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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.