

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 443  
Finance Committee Substitute Adopted 6/1/05  
House Committee Substitute Favorable 8/23/05

Short Title: Public Hospital Investments.

(Public)

Sponsors:

Referred to:

March 9, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT RELATING TO PUBLIC HOSPITAL INVESTMENTS.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 159-39(g) reads as rewritten:

5 "(g) A public hospital may deposit or invest at interest all or part of its cash  
6 balance pursuant to ~~G.S. 159-30~~G.S. 159-30 and may deposit any funds held in  
7 reserves or sinking funds, or any funds not required for immediate disbursement, with  
8 the State Treasurer for investment pursuant to G.S. 147-69.2."

9 **SECTION 2.** G.S. 147-69.2 reads as rewritten:

10 "**§ 147-69.2. Investments authorized for special funds held by State Treasurer.**

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

- 13 (1) The Teachers' and State Employees' Retirement ~~System, System.~~
- 14 (2) The Consolidated Judicial Retirement ~~System, System.~~
- 15 (3) The Teachers' and State Employees' Hospital and Medical Insurance  
16 ~~Plan, Plan.~~
- 17 (4) The General Assembly Medical and Hospital Care ~~Plan, Plan.~~
- 18 (5) The Disability Salary Continuation ~~Plan, Plan.~~
- 19 (6) The Firemen's and Rescue Workers' Pension ~~Fund, Fund.~~
- 20 (7) The Local Governmental Employees' Retirement ~~System, System.~~
- 21 (8) The Legislative Retirement ~~System, System.~~
- 22 (9) The Escheat ~~Fund, Fund.~~
- 23 (10) The Legislative Retirement ~~Fund, Fund.~~
- 24 (11) The State Education Assistance ~~Authority, Authority.~~
- 25 (12) The State Property Fire Insurance ~~Fund, Fund.~~
- 26 (13) The Stock Workers' Compensation ~~Fund, Fund.~~
- 27 (14) The Mutual Workers' Compensation ~~Fund, Fund.~~
- 28 (15) The Public School Insurance ~~Fund, Fund.~~

- 1 (16) The Liability Insurance Trust ~~Fund~~,Fund.
- 2 (16a) The University of North Carolina Hospitals at Chapel Hill funds,
- 3 except appropriated funds, deposited with the State Treasurer pursuant
- 4 to G.S. 116-37.2.
- 5 (17) Trust funds of The University of North Carolina and its constituent
- 6 institutions deposited with the State Treasurer pursuant to
- 7 ~~G.S. 116-36.1~~,G.S. 116-36.1.
- 8 (17a) North Carolina Veterans Home Trust ~~Fund~~,Fund.
- 9 (17b) North Carolina National Guard Pension ~~Fund~~,Fund.
- 10 (17c) Retiree Health Premium Reserve ~~Account~~, and Account.
- 11 (17d) The Election Fund.
- 12 (17e) Funds deposited with the State Treasurer by public hospitals pursuant
- 13 to G.S. 159-39(g).
- 14 (18) Any other special fund created by or pursuant to law for purposes
- 15 other than meeting appropriations made pursuant to the Executive
- 16 Budget Act.
- 17 (b) It shall be the duty of the State Treasurer to invest the cash of the funds
- 18 enumerated in subsection (a) of this section in excess of the amount required to meet the
- 19 current needs and demands on such funds, selecting from among the following:
- 20 (1) Any of the investments authorized by G.S. 147-69.1(c)(1)-(7).
- 21 (2) General obligations of other states of the United States.
- 22 (3) General obligations of cities, counties and special districts in North
- 23 Carolina.
- 24 (4) Obligations of any company, other organization or legal entity
- 25 incorporated or otherwise created or located within or outside the
- 26 United States if the obligations bear one of the four highest ratings of
- 27 at least one nationally recognized rating service and do not bear a
- 28 rating below the four highest by any nationally recognized rating
- 29 service which rates the particular security.
- 30 (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- 31 (6) Asset-backed securities (whether considered debt or equity) provided
- 32 they bear ratings by nationally recognized rating services as provided
- 33 in G.S. 147-69.2(b)(4) and that they do not bear a rating below the four
- 34 highest by any nationally recognized rating service that rates the
- 35 particular securities.
- 36 (7) With respect to Retirement Systems' assets referred to in
- 37 G.S. 147-69.2(b)(8), (i) insurance contracts that provide for
- 38 participation in individual or pooled separate accounts of insurance
- 39 companies, (ii) group trusts, (iii) individual, common, or collective
- 40 trust funds of banks and trust companies, (iv) real estate investment
- 41 trusts, and (v) limited partnerships, whether described as limited
- 42 liability partnerships or limited liability companies; provided the
- 43 investment manager has assets under management of at least one
- 44 hundred million dollars (\$100,000,000); provided such investment

1 assets are managed primarily for the purpose of investing in or owning  
2 real estate or related debt financing located within or outside the  
3 United States; and provided that the investment authorized by this  
4 subsection shall not exceed ten percent (10%) of the market value of  
5 all invested assets of the Retirement Systems.

- 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, ~~and~~ the North Carolina National Guard Pension  
11 Fund (hereinafter referred to collectively as the Retirement Systems),  
12 and assets invested pursuant to subdivision (b2) of this section, they  
13 may be invested in preferred or common stocks issued by any  
14 company incorporated or otherwise created or located within or  
15 outside the United States provided the investments meet the conditions  
16 of this subdivision.

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

25 The assets authorized under this subdivision can be invested  
26 through individual, common, or collective trust funds of banks, trust  
27 companies, and group trust funds of investment advisory companies so  
28 long as the investment manager has assets under management of at  
29 least one hundred million dollars (\$100,000,000).

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

- 32 a. The common stock or preferred stock of such corporation is  
33 registered on a national securities exchange as provided in the  
34 Federal Securities Exchange Act or quoted through the National  
35 Association of Securities Dealers' Automated Quotations  
36 (NASDAQ) system.
- 37 b. The corporation has paid a cash dividend on its common stock  
38 in each year of the 5-year period next preceding the date of  
39 investment and the aggregate net earnings available for  
40 dividends on the common stock of the corporation for the whole  
41 of that period have been at least equal to the amount of the  
42 dividends paid.
- 43 c. In applying the dividend and earnings test under this section to  
44 any issuing, assuming, or guaranteeing corporation, if the

1 corporation acquired its property or any substantial part thereof  
2 within a five-year period immediately preceding the date of  
3 investment by consolidation, merger, or by the purchase of all  
4 or a substantial portion of the property of any other corporation  
5 or corporations, or acquired the assets of any unincorporated  
6 business enterprise by purchase or otherwise, the dividends and  
7 net earnings of the several predecessor or constituent  
8 corporations or enterprises shall be consolidated and adjusted so  
9 as to ascertain whether or not the applicable requirements of  
10 this subdivision have been complied with.

11 No more than one and one-half percent (1 1/2%) of the market  
12 value of the Retirement Systems' assets that may be invested under this  
13 subdivision can be invested in the stock of a single corporation, and  
14 the total number of shares in that single corporation cannot exceed  
15 eight percent (8%) of the issued and outstanding stock of that  
16 corporation.

17 d. to f. Repealed by Session Laws 2001-444, s. 2, effective  
18 October 1, 2001.

19 g. That investments may be made in securities convertible into  
20 common stocks issued by any such company, if such securities  
21 bear one of the four highest ratings of at least one nationally  
22 recognized rating service and do not bear a rating below the  
23 four highest by any nationally recognized rating service which  
24 may then rate the particular security.

25 (9) With respect to Retirement Systems' assets, as defined in subdivision  
26 (b)(8) of this subsection, they may be invested in limited partnership  
27 interests in a partnership or in interests in a limited liability company if  
28 the primary purpose of the partnership or limited liability company is  
29 to invest in public or private debt, public or private equity, or corporate  
30 buyout transactions, within or outside the United States. The amount  
31 invested under this subdivision shall not exceed five percent (5%) of  
32 the market value of all invested assets of the Retirement Systems.

33 (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s.  
34 2.

35 (11) With respect to assets of the Escheat Fund, obligations of the North  
36 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),  
37 not to exceed twenty-five million dollars (\$25,000,000), that have a  
38 final maturity not later than July 1, 2005. The obligations shall bear  
39 interest at the rate set by the State Treasurer. No commitment to  
40 purchase obligations may be made pursuant to this subdivision after  
41 September 1, 1993, and no obligations may be purchased after  
42 September 1, 1994. In the event of a loss to the Escheat Fund by  
43 reason of an investment made pursuant to this subdivision, it is the  
44 intention of the General Assembly to hold the Escheat Fund harmless

1 from the loss by appropriating to the Escheat Fund funds equivalent to  
2 the loss.

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

17 (b2) The State Treasurer may invest funds deposited pursuant to subdivision  
18 (a)(17e) of this section in any of the investments authorized under subdivisions (1)  
19 through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer  
20 may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and  
21 may assess a reasonable fee, not to exceed 15 basis points, as a condition of  
22 participation pursuant to this subsection. Funds deposited pursuant to this subsection by  
23 a hospital shall remain the funds of that hospital, and interest or other investment  
24 income earned thereon shall be prorated and credited to the contributing hospital on the  
25 basis of the amounts thereof contributed, figured according to sound accounting  
26 principles.

27 (b3) The State Treasurer may invest funds deposited pursuant to subdivision  
28 (a)(16a) of this section in any of the investments authorized under subdivisions (1)  
29 through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer  
30 may require a minimum deposit, up to one hundred thousand dollars (\$100,000), and  
31 may assess a reasonable fee, not to exceed 15 basis points, as a condition of  
32 participation pursuant to this subsection. Funds deposited pursuant to this subsection by  
33 the University of North Carolina Hospitals at Chapel Hill shall remain the funds of the  
34 University of North Carolina Hospitals at Chapel Hill, and interest or other investment  
35 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,  
37 figured according to sound accounting principles.

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

39 **SECTION 3.** G.S. 116-37(e) reads as rewritten:

40 "(e) Finances. – The University of North Carolina Health Care System shall be  
41 subject to the provisions of the Executive Budget ~~Act~~, Act, except for trust funds as  
42 provided in G.S. 116-36.1 and G.S. 116-37.2. The Chief Executive Officer, subject to  
43 the board of directors, shall be responsible for all aspects of budget preparation, budget  
44 execution, and expenditure reporting. All operating funds of the University of North

1 Carolina Health Care System may be budgeted and disbursed through special fund  
2 codes, maintaining separate auditable accounts for the University of North Carolina  
3 Hospitals at Chapel Hill and the clinical patient care programs of the School of  
4 Medicine of the University of North Carolina at Chapel Hill. All receipts of the  
5 University of North Carolina Health Care System may be deposited directly to the  
6 special fund codes, and except for General Fund appropriations, all receipts of the  
7 University of North Carolina Hospitals at Chapel Hill may be invested pursuant to  
8 G.S. 147-69.2(b3). General Fund appropriations for support of the University of North  
9 Carolina Hospitals at Chapel Hill shall be budgeted in a General Fund code under a  
10 single purpose, "Contribution to University of North Carolina Hospitals at Chapel Hill  
11 Operations" and be transferable to a special fund operating code as receipts."

12 **SECTION 4.** Article 1, Part 3 of Chapter 116 of the General Statutes, is  
13 amended by adding a new section to read:

14 **"§ 116-37.2. Regulation of University of North Carolina Hospitals at Chapel Hill**

15 **Funds.**

16 (a) As used in this section, "funds" means:

- 17 (1) Moneys, or the proceeds of other forms of property, received by the  
18 University of North Carolina Hospitals at Chapel Hill as gifts, devises,  
19 or bequests.
- 20 (2) Moneys received by the University of North Carolina Hospitals at  
21 Chapel Hill pursuant to grants from, or contracts with, the United  
22 States government or any agency or instrumentality thereof.
- 23 (3) Moneys received by the University of North Carolina Hospitals at  
24 Chapel Hill pursuant to grants from, or contracts with, any State  
25 agencies, any political subdivisions of the State, any other states or  
26 nations or political subdivisions thereof, or any private entities  
27 whereby the University of North Carolina Hospitals at Chapel Hill  
28 undertakes, subject to terms and conditions specified by the entity  
29 providing the moneys, to conduct research, training, or public service  
30 programs.
- 31 (4) Moneys received from or for the operation by the University of North  
32 Carolina Hospitals at Chapel Hill of any of its self-supporting auxiliary  
33 enterprises, including the Liability Insurance Trust Fund.
- 34 (5) Moneys received by the University of North Carolina Hospitals at  
35 Chapel Hill in respect to fees and other payments for services it  
36 renders in its hospital and/or clinical operations.
- 37 (6) The net proceeds from the disposition effected pursuant to Article 7 of  
38 Chapter 146 of the General Statutes of any interest in real property  
39 owned by or under the supervision and control of the University of  
40 North Carolina Hospitals at Chapel Hill if the interest in real property  
41 had first been acquired by gift, devise, or bequest or through  
42 expenditure of moneys defined in this subsection, except the net  
43 proceeds from the disposition of an interest in real property first

1                   acquired by the University of North Hospitals at Chapel Hill through  
2                   expenditure of moneys received as a grant from a State agency.

3           (b)   The Board of Directors of the University of North Carolina Health Care  
4   System, as established in G.S. 116-37(b), is responsible for the custody and  
5   management of the funds of the University of North Carolina Hospitals at Chapel Hill.  
6   The Board shall adopt uniform policies and procedures applicable to the administration  
7   of these funds, which shall assure that the receipt and expenditure of such funds is  
8   properly authorized and that the funds are appropriately accounted for. The Board may  
9   delegate authority, through the Chief Executive Officer of the University of North  
10   Carolina Health Care System to the President of the University of North Carolina  
11   Hospitals at Chapel Hill, when such delegation is necessary or prudent to enable the  
12   University of North Carolina Hospitals at Chapel Hill to function in a proper and  
13   expeditious manner.

14           (c)   Funds under this section shall be deposited with the State Treasurer who shall  
15   hold them in trust in the name of the University of North Carolina Hospitals at Chapel  
16   Hill.

17           (d)   Funds deposited with the State Treasurer in an account pursuant to this  
18   section, and investment earnings thereon, are available for expenditure by the  
19   University of North Carolina Hospitals at Chapel Hill without further authorization  
20   from the General Assembly.

21           (e)   Funds under this section are subject to the oversight of the State Auditor  
22   pursuant to Article 5A of Chapter 147 of the General Statutes but are not subject to the  
23   provisions of the Executive Budget Act except for capital improvements projects, which  
24   shall be authorized and executed in accordance with G.S. 143-18.1.

25           (f)   The University of North Carolina Hospitals at Chapel Hill shall submit such  
26   reports or other information concerning its fund accounts under this section as may be  
27   required by the Director of the Budget.

28           (g)   Funds under this section, or the investment income therefrom, shall not take  
29   the place of State appropriations or any part thereof, but any portion of these funds  
30   available for general institutional purposes shall be used to supplement State  
31   appropriations to the end that the University of North Carolina Hospitals at Chapel Hill  
32   may improve and increase their functions, may enlarge their areas of service, and may  
33   become more useful to a greater number of people.

34           (h)   Notwithstanding the provisions of subsection (c) of this section, the Board  
35   may designate as the official depository of the funds identified in subdivisions (a)(4),  
36   (a)(5), and (a)(6) of this section one or more banks or trust companies in this State for  
37   any investments authorized by G.S. 147-69.2(b3)."

38           **SECTION 5.** This act becomes effective October 1, 2005.