

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**HOUSE BILL 1507\*  
Committee Substitute Favorable 4/30/09**

Short Title: State Treasurer Investments. (Public)

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Sponsors:

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Referred to:

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April 15, 2009

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 The State Health Plan for Teachers and State Employees.
- 12 (4) The General Assembly Medical and Hospital Care Plan.
- 13 (5) The Disability Salary Continuation Plan.
- 14 (6) The Firemen's and Rescue Workers' Pension Fund.
- 15 (7) The Local Governmental Employees' Retirement System.
- 16 (8) The Legislative Retirement System.
- 17 (9) The Escheat Fund.
- 18 (10) The Legislative Retirement Fund.
- 19 (11) The State Education Assistance Authority.
- 20 (12) The State Property Fire Insurance Fund.
- 21 (13) The Stock Workers' Compensation Fund.
- 22 (14) The Mutual Workers' Compensation Fund.
- 23 (15) The Public School Insurance Fund.
- 24 (16) The Liability Insurance Trust Fund.
- 25 (16a) The University of North Carolina Hospitals at Chapel Hill funds, except  
26 appropriated funds, deposited with the State Treasurer pursuant to  
27 G.S. 116-37.2.
- 28 (17) Trust funds of The University of North Carolina and its constituent  
29 institutions deposited with the State Treasurer pursuant to G.S. 116-36.1.
- 30 (17a) North Carolina Veterans Home Trust Fund.
- 31 (17b) North Carolina National Guard Pension Fund.
- 32 (17c) Retiree Health Premium Reserve Account.
- 33 (17d) The Election Fund.
- 34 (17e) The North Carolina State Lottery Fund.
- 35 (17f) Funds deposited with the State Treasurer by public hospitals pursuant to  
36 G.S. 159-39(g).
- 37 (17g) The Local Government Other Post-Employment Benefits Fund.



- 1 (17h) The Local Government Law Enforcement Special Separation Allowance  
2 Fund.
- 3 (17i) The North Carolina Conservation Easement Endowment Fund.
- 4 (17j) The Conservation Grant Fund.
- 5 (18) Any other special fund created by or pursuant to law for purposes other than  
6 meeting appropriations made pursuant to the Executive Budget Act.
- 7 (19) The Swain County Settlement Trust Fund.
- 8 (b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated  
9 in subsection (a) of this section in excess of the amount required to meet the current needs and  
10 demands on such funds, selecting from among the following:
- 11 (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).
- 12 (2) General obligations of other states of the United States.
- 13 (3) General obligations of cities, counties and special districts in North Carolina.
- 14 (4) Obligations of any company, other organization or legal entity incorporated  
15 or otherwise created or located within or outside the United States~~States~~,  
16 including obligations that are convertible into equity securities, if the  
17 obligations either (i) when acquired, bear one of the four highest ratings of at  
18 least one nationally recognized rating service and do not bear a rating below  
19 the four highest by any nationally recognized rating service which rates the  
20 particular security~~security~~ or (ii) when acquired, bear the fifth highest rating  
21 of at least one nationally recognized rating service and do not bear a rating  
22 below the fifth highest rating by any nationally recognized rating service  
23 which rates the particular security, provided that the obligations are  
24 additional securities that are identical to obligations previously acquired  
25 pursuant to subclause (i).
- 26 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- 27 (6) Asset-backed securities (whether considered debt or equity) ~~provided they~~  
28 if the securities either (i) when acquired, bear ratings by nationally recognized  
29 rating services as provided in G.S. 147-69.2(b)(4) subdivision (4) of this  
30 subsection and that they do not bear a rating below the four highest by any  
31 nationally recognized rating service that rates the particular  
32 securities~~security~~ or (ii) when acquired, bear the fifth highest rating of at  
33 least one nationally recognized rating service and do not bear a rating below  
34 the fifth highest rating by any nationally recognized rating service which  
35 rates the particular security, provided that the securities are additional  
36 securities that are identical to securities previously acquired pursuant to  
37 subclause (i).
- 38 (6a) In addition to the limitations and requirements with respect to the  
39 investments of the Retirement Systems set forth in subsection (b) of this  
40 section, the State Treasurer shall select investments of the assets of the  
41 Retirement Systems such that investments made pursuant to subdivisions (b)  
42 (1) through (6) of this section shall at all times equal or exceed twenty  
43 percent (20%) of the market value of all invested assets of the Retirement  
44 Systems.
- 45 (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may  
46 be made directly by the State Treasurer or through contractual arrangements  
47 in which the investment manager has full and complete discretion and  
48 authority to invest assets specified in such arrangements in investments  
49 authorized by subdivisions (b)(1) through (6) of this section, provided for  
50 each indirect investment, the investment manager has assets under  
51 management of at least one hundred million dollars (\$100,000,000).

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

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

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

46           The investments authorized for the Retirement Systems under this  
47 subdivision cannot exceed sixty-five percent (65%) of the market value of  
48 all invested assets of the Retirement Systems. ~~Up to five percent (5%) of the~~  
49 ~~amount that may be invested under this subdivision may be invested in the~~  
50 ~~stocks or shares of a diversified investment company registered under the~~  
51 ~~"Investment Company Act of 1940" that has total~~ So long as each

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

12 The assets authorized under this subdivision can also be invested  
13 directly, if all of the following conditions are met:

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

- 50 (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)  
51 of this subsection, they may be invested in ~~limited partnership interests in a~~

1 ~~partnership or in interests in a limited liability company~~interests in limited  
2 partnerships, limited liability companies, or other limited liability investment  
3 vehicles that are not publicly traded if the primary purpose of the ~~partnership~~  
4 ~~or limited liability company~~limited partnership, limited liability company, or  
5 other limited liability investment vehicle is to invest in public or private  
6 ~~debt, public or private~~ equity, or corporate buyout transactions, within or  
7 outside the United States. The amount invested under this subdivision shall  
8 not exceed five percent (5%) of the market value of all invested assets of the  
9 Retirement Systems.

10 (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)  
11 of this subsection, they may be invested in inflation-linked bonds,  
12 timberlands, commodities, and other assets that are acquired for the primary  
13 purpose of providing protection against risks associated with inflation,  
14 provided such investments are made through investment companies  
15 registered under the Investment Company Act of 1940, individual, common  
16 or collective trust funds of banks and trust companies, group trusts and  
17 limited partnerships, limited liability companies or other limited liability  
18 investment vehicles that invest primarily in investments authorized by this  
19 subdivision and through contractual arrangements in which the investment  
20 manager has full and complete discretion and authority to invest assets  
21 specified in such arrangements in investments authorized by this  
22 subdivision, provided the investment manager for each investment pursuant  
23 to this subdivision has assets under management of at least one hundred  
24 million dollars (\$100,000,000) and provided that the investments authorized  
25 under this subdivision shall not exceed five percent (5%) of the market value  
26 of all invested assets of the Retirement Systems. Notwithstanding anything  
27 in this subsection to the contrary, the investments authorized by this  
28 subdivision shall not be included in any subdivision other than this  
29 subdivision for purposes of the percentage investment limitations therein or  
30 otherwise.

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

32 (11) With respect to assets of the Escheat Fund, obligations of the North Carolina  
33 Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed  
34 twenty-five million dollars (\$25,000,000), that have a final maturity not later  
35 than October 1, 2009. The obligations shall bear interest at the rate set by the  
36 State Treasurer. No commitment to purchase obligations may be made  
37 pursuant to this subdivision after September 1, 1993, and no obligations may  
38 be purchased after September 1, 1994. In the event of a loss to the Escheat  
39 Fund by reason of an investment made pursuant to this subdivision, it is the  
40 intention of the General Assembly to hold the Escheat Fund harmless from  
41 the loss by appropriating to the Escheat Fund funds equivalent to the loss.

42 If any part of the property owned by the North Carolina Global  
43 TransPark Authority now or in the future is divested, proceeds of the  
44 divestment shall be used to fulfill any unmet obligations on an investment  
45 made pursuant to this subdivision.

46 (12) With respect to assets of the Escheat Fund, in addition to those investments  
47 authorized by subdivisions (1) through (6) of this subsection, up to twenty  
48 percent (20%) of such assets may be invested in the investments authorized  
49 under subdivisions (7) through (9) of this subsection, notwithstanding the  
50 percentage limitations imposed on the ~~retirement funds~~Retirement Systems'  
51 investments under those subdivisions.

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

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

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

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

48 (b5) In addition to the investments authorized under subdivisions (b)(1) through ~~(6)(6)~~  
49 this section, the State Treasurer may invest funds deposited in the Local Government Law  
50 Enforcement Special Separation Allowance Fund in any of the investments authorized under  
51 subdivision ~~subdivisions (b)(6c) and (b)(8) of this ~~section.~~~~ notwithstanding the

1 percentage limitations imposed on the Retirement Systems' investments therein. For  
2 investments from that Fund made under ~~subdivision~~subdivisions (b)(6c) and (b)(8) of this  
3 section, the State Treasurer may require a minimum deposit of up to one hundred thousand  
4 dollars (\$100,000) and may assess ~~a fee~~fees of up to 15 basis points per annum as a condition  
5 of making the investment. The fee may be used to defray the costs of administering the Fund.

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

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

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