

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**SENATE BILL 2100**

Short Title: State Treasurer's Investment Programs. (Public)

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Sponsors: Senator Hoyle.

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Referred to: Finance.

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May 28, 2008

1 A BILL TO BE ENTITLED  
2 AN ACT RELATING TO ADMINISTRATION OF THE STATE TREASURER'S  
3 INVESTMENT PROGRAMS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 147-69.3(g) reads as rewritten:

6 "(g) The State Treasurer is authorized to retain the services of independent  
7 appraisers, auditors, actuaries, attorneys, investment counseling firms, investment  
8 managers, statisticians, custodians, or other persons or firms possessing specialized  
9 skills or knowledge necessary for the proper administration of investment programs  
10 created pursuant to this section. The retention of investment managers in connection  
11 with the administration of investments described in G.S. 147-69.2(b)(4), (b)(6), (b)(7),  
12 and (b)(8) is subject to the requirements of those subdivisions."

13 **SECTION 2.** G.S. 147-69.2(b) through (b5) reads as rewritten:

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

- 17 (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).  
18 (2) General obligations of other states of the United States.  
19 (3) General obligations of cities, counties and special districts in North  
20 Carolina.  
21 (4) Obligations of any company, other organization or legal entity  
22 incorporated or otherwise created or located within or outside the  
23 United States if the obligations bear one of the four highest ratings of  
24 at least one nationally recognized rating service and do not bear a  
25 rating below the four highest by any nationally recognized rating  
26 service which rates the particular ~~security~~security; such investments  
27 may be made (i) directly by the State Treasurer, (ii) through  
28 investment companies registered under the "Investment Company Act  
29 of 1940," individual, common, or collective trust funds of banks and

1 trust companies, group trusts and limited partnerships, limited liability  
2 companies, or other limited liability investment vehicles that invest  
3 substantially all of their assets in investments authorized by  
4 subdivisions (b)(1) through (b)(6) of this section and (iii) through  
5 contractual arrangements in which the investment manager has full and  
6 complete discretion and authority to invest assets specified in such  
7 arrangements in investments authorized by subdivisions (b)(1) through  
8 (b)(6); provided that the investment manager has assets under  
9 management of at least one hundred million dollars (\$100,000,000).

10 (4a) Bonds of the State of Israel registered under the Securities Act of  
11 1933.

12 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.

13 (6) Asset-backed securities (whether considered debt or equity) provided  
14 they bear ratings by nationally recognized rating services as provided  
15 in ~~G.S. 147-69.2(b)(4)~~ subdivision (b)(4) of this section and that they  
16 do not bear a rating below the four highest by any nationally  
17 recognized rating service that rates the particular ~~securities~~ securities;  
18 such investments may be made (i) directly by the State Treasurer, (ii)  
19 through investment companies registered under the Investment  
20 Company Act of 1940, individual, common, or collective trust funds of  
21 banks and trust companies, group trusts and limited partnerships, limit  
22 liability companies or other limited liability investment vehicles that  
23 invest substantially all of their assets in investments authorized by  
24 subdivisions (b)(1) through (b)(6) of this section and through  
25 contractual arrangements in which the investment manager has full and  
26 complete discretion and authority to invest assets specified in such  
27 arrangements in investments authorized by subdivisions (b)(1) through  
28 (b)(6) of this section; provided the investment manager has assets  
29 under management of at least one hundred million dollars  
30 (\$100,000,000).

31 (7) With respect to Retirement Systems' assets referred to in  
32 ~~G.S. 147-69.2(b)(8)~~, subdivision (b)(8) of this section, (i) insurance  
33 contracts that provide for participation in individual or pooled separate  
34 accounts of insurance companies, (ii) group trusts, (iii) individual,  
35 common, or collective trust funds of banks and trust companies, (iv)  
36 real estate investment trusts, ~~and~~ (v) investment companies registered  
37 under the Investment Company Act of 1940, and (vi) limited  
38 partnerships, ~~whether described as limited liability partnerships or~~  
39 ~~companies, or other limited liability companies; investment vehicles~~  
40 that are not publicly traded; provided the investment manager has  
41 assets under management of at least one hundred million dollars  
42 (\$100,000,000); provided such investment assets are managed  
43 primarily for the purpose of investing in or owning real estate or  
44 related debt financing located within or outside the United States; and

1 provided that the ~~investment~~ investments authorized by this subsection  
2 shall not exceed ten percent (10%) of the market value of all invested  
3 assets of the Retirement ~~Systems~~ Systems, determined with respect to  
4 a particular investment under this subdivision at the time of such  
5 investment.

- 6 (8) With respect to assets of the Teachers' and State Employees'  
7 Retirement System, the Consolidated Judicial Retirement System, the  
8 Firemen's and Rescue Workers' Pension Fund, the Local  
9 Governmental Employees' Retirement System, the Legislative  
10 Retirement System, the North Carolina National Guard Pension Fund  
11 (hereinafter referred to collectively as the Retirement Systems), and  
12 assets invested pursuant to subdivision (b2) of this section, they may  
13 be invested in ~~preferred or common stocks~~ equity securities traded on a  
14 public securities exchange or market organized and regulated pursuant  
15 to the laws of the jurisdiction of such exchange or market and issued  
16 by any company incorporated or otherwise created or located within or  
17 outside the United States and derivative securities described in this  
18 subdivision traded on such public securities exchange or market;  
19 provided the investments meet the conditions of this subdivision.

20 The investments authorized for the Retirement Systems under this  
21 subdivision cannot exceed sixty-five percent (65%) of the market  
22 value of all invested assets of the Retirement ~~Systems~~. ~~Up to five~~  
23 ~~percent (5%) of the amount that may be invested under this~~  
24 ~~subdivision may be invested in the stocks or shares of a diversified~~  
25 ~~investment company registered under the "Investment Company Act of~~  
26 ~~1940" that has total assets of at least fifty million dollars~~  
27 ~~(\$50,000,000).~~ Systems, determined with respect to a particular  
28 investment under this subdivision at the time of such investment.

29 ~~The~~ So long as each investment manager has assets under  
30 management of at least one hundred million dollars (\$100,000,000),  
31 the assets authorized under this subdivision can be invested through (i)  
32 investment companies registered under the Investment Company Act  
33 of 1940, (ii) individual, common, or collective trust funds of banks,  
34 trust companies, and group trust funds of investment advisory  
35 companies so long as the investment manager has assets under  
36 management of at least one hundred million dollars (\$100,000,000).  
37 and trust companies, (iii) group trusts, and (iv) contractual  
38 arrangements in which investment managers have full and complete  
39 discretion and authority to invest assets specified in such contractual  
40 arrangements. In addition, any such investment manager may be  
41 authorized by the State Treasurer to invest in derivative securities the  
42 value of which is derived from or linked to any one or more underlying  
43 securities or assets (or indices of securities or assets); provided that  
44 investments in derivative securities are primarily for the purpose of

1 managing transaction or currency exchange risks in purchasing,  
2 selling, or holding equity securities authorized under this subdivision.

3 The assets authorized under this subdivision can also be invested  
4 directly, if all by the State Treasurer in any of the following conditions  
5 are met: following:

6 a. ~~The common stock or preferred stock of such corporation is~~  
7 ~~registered on a national securities exchange as provided in the~~  
8 ~~Federal Securities Exchange Act or quoted through the National~~  
9 ~~Association of Securities Dealers' Automated Quotations~~  
10 ~~(NASDAQ) system. Equity securities represented in any of the~~  
11 ~~S&P, Russell, or MSCI Indices.~~

12 b. ~~The corporation has paid a cash dividend on its common stock~~  
13 ~~in each year of the 5 year period next preceding the date of~~  
14 ~~investment and the aggregate net earnings available for~~  
15 ~~dividends on the common stock of the corporation for the whole~~  
16 ~~of that period have been at least equal to the amount of the~~  
17 ~~dividends paid. Derivative securities the value of which is~~  
18 ~~derived from or linked to the value of an underlying security~~  
19 ~~described in the preceding sub-subdivision; provided that such~~  
20 ~~investments in derivative securities are primarily for the~~  
21 ~~purpose of managing transaction or currency exchange risk in~~  
22 ~~purchasing, selling, or holding equity securities authorized~~  
23 ~~under this subdivision.~~

24 e. ~~In applying the dividend and earnings test under this section to~~  
25 ~~any issuing, assuming, or guaranteeing corporation, if the~~  
26 ~~corporation acquired its property or any substantial part thereof~~  
27 ~~within a five year period immediately preceding the date of~~  
28 ~~investment by consolidation, merger, or by the purchase of all~~  
29 ~~or a substantial portion of the property of any other corporation~~  
30 ~~or corporations, or acquired the assets of any unincorporated~~  
31 ~~business enterprise by purchase or otherwise, the dividends and~~  
32 ~~net earnings of the several predecessor or constituent~~  
33 ~~corporations or enterprises shall be consolidated and adjusted so~~  
34 ~~as to ascertain whether or not the applicable requirements of~~  
35 ~~this subdivision have been complied with.~~

36 No more than one and one-half percent (1 1/2%) of the market  
37 value of the Retirement Systems' assets that may be invested directly  
38 under this subdivision can be invested in the stock of a single  
39 corporation, and the total number of shares in that single corporation  
40 cannot exceed eight percent (8%) of the issued and outstanding stock  
41 of that ~~corporation.~~ corporation, each determined with respect to a  
42 particular investment under the subdivision at the time of such  
43 investment.

- 1 d. To f. Repealed by Session Laws 2001-444, s. 2, effective  
2 October 1, 2001.
- 3 g. That investments may be made in securities convertible into  
4 common stocks issued by any such company, if such securities  
5 bear one of the four highest ratings of at least one nationally  
6 recognized rating service and do not bear a rating below the  
7 four highest by any nationally recognized rating service which  
8 may then rate the particular security.
- 9 (9) With respect to Retirement Systems' assets, as defined in subdivision  
10 (b)(8) of this subsection, they may be invested in limited partnership  
11 interests in a partnership or in interests in a limited liability company if  
12 the primary purpose of the partnership or limited liability company is  
13 to invest in public or private debt, public or private equity, or corporate  
14 buyout transactions, within or outside the United States. The amount  
15 invested under this subdivision shall not exceed five percent (5%) of  
16 the market value of all invested assets of the Retirement Systems.
- 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 October 1, 2009. 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 If any part of the property owned by the North Carolina Global  
32 TransPark Authority now or in the future is divested, proceeds of the  
33 divestment shall be used to fulfill any unmet obligations on an  
34 investment made pursuant to this subdivision.
- 35 (12) With respect to assets of the Escheat Fund, in addition to those  
36 investments authorized by subdivisions (1) through (6) of this  
37 subsection, up to twenty percent (20%) in the investments authorized  
38 under subdivisions (7) through (9) of this subsection, notwithstanding  
39 the percentage limitations imposed on the ~~retirement funds~~ Retirement  
40 Systems investments under those subdivisions.
- 41 (b1) With respect to investments authorized by ~~subsections~~ subdivisions (b)(8) and  
42 (b)(9) of this section, the State Treasurer shall appoint an Investment Advisory  
43 Committee, which shall consist of five members: the State Treasurer, who shall be  
44 chairman ex officio; two members selected from among the members of the boards of

1 trustees of the Retirement Systems; and two members selected from the general public.  
2 The two public members must have experience in one or more of the following areas:  
3 investment management, real estate investment trusts, real estate development, venture  
4 capital investment, or absolute return strategies. The State Treasurer shall also appoint a  
5 Secretary of the Investment Advisory Committee who need not be a member of the  
6 committee. Members of the committee shall receive for their services the same per diem  
7 and allowances granted to members of the State boards and commissions generally. The  
8 committee shall have advisory powers only and membership shall not be deemed a  
9 public office within the meaning of Article VI, Section 9 of the Constitution of North  
10 Carolina or G.S. 128-1.1.

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

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

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

1 of making the investment. The fee may be used to defray the costs of administering the  
2 Fund.

3 (b5) In addition to the investments authorized under subdivisions (b)(1) through  
4 (b)(6) of this section, the State Treasurer may invest funds deposited in the Local  
5 Government Law Enforcement Special Separation Allowance Fund in any of the  
6 investments authorized under subdivision (b)(8) of this ~~section~~-section, notwithstanding  
7 the percentage limitations imposed on the Retirement Systems investments therein. For  
8 investments from that Fund made under subdivision (b)(8) of this section, the State  
9 Treasurer may require a minimum deposit of up to one hundred thousand dollars  
10 (\$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  
12 Fund."

13 **SECTION 3.** This act is effective when it becomes law.