

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 309\*

Short Title: Revise Treasurer Investment Authority.

(Public)

Sponsors: Senator Hoyle.

Referred to: Commerce.

March 5, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE  
STATE TREASURER'S INVESTMENT AUTHORITY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 147-68.1 reads as rewritten:

"§ 147-68.1. **Banking operations.**

The cost of administration, management, and operations of the banking operations of the Department of State Treasurer shall be apportioned equitably among the funds and programs using these services, and the costs so apportioned shall be deposited with the State Treasurer as a ~~general fund nontax revenue~~ receipt to the budget of the State Treasurer. ~~The cost of administration, management and operations of the banking operations of the Department of State Treasurer shall be covered by an appropriation to the State Treasurer for this purpose in the Current Operations Appropriations Act."~~

**SECTION 2.** G.S. 147-69.1 reads as rewritten:

"§ 147-69.1. **Investments authorized for General Fund and Highway Funds assets.**

(a) The Governor and Council of State, with the advice and assistance of the State Treasurer, shall adopt such rules and regulations as shall be necessary and appropriate to implement the provisions of this section.

(b) This section applies to funds held by the State Treasurer to the credit of:

(1) The General Fund;

(2) The Highway Fund and Highway Trust Fund.

(c) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

(1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the ~~United States;~~ States.

(2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, ~~the Bank for Cooperatives, the Federal Intermediate Credit~~

1 ~~Bank, the Federal Land Banks,~~ the Federal Home Loan Banks, the  
2 Federal Home Loan Mortgage Corporation, the Federal National  
3 Mortgage Association, the Government National Mortgage  
4 Association, the Federal Housing Administration, the Farmers Home  
5 Administration, the United States Postal Service, the Export-Import  
6 Bank, the International Bank for Reconstruction and Development, the  
7 International Finance Corporation, the Inter-American Development  
8 Bank, the Asian Development Bank, the African Development Bank,  
9 and the Student Loan Marketing Association.

10 (3) Repurchase Agreements with respect to securities issued or guaranteed  
11 by the United States government or its agencies or other securities  
12 eligible for investment by this section executed by a bank or trust  
13 company or by primary or other reporting dealers to the Federal  
14 Reserve Bank of New York.

15 (4) Obligations of the State of ~~North Carolina;~~Carolina.

16 (5) Time deposits of financial institutions with a physical presence in  
17 North Carolina for the purpose of receiving commercial or retail  
18 deposits; provided that any principal amount of such deposit in excess  
19 of the amount insured by the federal government or any agency  
20 thereof, be fully secured by surety bonds, or be fully collateralized;  
21 provided further that the rate of return or investment yield may not be  
22 less than that available in the market on United States government or  
23 agency obligations of comparable ~~maturity;~~maturity.

24 (6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

25 (7) Prime quality commercial paper bearing the highest rating of at least  
26 one nationally recognized rating service and not bearing a rating below  
27 the highest by any nationally recognized rating service which rates the  
28 particular obligation.

29 (8) Bills of exchange or time drafts drawn on and accepted by a  
30 commercial bank and eligible for use as collateral by member banks in  
31 borrowing from a federal reserve bank, provided that the accepting  
32 bank or its holding company is either (i) incorporated in the State of  
33 North Carolina or (ii) has outstanding publicly held obligations bearing  
34 the highest rating of at least one nationally recognized rating service  
35 and not bearing a rating below the highest by any nationally  
36 recognized rating service which rates the particular obligations.

37 (9) Asset-backed securities (whether considered debt or equity) provided  
38 they bear the highest rating of at least one nationally recognized rating  
39 service and do not bear a rating below the highest rating by any  
40 nationally recognized rating service which rates the particular  
41 securities.

42 (10) Corporate bonds and notes provided they bear the highest rating of at  
43 least one nationally recognized rating service and do not bear a rating

1 below the highest by any nationally recognized rating service which  
2 rates the particular obligation.

3 (d) Unless otherwise provided by law, the interest or income received and  
4 accruing from all deposits or investments of such cash balances shall be paid into the  
5 State's General Fund, except that all interest or income received and accruing on the  
6 monthly balance of the Highway Fund and Highway Trust Fund shall be paid into the  
7 State Highway Fund and Highway Trust Fund. The cash balances of the several funds  
8 may be combined for deposit or investment purposes; and when such combined deposits  
9 or investments are made, the interest or income received and accruing from all deposits  
10 or investments shall be prorated among the funds in conformity with applicable law and  
11 the rules and regulations adopted by the Governor and Council of State.

12 (e) The State Treasurer shall cause to be prepared quarterly statements on or  
13 before the tenth day of ~~January, April, July and October~~ February, May, August, and  
14 November in each year, which shall show the amount of cash on hand, the amount of  
15 money on deposit, the name of each depository, and all investments for which he is in  
16 any way responsible. Each quarterly statement shall be delivered to the ~~Governor and~~  
17 Council of State; Governor, Council of State, President Pro Tempore of the Senate, and  
18 Speaker of the House of Representatives; and a copy shall be posted in the office of the  
19 State Treasurer for the information of the public.

20 (f) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

21 (g) ~~If and to the extent the General Assembly shall authorize the sale of all or any~~  
22 ~~part of the stock owned by the State in the North Carolina Railroad Company or the~~  
23 ~~Atlantic and North Carolina Railroad Company, the proceeds of any sale shall be~~  
24 ~~separately accounted for and invested as expressly directed by the General Assembly,~~  
25 ~~but in the absence of any express direction as to investment, the proceeds may be~~  
26 ~~invested as authorized by this section."~~

27 **SECTION 3.** G.S. 147-69.2(b) reads as rewritten:

28 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds  
29 enumerated in subsection (a) of this section in excess of the amount required to meet the  
30 current needs and demands on such funds, selecting from among the following:

- 31 (1) Any of the investments authorized by ~~G.S. 147-69.1(e);~~  
32 G.S. 147-69.1(c)(1)-(7).
- 33 (2) General obligations of other states of the United ~~States;~~ States.
- 34 (3) General obligations of cities, counties and special districts in North  
35 ~~Carolina;~~ Carolina.
- 36 (4) Obligations of any company, other organization or legal entity  
37 incorporated or otherwise created or located within or ~~without~~ outside  
38 the United States if ~~such~~ the obligations bear one of the three highest  
39 ratings of at least one nationally recognized rating service and do not  
40 bear a rating below the three highest by any nationally recognized  
41 rating service which rates the particular ~~security;~~ security.
- 42 (5) ~~Notes secured by mortgages insured by the Federal Housing~~  
43 ~~Administration or guaranteed by the Veterans Administration on real~~  
44 ~~estate located within the State of North Carolina;~~

- 1 (6) Asset-backed securities (whether considered debt or equity) provided  
2 they bear ratings by nationally recognized rating services as provided  
3 in G.S. 147-69.2(b)(4) and that they do not bear a rating below the  
4 three highest by any nationally recognized rating service ~~which that~~  
5 rates the particular ~~securities;~~ securities.
- 6 (7) With respect to Retirement Systems' assets referred to in G.S.  
7 147-69.2(b)(8), (i) insurance contracts ~~which that~~ provide for  
8 participation in individual or pooled separate accounts of insurance  
9 companies, (ii) group trusts, (iii) individual, ~~common~~ common, or  
10 collective trust funds of banks and trust ~~companies and~~ companies, (iv)  
11 real estate investment ~~trusts;~~ trusts, and (v) limited partnerships,  
12 whether described as limited liability partnerships or limited liability  
13 companies; provided the investment manager has assets under  
14 management of at least ~~one hundred million dollars (\$100,000,000);~~  
15 two hundred fifty million dollars (\$250,000,000); provided such  
16 investment assets are managed primarily for the purpose of investing  
17 in or owning real estate or related debt financing located ~~in~~ within or  
18 outside the United States; and provided that the investment authorized  
19 by this subsection shall not exceed ten percent (10%) of the ~~book~~  
20 market value of all invested assets of the Retirement ~~Systems;~~ Systems.
- 21 (8) With respect to assets of the Teachers' and State Employees'  
22 Retirement System, the Consolidated Judicial Retirement System, the  
23 Firemen's and Rescue Workers' Pension Fund, the Local  
24 Governmental Employees' Retirement System, ~~and~~ the Legislative  
25 Retirement ~~System~~ System, and the North Carolina National Guard  
26 Pension Fund (hereinafter referred to collectively as the Retirement  
27 Systems), preferred or common stocks issued by any company  
28 incorporated or otherwise created or located within or ~~without~~ outside  
29 the United States, ~~provided:~~ States subject to the conditions set forth in  
30 this subdivision. The assets authorized under this subdivision may be  
31 invested through individual, common, or collective trust funds of  
32 banks, trust companies, and group trust funds of investment advisory  
33 companies provided that the investment manager has assets under  
34 management of at least two hundred fifty million dollars  
35 (\$250,000,000). Further, the assets authorized under this subdivision  
36 may be invested directly if all of the following conditions are met:
- 37 a. ~~That~~ The common stock or preferred stock of such corporation  
38 is registered on a national securities exchange as provided in the  
39 Federal Securities Exchange Act or quoted through the National  
40 Association of Securities Dealers' Automated Quotations  
41 (NASDAQ) ~~system;~~ system.
- 42 b. ~~That such~~ The corporation ~~shall have~~ has paid a cash dividend  
43 on its common stock in each year of the 5-year period next  
44 preceding the date of investment and the aggregate net earnings

- 1 available for dividends on the common stock of ~~such~~ the  
2 corporation for the whole of ~~such~~ that period shall have been at  
3 least equal to the amount of ~~such~~ the dividends ~~paid;~~ paid.
- 4 c. ~~That in~~ In applying the dividend and earnings test under this  
5 section to any issuing, assuming, or guaranteeing corporation,  
6 ~~where such corporation shall have~~ if the corporation acquired  
7 its property or any substantial part thereof within a five-year  
8 period immediately preceding the date of investment by  
9 consolidation, merger, or by the purchase of all or a substantial  
10 portion of the property of any other corporation or corporations,  
11 or ~~shall have~~ acquired the assets of any unincorporated business  
12 enterprise by purchase or otherwise, the dividends and net  
13 earnings of the several predecessor or constituent corporations  
14 or enterprises shall be consolidated and adjusted so as to  
15 ascertain whether or not the applicable requirements of this  
16 ~~section~~ subdivision have been complied ~~with;~~ with.
- 17 d. ~~That the~~ The book value of common and preferred stocks  
18 including securities convertible into common stocks shall not  
19 exceed fifty ~~per centum~~ percent (50%) of the book value of all  
20 invested assets of the Retirement ~~Systems;~~ provided, further:  
21 Systems and the following conditions must also be met:
- 22 1. Not more than one and one-half ~~per centum~~ percent (1  
23 1/2%) of the book value of ~~such~~ the assets shall be  
24 invested in the stock of a single ~~corporation,~~ and  
25 ~~provided further;~~ corporation.
- 26 2. The total number of shares in a single corporation shall  
27 not exceed eight ~~per centum~~ percent (8%) of the issued  
28 and outstanding stock of such ~~corporation,~~ and provided  
29 ~~further;~~ corporation.
- 30 3. As used in this subdivision d. and elsewhere in this  
31 section, book value shall mean adjusted cost basis as  
32 shown on the records of the State Treasurer.
- 33 e. Up to five ~~per cent~~ percent (5%) of the limits authorized in  
34 subdivision d. may be invested in the stocks or shares of a  
35 diversified investment company registered under the  
36 "Investment Company Act of 1940" ~~which~~ that has total assets  
37 of at least fifty million dollars (\$50,000,000).
- 38 f. ~~Individual, common or collective trust funds of banks or trust~~  
39 ~~companies provided that the investment manager has assets~~  
40 ~~under management of at least one hundred million dollars~~  
41 ~~(\$100,000,000).~~
- 42 g. That investments may be made in securities convertible into  
43 common stocks issued by any such company, if such securities  
44 bear one of the four highest ratings of at least one nationally

1 recognized rating service and do not bear a rating below the  
2 four highest by any nationally recognized rating service which  
3 may then rate the particular security.

4 (9) Obligations and securities of The North Carolina Enterprise  
5 Corporation, of the North Carolina Economic Opportunities Fund, or  
6 of a limited partnership in which The North Carolina Enterprise  
7 Corporation or the North Carolina Economic Opportunities Fund is the  
8 only general partner, not to exceed twenty million dollars  
9 (\$20,000,000) from all funds; and a limited partnership interest in a  
10 ~~partnership~~ partnership, or an interest in a limited liability company  
11 whose primary purpose is to invest in venture capital or corporate  
12 buyout transactions, within or outside the United States, not to exceed  
13 thirty million dollars (\$30,000,000) from all funds. These maximum  
14 dollar amounts do not apply to or restrict the reinvestment in  
15 accordance with this subdivision of any income from these  
16 investments.

17 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s.  
18 2.

19 (11) With respect to assets of the Escheat Fund, obligations of the North  
20 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),  
21 not to exceed twenty-five million dollars (\$25,000,000), that have a  
22 final maturity not later than September 1, 2004. The obligations shall  
23 bear interest at the rate set by the State Treasurer. No commitment to  
24 purchase obligations may be made pursuant to this subdivision after  
25 September 1, 1993, and no obligations may be purchased after  
26 September 1, 1994. In the event of a loss to the Escheat Fund by  
27 reason of an investment made pursuant to this subdivision, it is the  
28 intention of the General Assembly to hold the Escheat Fund harmless  
29 from the loss by appropriating to the Escheat Fund funds equivalent to  
30 the loss."

31 **SECTION 4.** G.S. 147-69.3 reads as rewritten:

32 **"§ 147-69.3. Administration of State Treasurer's investment programs.**

33 (a) The State Treasurer shall establish, maintain, administer, manage, and operate  
34 within the Department of State Treasurer one or more investment programs for the  
35 deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S.  
36 147-69.2.

37 (b) Any official, board, commission, other public authority, local government,  
38 school administrative unit, local ABC board, or community college of the State having  
39 custody of any funds not required by law to be deposited with and invested by the State  
40 Treasurer may deposit all or any portion of ~~such~~ those funds with the State Treasurer for  
41 investment in one of the investment programs established pursuant to this section,  
42 subject to any provisions of law with respect to eligible investments, provided that any  
43 occupational licensing board as defined in G.S. 93B-1 may participate in one of the  
44 investment programs established pursuant to this section regardless of whether or not

1 the funds were required by law to be deposited with and invested by the State Treasurer.  
2 In the absence of specific statutory provisions to the contrary, any ~~such~~ of those funds  
3 may be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon  
4 request from any depositor eligible under this subsection, the State Treasurer may  
5 authorize moneys invested pursuant to this subsection to be withdrawn by warrant on  
6 the State Treasurer.

7 (c) The State Treasurer's investment programs shall be so managed that in the  
8 judgment of the State Treasurer funds may be readily converted into cash when needed.

9 (d) Except as provided by G.S. 147-69.1(d), ~~net income~~ the total return earned on  
10 investments shall ~~be credited~~ accrue pro rata to the fund whose assets are invested  
11 according to ~~such formula as may be~~ the formula prescribed by the State Treasurer with  
12 the approval of the Governor and Council of State.

13 (e) The State Treasurer ~~shall have~~ has full powers as a fiduciary to hold,  
14 purchase, sell, assign, transfer, lend and dispose of any of the securities or investments  
15 in which any of the programs created pursuant to this section have been invested, and  
16 may reinvest the proceeds from the sale of ~~such~~ those securities or investments and any  
17 other investable assets of the program.

18 (f) The cost of administration, management, and operation of investment  
19 programs established pursuant to this section shall be apportioned equitably among the  
20 programs in such manner as may be prescribed by the State Treasurer, such costs to be  
21 paid from each program, and to the extent not otherwise chargeable directly to the  
22 income or assets of the specific investment program or pooled investment vehicle, shall  
23 be deposited with the State Treasurer as a ~~General Fund nontax revenue receipt to the~~  
24 budget of the State Treasurer. ~~The cost of administration, management, and operation of~~  
25 ~~investment programs established pursuant to this section and not directly paid from the~~  
26 ~~income or assets of such program shall be covered by an appropriation to the State~~  
27 ~~Treasurer for this purpose in the Current Operations Appropriations Act.~~

28 (g) The State Treasurer is authorized to retain the services of ~~such~~ independent  
29 appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians,  
30 custodians, or other persons or firms possessing specialized skills or knowledge ~~as may~~  
31 ~~be~~ necessary for the proper administration of investment programs created pursuant to  
32 this section.

33 (h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on  
34 the financial condition of each investment program created pursuant to this section. A  
35 copy of each report shall be submitted within 30 days following the end of the fiscal  
36 year to the official, institution, board, commission or other agency whose funds are  
37 invested, the State Auditor, and the Advisory Budget Commission.

38 (i) The State Treasurer's annual report to the General Assembly shall include a  
39 full and complete statement of all moneys invested by virtue of the provisions of G.S.  
40 147-69.1 and G.S. 147-69.2, the nature and character of investments therein, and the  
41 revenues derived therefrom. ~~The State Treasurer shall also establish annual investment~~  
42 ~~yield targets for all moneys invested by virtue of the provisions of G.S. 147-69.1 and~~  
43 ~~G.S. 147-69.2, and shall include in his annual report a statement of the extent that these~~  
44 ~~targets have been reached.~~

1       (j) Subject to the provisions of ~~G.S. 147-69.1(e)~~, G.S. 147-69.1(d), the State  
2       Treasurer shall adopt ~~such rules and regulations as may be~~ any rules necessary to carry  
3       out the provisions of this section."

4               **SECTION 5.** This act becomes effective July 1, 2001.