

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS15115-LB-232 (3/12)

Short Title: State Treasurer Investments.

(Public)

Sponsors: Senator Rand.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT CONCERNING INVESTMENTS OF THE STATE TREASURER.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 147-69.2 reads as rewritten:

5 "§ 147-69.2. Investments authorized for special funds held by State Treasurer.

6 (a) This section applies to funds held by the State Treasurer to the credit of each of the
7 following:

- 8 (1) The Teachers' and State Employees' Retirement System.
- 9 (2) The Consolidated Judicial Retirement System.
- 10 (3) The Teachers' and State Employees' Hospital and Medical Insurance Plan.
- 11 (4) The General Assembly Medical and Hospital Care Plan.
- 12 (5) The Disability Salary Continuation Plan.
- 13 (6) The Firemen's and Rescue Workers' Pension Fund.
- 14 (7) The Local Governmental Employees' Retirement System.
- 15 (8) The Legislative Retirement System.
- 16 (9) The Escheat Fund.
- 17 (10) The Legislative Retirement Fund.
- 18 (11) The State Education Assistance Authority.
- 19 (12) The State Property Fire Insurance Fund.
- 20 (13) The Stock Workers' Compensation Fund.
- 21 (14) The Mutual Workers' Compensation Fund.
- 22 (15) The Public School Insurance Fund.
- 23 (16) The Liability Insurance Trust Fund.
- 24 (16a) The University of North Carolina Hospitals at Chapel Hill funds, except
25 appropriated funds, deposited with the State Treasurer pursuant to
26 G.S. 116-37.2.
- 27 (17) Trust funds of The University of North Carolina and its constituent
28 institutions deposited with the State Treasurer pursuant to G.S. 116-36.1.
- 29 (17a) North Carolina Veterans Home Trust Fund.
- 30 (17b) North Carolina National Guard Pension Fund.
- 31 (17c) Retiree Health Premium Reserve Account.
- 32 (17d) The Election Fund.
- 33 (17e) The North Carolina State Lottery Fund.
- 34 (17f) Funds deposited with the State Treasurer by public hospitals pursuant to
35 G.S. 159-39(g).



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- 1 (17g) The Local Government Other Post-Employment Benefits Fund.
2 (17h) The Local Government Law Enforcement Special Separation Allowance
3 Fund.
4 (17i) The North Carolina Conservation Easement Endowment Fund.
5 (17j) The Conservation Grant Fund.
6 (18) Any other special fund created by or pursuant to law for purposes other than
7 meeting appropriations made pursuant to the Executive Budget Act.
8 (19) The Swain County Settlement Trust Fund.
- 9 (b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated
10 in subsection (a) of this section in excess of the amount required to meet the current needs and
11 demands on such funds, selecting from among the following:
- 12 (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).
13 (2) General obligations of other states of the United States.
14 (3) General obligations of cities, counties and special districts in North Carolina.
15 (4) Obligations of any company, other organization or legal entity incorporated
16 or otherwise created or located within or outside the United States ~~States~~,
17 including obligations that are convertible into equity securities, if the
18 obligations either (i) when acquired, bear one of the four highest ratings of at
19 least one nationally recognized rating service and do not bear a rating below
20 the four highest by any nationally recognized rating service which rates the
21 particular ~~security~~-security or (ii) when acquired, bear the fifth highest rating
22 of at least one nationally recognized rating service and do not bear a rating
23 below the fifth highest rating by any nationally recognized rating service
24 which rates the particular security, provided that the obligations are
25 additional securities that are identical to obligations previously acquired
26 pursuant to sub clause (i).
27 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
28 (6) Asset-backed securities (whether considered debt or equity) ~~provided they if~~
29 the securities either (i) when acquired, bear ratings by nationally recognized
30 rating services as provided in ~~G.S. 147-69.2(b)(4)~~ subdivision (4) of this
31 subsection and that they do not bear a rating below the four highest by any
32 nationally recognized rating service that rates the particular
33 securities-security or (ii) when acquired, bear the fifth highest rating of at
34 least one nationally recognized rating service and do not bear a rating below
35 the fifth highest rating by any nationally recognized rating service which
36 rates the particular security, provided that the securities are additional
37 securities that are identical to securities previously acquired pursuant to sub
38 clause (i).
- 39 (6a) In addition to the limitations and requirements with respect to the
40 investments of the Retirement Systems set forth in subsection (b) of this
41 section, the State Treasurer shall select investments of the assets of the
42 Retirement Systems such that investments made pursuant to subdivisions (b)
43 (1) through (6) of this section shall at all times equal or exceed twenty
44 percent (20%) of the market value of all invested assets of the Retirement
45 Systems.
- 46 (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may
47 be made directly by the State Treasurer or through contractual arrangements
48 in which the investment manager has full and complete discretion and
49 authority to invest assets specified in such arrangements in investments
50 authorized by subdivisions (b)(1) through (6) of this section, provided for

- 1 each indirect investment, the investment manager has assets under
2 management of at least one hundred million dollars (\$100,000,000).
3 (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8),
4 they may be invested in obligations and other debt securities, including debt
5 securities convertible into other securities, that do not meet the requirements
6 of any of subdivisions (b)(1) through (6) of this section nor subdivision
7 (b)(7) of this section, provided such investments are made through
8 investment companies registered under the Investment Company Act of
9 1940, individual, common collective trust funds of banks and trust
10 companies, group trusts and limited partnerships, limited liability companies
11 or other limited liability investment vehicles that invest primarily in
12 investments authorized by this subdivision and through contractual
13 arrangements in which the investment manager has full and complete
14 discretion and authority to invest assets specified in such arrangements in
15 investments authorized by this subdivision, provided the investment
16 manager for each investment pursuant to this subdivision has assets under
17 management of at least one hundred million dollars (\$100,000,000) and
18 provided that the investments authorized under this subdivision shall not
19 exceed five percent (5%) of the market value of all invested assets of the
20 Retirement Systems.
- 21 (7) With respect to Retirement Systems' assets referred to in
22 G.S. 147-69.2(b)(8), subdivision (8) of this subsection, (i) insurance contracts
23 that provide for participation in individual or pooled separate accounts of
24 insurance companies, (ii) group trusts, (iii) individual, common, or collective
25 trust funds of banks and trust companies, (iv) real estate investment trusts,
26 and (v) investment companies registered under the Investment Company Act
27 of 1940, and (vi) limited partnerships, whether described as limited liability
28 partnerships—companies, or other limited liability companies; investment
29 vehicles; provided the investment manager has assets under management of
30 at least one hundred million dollars (\$100,000,000); provided such
31 investment assets are managed primarily for the purpose of investing in or
32 owning real estate or related debt financing located within or outside the
33 United States; and provided that the ~~investment investments~~ authorized by
34 this ~~subsection~~ subdivision shall not exceed ten percent (10%) of the market
35 value of all invested assets of the Retirement Systems.
- 36 (8) With respect to assets of the Teachers' and State Employees' Retirement
37 System, the Consolidated Judicial Retirement System, the Firemen's and
38 Rescue Workers' Pension Fund, the Local Governmental Employees'
39 Retirement System, the Legislative Retirement System, the North Carolina
40 National Guard Pension Fund (hereinafter referred to collectively as the
41 Retirement Systems), and assets invested pursuant to subdivision (b2) of this
42 section, they may be invested in ~~preferred or common stock~~ equity securities
43 traded on a public securities exchange or market organized and regulated
44 pursuant to the laws of the jurisdiction of such exchange or market and
45 issued by any company incorporated or otherwise created or located within
46 or outside the United States—States; provided the investments meet the
47 conditions of this subdivision.

48 The investments authorized for the Retirement Systems under this
49 subdivision cannot exceed sixty-five percent (65%) of the market value of
50 all invested assets of the Retirement Systems. ~~Up to five percent (5%) of the~~
51 ~~amount that may be invested under this subdivision may be invested in the~~

1 ~~stocks or shares of a diversified investment company registered under the~~
2 ~~"Investment Company Act of 1940" that has total~~ So long as each
3 investment manager has assets under management of at least fifty million
4 dollars (\$50,000,000). ~~one hundred million dollars (\$100,000,000), the~~ The
5 assets authorized under this subdivision can be invested through (i)
6 investment companies registered under the Investment Company Act of
7 1940; (ii) individual, common, or collective trust funds of banks, ~~banks and~~
8 ~~trust companies, and group trust funds of investment advisory companies so~~
9 ~~long as the investment manager has assets under management of at least one~~
10 ~~hundred million dollars (\$100,000,000).~~ (iii) group trusts, and (iv) contractual
11 arrangements in which investment managers have full and complete
12 discretion and authority to invest assets specified in such contractual
13 arrangements.

14 ~~The assets authorized under this subdivisionsubdivision (8) of this~~
15 ~~subsection can also be invested directly, if all of the following conditions are~~
16 ~~met:~~

- 17 a. ~~The common stock or preferred stock of such corporation is~~
18 ~~registered on a national securities exchange as provided in the~~
19 ~~Federal Securities Exchange Act or quoted through the National~~
20 ~~Association of Securities Dealers' Automated Quotations (NASDAQ)~~
21 ~~system.~~
- 22 b. ~~The corporation has paid a cash dividend on its common stock in~~
23 ~~each year of the 5 year period next preceding the date of investment~~
24 ~~and the aggregate net earnings available for dividends on the~~
25 ~~common stock of the corporation for the whole of that period have~~
26 ~~been at least equal to the amount of the dividends paid.~~
- 27 e. ~~In applying the dividend and earnings test under this section to any~~
28 ~~issuing, assuming, or guaranteeing corporation, if the corporation~~
29 ~~acquired its property or any substantial part thereof within a five year~~
30 ~~period immediately preceding the date of investment by~~
31 ~~consolidation, merger, or by the purchase of all or a substantial~~
32 ~~portion of the property of any other corporation or corporations, or~~
33 ~~acquired the assets of any unincorporated business enterprise by~~
34 ~~purchase or otherwise, the dividends and net earnings of the several~~
35 ~~predecessor or constituent corporations or enterprises shall be~~
36 ~~consolidated and adjusted so as to ascertain whether or not the~~
37 ~~applicable requirements of this subdivision have been complied with.~~
38 by the State Treasurer in any equity securities represented in the S&P
39 500 Index or that have been publicly announced to be included in the
40 S&P 500 Index. No more than one and one-half percent (1 1/2%) of
41 the market value of the Retirement Systems' assets that may be
42 invested directly under this subdivision can be invested in the stock
43 of a single corporation, and the total number of shares in that single
44 corporation cannot exceed eight percent (8%) of the issued and
45 outstanding stock of that corporation.
- 46 d. to f. Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- 47 g. ~~That investments may be made in securities convertible into common~~
48 ~~stocks issued by any such company, if such securities bear one of the~~
49 ~~four highest ratings of at least one nationally recognized rating~~
50 ~~service and do not bear a rating below the four highest by any~~

- 1 nationally recognized rating service which may then rate the
2 particular security.
- 3 (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
4 of this subsection, they may be invested in ~~limited partnership interests in a~~
5 ~~partnership or in interests in a limited liability company~~interests in limited
6 partnerships, limited liability companies, or other limited liability investment
7 vehicles that are not publicly traded if the primary purpose of the partnership
8 or limited liability companylimited partnership, limited liability company, or
9 other limited liability investment vehicle is to invest in public or private
10 ~~debt, public or private~~ equity, or corporate buyout transactions, within or
11 outside the United States. The amount invested under this subdivision (b)(9)
12 shall not exceed five percent (5%) of the market value of all invested assets
13 of the Retirement Systems.
- 14 (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
15 of this subsection, they may be invested in inflation-linked bonds,
16 timberlands, commodities, and other assets that are acquired for the primary
17 purpose of providing protection against risks associated with inflation,
18 provided such investments are made through investment companies
19 registered under the Investment Company Act of 1940, individual, common
20 or collective trust funds of banks and trust companies, group trusts and
21 limited partnerships, limited liability companies or other limited liability
22 investment vehicles that invest primarily in investments authorized by this
23 subdivision and through contractual arrangements in which the investment
24 manager has full and complete discretion and authority to invest assets
25 specified in such arrangements in investments authorized by this
26 subdivision, provided the investment manager for each investment pursuant
27 to this subdivision has assets under management of at least one hundred
28 million dollars (\$100,000,000) and provided that the investments authorized
29 under this subdivision shall not exceed five percent (5%) of the market value
30 of all invested assets of the Retirement Systems. Notwithstanding anything
31 in this subsection to the contrary, the investments authorized by this
32 subdivision shall not be included in any subdivision other than this
33 subdivision for purposes of the percentage investment limitations therein or
34 otherwise.
- 35 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.
- 36 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina
37 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed
38 twenty-five million dollars (\$25,000,000), that have a final maturity not later
39 than October 1, 2009. The obligations shall bear interest at the rate set by the
40 State Treasurer. No commitment to purchase obligations may be made
41 pursuant to this subdivision after September 1, 1993, and no obligations may
42 be purchased after September 1, 1994. In the event of a loss to the Escheat
43 Fund by reason of an investment made pursuant to this subdivision, it is the
44 intention of the General Assembly to hold the Escheat Fund harmless from
45 the loss by appropriating to the Escheat Fund funds equivalent to the loss.
- 46 If any part of the property owned by the North Carolina Global
47 TransPark Authority now or in the future is divested, proceeds of the
48 divestment shall be used to fulfill any unmet obligations on an investment
49 made pursuant to this subdivision.
- 50 (12) With respect to assets of the Escheat Fund, in addition to those investments
51 authorized by subdivisions (1) through (6) of this ~~subsection,~~subsection (b),

1 up to twenty percent (20%) of such assets may be invested in the
2 investments authorized under subdivisions (7) through (9) of this
3 ~~subsection-subsection~~ (b) notwithstanding the percentage limitations
4 imposed on the ~~retirement funds~~ Retirement Systems' investments under
5 those subdivisions.

6 (b1) With respect to investments authorized by ~~subsections-subdivisions~~ (b)(8) and (b)(9)
7 of this section, the State Treasurer shall appoint an Investment Advisory Committee, which
8 shall consist of five members: the State Treasurer, who shall be chairman ex officio; two
9 members selected from among the members of the boards of trustees of the Retirement
10 Systems; and two members selected from the general public. The two public members must
11 have experience in one or more of the following areas: investment management, real estate
12 investment trusts, real estate development, venture capital investment, or absolute return
13 strategies. The State Treasurer shall also appoint a Secretary of the Investment Advisory
14 Committee who need not be a member of the committee. Members of the committee shall
15 receive for their services the same per diem and allowances granted to members of the State
16 boards and commissions generally. The committee shall have advisory powers only and
17 membership shall not be deemed a public office within the meaning of Article VI, Section 9 of
18 the Constitution of North Carolina or G.S. 128-1.1.

19 (b2) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17f) of
20 this section in any of the investments authorized under subdivisions (1) through ~~(6)(6),~~
21 subdivision (6c) and subdivision (8) of subsection (b) (8)(b) of this section-section,
22 notwithstanding the percentage limitations imposed on the Retirement Systems' investments
23 therein. The State Treasurer may require a minimum deposit, up to one hundred thousand
24 dollars (\$100,000), and may assess a reasonable ~~fee-fees,~~ not to exceed 15 basis points,points
25 per annum, as a condition of participation pursuant to this subsection. Funds deposited pursuant
26 to this subsection by a hospital shall remain the funds of that hospital, and interest or other
27 investment income earned thereon shall be prorated and credited to the contributing hospital on
28 the basis of the amounts thereof contributed, figured according to sound accounting principles.
29 Fees assessed by the State Treasurer may be used to defray the cost of administering
30 investments pursuant to this subdivision.

31 (b3) The State Treasurer may invest funds deposited pursuant to subdivision (a)(16a) of
32 this section in any of the investments authorized under subdivisions (1) through ~~(6)(6),~~
33 subdivision (6c) and subdivision (8) of subsection (b) subdivision (b)(8) of this section-section,
34 notwithstanding the percentage limitations imposed on the Retirement Systems' investments
35 therein. The State Treasurer may require a minimum deposit, up to one hundred thousand
36 dollars (\$100,000), and may assess a reasonable ~~fee-fees,~~ not to exceed 15 basis points,points
37 per annum, as a condition of participation pursuant to this subsection. Funds deposited pursuant
38 to this subsection by the University of North Carolina Hospitals at Chapel Hill shall remain the
39 funds of the University of North Carolina Hospitals at Chapel Hill, and interest or other
40 investment income earned thereon shall be prorated and credited to the University of North
41 Carolina Hospitals at Chapel Hill on the basis of the amounts thereof contributed, figured
42 according to sound accounting principles. Fees assessed by the State Treasurer may be used to
43 defray the cost of administering investments pursuant to this subdivision.

44 (b4) In addition to the investments authorized under subdivisions(b)(1) through ~~(b)(6)~~ of
45 this section, the State Treasurer may invest funds deposited in the Local Government Other
46 Post-Employment Benefits Fund in any of the investments authorized under subdivision
47 subdivisions (b)(6c) and (b)(8) of this section-section, notwithstanding the percentage
48 limitations imposed on the Retirement Systems' investments therein. For investments from that
49 Fund made under ~~subdivision-subdivisions~~ (b)(6c) and (b)(8) of this section, the State Treasurer
50 may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may

1 assess a ~~fee~~fees of up to 15 basis points per annum as a condition of making the investment.
2 The fee may be used to defray the costs of administering the Fund.

3 (b5) In addition to the investments authorized under subdivisions (b)(1) through ~~(b)~~(6) of
4 this section, the State Treasurer may invest funds deposited in the Local Government Law
5 Enforcement Special Separation Allowance Fund in any of the investments authorized under
6 ~~subdivision~~subdivisions (b)(6c) and (b)(8) of this section~~section, notwithstanding the~~
7 percentage limitations imposed on the Retirement Systems' investments therein. For
8 investments from that Fund made under ~~subdivision~~subdivisions (b)(6c) and (b)(8) of this
9 section, the State Treasurer may require a minimum deposit of up to one hundred thousand
10 dollars (\$100,000) and may assess a ~~fee~~fees of up to 15 basis points per annum as a condition
11 of making the investment. The fee may be used to defray the costs of administering the Fund.

12 (c) Repealed by Session Laws 1995, c. 501, s. 2.

13 (d) The State Treasurer may invest funds deposited pursuant to subdivision (a)(17i) of
14 this section in any of the investments authorized under subdivisions (1) through (6) and
15 subdivision (8) of subsection (b) of this section. The State Treasurer may require a minimum
16 deposit, up to one hundred thousand dollars (\$100,000), and may assess a reasonable fee, not to
17 exceed 15 basis points, as a condition of participation pursuant to this subsection. Funds
18 deposited pursuant to this subsection shall remain the funds of the North Carolina Conservation
19 Easement Endowment Fund, and interest or other investment income earned thereon shall be
20 prorated and credited to the North Carolina Conservation Easement Endowment Fund on the
21 basis of the amounts thereof contributed, figured according to sound accounting principles."

22 **SECTION 2.** This act is effective when it becomes law.