

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL DRS35125-MR-83

Short Title: Small Business Venture Fund. (Public)

Sponsors: Senator Gunn (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROMOTE INVESTMENT IN SMALL BUSINESS VENTURES.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** G.S. 147-69.2(b) reads as rewritten:

5 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated  
6 in subsection (a) of this section in excess of the amount required to meet the current needs and  
7 demands on these funds. The State Treasurer may invest the funds as provided in this subsection  
8 in the manner authorized by subsection (e) of this section. If an investment was authorized by  
9 this subsection at the time the investment was made or contractually committed to be made, then  
10 that investment shall continue to be authorized by this subsection, and none of the percentage or  
11 other limitation on investments set forth in this subsection shall be construed to require the State  
12 Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments  
13 as a result of changes in market values, ratings, or other investment qualifications. For purposes  
14 of computing market values on which percentage limitations on investments in this subsection  
15 are based, all investments shall be valued as of the last date of the most recent fiscal quarter.  
16 Notwithstanding anything in this section to the contrary, the State Treasurer shall categorize  
17 investment management arrangements according to the primary investment type or primary  
18 strategy utilized under the arrangement authorized under subsection (e) of this section. No  
19 investment management arrangement may be categorized in more than one of the subdivisions  
20 of this section. The State Treasurer shall select from among the following investments subject to  
21 the following limitations and requirements:

22 ...

23 (12) It is the intent of the General Assembly that the Escheat Fund provide a  
24 perpetual and sustainable source of funding for the purposes authorized by the  
25 State Constitution. Accordingly, the following provisions apply:

- 26 a. With respect to assets of the Escheat Fund, in addition to those  
27 investments authorized by subdivisions (1) through (6) of this  
28 subsection, up to ten percent (10%) of the assets may be invested in  
29 the investments authorized under subdivisions (6c) through (9a) of this  
30 subsection, notwithstanding the percentage limitations imposed on the  
31 Retirement Systems' investments under those subdivisions, and  
32 provided that the State Treasurer may invest the assets as provided in  
33 subsection (e) of this section.  
34 b. Repealed by Session Laws 2016-55, s. 1.3, effective January 31, 2017.  
35 c. The State Treasurer shall invest, in addition to those investments  
36 authorized by sub-subdivision a. of this subdivision, ten percent (10%)



1 of the net assets of the Escheat Fund as authorized under  
2 G.S. 147-69.2A.

3 d. With respect to assets of the Escheat Fund, in addition to those  
4 investments otherwise authorized by this subdivision, up to one  
5 hundred million dollars (\$100,000,000) of such assets may be invested  
6 as authorized under G.S. 147-69.2A."

7 **SECTION 1.(b)** G.S. 147-69.2A reads as rewritten:

8 "**§ 147-69.2A. Investments; special funds held by the State Treasurer.**

9 (a) ~~Firm to Administer Special Fund. — Following a public procurement process, a~~  
10 ~~designee of the Governor, a designee of the State Treasurer, a designee of the Speaker of the~~  
11 ~~House of Representatives, and a designee of the President Pro Tempore of the Senate shall jointly~~  
12 ~~and unanimously select a third-party professional investment management firm, subject to the~~  
13 ~~rules and regulations of the U.S. Securities and Exchange Commission, to administer a special~~  
14 ~~fund created to invest assets described in G.S. 147-69.2(b)(12)e. and select investment~~  
15 ~~opportunities appropriate for receiving allocations from the Fund on the basis of potential return~~  
16 ~~on investment and the risks attendant thereto. Funds; Administration. — The State Treasurer shall~~  
17 ~~assign professional and clerical staff to assist in the oversight of the Fund. All costs for the~~  
18 ~~third-party investment management firm and the professional and clerical staff shall be borne by~~  
19 ~~the Fund pursuant to G.S. 147-69.3(f). The State Treasurer shall discharge his or her duties with~~  
20 ~~respect to the Fund as a fiduciary consistent with G.S. 147-69.7. Administration of the Fund shall~~  
21 ~~be as follows:~~

22 (1) With the exception of assets of the Fund made available for investment  
23 pursuant to G.S. 147-69.2(b)(12)d., following a public procurement process,  
24 a designee of the Governor, a designee of the State Treasurer, a designee of  
25 the Speaker of the House of Representatives, and a designee of the President  
26 Pro Tempore of the Senate shall jointly and unanimously select a third-party  
27 professional investment management firm, registered with the U.S. Securities  
28 and Exchange Commission, to administer the Fund and select investment  
29 opportunities appropriate for receiving allocations from the Fund on the basis  
30 of potential return on investment and the risks attendant thereto.

31 (2) For assets of the Fund made available for investment pursuant to  
32 G.S. 147-69.2(b)(12)d., following a public procurement process, a designee  
33 of the Governor, a designee of the State Treasurer, a designee of the Secretary  
34 of Commerce, a designee of the Speaker of the House of Representatives, and  
35 a designee of the President Pro Tempore of the Senate shall jointly and  
36 unanimously select a third-party professional investment management firm,  
37 registered with the U.S. Securities and Exchange Commission as an  
38 Investment Advisor and an exempt entity, to administer the Fund and select  
39 investment opportunities appropriate for receiving allocations from the Fund  
40 on the basis of the limitations provided in subsections (c) and (c1) of this  
41 section.

42 (b) Organization and Reporting. — All Public Records. — With the exception of assets of  
43 the Fund made available for investment pursuant to G.S. 147-69.2(b)(12)d., all documents of the  
44 Governor or the State Treasurer concerning the Fund are public records governed by Chapter 132  
45 of the General Statutes and any applicable provisions of the General Statutes protecting  
46 confidential information. For assets of the Fund made available for investment pursuant to  
47 G.S. 147-69.2(b)(12)d., all documents of the Governor, the Secretary of Commerce, or the State  
48 Treasurer concerning the Fund are public records governed by Chapter 132 of the General  
49 Statutes and any applicable provisions of the General Statutes protecting confidential  
50 information.

1        (b1) The Investment Policy. – With the exception of assets of the Fund made available for  
2 investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer and the Governor shall jointly  
3 develop and adopt an investment policy statement for the Fund. For assets of the Fund made  
4 available for investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer, the Secretary of  
5 Commerce, and the Governor shall jointly develop and adopt an investment policy statement for  
6 the Fund.

7        (b2) The Conflict of Interest. – With the exception of assets of the Fund made available  
8 for investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer and Governor shall jointly  
9 adopt a common policy to prevent conflicts of interests such that interests. For assets of the Fund  
10 made available for investment pursuant to G.S. 147-69.2(b)(12)d., the State Treasurer, the  
11 Secretary of Commerce, and the Governor shall jointly develop and adopt an investment policy  
12 statement for the Fund. A policy adopted under this subsection shall ensure, at a minimum, that  
13 (i) the designees of the State Treasurer and Governor who selected the a third-party investment  
14 management firm, firm, pursuant to this section, (ii) the staff of the State Treasurer overseeing  
15 the Fund, and (iii) the third-party investment management firm's employees selecting or  
16 overseeing Fund investments do not provide services for compensation (as compensation, as an  
17 employee, consultant, or otherwise), otherwise, within two years after the end of their service to  
18 the Fund, to any entity in which an investment from the Fund was made.

19        (b3) Investment Report. – By October 1, 2015, and at least semiannually thereafter, the  
20 State Treasurer shall submit a report to the Governor, the Office of State Budget and  
21 Management, the Joint Legislative Commission on Governmental Operations, and the Fiscal  
22 Research Division on investments made from the Fund and any return on investment. This report  
23 shall be made for the Fund in lieu of the reports required by G.S. 147-69.8 and G.S. 147-69.12(b).

24        (c) Types of Investments. Limitations. – Assets of the Fund may be invested in those  
25 types of investments authorized for the North Carolina Retirement Systems by G.S. 147-69.2(b),  
26 notwithstanding the percentage limitations imposed on the Retirement Systems' investments  
27 under those subdivisions.

28        (c1) Additional Limitations. – For assets of the Fund made available for investment  
29 pursuant to G.S. 147-69.2(b)(12)d. only, the following additional limitations apply:

30        (1) Such assets shall be allocated to small business ventures (i) with a North  
31 Carolina nexus; (ii) of various sizes, growth potential, and industry  
32 classifications to maximize opportunities for reasonable return on investment,  
33 accounting for risks associated with similar types of investment, and to  
34 provide capital and growth opportunities for small business enterprises  
35 typically underserved by ordinary venture capital and investment funds; and  
36 (iii) that diversify investment risk and maximize the number of business  
37 ventures that may benefit from the Fund. The following definitions apply in  
38 this subdivision:

39        a. North Carolina nexus. – A business has a North Carolina nexus if it is  
40 headquartered or domiciled in this State; has a demonstrable and  
41 significant portion of its affiliated operations or contractual service  
42 operations in this State; or deploys a demonstrable and significant  
43 amount of investable capital to acquire, license, or otherwise  
44 commercialize intellectual property developed in this State, including  
45 through public or private university technology transfer programs.

46        b. Small business. – A small business is a business whose annual receipts,  
47 combined with the annual receipts of all related persons, for the  
48 applicable period of measurement did not exceed five million dollars  
49 (\$5,000,000).

- 1           (2)   No more than thirty-three percent (33%) of such assets may be allocated to  
2                   business ventures located in urban regions in the State, including the counties  
3                   of Wake, Durham, Mecklenburg, and Orange.
- 4           (3)   The maximum amount for total annual investments, excluding rollover  
5                   investments, made in any single calendar year is twenty million dollars  
6                   (\$20,000,000). No investment may be made that, when considered together  
7                   with other investments made during a single calendar year, excluding rollover  
8                   investments, could cause the State's total annual investments during a single  
9                   calendar year to exceed twenty million dollars (\$20,000,000). A rollover  
10                  investment equals the difference between the maximum allowed investment  
11                  amount for a single calendar year and the amount actually invested for such  
12                  year.
- 13           (4)   At least twenty percent (20%) of such assets shall be invested in business  
14                   ventures started and owned, in at least majority part, by a veteran of any  
15                   branch of the Armed Forces of the United States (i) whose character of service  
16                   at separation was honorable or under honorable conditions and (ii) who has  
17                   not been convicted of a felony offense or who has been convicted of one or  
18                   more felonies but each conviction has been expunged.

19       ...."

20       **SECTION 2.** This act becomes effective July 1, 2019.