§ 135-48.40. Categories of eligibility.

(a) Noncontributory Coverage. – The following persons are eligible for coverage under the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-48.43:

(1) Retired employees, as defined in G.S. 135-48.1(18), and retired State law enforcement officers who retired under the Law Enforcement Officers' Retirement System prior to January 1, 1985. Except as otherwise provided in this subdivision, on and after January 1, 1988, a retiring employee or retiree must have completed at least five years of contributory retirement service with an employing unit prior to retirement from any State-supported retirement system in order to be eligible for group benefits under this Part as a retired employee or retiree. For employees first hired on and after October 1, 2006, and members of the General Assembly first taking office on and after February 1, 2007, future coverage as retired employees and retired members of the General Assembly is subject to a requirement that the future retiree have 20 or more years of retirement service credit in order to be covered by the provisions of this subdivision.

(2) Surviving spouses of:

a. Deceased retired employees, provided the death of the former plan member occurred prior to October 1, 1986; and

b. Deceased teachers, State employees, and members of the General Assembly who are receiving a survivor's alternate benefit under any of the State-supported retirement programs, provided the death of the former plan member occurred prior to October 1, 1986.

(b) Partially Contributory Coverage. – The following persons are eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

(1) All permanent full-time employees of an employing unit who meet any of the following conditions:

a. The employee is paid from general or special State funds.

b. The employee is paid from non-State funds and in a group for which his or her employing unit has agreed to provide coverage.

Employees of State agencies, departments, institutions, boards, and commissions not otherwise covered by the Plan who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision.

This subdivision shall not apply to employees eligible to be enrolled in a comprehensive health benefit plan offered by East Carolina University pursuant to G.S. 116-360.15 or the University of North Carolina Health Care System pursuant to G.S. 116-350.30.

(1a) All retirees who (i) are employed by an employing unit that elects to be covered by this subdivision, (ii) do not qualify for coverage under subdivision (1) of this subsection, and (iii) are determined to be "full-time" by their employing unit in accordance with section 4980H of the Internal Revenue Code and the applicable regulations, as amended. The employing unit shall pay the employer premiums for retirees who enroll under this subdivision.

(2) Repealed by Session Laws 2013-324, s. 2, effective July 23, 2013.

(3) Retired employees, as defined in G.S. 135-48.1(18), and retired State law enforcement officers who retired under the Law Enforcement Officers' Retirement System prior to January 1, 1985. Except as otherwise provided in

this subdivision, on and after January 1, 1988, a retiring employee or retiree must have completed at least five years of contributory retirement service with an employing unit prior to retirement from any State-supported retirement system in order to be eligible for group benefits under this Part as a retired employee or retiree. For employees first hired on and after October 1, 2006, and members of the General Assembly first taking office on and after February 1, 2007, future coverage as retired employees and retired members of the General Assembly is subject to a requirement that the future retiree have 20 or more years of retirement service credit in order to be covered by the provisions of this subdivision.

(4) Surviving spouses of:

a. Deceased retired employees, provided the death of the former plan member occurred prior to October 1, 1986; and

b. Deceased teachers, State employees, and members of the General Assembly who are receiving a survivor's alternate benefit under any of the State-supported retirement programs, provided the death of the former plan member occurred prior to October 1, 1986.

(5) Employees of the General Assembly, not otherwise covered by this section, as determined by the Legislative Services Commission, except for legislative interns and pages.

(6) Members of the General Assembly.

(7) Notwithstanding the provisions of subsection (e) of this section, employees on official leave of absence while completing a full-time program in school administration in an approved program as a Principal Fellow in accordance with Article 5C of Chapter 116 of the General Statutes.

(8) Notwithstanding the provisions of G.S. 135-48.44, employees formerly covered by the provisions of this section, other than retired employees eligible for coverage on a noncontributory basis, who have been employed for 12 or more months by an employing unit, or who have completed a contract term of employment of 10 or 11 months and whose employing unit is a local school administrative unit, and whose jobs are eliminated because of a reduction, in total or in part, in the funds used to support the job or its responsibilities, provided the employees were covered by the Plan at the time of separation from service resulting from a job elimination. Employees covered by this subsection shall be covered for a period of up to 12 months following a separation from service because of a job elimination. An employee formerly covered by the provisions of this section shall not be eligible for coverage under this subdivision if the employee is provided health benefit coverage on a non-contributory basis by a subsequent employer.

(9) Any member enrolled pursuant to subdivision (1) or (2) of this subsection who is on approved leave of absence with pay or receiving workers' compensation.

(10) Employees on approved Family and Medical Leave.

(c) One-Half Contributory Coverage. – The following persons are eligible for coverage under the Plan, on a one-half contributory basis, subject to the provisions of G.S. 135-48.43:

(1) A school employee in a job-sharing position as described in G.S. 115C-326.5. If these employees elect to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total employer premiums. Individual employees shall pay the balance of the total premiums not paid by the employing unit.

(2) Retired employees, as defined in G.S. 135-48.1(18), with 10 but less than 20 years of retirement service credit provided the employees were first hired on or after October 1, 2006, and the members first took office on or after February 1, 2007. For such future retirees, the State shall pay fifty percent (50%) of the Plan's total employer premiums. Individual retirees shall pay the balance of the total premiums not paid by the State.

(d) Fully Contributory Coverage. – The following persons shall be eligible for coverage under the Plan, on a fully contributory basis, subject to the provisions of G.S. 135-48.43:

(1) Former members of the General Assembly who enroll before October 1, 1986.

(2) For enrollments after September 30, 1986, former members of the General Assembly if covered under the Plan at termination of membership in the General Assembly. To be eligible for coverage as a former member of the General Assembly, application must be made within 30 days of the end of the term of office. Only members of the General Assembly covered by the Plan at the end of the term of office are eligible. If application is not made within the specified time period, the member forfeits eligibility.

(3) Surviving spouses of deceased former members of the General Assembly who enroll before October 1, 1986.

(4) Employees of the General Assembly, not otherwise covered by this section, as determined by the Legislative Services Commission, except for legislative interns and pages.

(5) For enrollments after September 30, 1986, surviving spouses of deceased former members of the General Assembly, if covered under the Plan at the time of death of the former member of the General Assembly.

(6) All permanent part-time employees (designated as half-time or more) of an employing unit who meet the conditions outlined in sub-subdivision (b)(1)a. of this section and who are not covered by the provisions of subdivision (b)(1) of this section.

(7) The spouses and eligible dependent children of enrolled teachers, State employees, retirees, former members of the General Assembly, former employees covered by the provisions of subdivision (b)(8) of this section, Disability Income Plan beneficiaries, enrolled continuation members, and members of the General Assembly. Spouses of surviving dependents are not eligible, nor are dependent children if they were not covered at the time of the member's death. Surviving spouses may cover their dependent children provided the children were enrolled at the time of the member's death or enroll within 90 days of the member's death.

(8) Blind persons licensed by the State to operate vending facilities under contract with the Department of Health and Human Services, Division of Services for the Blind and its successors, who are:

a. Operating such a vending facility;

b. Former operators of such a vending facility whose service as an operator would have made these operators eligible for an early or service retirement allowance under Article 1 of this Chapter had they been members of the Retirement System; and

c. Former operators of such a vending facility who attain five or more years of service as operators and who become eligible for and receive a disability benefit under the Social Security Act upon cessation of service as an operator.

Spouses, dependent children, surviving spouses, and surviving dependent children of such members are not eligible for coverage.

(9) Surviving spouses of deceased retirees and surviving spouses of deceased teachers, State employees, Disability Income Plan beneficiaries, and members of the General Assembly provided the death of the former Plan member occurred after September 30, 1986, and the surviving spouse was covered under the Plan at the time of death.

(10) Any eligible dependent child of the deceased retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary, provided the child was covered at the time of death of the retiree, teacher, State employee, member of the General Assembly, former member of the General Assembly, or Disability Income Plan beneficiary, was in posse at the time and is covered at birth under this Part, or was covered under the Plan on September 30, 1986. An eligible surviving dependent child can remain covered until age 26 or indefinitely if certified as incapacitated under G.S. 135-48.41(b).

(11) Retired employees, as defined in G.S. 135-48.1(18), with less than 10 years of retirement service credit, provided the teachers and State employees were first hired on or after October 1, 2006, and the members first took office on or after February 1, 2007.

(12) Notwithstanding the provisions of G.S. 135-48.44, former employees covered by the provisions of this section and their spouses and eligible dependent children who were covered by the Plan at the time of the former employees' separation from service pursuant to this section, following expiration of the former employees' coverage provided by this section. Election of coverage under this subdivision shall be made within 90 days after the termination of coverage provided under this section.

(13) The following persons, their eligible spouses, and eligible dependent children, provided that the person seeking coverage as a subscriber (i) is not eligible for another comprehensive health benefit plan and (ii) has been without coverage under a comprehensive health benefit plan for at least six consecutive months:

a. Firefighters.
b. Rescue squad workers.
c. Persons receiving a pension from the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.
d. Members of the North Carolina National Guard.
e. Retirees of the North Carolina National Guard with 20 years of service.

For the purposes of this subdivision, Medicare benefits, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, and other Uniformed Services benefits shall be considered comprehensive health benefit plans. The Plan may require certification of persons seeking coverage under this subdivision. Nothing in this section shall be construed to either (i) permit a person to enroll or (ii) require the Plan to enroll a person in the Plan when that enrollment may jeopardize the Plan's preferential tax exempt status as a governmental plan under the Internal Revenue Code.

(e) Other Contributory Coverage. – Any employee of an employing unit is eligible for coverage under this section on a contributory basis, subject to the provisions of G.S. 135-48.43 and of this section, if (i) the employee's employing unit determines that the employee is a full-time employee and (ii) the employee does not qualify for coverage under subdivision (1),

(1a), (5), (6), (7), (8), (9), or (10) of G.S. 135-48.40(b). For the purposes of this subsection, the full-time status of an employee shall be determined by the employing unit, in its sole discretion, in accordance with Section 4980H of the Internal Revenue Code and the applicable regulations, as amended. The coverage offered and the contribution required for coverage under this section shall be determined by the Treasurer and approved by the Board of Trustees. Such coverage shall do all of the following:

(1) Be designed to meet the requirements of minimum essential coverage under the Patient Protection and Affordable Care Act, P.L. 111-148, and the applicable regulations, as amended (Affordable Care Act).

(2) Provide no greater coverage than a bronze-level plan, as defined under the Affordable Care Act.

(3) Minimize the required employer contribution in an administratively feasible manner. (1981 (Reg. Sess., 1982), c. 1398, s. 6; 1983, c. 499; c. 761, ss. 252-255; c. 867, s. 4; c. 922, s. 5; 1985, c. 400, ss. 5, 6; 1985 (Reg. Sess., 1986), c. 1020, s. 29(a)-(l); 1987, c. 738, ss. 29(n), 36(a), 36(b); c. 809, ss. 3, 4; c. 857, ss. 11(a), 11.1, 11.2, 12; 1989, c. 752, s. 22(e), (f); 1989 (Reg. Sess., 1990), c. 1074, s. 22(a); 1993, c. 321, s. 85(b); 1995, c. 278, s. 1; c. 507, ss. 7.21(a)-(c), 7.28(a)-(c); 1997-443, s. 11A.118(a); 1997-512, ss. 17, 19-27; 1999-237, s. 28.29(f); 2000-141, ss. 6(a), (b); 2000-184, ss. 1(a),(b), 3; 2001-487, s. 86(a); 2002-174, s. 4; 2003-358, s. 4; 2004-124, s. 31.21(b); 2004-199, s. 34(b); 2005-276, s. 29.31(e); 2006-174, ss. 1, 2, 3; 2007-323, s. 28.22A(g1), (o); 2007-345, s. 12; 2008-168, ss. 1(a), 3(a), (f); 2008-194, s. 6(b); 2009-16, s. 3(b); 2009-281, s. 1; 2009-570, s. 43.2; 2009-571, s. 3(a), (d); 2010-72, s. 3(a); 2010-136, ss. 1, 2; 2011-85, ss. 1.6(b), 2.6(c), 2.10; 2011-96, s. 2(a); 2013-324, ss. 1, 2; 2014-100, s. 35.16(a), (c); 2015-100, ss. 3, 4(a); 2015-241, s. 30.25(a); 2016-56, s. 8; 2017-57, s. 35.21(d); 2017-135, s. 2; 2019-110, s. 4; 2020-48, s. 1.5(b); 2023-134, s. 4.10(r); 2024-1, s. 1.7(j); 2025-19, s. 7.5.)