

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1507\*  
PROPOSED COMMITTEE SUBSTITUTE H1507-PCS30324-SH-36

Short Title: State Treasurer Investments.

(Public)

Sponsors:

Referred to:

April 15, 2009

A BILL TO BE ENTITLED

AN ACT CONCERNING INVESTMENTS OF THE STATE TREASURER.

The General Assembly of North Carolina enacts:

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

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

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

- (1) The Teachers' and State Employees' Retirement System.
- (2) The Consolidated Judicial Retirement System.
- (3) ~~The Teachers' and State Employees' Hospital and Medical Insurance Plan.~~  
The State Health Plan for Teachers and State Employees.
- (4) The General Assembly Medical and Hospital Care Plan.
- (5) The Disability Salary Continuation Plan.
- (6) The Firemen's and Rescue Workers' Pension Fund.
- (7) The Local Governmental Employees' Retirement System.
- (8) The Legislative Retirement System.
- (9) The Escheat Fund.
- (10) The Legislative Retirement Fund.
- (11) The State Education Assistance Authority.
- (12) The State Property Fire Insurance Fund.
- (13) The Stock Workers' Compensation Fund.
- (14) The Mutual Workers' Compensation Fund.
- (15) The Public School Insurance Fund.
- (16) The Liability Insurance Trust Fund.
- (16a) The University of North Carolina Hospitals at Chapel Hill funds, except appropriated funds, deposited with the State Treasurer pursuant to G.S. 116-37.2.
- (17) Trust funds of The University of North Carolina and its constituent institutions deposited with the State Treasurer pursuant to G.S. 116-36.1.
- (17a) North Carolina Veterans Home Trust Fund.
- (17b) North Carolina National Guard Pension Fund.
- (17c) Retiree Health Premium Reserve Account.
- (17d) The Election Fund.
- (17e) The North Carolina State Lottery Fund.



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- 1 (17f) Funds deposited with the State Treasurer by public hospitals pursuant to  
2 G.S. 159-39(g).
- 3 (17g) The Local Government Other Post-Employment Benefits Fund.
- 4 (17h) The Local Government Law Enforcement Special Separation Allowance  
5 Fund.
- 6 (17i) The North Carolina Conservation Easement Endowment Fund.
- 7 (17j) The Conservation Grant Fund.
- 8 (18) Any other special fund created by or pursuant to law for purposes other than  
9 meeting appropriations made pursuant to the Executive Budget Act.
- 10 (19) The Swain County Settlement Trust Fund.
- 11 (b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated  
12 in subsection (a) of this section in excess of the amount required to meet the current needs and  
13 demands on such funds, selecting from among the following:
- 14 (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).
- 15 (2) General obligations of other states of the United States.
- 16 (3) General obligations of cities, counties and special districts in North Carolina.
- 17 (4) Obligations of any company, other organization or legal entity incorporated  
18 or otherwise created or located within or outside the United ~~States~~ States,  
19 including obligations that are convertible into equity securities, if the  
20 obligations either (i) when acquired, bear one of the four highest ratings of at  
21 least one nationally recognized rating service and do not bear a rating below  
22 the four highest by any nationally recognized rating service which rates the  
23 particular security-security or (ii) when acquired, bear the fifth highest rating  
24 of at least one nationally recognized rating service and do not bear a rating  
25 below the fifth highest rating by any nationally recognized rating service  
26 which rates the particular security, provided that the obligations are  
27 additional securities that are identical to obligations previously acquired  
28 pursuant to subclause (i).
- 29 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- 30 (6) Asset-backed securities (whether considered debt or equity) ~~provided they if~~  
31 the securities either (i) when acquired, bear ratings by nationally recognized  
32 rating services as provided in G.S. 147-69.2(b)(4) subdivision (4) of this  
33 subsection and that they do not bear a rating below the four highest by any  
34 nationally recognized rating service that rates the particular  
35 securities-security or (ii) when acquired, bear the fifth highest rating of at  
36 least one nationally recognized rating service and do not bear a rating below  
37 the fifth highest rating by any nationally recognized rating service which  
38 rates the particular security, provided that the securities are additional  
39 securities that are identical to securities previously acquired pursuant to  
40 subclause (i).
- 41 (6a) In addition to the limitations and requirements with respect to the  
42 investments of the Retirement Systems set forth in subsection (b) of this  
43 section, the State Treasurer shall select investments of the assets of the  
44 Retirement Systems such that investments made pursuant to subdivisions (b)  
45 (1) through (6) of this section shall at all times equal or exceed twenty  
46 percent (20%) of the market value of all invested assets of the Retirement  
47 Systems.
- 48 (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may  
49 be made directly by the State Treasurer or through contractual arrangements  
50 in which the investment manager has full and complete discretion and  
51 authority to invest assets specified in such arrangements in investments

1 authorized by subdivisions (b)(1) through (6) of this section, provided for  
2 each indirect investment, the investment manager has assets under  
3 management of at least one hundred million dollars (\$100,000,000).

4 (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8),  
5 they may be invested in obligations and other debt securities, including debt  
6 securities convertible into other securities, that do not meet the requirements  
7 of any of subdivisions (b)(1) through (6) of this section nor subdivision  
8 (b)(7) of this section, provided such investments are made through  
9 investment companies registered under the Investment Company Act of  
10 1940, individual, common collective trust funds of banks and trust  
11 companies, group trusts and limited partnerships, limited liability companies  
12 or other limited liability investment vehicles that invest primarily in  
13 investments authorized by this subdivision and through contractual  
14 arrangements in which the investment manager has full and complete  
15 discretion and authority to invest assets specified in such arrangements in  
16 investments authorized by this subdivision, provided the investment  
17 manager for each investment pursuant to this subdivision has assets under  
18 management of at least one hundred million dollars (\$100,000,000) and  
19 provided that the investments authorized under this subdivision shall not  
20 exceed five percent (5%) of the market value of all invested assets of the  
21 Retirement Systems.

22 (7) With respect to Retirement Systems' assets referred to in  
23 G.S. 147-69.2(b)(8), subdivision (8) of this subsection, (i) insurance contracts  
24 that provide for participation in individual or pooled separate accounts of  
25 insurance companies, (ii) group trusts, (iii) individual, common, or collective  
26 trust funds of banks and trust companies, (iv) real estate investment trusts,  
27 and (v) investment companies registered under the Investment Company Act  
28 of 1940, and (vi) limited partnerships, ~~whether described as limited liability~~  
29 ~~partnerships—companies,~~ or other limited liability ~~companies;~~ investment  
30 vehicles; provided the investment manager has assets under management of  
31 at least one hundred million dollars (\$100,000,000); provided such  
32 investment assets are managed primarily for the purpose of investing in or  
33 owning real estate or related debt financing located within or outside the  
34 United States; and provided that the ~~investment—investments~~ authorized by  
35 this ~~subsection—subdivision~~ shall not exceed ten percent (10%) of the market  
36 value of all invested assets of the Retirement Systems.

37 (8) With respect to assets of the Teachers' and State Employees' Retirement  
38 System, the Consolidated Judicial Retirement System, the Firemen's and  
39 Rescue Workers' Pension Fund, the Local Governmental Employees'  
40 Retirement System, the Legislative Retirement System, the North Carolina  
41 National Guard Pension Fund (hereinafter referred to collectively as the  
42 Retirement Systems), and assets invested pursuant to subdivision (b2) of this  
43 section, they may be invested in ~~preferred or common stock~~ equity securities  
44 traded on a public securities exchange or market organized and regulated  
45 pursuant to the laws of the jurisdiction of such exchange or market and  
46 issued by any company incorporated or otherwise created or located within  
47 or outside the United States—States; provided the investments meet the  
48 conditions of this subdivision.

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

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

15 The assets authorized under this subdivision can also be invested  
16 directly, if all of the following conditions are 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 c. ~~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 shall  
12 not exceed five percent (5%) of the market value of all invested assets of the  
13 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, up to twenty

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

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

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

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

43 (b4) In addition to the investments authorized under subdivisions (b)(1) through ~~(b)(6)~~  
44 of this section, the State Treasurer may invest funds deposited in the Local Government Other  
45 Post-Employment Benefits Fund in any of the investments authorized under subdivision  
46 subdivisions (b)(6c) and (b)(8) of this section. notwithstanding the percentage  
47 limitations imposed on the Retirement Systems' investments therein. For investments from that  
48 Fund made under ~~subdivision~~ subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer  
49 may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may  
50 assess a ~~fee, fees~~ of up to 15 basis points per annum as a condition of making the investment.  
51 The fee may be used to defray the costs of administering the Fund.

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

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

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

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