary must act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person (expert) acting in a like capacity would act. This statutory standard is derived from the common law of trusts, which is applicable in the State of Maine.

Resources

The Board of Trustees implements this investment policy in coordination with:

- in-house investment professionals (the “Investment Team”), with experience, authority and responsibility to implement the investment policy and administer investment operations;
- consultants, with appropriate expertise, to assist the Board and the Investment Team;
- investment managers, selected individually and collectively to reflect and implement the investment policy, having full discretion within policy and contractual limits to manage assets allocated to them;
- custodians qualified to carry out recordkeeping, reporting, measurement and custodial functions; and
- other advisors that the Board deems appropriate and necessary

The Investment Team shall oversee the processes by which Custodians, Consultants, and other Advisors are hired, evaluated, and terminated, and shall work with the General Counsel on the terms of contracts of engagement.

At least every five years, the Investment Team will evaluate the performance and contract terms of all such service providers and make a recommendation to the Board as to whether or not a search process for new providers and/or renegotiation of terms be initiated.

Investment Objectives

MainePERS’ investment objectives balance the System’s twin goals of generating investment returns (to ensure growth of the trust funds) and minimizing investment risks (loss of capital and cash flow shortfalls). The Board recognizes and accepts that these goals are in opposition, and that a trade-off exists between expected risk and return. The Board balances these goals by seeking to optimize portfolio returns consistent with an established targeted portfolio risk level. Additionally, by optimizing investment returns on trust assets, rather than attempting to maximize them, the Board seeks to maintain contribution rate and funding level volatility at acceptable levels that have been determined from time to time during strategic asset allocation planning and asset/liability reviews.

Governance Manual

MainePERS Board of Trustees

Strategic Asset Allocation and Rebalancing

The Investment Team and Board consultants shall annually review long-term capital market expectations and existing asset class allocations with Trustees. The Board shall review, and when strategically appropriate, approve recommended changes to the existing strategic asset classes, target weights, and ranges for implementation by the Investment Team. (See Appendix 1)

The specified policy weight ranges define minimum and maximum acceptable weights for each asset class. (See Appendix 2) The Investment Team shall maintain asset class weights within target ranges, subject to considerations such as transaction costs and the unique characteristics of private market investments, by reallocating capital within existing strategies and investments. The Investment Team will provide Trustees with reports showing the fund's current asset allocation at least monthly, and report on rebalancing activity quarterly.

Portfolio Risk Management

The primary method of controlling risk shall be the selection of the strategic asset allocation and asset class target weights within the allocation. (See Appendix 1) Combined with long term capital market expectations, these policy weights define a portfolio with a specific level of risk.

The Chief Investment Officer shall develop a risk strategy for managing assets within the Board approved strategic asset allocation. The risk strategy will specify practices and procedures for the measurement and management of portfolio risk, including the provision of a portfolio risk report to the Board at least quarterly. (See Appendix 3)

Nothing in the risk strategy shall override the Asset Classes, Policy Weights and Ranges described in Appendix 1.

Performance Objectives and Benchmarks

The Board acknowledges that benchmarks provide insight into fund and asset class performance, but are not necessarily guides for changing asset allocations or fund managers. The rate of return earned by fund assets will be measured against a policy benchmark comprised of the asset class benchmarks. (See Appendix 4) Returns earned by individual managers will be compared with a benchmark index appropriate to each manager's investment approach.

For performance evaluation purposes, all rates of return will be measured net of the deduction of investment management fees.

During a period of transition from one asset allocation to another, certain transitional allocations to appropriate benchmarks are permitted.

Governance Manual

MainePERS Board of Trustees

Investment Implementation

The Investment Team shall implement the investment policy, subject to Board guidelines:

- Exposure to publicly traded equity securities is expected to be obtained passively and with weightings substantially similar to those of the benchmarks specified in Appendix 4. Any exceptions must be approved by the Board.
- Investments within each Asset Class should be consistent with the Asset Class definitions provided in Appendix 1.

Environmental, Social, and Governance; Engagement

In performing due diligence and monitoring activities, the Board and the Investment Team shall comply with Board Policy 2.6, Environmental, Social and Governance Policy; and Board Policy 2.7, Engagement.

Investment Manager Selection and Allocation Process

MainePERS invests through external investment managers, who are charged to act as fiduciaries, and allocates fund assets among them in accordance with the strategic asset allocation. The Investment Team identifies, performs due diligence on, and recommends investment managers and allocations to the Board. The Investment Team also monitors performance and recommends retention and termination decisions to the Board. The Board retains final authority for manager selection, retention and termination decisions.

Managers are selected and retained on the basis of an evaluation that establishes sufficient confidence that the manager will improve the return and risk of the investment program. If and when the Investment Team and/or consultant(s) identify an investment manager that they believe will improve the investment program, the Investment Team will make a recommendation to the Board of Trustees that the manager be hired. This recommendation will be accompanied by an opinion by the investment consultant on this recommendation. The Board retains the final authority to accept or reject such recommendations.

The Investment Team will prepare and present to the Board of Trustees selection criteria they deem pertinent for each manager search and recommendation to hire. The Investment Team will provide the Board with all the necessary information and analysis to enable an informed decision. The Board may choose to interview the recommended manager or they may rely on the Investment Team to conduct interviews.

Derivatives

In general, the use of derivatives is permitted provided that the purpose of the derivative is to achieve an investment objective at lower cost and/or risk than would be the case with direct investments in the underlying securities. The System may also invest in strategies which use derivatives to obtain leverage. In all such cases, the use of derivatives must be disclosed to the

Governance Manual

MainePERS Board of Trustees

Board prior to the Board's approval, and the strategy must be structured so as to limit System liability to the amount committed to the strategy.

Leverage

The System may invest in strategies in which managers have discretion to use leverage. The use of leverage in any strategy must be disclosed to the Board prior to the Board's approval, and the strategy must be structured so as to limit System liability to the amount committed to the strategy.

Fossil Fuel and Private Prison Investments

The System may invest in strategies providing managers with broad discretion in the selection of investments. The potential for fossil fuel or for-profit prison investment must be disclosed to the Board prior to the Board's approval of a strategy. For those strategies likely to invest in stocks, securities or other obligations of fossil fuel or for-profit prison assets, disclosures will include a description of the expected role of such investments in the proposed strategy and discussion of the process leading to the selection of the strategy.

On an annual basis, the Board will be provided with a report summarizing the System's fossil fuel and for-profit prison investments. This report will include a discussion of the actual and expected changes in these exposures, and analysis of these exposures within the context of the divestment statutes, 5 M.R.S. §§ 1957 and 1958.

Hedging

The Board has reviewed the benefits and risks associated with foreign currency exposures. As a general rule the Board has chosen not to hedge currency at the portfolio level. Unless otherwise directed asset managers will have discretion to hedge investments under their management as they deem most beneficial to their mandate.

Co-Investments and Continuation Vehicles

The System may co-invest alongside private market funds in which the System is a current investor and may invest in continuation vehicles within the guidelines set forth in Appendix 5 without further Board approval. A continuation vehicle is a fund established by the general partner of an existing private market fund that is in the later stages of its life to receive one or more portfolio companies from the existing fund to provide the opportunity for limited partners to remain invested in the companies.

Transaction Costs and Brokerage

The Board of Trustees expects investment managers, in their capacity as fiduciaries, to manage transaction costs in the best interests of the System as an investor. To enable the managers to fulfill this fiduciary duty, it is the Board's policy not to be party to directed brokerage programs.

Securities Lending

The System may participate in a securities lending program either directly through its separately managed portfolios or indirectly through its investments in pooled vehicles. In each case, the securities lending program must focus on low risk, as opposed to maximization of returns. All DB Plan Assets are available for securities lending.

Monitoring

The Board relies on the Investment Team and the investment consultant(s) to continuously monitor the investment program and to report to the Board as outlined below.

- the Investment Team and investment consultant(s) provide comprehensive periodic reports on the entire investment program, including asset allocation, performance of each component relative to benchmarks, attribution analysis, and commentary.
- the Investment Team and investment consultant(s) monitor changes and developments at investment managers and at custodian(s) on an ongoing basis and report significant changes or events with recommended actions as needed.

Emergency Measures

Immediate action may be taken beyond the bounds of this policy under extraordinary circumstances and in order to preserve the best interests of the plans' participants by unanimous decision of the following:

- The Chair, or in the Chair's absence, Vice Chair of the Board
- The Chief Executive Officer, or in the Chief Executive Officer's absence, the Chief Operating Officer and General Counsel
- The Chief Investment Officer, or in the Chief Investment Officer's absence, Deputy Chief Investment Officer, or in the absence of both of them, the general investment consultant

Any such action must be reported to the Board of Trustees at the earliest opportunity.

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 1: Asset Classes, Policy Weights and Ranges

Date Adopted: June 9, 2016

Date Amended: June 8, 2017; September 14, 2017; January 14, 2021; May 12, 2022

The System's assets are invested across nine Asset Classes that play four distinct Roles in the overall Fund. The Trustees define these Roles and Asset Classes and set target policy weights and ranges below.

	Weights		
	Minimum	Policy	Maximum
GROWTH			
Public Equity	35%	42.5%	55%
Private Equity	20%	30%	40%
RISK DIVERSIFIERS	5%	12.5%	20%
HARD ASSETS	0%	7.5%	12.5%
Real Estate	15%	25%	35%
Infrastructure	5%	10%	15%
Natural Resources	5%	10%	15%
CREDIT	0%	5%	10%
Traditional Credit	0%	10%	15%
Alternative Credit	5%	15%	20%
MONETARY HEDGE	0%	10%	15%
US Government Securities	5%	10%	15%
Cash	0%	0%	10%

Asset Class Definitions

The below Asset Class definitions are simplified and are intended to convey the general characteristics of investments held within each class. Some investment strategies involve assets and securities that span multiple asset classes.

Public Equity

Investments in publicly-traded shares of companies. May include different classes of common stock, shares of REITs, and MLPs.

Private Equity

Investments in non-publicly traded shares of companies. Investments are typically made via private limited partnerships, and may include both equity and debt securities.

Governance Manual

MainePERS Board of Trustees

Risk Diversifiers

Investments typically made through private funds that generally invest in listed assets such as stocks, bonds, and commodities, via strategies that are expected to have little correlation with declining or rising stock markets.

Real Estate

Investments providing direct exposure Real Estate, including investments through private funds.

Infrastructure

Investments typically made through private funds that generally invest in assets that meet most or all of the following criteria: provide essential public services, possess monopoly-like characteristics, provide long term contracted cash flows, and bear limited volumetric and price risk.

Natural Resources

Investments in private funds that generally invest in businesses focused on natural resources such as timberland, agriculture, and mining. Private energy investments will generally be included in Private Equity, rather than Natural Resources.

Traditional Credit

Investments in investment-grade debt instruments that are not issued by the U.S. Government. Such debt may or may not be registered for sale to the general public.

Alternative Credit

Investments in debt instruments issued by non-investment grade and unrated entities. This may include, but is not limited to high yield debt, bank loans, structured debt, and asset-backed debt. Alternative credit investments are expected to pay or accrue periodic interest and to return principal at maturity. Distressed debt and other debt or yield-oriented securities that include equity-like exposures are considered Private Equity, not Alternative Credit.

Monetary Hedges

Investments in debt instruments issued by the U.S. Government, including nominal Treasury securities and Treasury Inflation Protected Securities (TIPS), held in approximately equal proportions.

Governance Manual

MainePERS Board of Trustees

Roles in the Overall Fund

Each of the above asset classes fills a specific Role in the overall portfolio. These Roles are defined below.

Growth Assets

Growth Assets are intended to reduce the system's funding needs in the long term by appreciating in value. Growth Assets possess inherently higher expected returns than other asset classes. Growth Assets also have higher expected volatility than other asset classes, and are expected to increase funding volatility in the short run.

Risk Diversifiers

Risk Diversifiers are investments that primarily derive their return from alpha (or active manager skill) as opposed to market directionality. Risk Diversifiers are expected to provide significant risk diversification benefits away from Growth Assets.

Hard Assets

Investments in the Hard Assets category provide exposure to long-lived "real" assets, such as real estate, timber, agricultural, and infrastructure assets. Expected return levels of Hard Assets are lower than those of Growth Assets, and a substantial portion of such returns is expected to come from ongoing cash flows. Hard Assets are expected to provide inflation protection, to have low correlation with Growth Assets, and to provide diversification benefits.

Credit Assets

Credit investments provide capital to end-users via loans and the purchase of debt securities. Such investments provide for contractual returns (interest) and repayment of principal. Credit investments possess lower risk and expected returns than equity investments, but have higher risk and expected returns than monetary hedges. Credit investments are expected to provide diversification away from Growth Assets.

Monetary Hedges

The role of Monetary Hedges in the portfolio is to provide liquidity and a safe harbor in times of turbulence. These investments are cash and obligations of the U.S. Government, and are considered to be free of default risk.

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 2: Rebalancing

Date Adopted: June 9, 2016

Date Amended: May 12, 2022; July 14, 2022

The Board has set target weights for each Asset Class and Role in Portfolio category in Appendix 1, and delegates the management of asset class allocation to the Investment Team. The Investment Team is expected to maintain asset class weights near target, subject to considerations such as transaction costs and the unique funding and liquidity characteristics of private market investments.

To this end, the Team is permitted to reallocate capital within existing strategies and investments for rebalancing purposes. The Investment Team is expected to consider both Role in Portfolio and Asset Class policy weights when rebalancing. The Team will provide Trustees with reports showing the Fund's current asset allocation at least monthly, and report on rebalancing activity at least quarterly.

In the specific case of the System's Risk Diversifier allocation, the Investment Team is permitted to rebalance across existing managers and strategies, consistent with the goal of maintaining diversification within the allocation. Rebalancing activity will be reported to Trustees at least quarterly.

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 3: Risk Strategy

Date Adopted: June 9, 2016

Date Amended: New

While this Risk Strategy is in development the Chief Investment Officer shall rely on the Strategic Asset Allocation and Rebalancing provisions of this policy to manage the Fund's risk.

The Investment Team and the Board believe that this approach will deliver an appropriate expected return with commensurate risk over a long term horizon. However they also recognize that the portfolio's realized risk will vary over time which may result in periods during which the fund bears substantially higher risk than the System initially targeted.

In an effort to achieve more stable (less volatile) returns, the Investment Team will seek to develop management tools and practices that they believe will be better able to keep the fund's risk in an acceptable range.

This Risk Strategy shall be updated from time to time by the Trustees to reflect recommendations developed by the Chief Investment Officer.

Nothing in the Risk Strategy shall override the Asset Classes, Policy Weights and Ranges described in Appendix 1.

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy

Appendix 4: Policy Benchmarks

Date Adopted: June 9, 2016

Date Amended: June 8, 2017, January 14, 2021, May 12, 2022

Asset	Benchmark	Weight
Total Public Equity	Russell 3000 & MSCI ACWI ex-USA, based on ACWI weights	30%
Private Equity	Russell 3000 + 3%	12.5%
Diversifiers	0.3 Beta MSCI ACWI	7.5%
Real Estate	NCREIF Property (lagged one quarter)	10%
Infrastructure	CA Infrastructure Median	10%
Natural Resources	CA Natural Resources Median	5%
Traditional Credit	Barclays US Aggregate, ex Treasury	5%
Alternative Credit	50% BAML US HY II + 50% S&P/LSTA US Leveraged Loan Index	10%
U.S. Government Securities	50% Bloomberg Barclays U.S. Government Bond Market Index + 50% Bloomberg U.S. TIPS Index	10%

Governance Manual

MainePERS Board of Trustees

Board Responsibilities – Investment Policy**Appendix 5: Co-Investments and Continuation Vehicles**

Date Adopted: May 12, 2022

Date Amended: March 14, 2024

Co-investments and investments in continuation vehicles are permitted within private market asset classes, subject to the below guidelines.

Target Allocation	7.5% of total Fund. This target is a subset of the total 47.5% allocation to private market asset classes, and is not in addition to that allocation. The 7.5% target includes investments in both co-investments and continuation vehicles.
Asset Classes	Co-investments and investments in continuation vehicles may be made in each of the private market asset classes.
Discretion	Investment Team has discretion to make co-investments and investments in continuation vehicles, in consultation with the asset class consultant.
Signatories	The Chief Executive Officer, Chief Investment Officer, and General Counsel are authorized as signatories to execute documents in connection with co-investments and investments in continuation vehicles.
Permissible Partners	Unless otherwise authorized, co-investments will only be made alongside Funds in which the System is a current investor. Unless otherwise authorized, investments in continuation vehicles will only be made in cases where the vehicle is being formed to continue ownership of assets being acquired from a fund in which the System is a current investor.
Size Limits	Unless otherwise authorized, maximum of \$25m invested into any single co-investment or continuation vehicle. Unless otherwise authorized, maximum of \$200m aggregate continuation vehicle investment and co-investment in a single asset class with any single General Partner.

Governance Manual

MainePERS Board of Trustees

	<p>The Investment Team will provide additional reporting to Trustees for those General Partners with more than \$100m of aggregate continuation vehicle investment and co-investment in any single asset class.</p>
--	---

Excerpt from “Investment General Practice 21.0 Engagement - Proxy Voting Implementation Guidelines”

Amended language in ***bold and italics***.

Shareholder Proposals

MainePERS will generally vote:

- In favor of proposals calling for reasonable disclosures of risks or risk mitigation actions related to environmental factors.
- *In favor of proposals aligned with the goal of combatting climate change when the proposal is expected to have no impact on shareholder financial value.*
- *Against proposals that promote policies counter to the objective of combatting climate change when the proposal is expected to have no impact on shareholder financial value.*