

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 265
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Short Title: State Health Plan/Appropriations and Transfer.

(Public)

Sponsors:

Referred to:

March 9, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE APPROPRIATIONS AND ADJUSTMENTS FOR THE 2011-2013 FISCAL BIENNIUM TO THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES; AND TO TRANSFER THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES TO THE OFFICE OF STATE TREASURER.

The General Assembly of North Carolina enacts:

PART I. APPROPRIATIONS AND CONTRIBUTIONS FOR 2011-2013 FISCAL BIENNIUM

APPROPRIATIONS FROM GENERAL FUND AND HIGHWAY FUND

SECTION 1.1.(a) General Fund Appropriation. – Notwithstanding G.S. 143C-5-2, there is appropriated from the General Fund to the Reserve for the State Health Plan in the Office of State Budget and Management the sum of eight million sixty-one thousand seven hundred ninety-eight dollars (\$8,061,798) for the 2011-2012 fiscal year and the sum of one hundred one million seven hundred eighty-two thousand six hundred seventy dollars (\$101,782,670) for the 2012-2013 fiscal year. These funds shall be used to cover health care and administrative costs to the Plan in the 2011-2013 fiscal biennium.

SECTION 1.1.(b) Highway Fund Appropriation. – Notwithstanding G.S. 143C-5-2, there is appropriated from the Highway Fund to the Reserve for the State Health Plan in the Office of State Budget and Management the sum of three hundred seventy-six thousand two hundred seventeen dollars (\$376,217) for the 2011-2012 fiscal year and the sum of four million seven hundred forty-nine thousand eight hundred fifty-eight dollars (\$4,749,858) for the 2012-2013 fiscal year. These funds shall be used to cover health care and administrative costs to the Plan in the 2011-2013 fiscal biennium.

SECTION 1.1.(c) All other agency funds required to fund the premium increase enacted in this act, other than funds appropriated in subsections (a) and (b) of this section, are appropriated for the 2011-2013 fiscal biennium.

PREMIUM ADJUSTMENTS

SECTION 1.2.(a) Partially Contributory Coverage. – The State Health Plan for Teachers and State Employees may charge up to the following monthly premium rates for



1 partially contributory coverage under G.S. 135-45.2(a1), as enacted by Section 1.6 of this act,
 2 for the 2011-2012 and 2012-2013 fiscal years:

	<u>FY 2011-2012</u>		<u>FY 2012-2013</u>	
	<u>Basic</u>	<u>Standard</u>	<u>Basic</u>	<u>Standard</u>
7 Employee Contribution				
8 Non-Medicare Eligible or	\$10.86	\$21.72	\$11.43	\$22.85
9 Medicare Secondary				
10 Medicare Primary	\$8.27	\$16.54	\$8.70	\$17.40
11				
12 Retiree Contribution				
13 Non-Medicare Eligible	\$0.00	\$21.72	\$0.00	\$22.85
14 Medicare Eligible	\$0.00	\$16.54	\$0.00	\$17.40

16 **SECTION 1.2.(b)** Contributory Coverage. – Premium rates for contributory
 17 coverage established in accordance with G.S. 135-44.6 may be increased by up to five and
 18 two-tenths percent (5.2%) for contributory coverage for the 2011-2012 fiscal year and may be
 19 increased by up to an additional five and two-tenths percent (5.2%) over the premium rate for
 20 contributory coverage for the 2012-2013 fiscal year.

22 **DEDUCTIBLE, COINSURANCE, AND CO-PAYMENT ADJUSTMENTS**

23 **SECTION 1.3.(a)** Effective July 1, 2011, the Executive Administrator shall make
 24 the following changes to deductibles, coinsurance maximums, and co-payments under the
 25 Basic and Standard PPO Plans:

- 26 (1) Basic Plan (70/30):
 - 27 a. Increase the in-network annual deductible to nine hundred
 - 28 thirty-three dollars (\$933.00) for member-only coverage and to one
 - 29 thousand eight hundred sixty-six dollars (\$1,866) for the
 - 30 out-of-network annual deductible for member-only coverage. The
 - 31 aggregate maximum annual deductible for employee-child and
 - 32 employee-family coverage shall be three times the member-only
 - 33 annual deductibles.
 - 34 b. Increase the in-network coinsurance maximum to three thousand
 - 35 seven hundred ninety-three dollars (\$3,793) for member-only
 - 36 coverage and to seven thousand five hundred eighty-six dollars
 - 37 (\$7,586) for member-only out-of-network maximum coinsurance.
 - 38 The aggregate maximum coinsurance for employee-child and
 - 39 employee-family coverage shall be three times the member-only
 - 40 coinsurance maximums.
 - 41 c. Increase the in-network urgent care co-payment to eighty-seven
 - 42 dollars (\$87.00) per covered individual.
 - 43 d. Increase the in-network primary care co-payment to thirty-five
 - 44 dollars (\$35.00) per covered individual.
 - 45 e. Increase the in-network specialist co-payment to eighty-one dollars
 - 46 (\$81.00) per covered individual, except that for mental health and
 - 47 substance abuse services, chiropractic services, and physical therapy,
 - 48 occupational therapy, and speech therapy services, the in-network
 - 49 specialist co-payment shall be sixty-four dollars (\$64.00) per covered
 - 50 individual.

- 1 f. Increase the in-network and out-of-network inpatient co-payment to
2 two hundred ninety-one dollars (\$291.00) per covered individual.
- 3 g. Increase the in-network and out-of-network emergency room
4 co-payment to two hundred ninety-one dollars (\$291.00) per covered
5 individual.
- 6 h. Increase prescription drug co-payments as required under
7 G.S. 135-45.6(b)(1) as amended by this section.
- 8 i. Except as otherwise provided in this act, co-payments and
9 coinsurance for coverage not otherwise listed in this subdivision shall
10 remain as applicable in the 2010-2011 benefit year.
- 11 (2) Standard Plan (80/20):
- 12 a. Increase the in-network annual deductible to seven hundred dollars
13 (\$700.00) for member-only coverage and to one thousand four
14 hundred dollars (\$1,400) for the member-only out-of-network annual
15 deductible. The aggregate maximum annual deductible for
16 employee-child and employee-family coverage shall be three times
17 the member-only annual deductibles.
- 18 b. Increase the in-network coinsurance maximum to three thousand two
19 hundred ten dollars (\$3,210) for member-only coverage and to six
20 thousand four hundred twenty dollars (\$6,420) for member-only
21 out-of-network maximum coinsurance. The aggregate maximum
22 coinsurance for employee-child and employee-family coverage shall
23 be three times the member-only coinsurance maximums.
- 24 c. Increase the in-network urgent care co-payment to eighty-seven
25 dollars (\$87.00) per covered individual.
- 26 d. Increase the in-network primary care co-payment to thirty dollars
27 (\$30.00) per covered individual.
- 28 e. Increase the in-network specialist co-payment to seventy dollars
29 (\$70.00) per covered individual, except that for mental health and
30 substance abuse services, chiropractic services, and physical therapy,
31 occupational therapy, and speech therapy services, the in-network
32 specialist co-payment shall be fifty-two dollars (\$52.00) per covered
33 individual.
- 34 f. Increase the in-network and out-of-network inpatient co-payment to
35 two hundred thirty-three dollars (\$233.00) per covered individual.
- 36 g. Increase the in-network and out-of-network emergency room
37 co-payment to two hundred thirty-three dollars (\$233.00) per covered
38 individual.
- 39 h. Increase prescription drug co-pays as required under
40 G.S. 135-45.6(b)(1) as amended by this act.
- 41 i. Except as otherwise provided in this act, co-payments and
42 coinsurance for coverage not otherwise listed in this subdivision shall
43 remain as applicable in the 2010-2011 benefit year.

44 **SECTION 1.3.(b)** G.S. 135-45.6(b)(1) reads as rewritten:

- 45 "(1) The Plan will pay allowable charges for each outpatient prescription drug
46 less a copayment to be paid by each covered individual equal to the
47 following amounts: pharmacy charges up to ten dollars (\$10.00) for each
48 generic prescription, ~~thirty five dollars (\$35.00)~~ forty dollars (\$40.00) for
49 each preferred branded prescription without a generic equivalent, and
50 ~~fifty five dollars (\$55.00)~~ sixty-four dollars (\$64.00) for each nonpreferred
51 branded prescription. For each branded prescription drug with a generic

1 equivalent drug, the member shall pay the generic co-payment plus the
2 difference between the Plan's gross allowed cost for the generic prescription
3 and the Plan's cost for the branded prescription drug."
4

5 **LIMITATION ON AUTHORITY TO CHANGE BENEFITS**

6 **SECTION 1.4.** G.S. 135-45(g) reads as rewritten:

7 "(g) The Executive Administrator and Board of Trustees shall not change the Plan's
8 comprehensive health benefit coverage, co-payments, deductibles, out-of-pocket expenditures,
9 and lifetime maximums in effect on ~~July 1, 2009~~, July 1, 2011, that would result in a net
10 increased cost to the Plan or in a reduction in benefits to Plan members unless and until the
11 proposed changes are directed to be made in an act of the General Assembly."
12

13 **REPEAL COMPREHENSIVE WELLNESS INITIATIVE**

14 **SECTION 1.5.** Section 2(b) of S.L. 2009-16, as amended by S.L. 2009-571, is
15 repealed.
16

17 **IMPLEMENT MONTHLY CONTRIBUTION BY EMPLOYEES AND CERTAIN** 18 **RETIREEES**

19 **SECTION 1.6.(a)** G.S. 135-45(b) reads as rewritten:

20 "(b) Individuals eligible for coverage under G.S. 135-45.2 on a ~~fully or partially~~
21 partially, one-half, or fully contributory basis are eligible to participate in any plan authorized
22 under this section."
23

24 **SECTION 1.6.(b)** G.S. 135-45.2 reads as rewritten:

25 **"§ 135-45.2. Eligibility.**

26 (a) Noncontributory Coverage. – The following persons are eligible for coverage under
27 the Plan, on a noncontributory basis, subject to the provisions of G.S. 135-45.4:

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

30 a. ~~Paid from general or special State funds, or~~

31 b. ~~Paid from non-State funds and in a group for which his or her~~
32 ~~employing unit has agreed to provide coverage.~~

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

38 (2) ~~Permanent hourly employees as defined in G.S. 126-5(e4) who work at least~~
39 ~~one-half of the workdays of each pay period.~~

40 (3) Retired teachers, State employees, members of the General Assembly, and
41 retired State law enforcement officers who retired under the Law
42 Enforcement Officers' Retirement System prior to January 1, 1985. Except
43 as otherwise provided in this subdivision, on and after January 1, 1988, a
44 retiring employee or retiree must have completed at least five years of
45 contributory retirement service with an employing unit prior to retirement
46 from any State-supported retirement system in order to be eligible for group
47 benefits under this Part as a retired employee or retiree. For employees first
48 hired on and after October 1, 2006, and members of the General Assembly
49 first taking office on and after February 1, 2007, future coverage as retired
50 employees and retired members of the General Assembly is subject to a
51 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.

- 1 (4) Surviving spouses of:
2 a. Deceased retired employees, provided the death of the former plan
3 member occurred prior to October 1, 1986; and
4 b. Deceased teachers, State employees, and members of the General
5 Assembly who are receiving a survivor's alternate benefit under any
6 of the State-supported retirement programs, provided the death of the
7 former plan member occurred prior to October 1, 1986.
- 8 ~~(5) Employees of the General Assembly, not otherwise covered by this section,
9 as determined by the Legislative Services Commission, except for legislative
10 interns and pages.~~
- 11 ~~(6) Members of the General Assembly.~~
- 12 ~~(7) Notwithstanding the provisions of subsection (e) of this section, employees
13 on official leave of absence while completing a full time program in school
14 administration in an approved program as a Principal Fellow in accordance
15 with Article 5C of Chapter 116 of the General Statutes.~~
- 16 ~~(8) Notwithstanding the provisions of G.S. 135-45.12 employees formerly
17 covered by the provisions of this section, other than retired employees, who
18 have been employed for 12 or more months by an employing unit, or who
19 have completed a contract term of employment of 10 or 11 months and
20 whose employing unit is a local school administrative unit, and whose jobs
21 are eliminated because of a reduction, in total or in part, in the funds used to
22 support the job or its responsibilities, provided the employees were covered
23 by the Plan at the time of separation from service resulting from a job
24 elimination. Employees covered by this subsection shall be covered for a
25 period of up to 12 months following a separation from service because of a
26 job elimination. An employee formerly covered by the provisions of this
27 section shall not be eligible for coverage under this subdivision if the
28 employee is provided health benefit coverage on a non-contributory basis by
29 a subsequent employer.~~
- 30 ~~(9) Any member enrolled pursuant to subdivision (1) or (2) of this subsection
31 who is on approved leave of absence with pay or receiving workers'
32 compensation.~~
- 33 ~~(10) Employees on approved Family and Medical Leave.~~
- 34 (a1) Partially Contributory Coverage. – The following persons are eligible for coverage
35 under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-45.4:
- 36 (1) All permanent full-time employees of an employing unit who meet either of
37 the following conditions:
- 38 a. Paid from general or special State funds.
39 b. Paid from non-State funds and in a group for which his or her
40 employing unit has agreed to provide coverage.
- 41 Employees of State agencies, departments, institutions, boards, and
42 commissions not otherwise covered by the Plan who are employed in
43 permanent job positions on a recurring basis and who work 30 or more hours
44 per week for nine or more months per calendar year are covered by the
45 provisions of this subdivision.
- 46 (2) Permanent hourly employees who work at least one-half of the workdays of
47 each pay period.
- 48 (3) Retired teachers, State employees, members of the General Assembly, and
49 retired State law enforcement officers who retired under the Law
50 Enforcement Officers' Retirement System prior to January 1, 1985. Except
51 as otherwise provided in this subdivision, on and after January 1, 1988, a

- 1 retiring employee or retiree must have completed at least five years of
2 contributory retirement service with an employing unit prior to retirement
3 from any State-supported retirement system in order to be eligible for group
4 benefits under this Part as a retired employee or retiree. For employees first
5 hired on and after October 1, 2006, and members of the General Assembly
6 first taking office on and after February 1, 2007, future coverage as retired
7 employees and retired members of the General Assembly is subject to a
8 requirement that the future retiree have 20 or more years of retirement
9 service credit in order to be covered by the provisions of this subdivision.
- 10 (4) Employees of the General Assembly, not otherwise covered by this section,
11 as determined by the Legislative Services Commission, except for legislative
12 interns and pages.
- 13 (5) Members of the General Assembly.
- 14 (6) Notwithstanding the provisions of subsection (e) of this section, employees
15 on official leave of absence while completing a full-time program in school
16 administration in an approved program as a Principal Fellow in accordance
17 with Article 5C of Chapter 116 of the General Statutes.
- 18 (7) Notwithstanding the provisions of G.S. 135-45.12, employees formerly
19 covered by the provisions of this subsection, other than retired employees,
20 who have been employed for 12 or more months by an employing unit, or
21 who have completed a contract term of employment of 10 or 11 months and
22 whose employing unit is a local school administrative unit, and whose jobs
23 are eliminated because of a reduction, in total or in part, in the funds used to
24 support the job or its responsibilities, provided the employees were covered
25 by the Plan at the time of separation from service resulting from a job
26 elimination. Employees covered by this subsection shall be covered for a
27 period of up to 12 months following a separation from service because of a
28 job elimination. An employee formerly covered by the provisions of this
29 subsection shall not be eligible for coverage under this subdivision if the
30 employee is provided health benefit coverage on a noncontributory basis by
31 a subsequent employer.
- 32 (8) Any member enrolled pursuant to subdivision (1) or (2) of this subsection
33 who is on approved leave of absence with pay or receiving workers'
34 compensation.
- 35 (9) Employees on approved Family and Medical Leave.
- 36 (b) ~~Partially Contributory.~~ One-Half Contributory Coverage. – The following persons
37 are eligible for coverage under the ~~Plan~~ Plan, on a ~~partially one-half~~ partially one-half ~~contributory basis~~ basis,
38 subject to the provisions of G.S. 135-45.4:
- 39 (1) ~~A school employee in a job-sharing position as defined in G.S. 135-45.4.~~
40 described in G.S. 115C-326.5. If these employees elect to participate in the
41 Plan, the employing unit shall pay fifty percent (50%) of the Plan's total
42 noncontributory employer premiums. Individual employees shall pay the
43 balance of the total noncontributory premiums not paid by the employing
44 unit.
- 45 (2) ~~Subject to the provisions of G.S. 135-45.4, employees~~ Employees and
46 members of the General Assembly with 10 but less than 20 years of
47 retirement service credit provided the employees were first hired on or after
48 October 1, 2006, and the members first took office on or after February 1,
49 2007. For such future retirees, the State shall pay fifty percent (50%) of the
50 Plan's total ~~noncontributory~~ employer premiums. Individual retirees shall
51 pay the balance of the total ~~noncontributory~~ premiums not paid by the State.

1 (c) ~~Fully Contributory.~~ Contributory Coverage. – The following ~~person~~ persons shall be
2 eligible for coverage under the Plan, on a fully contributory basis, subject to the provisions of
3 G.S. 135-45.4:

- 4 (1) Former members of the General Assembly who enroll before October 1,
5 1986.
- 6 (2) For enrollments after September 30, 1986, former members of the General
7 Assembly if covered under the Plan at termination of membership in the
8 General Assembly. To be eligible for coverage as a former member of the
9 General Assembly, application must be made within 30 days of the end of
10 the term of office. Only members of the General Assembly covered by the
11 Plan at the end of the term of office are eligible. If application is not made
12 within the specified time period, the member forfeits eligibility.
- 13 (3) Surviving spouses of deceased former members of the General Assembly
14 who enroll before October 1, 1986.
- 15 (4) Employees of the General Assembly, not otherwise covered by this section,
16 as determined by the Legislative Services Commission, except for legislative
17 interns and pages.
- 18 (5) For enrollments after September 30, 1986, surviving spouses of deceased
19 former members of the General Assembly, if covered under the Plan at the
20 time of death of the former member of the General Assembly.
- 21 (6) All permanent part-time employees (designated as half-time or more) of an
22 employing unit who ~~meets~~ meet the conditions outlined in ~~subdivision~~
23 ~~(a)(1)a. above,~~ sub-subdivision (a1)(1)a. of this section and who are not
24 covered by the provisions of ~~G.S. 135-45.2(a)(1).~~ subdivision (a1)(1) of this
25 section.
- 26 (7) The spouses and eligible dependent children of enrolled teachers, State
27 employees, retirees, former members of the General Assembly, former
28 employees covered by the provisions of ~~G.S. 135-45.2(a)(8),~~ former
29 subdivision (a)(8) or subdivision (a1)(7) of this section, Disability Income
30 Plan beneficiaries, enrolled continuation members, and members of the
31 General Assembly. Spouses of surviving dependents are not eligible, nor are
32 dependent children if they were not covered at the time of the member's
33 death. Surviving spouses may cover their dependent children provided the
34 children were enrolled at the time of the member's death or enroll within 90
35 days of the member's death.
- 36 (8) Blind persons licensed by the State to operate vending facilities under
37 contract with the Department of Health and Human Services, Division of
38 Services for the Blind and its successors, who are:
 - 39 a. Operating such a vending facility;
 - 40 b. Former operators of such a vending facility whose service as an
41 operator would have made these operators eligible for an early or
42 service retirement allowance under Article 1 of this Chapter had they
43 been members of the Retirement System; and
 - 44 c. Former operators of such a vending facility who attain five or more
45 years of service as operators and who become eligible for and receive
46 a disability benefit under the Social Security Act upon cessation of
47 service as an operator.
- 48 Spouses, dependent children, surviving spouses, and surviving dependent
49 children of such members are not eligible for coverage.
- 50 (9) Surviving spouses of deceased retirees and surviving spouses of deceased
51 teachers, State employees, and members of the General Assembly provided

- 1 the death of the former Plan member occurred after September 30, 1986, and
 2 the surviving spouse was covered under the Plan at the time of death.
- 3 (10) Any eligible dependent child of the deceased retiree, teacher, State
 4 employee, member of the General Assembly, former member of the General
 5 Assembly, or Disability Income Plan beneficiary, provided the child was
 6 covered at the time of death of the retiree, teacher, State employee, member
 7 of the General Assembly, former member of the General Assembly, or
 8 Disability Income Plan beneficiary, (or was in posse at the time and is
 9 covered at birth under this Part), or was covered under the Plan on
 10 September 30, 1986. An eligible surviving dependent child can remain
 11 covered until ~~age 19, or age 26 if a full-time student,~~ or indefinitely if
 12 certified as incapacitated under ~~G.S. 135-45.1(5)b.~~ G.S. 135-45.2(d).
- 13 (11) Retired teachers, State employees, and members of the General Assembly
 14 with less than 10 years of retirement service credit, provided the teachers
 15 and State employees were first hired on or after October 1, 2006, and the
 16 members first took office on or after February 1, 2007.
- 17 (12) Notwithstanding the provisions of G.S. 135-45.12 former employees
 18 covered by the provisions of ~~G.S. 135-45.2~~ this section and their spouses and
 19 eligible dependent children who were covered by the Plan at the time of the
 20 former employees' separation from service pursuant to ~~G.S. 135-45.2,~~ this
 21 section, following expiration of the former employees' coverage provided by
 22 ~~G.S. 135-45.2.~~ this section. Election of coverage under this subdivision shall
 23 be made within 90 days after the termination of coverage provided under
 24 ~~G.S. 135-45.2.~~ this section.
- 25 (13) Firefighters, rescue squad workers, and members of the National Guard,
 26 their eligible spouses, and eligible dependent children.

27"

28
 29 **ALLOW COVERAGE FOR CHILDREN UP TO 26 YEARS OLD, IN COMPLIANCE**
 30 **WITH FEDERAL AFFORDABLE CARE ACT**

31 **SECTION 1.7.(a)** G.S. 135-45.1(10) reads as rewritten:

- 32 "(10) Dependent child. – Subject to the eligibility requirements of
 33 G.S. 135-45.2(d), any of the following:
- 34 a. A ~~natural,~~ natural or legally adopted, ~~or foster~~ adopted child or
 35 children of the employee and ~~or spouse, unmarried,~~ up to the first of
 36 the month following ~~his or her 19th~~ the child's 26th birthday, whether
 37 or not the child is living with the ~~employee, as long as the employee~~
 38 is legally responsible for such child's maintenance and support.
 39 employee.
- 40 b. A foster child or children of the employee up to the first month
 41 following the child's 19th birthday, whether or not the child is living
 42 with the employee, as long as the employee is legally responsible for
 43 the child's maintenance and support.
- 44 c. ~~Dependent child also includes a~~ A child for which an employee is a
 45 court-appointed guardian, as long as the employee is legally
 46 responsible for the child's maintenance and support.
- 47 d. ~~Dependent child also includes a~~ A stepchild of the member who
 48 primarily resides with a member who is married to the stepchild's
 49 natural parent. ~~To be eligible, the stepchild must have his or her~~
 50 primary residence with the member.

e. ~~Dependent child shall also include any~~ Any child under age 19 who has reached his or her 18th birthday, provided the employee was legally responsible for ~~such the~~ child's maintenance and support on his or her 18th birthday. ~~Dependent~~

Dependent children of firefighters, rescue squad workers, and members of the National Guard are subject to the same terms and conditions as are other dependent children covered by this subdivision. ~~Eligibility of dependent children is subject to the requirements of G.S. 135-45.2(d). The Plan may require documentation from the member confirming a child's eligibility to be covered as the member's dependent."~~

SECTION 1.7.(b) G.S. 135-45.2(d) reads as rewritten:

"(d) A foster child is covered as a dependent child (i) if living in a regular parent-child relationship with the expectation that the employee will continue to rear the child into adulthood, (ii) if at the time of enrollment, or at the time a foster child relationship is established, whichever occurs first, the employee applies for coverage for such child and submits evidence of a bona fide foster child relationship, identifying the foster child by name and setting forth all relevant aspects of the relationship, (iii) if the claims processor accepts the foster child as a participant through a separate written document identifying the foster child by name and specifically recognizing the foster child relationship, and (iv) if at the time a claim is incurred, the foster child relationship, as identified by the employee, continues to exist. Children placed in a home by a welfare agency which obtains control of, and provides for maintenance of the child, are not eligible participants.

A dependent child shall not be eligible for coverage under the Plan if the dependent child is eligible for employer based health care outside of the State Health Plan for Teachers and State Employees. Coverage of a dependent child may be extended beyond the ~~19th~~ 26th birthday ~~under the following conditions:~~

(1) ~~If the dependent is a full time student, through the end of the month following the student's 26th birthday. As used in this section, a full time student is a student who is pursuing a course of study that represents at least the normal workload of a full time student at a school or college accredited by the state of jurisdiction. In accordance with applicable federal law, coverage of a full time student that loses full time status due to illness or injury may be extended for one year from the effective date of the loss of full time status provided that the student was enrolled at the time of the onset of the illness or injury.~~

(2) ~~The~~ if the dependent is physically or mentally incapacitated to the extent that he or she is incapable of earning a living and (i) such handicap developed or began to develop before the dependent's 19th birthday, or (ii) such handicap developed or began to develop before the dependent's 26th birthday if the dependent was covered by the Plan in accordance with ~~G.S. 135-45.2(5)a.~~ G.S. 135-45.2(c)(7)."

SECTION 1.7.(c) G.S. 135-45.3 reads as rewritten:

"§ 135-45.3. Enrollment.

(a) Except as otherwise required by applicable federal law, new employees must be given the opportunity to enroll or decline enrollment for themselves and their dependents within 30 days from the date of employment or from first becoming eligible on a ~~noncontributory~~ partially contributory basis. Coverage may become effective on the first day of the month following date of entry on payroll or on the first day of the following month. New employees not enrolling themselves and their dependents age 19 and older within 30 days, or not adding dependents when first eligible as provided herein may enroll on the first day of any month but will be subject to a 12-month waiting period for preexisting health conditions,

1 except for employees who elect to change their coverage in accordance with rules established
 2 by the Executive Administrator and Board of Trustees for optional or alternative plans
 3 available under the Plan. Children born to covered employees having coverage type (2) or (3),
 4 as outlined in G.S. 135-45.4(d) shall be automatically covered at the time of birth without any
 5 waiting period for preexisting health conditions. Children born to covered employees having
 6 coverage type (1) shall be automatically covered at birth without any waiting period for
 7 preexisting health conditions so long as the claims processor receives notification within 30
 8 days of the date of birth that the employee desires to change from coverage (1) to coverage type
 9 (2) or (3), provided that the employee pays any additional premium required by the coverage
 10 type selected retroactive to the first day of the month in which the child was born.

11 (b) Except as otherwise required by applicable federal law, newly acquired dependents
 12 (spouse/child) age 19 and older enrolled within 30 days of becoming an eligible dependent will
 13 not be subject to the 12-month waiting period for preexisting conditions. A dependent can
 14 become qualified due to marriage, adoption, entering a foster child relationship, ~~due to the~~
 15 ~~divorce of a dependent child or the death of the spouse of a dependent child~~, and at the
 16 beginning of each legislative session (applies only to enrolled legislators). Effective date for
 17 newly acquired dependents if application was made within the 30 days can be the first day of
 18 the following month. Effective date for an adopted child can be date of adoption, or date of
 19 placement in the adoptive parents' home, or the first of the month following the date of
 20 adoption or placement. Firefighters, rescue squad workers, and members of the National Guard,
 21 and their eligible dependents, are subject to the same terms and conditions as are new
 22 employees and their dependents covered by this subdivision. Enrollments in these
 23 circumstances must occur within 30 days of eligibility to enroll.

24 (c) Eligible dependents younger than age 19 may be enrolled at any time and shall not
 25 be subject to any waiting period for a preexisting condition.

26 ~~(e)(d)~~ When an eligible or enrolled member applies to enroll the member's eligible
 27 dependent child or spouse, the member shall provide the documentation required by the Plan to
 28 verify the dependent's eligibility for coverage."

29 **SECTION 1.7.(d)** G.S. 135-45.4 reads as rewritten:

30 **"§ 135-45.4. Effective dates of coverage.**

31 (a) Employees and Retired Employees. –

32 ...

33 (3) Employees not enrolling or adding dependents age 19 and older when first
 34 eligible in accordance with G.S. 135-45.3 may enroll later on the first of any
 35 following month but will be subject to a 12-month waiting period for a
 36 preexisting health condition, except employees who elect to change their
 37 coverage in accordance with rules adopted by the Executive Administrator
 38 and Board of Trustees for optional alternative plans offered under the Plan.

39 ...

40 (b) Waiting Periods and Preexisting Conditions. –

41 (1) New employees and dependents age 19 and older enrolling when first
 42 eligible are subject to no waiting period for preexisting conditions under the
 43 Plan.

44 (2) Employees not enrolling or not adding dependents age 19 and older when
 45 first eligible may enroll later on the first of any following month, but will be
 46 subject to a twelve-month waiting period for preexisting conditions except as
 47 provided in subdivision (a)(3) of this section. The waiting period under this
 48 subdivision is subject to applicable federal law.

49 (3) Retiring employees and dependents enrolled when first eligible after an
 50 employee's retirement are subject to no waiting period for preexisting
 51 conditions under the Plan. Retiring employees not enrolled or not adding

dependents age 19 and older when first eligible after an employee's retirement may enroll later on the first of any following month, but will be subject to a 12-month waiting period for preexisting conditions except as provided in subdivision (a)(3) of this section.

...

(5) To administer the 12-month waiting period for preexisting conditions for employees and dependents age 19 and older under this ~~that~~ Article, the Plan must give credit against the 12-month period for the time a person was covered under a previous plan if the previous plan's coverage was continuous to a date not more than 63 days before the effective date of coverage. As used in this subdivision, a "previous plan" means any policy, certificate, contract, or any other arrangement provided by any accident and health insurer, any hospital or medical service corporation, any health maintenance organization, any preferred provider organization, any multiple employer welfare arrangement, any self-insured health benefit arrangement, any governmental health benefit or health care plan or program, or any other health benefit arrangement. Waiting periods for preexisting conditions administered under this Article are subject to applicable federal law.

(c) Dependents of Employees and Retired Employees. –

...

(5) Employees not adding dependents age 19 and older when first eligible may enroll later on the first of any following month, but dependents will be subject to a 12-month waiting period for preexisting health conditions except as provided in subdivision (a)(3) of this section.

..."

SALARY-RELATED CONTRIBUTIONS

SECTION 1.8.(a) Effective for the 2011-2013 fiscal biennium, required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

Notwithstanding any other provision of law, an employing unit, as defined in G.S. 135-45.1 or in G.S. 135-48.1 as enacted by this act, that hires or has hired as an employee a retiree that is in receipt of monthly retirement benefits from any retirement system supported in whole or in part by contributions of the State shall enroll the retiree in the active group and pay the cost for the hospital-medical benefits if that retiree is employed in a position that would require the employer to pay hospital-medical benefits if the individual had not been retired.

SECTION 1.8.(b) Effective July 1, 2011, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2011-2012 fiscal year are: (i) ten and sixty-one hundredths percent (10.61%) – Teachers and State Employees; (ii) fifteen and sixty-one hundredths percent (15.61%) – State Law Enforcement Officers; (iii) twelve and thirty-six hundredths percent (12.36%) – University Employees'

1 Optional Retirement System; (iv) twelve and thirty-six hundredths percent (12.36%) –
2 Community College Optional Retirement Program; (v) twenty and eleven hundredths percent
3 (20.11%) – Consolidated Judicial Retirement System; and (vi) five and zero hundredths percent
4 (5.00%) – Legislative Retirement System. Each of the foregoing contribution rates includes
5 five and zero hundredths percent (5.00%) for hospital and medical benefits. The rate for
6 Teachers and State Employees, State Law Enforcement Officers, Community College Optional
7 Retirement Program, and for the University Employees' Optional Retirement Program includes
8 fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers
9 and State Employees and State Law Enforcement Officers include sixteen hundredths percent
10 (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five
11 percent (5%) for Supplemental Retirement Income.

12 **SECTION 1.8.(c)** Effective July 1, 2012, the State's employer contribution rates
13 budgeted for retirement and related benefits as percentage of covered salaries for the 2012-2013
14 fiscal year are: (i) ten and ninety-one hundredths percent (10.91%) – Teachers and State
15 Employees; (ii) fifteen and ninety-one hundredths percent (15.91%) – State Law Enforcement
16 Officers; (iii) twelve and sixty-six hundredths percent (12.66%) – University Employees'
17 Optional Retirement System; (iv) twelve and sixty-six hundredths percent (12.66%) –
18 Community College Optional Retirement Program; (v) twenty and forty-one hundredths
19 percent (20.41%) – Consolidated Judicial Retirement System; and (vi) five and thirty
20 hundredths percent (5.30%) – Legislative Retirement System. Each of the foregoing
21 contribution rates includes five and thirty hundredths percent (5.30%) for hospital and medical
22 benefits. The rate for Teachers and State Employees, State Law Enforcement Officers,
23 Community College Optional Retirement Program, and for the University Employees' Optional
24 Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income
25 Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include
26 sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law
27 Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

28 **SECTION 1.8.(d)** Effective July 1, 2011, the maximum annual employer
29 contributions, payable monthly, by the State for each covered employee or retiree for the
30 2011-2012 fiscal year to the State Health Plan for Teachers and State Employees are: (i)
31 Medicare-eligible employees and retirees – three thousand seven hundred sixty-eight dollars
32 (\$3,768) and (ii) non-Medicare-eligible employees and retirees – four thousand nine hundred
33 fifty-two dollars (\$4,952).

34 **SECTION 1.8.(e)** Effective July 1, 2012, the maximum annual employer
35 contributions, payable monthly, by the State for each covered employee or retiree for the
36 2012-2013 fiscal year to the State Health Plan for Teachers and State Employees are: (i)
37 Medicare-eligible employees and retirees – three thousand nine hundred sixty-five dollars
38 (\$3,965) and (ii) non-Medicare-eligible employees and retirees – five thousand two hundred
39 eleven dollars (\$5,211).

40 41 **REMOVE SPECIAL EXEMPTION FROM PUBLIC RECORDS LAW FOR STATE** 42 **HEALTH PLAN CONTRACTS**

43 **SECTION 1.9.(a)** G.S. 135-43(b) reads as rewritten:

44 "(b) Notwithstanding the provisions of this Article, the Executive Administrator and
45 Board of Trustees of the State Health Plan for Teachers and State Employees may contract with
46 providers of institutional and professional medical care and services to establish preferred
47 provider networks.

48 The terms of a contract between the Plan and its third party administrator or between the
49 Plan and its pharmacy benefit manager are a public record ~~except that the terms in those~~
50 ~~contracts that contain trade secrets or proprietary or competitive information are not a public~~
51 ~~record~~ under Chapter 132 of the General Statutes, and any such proprietary or competitive

1 information and trade secrets contained in the contract shall be redacted by the Plan prior to
2 making it available to the public. This subsection Statutes. No provision of law, however, shall
3 not be construed to prevent or restrict the release of any information made not a public record
4 under this subsection in a Plan contract to the State Auditor, the Attorney General, the Director
5 of the State Budget, the Plan's Executive Administrator, and the Committee on Employee
6 Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their
7 duties and responsibilities, and to the Department of Health and Human Services solely for the
8 purpose of implementing the transition of NC Health Choice from the Plan to the Department
9 of Health and Human Services. The design, adoption, and implementation of the preferred
10 provider contracts, networks, and optional alternative comprehensive health benefit plans, and
11 programs available under the optional alternative plans, as authorized under G.S. 135-45 are
12 not subject to the requirements of Article 3 of Chapter 143 of the General Statutes. However,
13 the Executive Administrator and Board of Trustees shall: (i) submit all proposed statewide and
14 agency term contracts for supplies, materials, printing, equipment, and contractual services that
15 exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General
16 or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in
17 all proposed contracts to be awarded by the Executive Administrator and Board of Trustees
18 under this section a standard clause which provides that the State Auditor and internal auditors
19 of the Plan may audit the records of the contractor during the term of the contract to verify
20 accounts and data affecting fees and performance. The Executive Administrator and Board of
21 Trustees shall not award a cost plus percentage of cost agreement or contract for any purpose.
22 The Executive Administrator and Board of Trustees shall make reports as requested to the
23 President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of
24 Representatives, and the Committee on Employee Hospital and Medical Benefits."

25 **SECTION 1.9.(b)** Contracts with the State Health Plan retain the trade secret
26 protections provided under G.S. 132-1.2.

27 **SECTION 1.9.(c)** This section is effective when it becomes law.

28 29 **ADDITIONAL CHANGES TO EXISTING STATE HEALTH PLAN STATUTES**

30 **SECTION 1.10.(a)** G.S. 135-44.4(18) reads as rewritten:

31 "(18) Determining administrative and medical policies that are not in direct
32 conflict with Part 3 of this Article after consultation with the Claims
33 Processor and the Plan's consulting actuary when Plan costs are involved.
34 Notwithstanding this provision, the Executive Administrator and Board of
35 Trustees may authorize coverage or payment of claims that have been denied
36 as a result of administrative errors or system issues."

37 **SECTION 1.10.(b)** Subsection (a) of this section becomes effective July 1, 2010.

38 **SECTION 1.10.(c)** G.S. 135-45.1(15) reads as rewritten:

39 "(15) Health Benefits ~~Representative~~. Representative or HBR. – The employee
40 designated by the employing unit to administer the Plan for the unit and its
41 employees. The HBR is responsible for enrolling new ~~employees~~, employees
42 and dependents in accordance with the eligibility requirements under this
43 Article, reporting changes, explaining benefits, reconciling group statements,
44 and remitting group fees. The State Retirement System is the Health Benefits
45 Representative for retired State employees."

46 47 **EFFECTIVE DATE FOR PART I**

48 **SECTION 1.11.** Except as otherwise provided, Part I of this act becomes effective
49 July 1, 2011.

1 **PART II. TRANSFER STATE HEALTH PLAN TO DEPARTMENT OF STATE**
2 **TREASURER**

3
4 **GRANT STATE TREASURER IMMEDIATE AUTHORITY TO APPOINT**
5 **EXECUTIVE ADMINISTRATOR**

6 **SECTION 2.1.(a)** G.S. 135-44.2(b) reads as rewritten:

7 "(b) The Executive Administrator shall be appointed by the ~~State Health Plan~~
8 ~~Administrative Commission.~~ State Treasurer. The term of employment and salary of the
9 Executive Administrator shall be set by the ~~State Health Plan Administrative Commission upon~~
10 ~~the advice of an executive committee of the Committee on Employee Hospital and Medical~~
11 ~~Benefits.~~ State Treasurer after consultation with the Board of Trustees.

12 The Executive Administrator may be removed from office by the ~~State Health Plan~~
13 ~~Administrative Commission, upon the advice of an executive committee of the Committee on~~
14 ~~Employee Hospital and Medical Benefits,~~ State Treasurer after consultation with the Board of
15 Trustees, and any vacancy in the office of Executive Administrator may be filled by the ~~State~~
16 ~~Health Plan Administrative Commission with the term of employment and salary set upon the~~
17 ~~advice of an executive committee of the Committee on Employee Hospital and Medical~~
18 ~~Benefits.~~ State Treasurer."

19 **SECTION 2.1.(b)** The State Treasurer shall have the power to designate an interim
20 Executive Administrator prior to appointing an Executive Administrator under this section.

21 **SECTION 2.1.(c)** This section is effective when it becomes law.

22
23 **TRANSFER OF STATE HEALTH PLAN WITHIN STATE GOVERNMENT**

24 **SECTION 2.2.** The North Carolina State Health Plan for Teachers and State
25 Employees is transferred to the Department of State Treasurer. This transfer shall have all the
26 elements of a Type II transfer, as defined by G.S. 143A-6.

27
28 **STATUTORY FRAMEWORK FOR AMENDED STATE HEALTH PLAN STATUTE**

29 **SECTION 2.3.(a)** The title of Chapter 135 of the General Statutes reads as
30 rewritten:

31 **"Chapter 135.**

32 **Retirement System for Teachers and State Employees; Social Security; Health Insurance**
33 **~~Program for Children.~~ State Health Plan for Teachers and State Employees."**

34 **SECTION 2.3.(b)** Chapter 135 of the General Statutes is amended by adding a new
35 Article 3B to be entitled "State Health Plan for Teachers and State Employees." That new
36 Article shall be divided into five parts, as follows:

- 37 (1) "Part 1. General Provisions."
38 (2) "Part 2. Administrative Structure."
39 (3) "Part 3. Plan Operation."
40 (4) "Part 4. Eligibility and Enrollment."
41 (5) "Part 5. Coverage Mandates and Exclusions; Other Mandates."
42 (6) "Part 6. Long-Term Care Benefits."

43
44 **RECODIFY PORTIONS OF PART 1 OF EXISTING STATE HEALTH PLAN**
45 **ARTICLE**

46 **SECTION 2.4.(a)** Subsections (a) and (b) of G.S. 135-43, as amended by Section
47 1.9 of this act, [confidentiality] are recodified as G.S. 135-48.10 under Part 1 of Article 3B of
48 Chapter 135 of the General Statutes, as created by Section 2.3 of this act. Subsection (c) of
49 G.S. 135-43 is recodified as G.S. 135-48.57, to be entitled "Payments for county or city
50 ambulance service.", under Part 5 of Article 3B of Chapter 135 of the General Statutes, as
51 created by Section 2.3 of this act.

1 **SECTION 2.4.(b)** G.S. 135-43.4 [Committee on Actuarial Valuation] is recodified
2 as G.S. 135-48.12 under Part 1 of Article 3B of Chapter 135 of the General Statutes, as created
3 by Section 2.3 of this act.

4 **SECTION 2.4.(c)** G.S. 135-43.5 [auditing the Plan] is recodified as G.S. 135-48.28
5 under Part 2 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of
6 this act.

7 **SECTION 2.4.(d)** G.S. 135-43.6 [reports to General Assembly] is recodified as
8 G.S. 135-48.27 under Part 2 of Article 3B of Chapter 135 of the General Statutes, as created by
9 Section 2.3 of this act.

10 **SECTION 2.4.(e)** G.S. 135-43.7 [contract disputes] is recodified as G.S. 135-48.35
11 under Part 3 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of
12 this act.

13
14 **RECODIFY PORTIONS OF PART 2 OF EXISTING STATE HEALTH PLAN**
15 **ARTICLE**

16 **SECTION 2.5.(a)** G.S. 135-44 [Board of Trustees] is recodified as G.S. 135-48.20
17 under Part 2 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of
18 this act.

19 **SECTION 2.5.(b)** G.S. 135-44.1 [officers, quorum, meetings] is recodified as
20 G.S. 135-48.21 under Part 2 of Article 3B of Chapter 135 of the General Statutes, as created by
21 Section 2.3 of this act.

22 **SECTION 2.5.(c)** G.S. 135-44.2, as amended by Section 2.1 of this act, [Executive
23 Administrator] is recodified as G.S. 135-48.23 under Part 2 of Article 3B of Chapter 135 of the
24 General Statutes, as created by Section 2.3 of this act.

25 **SECTION 2.5.(d)** Subdivision (26) of G.S. 135-44.4 [member education] is
26 recodified as G.S. 135-48.56, to be entitled "Education of covered active and retired
27 employees.", under Part 2 of Article 3B of Chapter 135 of the General Statutes, as created by
28 Section 2.3 of this act.

29 **SECTION 2.5.(e)** G.S. 135-44.5 [trust funds] is recodified as G.S. 135-48.5 under
30 Part 1 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of this
31 act.

32 **SECTION 2.5.(f)** G.S. 135-44.6(d) [firefighter premiums] is recodified as
33 G.S. 135-48.58, to be entitled "Premiums for firefighters, rescue squad workers, and members
34 of National Guard.", under Part 5 of Article 3B of Chapter 135 of the General Statutes, as
35 created by Section 2.3 of this act. G.S. 135-44.6(e) [interest on late payments] is recodified as
36 G.S. 135-48.55, to be entitled "Interest charged to charter schools on late premiums.", under
37 Part 5 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of this
38 act.

39 **SECTION 2.5.(g)** G.S. 135-44.7 [administrative review] is recodified as
40 G.S. 135-48.24 under Part 2 of Article 3B of Chapter 135 of the General Statutes, as created by
41 Section 2.3 of this act.

42 **SECTION 2.5.(h)** G.S. 135-44.8 [rules] is recodified as G.S. 135-48.25 under Part
43 2 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of this act.
44

45 **RECODIFY PORTIONS OF PART 3 OF EXISTING STATE HEALTH PLAN**
46 **ARTICLE**

47 **SECTION 2.6.(a)** Subsections (a) and (e) of G.S. 135-45 [undertaking] are
48 recodified as subsections (a) and (b) of G.S. 135-48.2 under Part 1 of Article 3B of Chapter 135
49 of the General Statutes, as created by Section 2.3 of this act. G.S. 135-45(c) [firefighter
50 coverage in public interest] is recodified as G.S. 135-48.8, to be entitled "Statements of public
51 interest.", under Part 1 of Article 3B of Chapter 135 of the General Statutes, as created by

1 Section 2.3 of this act. Subsection (d) of G.S. 135-45 [contracts with claim processors] is
2 recodified as G.S. 135-48.32, to be entitled "Contracts to provide benefits.", under Part 3 of
3 Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of this act.
4 Subsection (d1) of G.S. 135-45 [contracting provisions] is recodified as G.S. 135-48.33, to be
5 entitled "Contracting provisions; large contract review by Attorney General, auditing, no cost
6 plus contracts.", under Part 3 of Article 3B of Chapter 135 of the General Statutes, as created
7 by Section 2.3 of this act.

8 **SECTION 2.6.(b)** G.S. 135-45.1 [definitions] is recodified as G.S. 135-48.1 under
9 Part 1 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of this
10 act.

11 **SECTION 2.6.(c)** Subsections (a), (a1), (b), and (c) of G.S. 135-45.2 [eligibility
12 categories] are recodified as subsections (a), (b), (c), and (d) in G.S. 135-48.40, to be entitled
13 "Categories of eligibility.", under Part 4 of Article 3B of Chapter 135 of the General Statutes,
14 as created by Section 2.3 of this act. Subsections (d), (e), (f), (g), (h), (i), (j), and (k) of
15 G.S. 135-45.2 [other eligibility rules] are recodified as subsections (a), (c), (d), (e), (f), (g), (h),
16 and (i) of G.S. 135-48.41, to be entitled "Additional eligibility provisions.", under Part 4 of
17 Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of this act.

18 **SECTION 2.6.(d)** G.S. 135-45.3, as amended by Section 1.7 of this act,
19 [enrollment] is recodified as G.S. 135-48.42 under Part 4 of Article 3B of Chapter 135 of the
20 General Statutes, as created by Section 2.3 of this act.

21 **SECTION 2.6.(e)** G.S. 135-45.4, as amended by Section 1.7 of this act, [effective
22 dates of coverage] is recodified as G.S. 135-48.43 under Part 4 of Article 3B of Chapter 135 of
23 the General Statutes, as created by Section 2.3 of this act.

24 **SECTION 2.6.(f)** G.S. 135-45.5 [charter schools' participation] is recodified as
25 G.S. 135-48.54 under Part 5 of Article 3B of Chapter 135 of the General Statutes, as created by
26 Section 2.3 of this act.

27 **SECTION 2.6.(g)** G.S. 135-45.10 [Medicare] is recodified as G.S. 135-48.38
28 under Part 3 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of
29 this act.

30 **SECTION 2.6.(h)** G.S. 135-45.12 [cessation of coverage] is recodified as
31 G.S. 135-48.44 under Part 4 of Article 3B of Chapter 135 of the General Statutes, as created by
32 Section 2.3 of this act.

33 **SECTION 2.6.(i)** G.S. 135-45.13 [conversion] is recodified as G.S. 135-48.45
34 under Part 4 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of
35 this act.

36 **SECTION 2.6.(j)** G.S. 135-45.15 [subrogation] is recodified as G.S. 135-48.37
37 under Part 3 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of
38 this act.

39 **SECTION 2.6.(k)** G.S. 135-45.16 [right to amend] is recodified as G.S. 135-48.3
40 under Part 1 of Article 3B of Chapter 135 of the General Statutes, as created by Section 2.3 of
41 this act.

42 43 **RECODIFY PART 4 OF EXISTING STATE HEALTH PLAN ARTICLE**

44 **SECTION 2.7.** G.S. 135-46 through G.S. 135-46.2 [long-term care] are recodified
45 as G.S. 135-48.60 through G.S. 135-48.62 under Part 5 of Article 3B of Chapter 135 of the
46 General Statutes, as created by Section 2.3 of this act.

47 48 **PLACE CHILD HEALTH INSURANCE FUND ESTABLISHMENT IN CHILD** 49 **HEALTH INSURANCE PROGRAM STATUTES**

50 **SECTION 2.8.** G.S. 135-47.2 [child health insurance fund] is recodified as
51 G.S. 108A-70.20A.

1
2 **REPEAL STATE HEALTH PLAN SECTIONS NOT RECODIFIED BY THIS PART**

3 **SECTION 2.9.** Article 3A of Chapter 135 of the General Statutes is repealed.
4

5 **REWRITE STATE HEALTH PLAN STATUTE**

6 **SECTION 2.10.** Article 3B of Chapter 135 of the General Statutes, as created by
7 Section 2.3 of this act and as amended by Sections 1.6, 1.7, 2.1, 2.4, 2.5, 2.6, and 2.7 of this act,
8 reads as rewritten:

9 "Article 3B.

10 "State Health Plan for Teachers and State Employees.

11 "Part 1. General Provisions.

12 **"§ 135-48.1. General definitions.**

13 As used in this Article unless the context clearly requires otherwise, the following
14 definitions apply:

15 ~~(1) Allowed amount. — The charge that the Plan or its claims processors~~
16 ~~determines is reasonable for covered services provided to a Plan member.~~
17 ~~This amount may be established in accordance with an agreement between~~
18 ~~the provider and the Plan or its claims processor. In the case of providers~~
19 ~~that have not entered into an agreement with the Plan or its claims processor,~~
20 ~~the allowed amount will be the lesser of the provider's actual charge or a~~
21 ~~reasonable charge established by the Plan or its claims processor using a~~
22 ~~methodology that is applied to comparable providers for similar services~~
23 ~~under a similar health benefit plan.~~

24 ~~(2)~~(1) Benefit period. — The period of time during which charges for covered
25 services provided to a Plan member must be incurred in order to be eligible
26 for payment by the Plan.

27 ~~(3)~~(2) Chemical dependency. — The pathological use or abuse of alcohol or other
28 drugs in a manner or to a degree that produces an impairment in personal,
29 social, or occupational functioning and which may, but need not, include a
30 pattern of tolerance and withdrawal.

31 ~~(4)~~(3) Claims Processor. — One or more administrators, third-party administrators,
32 or other parties contracting with the Plan to administer Plan benefits.

33 ~~(5) Clinical trials. — Patient research studies designed to evaluate new~~
34 ~~treatments, including prescription drugs. Coverage for clinical trials shall be~~
35 ~~as provided in G.S. 135-45.8.~~

36 ~~(6)~~(4) Comprehensive health benefit plan. — Health care coverage that consists of
37 inpatient and outpatient hospital and medical benefits, as well as other
38 outpatient medical services, prescription drugs, medical supplies, and
39 equipment that are generally available in the health insurance market.

40 ~~(5)~~(5) Comprehensive group health benefit plan. — A comprehensive health benefit
41 plan offered to an individual because of an employment, organizational, or
42 other group affiliation.

43 ~~(7)~~(6) Covered service; benefit; allowable expense. — Any medically necessary,
44 reasonable, and customary items of service, including prescription drugs,
45 and medical supplies included in the Plan.

46 ~~(8)~~(7) Deductible. — The dollar amount that must be incurred for certain covered
47 services in a benefit period before benefits are payable by the Plan.

48 ~~The deductible applies separately to each covered individual in each~~
49 ~~fiscal year, subject to an aggregate maximum per employee and child,~~
50 ~~employee and spouse, or employee and family coverage contract in any~~
51 ~~fiscal year.~~

1 ~~If two or more family members are injured in the same accident, only~~
2 ~~one deductible is required for charges related to that accident during the~~
3 ~~benefit period.~~

4 ~~(9)~~(8) Dependent. – An eligible Plan member other than the subscriber.

5 ~~(10)~~(9) Dependent child. – Subject to the eligibility requirements of
6 ~~G.S. 135-45.2(d), subsections (a) and (b) of G.S. 135-48.41,~~ any of the
7 following:

8 a. A natural or legally adopted child or children of the employee up to
9 the first of the month following the child's 26th birthday, whether or
10 not the child is living with the employee.

11 b. A foster child or children of the employee up to the first month
12 following the child's 19th birthday, whether or not the child is living
13 with the employee, as long as the employee is legally responsible for
14 the child's maintenance and support.

15 c. A child for which an employee is a court-appointed guardian, as long
16 as the employee is legally responsible for the child's maintenance and
17 support.

18 d. A stepchild who primarily resides with a member who is married to
19 the stepchild's natural parent.

20 e. Any child under age 19 who has reached his or her 18th birthday,
21 provided the subscriber was legally responsible for the child's
22 maintenance and support on his or her 18th birthday.

23 ~~Dependent children of firefighters, rescue squad workers, and members of~~
24 ~~the National Guard are subject to the same terms and conditions as are other~~
25 ~~dependent children covered by this subdivision.~~

26 ~~(11)~~(10) Employee or State employee. – Any permanent full-time or permanent
27 part-time regular employee (designated as half-time or more) of an
28 employing unit.

29 ~~(12)~~(11) Employing Unit. – A North Carolina School System; Community
30 College; State Department, Agency, or Institution; Administrative Office of
31 the Courts; or Association or Examining Board whose employees are
32 eligible for membership in a State-Supported Retirement System. An
33 employing unit also shall mean a charter school in accordance with Part 6A
34 of Chapter 115C of the General Statutes whose board of directors elects to
35 become a participating employer in the Plan under ~~G.S. 135-45.5.~~
36 G.S. 135-48.54. Bona fide fire departments, rescue or emergency medical
37 service squads, and National Guard units are deemed to be employing units
38 for the purpose of providing benefits under this Article.

39 (13) ~~Experimental/Investigational. — Experimental/Investigational — Medical~~
40 ~~Procedures. — The use of a service, supply, drug, or device not recognized as~~
41 ~~standard medical care for the condition, disease, illness, or injury being~~
42 ~~treated as determined by the Executive Administrator and Board of Trustees~~
43 ~~upon the advice of the Claims Processor.~~

44 (14)(12) Firefighter. – ~~Eligible firefighters as defined by G.S. 58-86-25 who~~
45 ~~belong to a bona fide fire department as defined by G.S. 58-86-25 and who~~
46 ~~are not eligible for any type of comprehensive group health insurance or~~
47 ~~other comprehensive group health benefit coverage and who have been~~
48 ~~without any form of group health insurance or other comprehensive group~~
49 ~~health benefit coverage for at least six months. Firefighter shall also include~~
50 ~~members of the North Carolina Firemen and Rescue Squad Workers'~~
51 ~~Pension Fund who are in receipt of a monthly pension, who are not eligible~~

1 for any type of comprehensive group health insurance or other
2 comprehensive group health benefit coverage, and who have been without
3 any form of group health insurance or other comprehensive group health
4 benefit coverage for at least six months. Comprehensive group health
5 insurance and other benefit coverage consists of inpatient and outpatient
6 hospital and medical benefits, as well as other outpatient medical services,
7 prescription drugs, medical supplies, and equipment that are generally
8 available in the health insurance market. For purposes of this subdivision,
9 comprehensive group health insurance and other benefit coverage includes
10 Medicare benefits, CHAMPUS benefits, and other Uniformed Services
11 benefits. North Carolina fire departments or their respective governing
12 bodies shall certify the eligibility of their firefighters to the Plan for their
13 participation in its benefits prior to enrollment. A member of the group
14 "eligible firemen" as defined in G.S. 58-86-25.

15 (15)(13) Health Benefits Representative or HBR. – The employee designated by
16 the employing unit to administer the Plan for the unit and its employees. The
17 HBR is responsible for enrolling new employees and dependents in
18 accordance with the eligibility requirements under this Article, reporting
19 changes, explaining benefits, reconciling group statements, and remitting
20 group fees. The State Retirement System is the Health Benefits
21 Representative for retired State employees.

22 (16) ~~Medical necessity or medically necessary. — Covered services or supplies~~
23 ~~that are:~~

- 24 a. ~~Provided for the diagnosis, treatment, cure, or relief of a health~~
25 ~~condition, illness, injury, or disease; and, except for clinical trials~~
26 ~~covered under the Plan, not for experimental, investigational, or~~
27 ~~cosmetic purposes.~~
28 b. ~~Necessary for and appropriate to the diagnosis, treatment, cure, or~~
29 ~~relief of a health condition, illness, injury, disease, or its symptoms.~~
30 c. ~~Within generally accepted standards of medical care in the~~
31 ~~community.~~
32 d. ~~Not solely for the convenience of the Plan member, the Plan~~
33 ~~member's family, or the provider.~~

34 For medically necessary services, the Plan or its representative may compare
35 the cost-effectiveness of alternative services or supplies when determining
36 which of the services or supplies will be covered and in what setting
37 medically necessary services are eligible for coverage.

38 (17) ~~National Guard members. — Members of the North Carolina Army and Air~~
39 ~~National Guard who are not eligible for any type of comprehensive group~~
40 ~~health insurance or other comprehensive group health benefit coverage and~~
41 ~~who have been without any form of group health insurance or other~~
42 ~~comprehensive group health benefit coverage for at least six months.~~
43 ~~Members of the North Carolina Army and Air National Guard include those~~
44 ~~who are actively serving in the National Guard as well as former members of~~
45 ~~the National Guard who have completed 20 or more years of service in the~~
46 ~~National Guard but have not attained the minimum age to begin receipt of a~~
47 ~~uniformed service military retirement benefit. Comprehensive group health~~
48 ~~insurance and other benefit coverage consists of inpatient and outpatient~~
49 ~~hospital and medical benefits, as well as other outpatient medical services,~~
50 ~~prescription drugs, medical supplies, and equipment that are generally~~
51 ~~available in the health insurance market. Comprehensive group health~~

1 insurance and other benefit coverage includes Medicare benefits, Civilian
2 Health and Medical Program of the Uniformed Services (CHAMPUS)
3 benefits, and other Uniformed Services benefits. North Carolina National
4 Guard units shall certify the eligibility of their members to the Plan for their
5 participation in its benefits prior to enrollment.

6 (18) ~~Optional alternative comprehensive benefit plans.—Comprehensive benefit~~
7 ~~plans administered by the Plan that differ in coverage, deductibles,~~
8 ~~coinsurance from the Standard Plan providing for 80/20 coinsurance, and~~
9 ~~that are alternative choices for coverage at the option of the Plan member.~~

10 (19)(14) ~~Plan or State Health Plan. – The North Carolina State Health Plan for~~
11 ~~Teachers and State Employees. Unless otherwise expressly provided,~~
12 ~~Depending on the context, the term may refer to the entity created in~~
13 ~~G.S. 153-48.2 or to the health benefit plans offered by the entity, in which~~
14 ~~case "Plan" includes all comprehensive health benefit plans offered under~~
15 ~~the Plan.~~

16 (20)(15) ~~Plan member. – A subscriber or dependent who is eligible and currently~~
17 ~~enrolled in the Plan and for whom a premium is paid.~~

18 (21) ~~Plan year.—The period beginning July 1 and ending on June 30 of the~~
19 ~~succeeding calendar year.~~

20 (22)(16) ~~Predecessor plan. – The Hospital and Medical Benefits for the Teachers'~~
21 ~~and State Employees' Retirement System of the State of North Carolina and~~
22 ~~the North Carolina Teachers' and State Employees' Comprehensive Major~~
23 ~~Medical Plan.~~

24 (23)(17) ~~Rescue squad workers. worker. – Eligible rescue squad workers as~~
25 ~~defined by the provisions of G.S. 58-86-30 who belong to a rescue or~~
26 ~~emergency medical services squad as defined by the same statute and who~~
27 ~~are not eligible for any type of comprehensive group health insurance or~~
28 ~~other comprehensive group health benefit coverage and who have been~~
29 ~~without any form of group health insurance or other comprehensive group~~
30 ~~health benefit coverage for at least six months. Rescue squad workers shall~~
31 ~~also include members of the North Carolina Firemen and Rescue Squad~~
32 ~~Workers' Pension Fund who are in receipt of a monthly pension, who are not~~
33 ~~eligible for any type of comprehensive group health insurance or other~~
34 ~~comprehensive group health benefit coverage, and who have been without~~
35 ~~any form of group health insurance or other comprehensive group health~~
36 ~~benefit coverage for at least six months. Comprehensive group health~~
37 ~~insurance and other benefit coverage consists of inpatient and outpatient~~
38 ~~hospital and medical benefits, as well as other outpatient medical services,~~
39 ~~prescription drugs, medical supplies, and equipment that are generally~~
40 ~~available in the health insurance market. For purposes of this subdivision,~~
41 ~~comprehensive group health insurance and other benefit coverage includes~~
42 ~~Medicare benefits, CHAMPUS benefits, and other Uniformed Services~~
43 ~~benefits. North Carolina rescue or emergency medical services squads or~~
44 ~~their respective governing bodies shall certify the eligibility of their rescue~~
45 ~~squad workers to the Plan for their participation in its benefits prior to~~
46 ~~enrollment. An "eligible rescue squad worker" as defined in G.S. 58-86-30.~~

47 (24)(18) ~~Retired employee (retiree). – Retired teachers, State employees, and~~
48 ~~members of the General Assembly who are receiving monthly retirement~~
49 ~~benefits from any retirement system supported in whole or in part by~~
50 ~~contributions of the State of North Carolina, so long as the retiree is~~
51 ~~enrolled.~~

1 ~~(25)~~(19) Subscriber. – A Plan member who is not a dependent.

2 **"§ 135-48.2. Undertaking.**

3 (a) The State of North Carolina undertakes to make available a State Health Plan
4 (hereinafter called the "Plan") exclusively for the benefit of eligible employees, eligible retired
5 employees, and certain of their eligible dependents, which will pay benefits in accordance with
6 the terms of this Article. The Plan shall have all the powers and privileges of a corporation and
7 shall be known as the State Health Plan for Teachers and State Employees. The State Treasurer,
8 ~~Executive Administrator~~ Administrator, and Board of Trustees shall carry out their duties and
9 responsibilities as fiduciaries for the Plan. The Plan shall administer one or more group health
10 plans that are comprehensive in coverage and shall provide eligible employees and retired
11 employees coverage on a noncontributory basis under at least one of the group plans with
12 benefits equal to that specified in subsection (g) of this section. coverage. The ~~Executive~~
13 ~~Administrator and Board of Trustees~~ State Treasurer may operate group plans as a preferred
14 provider option, or health maintenance, point-of-service, or other organizational arrangement
15 and may offer the plans to employees and retirees on a noncontributory or partially contributory
16 basis. ~~Plans offered on a partially contributory basis must provide benefits that are additional to~~
17 ~~that specified in subsection (g) of this section and may not be offered unless approved in an act~~
18 ~~of the General Assembly.~~ arrangement.

19 (b) Payroll deduction shall be available for coverage under ~~this Part~~ the Plan for
20 subscribers able to meet the Plan's requirements for payroll deduction.

21 **"§ 135-48.3. Right to amend.**

22 The General Assembly reserves the right to alter, amend, or repeal this Article.

23 **"§ 135-48.4: Reserved for future codification purposes.**

24 **"§ 135-48.5. Health benefit trust funds created.**

25 (a) There are hereby established two health benefit trust funds, to be known as the
26 Public Employee Health Benefit Fund and the Health Benefit Reserve Fund for the payment of
27 hospital and medical benefits. As used in this section, the term "health benefit trust funds"
28 refers to the fund type described under G.S. 143C-1-3(a)(10).

29 All premiums, fees, charges, rebates, refunds or any other receipts including, but not limited
30 to, earnings on investments, occurring or arising in connection with health benefits programs
31 established by this Article, shall be deposited into the Public Employee Health Benefit Fund.
32 Disbursements from the Fund shall include any and all amounts required to pay the benefits
33 and administrative costs of such programs as may be determined by the Executive
34 Administrator and Board of Trustees.

35 Any unencumbered balance in excess of prepaid premiums or charges in the Public
36 Employee Health Benefit Fund at the end of each fiscal year shall be used first, to provide an
37 actuarially determined Health Benefit Reserve Fund for incurred but unrepresented claims,
38 second, to reduce the premiums required in providing the benefits of the health benefits
39 programs, and third to improve the plan, as may be provided by the General Assembly. The
40 balance in the Health Benefits Reserve Fund may be transferred from time to time to the Public
41 Employee Health Benefit Fund to provide for any deficiency occurring therein.

42 The Public Employee Health Benefit Fund and the Health Benefit Reserve Fund shall be
43 deposited with the State Treasurer and invested as provided in G.S. 147-69.2 and 147-69.3.

44 (b) Disbursement from the Public Employee Health Benefit Fund may be made by
45 warrant drawn on the State Treasurer by the Executive Administrator, or the Executive
46 Administrator and Board of Trustees may by contract authorize the Claims Processors to draw
47 the warrant.

48 **"§§ 135-48.6 through 135-48.7: Reserved for future codification purposes.**

49 **"§ 135-48.8. Statements of public interest.**

50 The State of North Carolina deems it to be in the public interest for North Carolina
51 firefighters, rescue squad workers, and members of the National Guard, and certain of their

1 dependents, who are not eligible for any other type of comprehensive group health insurance or
2 other comprehensive group health benefits, and who have been without any form of group
3 health insurance or other comprehensive group health benefit coverage for at least six
4 consecutive months, to be given the opportunity to participate in the benefits provided by the
5 State Health Plan for Teachers and State Employees. Coverage under the Plan shall be
6 voluntary for eligible firefighters, rescue squad workers, and members of the National Guard
7 who elect participation in the Plan for themselves and their eligible dependents.

8 "**§ 135-48.9: Reserved for future codification purposes.**

9 "**§ 135-48.10. Confidentiality of information and medical records; provider contracts.**

10 (a) Any information as ~~herein~~ described in this section ~~which~~ that is in the possession of
11 ~~the Executive Administrator and the Board of Trustees of the State Health Plan for Teachers~~
12 ~~and State Employees or its Claims Processor under the Plan or the Predecessor Plan shall be~~
13 ~~confidential and shall be exempt from the provisions of Chapter 132 of the General Statutes or~~
14 ~~any other provision requiring information and records held by State agencies to be made public~~
15 ~~or accessible to the public. This section shall apply to all information concerning individuals,~~
16 ~~including the fact of coverage or noncoverage, whether or not a claim has been filed, medical~~
17 ~~information, whether or not a claim has been paid, and any other information or materials~~
18 ~~concerning a plan participant. Provided, however, such This information may may, however, be~~
19 ~~released to the State Auditor, Auditor or to the Attorney General, or to the persons designated~~
20 ~~under G.S. 135-43.3 General in furtherance of their statutory duties and responsibilities, or to~~
21 ~~such persons or organizations as may be designated and approved by the Executive~~
22 ~~Administrator and Board of Trustees of the Plan, but any State Treasurer. Any information so~~
23 ~~released shall remain confidential as stated above and any party obtaining such information~~
24 ~~shall assume the same level of responsibility for maintaining such confidentiality as that of the~~
25 ~~Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State~~
26 ~~Employees.~~

27 (b) ~~Notwithstanding the provisions of this Article, the Executive Administrator and~~
28 ~~Board of Trustees of the State Health Plan for Teachers and State Employees may contract with~~
29 ~~providers of institutional and professional medical care and services to establish preferred~~
30 ~~provider networks. The terms of a contract between the Plan and its third party~~
31 ~~administrator or between the Plan and its pharmacy benefit manager are a public record under~~
32 ~~Chapter 132 of the General Statutes. No provision of law, however, shall be construed to~~
33 ~~prevent or restrict the release of any information in a Plan contract to the State Treasurer, the~~
34 ~~State Auditor, the Attorney General, the Director of the State Budget, the Plan's Board of~~
35 ~~Trustees, and the Plan's Executive Administrator, and the Committee on Employee Hospital~~
36 ~~and Medical Benefits Administrator solely and exclusively for their use in the furtherance of~~
37 ~~their duties and responsibilities, and to the Department of Health and Human Services solely~~
38 ~~for the purpose of implementing the transition of NC Health Choice from the Plan to the~~
39 ~~Department of Health and Human Services. The design, adoption, and implementation of the~~
40 ~~preferred provider contracts, networks, and optional alternative comprehensive health benefit~~
41 ~~plans, and programs available under the optional alternative plans, as authorized under~~
42 ~~G.S. 135-45 are not subject to the requirements of Article 3 of Chapter 143 of the General~~
43 ~~Statutes. However, the Executive Administrator and Board of Trustees shall: (i) submit all~~
44 ~~proposed statewide and agency term contracts for supplies, materials, printing, equipment, and~~
45 ~~contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection~~
46 ~~to the Attorney General or the Attorney General's designee for review as provided in~~
47 ~~G.S. 114 8.3; and (ii) include in all proposed contracts to be awarded by the Executive~~
48 ~~Administrator and Board of Trustees under this section a standard clause which provides that~~
49 ~~the State Auditor and internal auditors of the Plan may audit the records of the contractor~~
50 ~~during the term of the contract to verify accounts and data affecting fees and performance. The~~
51 ~~Executive Administrator and Board of Trustees shall not award a cost plus percentage of cost~~

1 agreement or contract for any purpose. The Executive Administrator and Board of Trustees
2 shall make reports as requested to the President of the Senate, the President Pro Tempore of the
3 Senate, the Speaker of the House of Representatives, and the Committee on Employee
4 Hospital and Medical Benefits. responsibilities.

5 **"§ 135-48.11: Reserved for future codification purposes.**

6 **"§ 135-48.12. Committee on Actuarial Valuation of Retired Employees' Health Benefits.**

7 (a) There is established the Committee on Actuarial Valuation of Retired Employees'
8 Health Benefits. The Committee shall be responsible for collecting data and reviewing
9 assumptions for the sole purpose of conducting required actuarial valuations of State supported
10 retired employees' health benefits under other post-employment benefit accounting standards
11 set forth by the Governmental Accounting Standards Board of the Financial Accounting
12 Foundation.

13 (b) The Committee on Actuarial Valuation of Retired Employees' Health Benefits shall
14 consist of five members serving ex officio, as follows:

15 (1) The State Budget Officer, who shall serve as the Chair;

16 (2) The State Auditor;

17 (3) The State Controller;

18 (4) The State Treasurer; and

19 (5) The Executive Administrator for the ~~Teachers' and the State Employees'~~
20 ~~Comprehensive Major Medical Plan [State Health Plan for Teachers and~~
21 ~~State Employees].~~ State Health Plan for Teachers and State Employees.

22 (c) A majority of the members of the Committee then serving shall constitute a quorum.

23 (d) Each member shall be entitled to one vote on the Committee. Three affirmative
24 votes shall be necessary for a decision by the members at any meeting of the Committee.

25 (e) The Committee shall keep in convenient form such data as is necessary for actuarial
26 valuation of retired employees' health benefits under accounting standards set forth by the
27 Governmental Accounting Standards Board of the Financial Accounting Foundation. The
28 Department of State Treasurer, Retirement Systems Division, the State Health Plan for
29 Teachers and State Employees, and any other State agency, department, or university
30 institution, local public school agency, or local community college institution shall provide any
31 necessary data upon request of the Committee for the purpose of conducting its responsibilities.

32 (f) The Committee shall designate either the actuary under contract with the
33 Department of State Treasurer, Retirement Systems Division, or the actuary under contract with
34 the State Health Plan for Teachers and State Employees as the technical adviser to the
35 Committee on matters regarding the actuarial valuation of retired employees' health benefits
36 created by the provisions of this Chapter. The technical advisor shall perform such actuarial
37 valuation and other duties as are required under this Chapter.

38 (g) The Committee shall secure an annual calendar-year actuarial valuation of retired
39 employees' health benefits under accounting standards set forth by the Governmental
40 Accounting Standards Board of the Financial Accounting Foundation.

41 (h) The Committee shall keep a record of all of its proceedings which shall be open to
42 public inspection.

43 "Part 2. Administrative Structure.

44 **"§ 135-48.20. Board of Trustees established.**

45 (a) There is established the Board of Trustees of the State Health Plan for Teachers and
46 State Employees.

47 (b) The Board of Trustees of the State Health Plan for Teachers and State Employees
48 shall consist of ~~nine~~ 10 members.

49 (c) The State Treasurer shall be an ex officio member of the Board and shall serve as its
50 Chair, but shall only vote in order to break a tie vote.

1 (d) The Director of the Office of State Budget and Management shall be an ex officio
2 nonvoting member of the Board.

3 ~~(e)~~(e) Three Two members shall be appointed by the Governor. Terms shall be for two
4 years. Vacancies shall be filled by the Governor. ~~Of the members appointed by the Governor,~~
5 ~~one shall be either:~~

6 ~~(1) An employee of a State department, agency, or institution;~~

7 ~~(2) A teacher employed by a North Carolina public school system;~~

8 ~~(3) A retired employee of a State department, agency, or institution; or~~

9 ~~(4) A retired teacher from a North Carolina public school system.~~

10 (f) Two members shall be appointed by the State Treasurer. Terms shall be for two
11 years. Vacancies shall be filled by the State Treasurer.

12 ~~(d)~~(g) Three Two members shall be appointed by the General Assembly upon the
13 recommendation of the Speaker of the House of Representatives in accordance with
14 G.S. 120-121. Terms shall be for two years. Vacancies shall be filled in accordance with
15 G.S. 120-122.

16 ~~(e)~~(h) Three Two members shall be appointed by the General Assembly upon the
17 recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
18 Terms shall be for two years. Vacancies shall be filled in accordance with G.S. 120-122.

19 (i) In making appointments, the appointing authorities shall ensure that one of the
20 appointees under subsection (e) of this section, one of the appointees under subsection (f) of
21 this section, and one of the appointees under subsection (g) of this section, and one of the
22 appointees under subsection (h) of this section are one of the following:

23 (1) An employee of a State department, agency, or institution;

24 (2) A teacher employed by a North Carolina public school system;

25 (3) A retired employee of a State department, agency, or institution; or

26 (4) A retired teacher from a North Carolina public school system.

27 Each appointing authority shall consult with all other appointing authorities to ensure that
28 the Board's composition reflects a diversity of employees, teachers, retired employees, and
29 retired teachers.

30 (j) In making appointments, except for the appointees under subsection (i) of this
31 section, the appointing authorities shall appoint individuals from the following areas of
32 expertise:

33 (1) Actuarial science.

34 (2) Health economics.

35 (3) Health benefits and administration.

36 (4) Health law and policy.

37 In making appointments to the Board under this section, each appointing authority shall
38 consult with all other appointing authorities to ensure that each of the areas of expertise
39 required by this subsection is represented by at least one member of the Board. Each appointing
40 authority shall consider the expertise of the other members of the Board and make
41 appointments so that the Board's composition reflects a diversity of expertise.

42 ~~(f)~~(k) Each appointing authority may remove any member appointed by that appointing
43 authority.

44 ~~(g)~~(l) The members of the Board of Trustees shall receive one hundred dollars (\$100.00)
45 per day, except employees eligible to enroll in the Plan, whenever the full Board of Trustees
46 holds a public session, and travel allowances under G.S. 138-6 when traveling to and from
47 meetings of the Board of Trustees or hearings under ~~G.S. 135-44.7, G.S. 135-48.24,~~ but shall
48 not receive any subsistence allowance or per diem under G.S. 138-5, except when holding a
49 meeting or hearing where this section does not provide for payment of one hundred dollars
50 (\$100.00) per day.

1 ~~(h)(m)~~ No member of the Board of Trustees may serve more than three consecutive
2 two-year terms.

3 ~~(i) Meetings of the Board of Trustees may be called by the Executive Administrator,~~
4 ~~the Chair, or by any three members.~~

5 **"§ 135-48.21. Officers, Board officers, quorum, meetings.**

6 (a) ~~The Besides the Chair, the~~ Board of Trustees shall elect from its own membership
7 such officers as it sees fit.

8 (b) A majority of the voting members of the Board of Trustees in office shall constitute
9 a quorum. Decisions of the Board of Trustees shall be made by a majority vote of the Trustees
10 present, except as otherwise provided in this ~~Part.~~ Article.

11 (c) The Board shall meet at least quarterly. Meetings may also be called by the Chair,
12 or at the written request of three members.

13 **"§ 135-48.22. Board powers and duties.**

14 The Board of Trustees shall have the following powers and duties:

15 (1) Approve benefit programs, as provided in G.S. 135-48.30(2).

16 (2) Approve premium rates, co-pays, deductibles, and coinsurance maximums
17 for the Plan, as provided in G.S. 135-48.30(2).

18 (3) Oversee administrative reviews and appeals, as provided in G.S. 135-48.24.

19 (4) Approve large contracts, as provided in G.S. 135-48.33(a).

20 (5) Consult with and advise the State Treasurer as required by this Article and as
21 requested by the State Treasurer.

22 (6) Develop and maintain a strategic plan for the Plan.

23 **"§ 135-48.23. Executive Administrator.**

24 (a) The Plan shall have an Executive Administrator and a Deputy Executive
25 Administrator. The Executive Administrator and the Deputy Executive Administrator positions
26 are exempt from the provisions of Chapter 126 of the General Statutes as provided in
27 G.S. 126-5(c1).

28 (b) The Executive Administrator shall be appointed by the State Treasurer. The term of
29 employment and salary of the Executive Administrator shall be set by the State Treasurer after
30 consultation with the Board of Trustees.

31 The Executive Administrator may be removed from office by the State Treasurer after
32 consultation with the Board of Trustees, and any vacancy in the office of Executive
33 Administrator may be filled by the State Treasurer.

34 (c) The Executive Administrator shall appoint the Deputy Executive Administrator and
35 may employ such clerical and professional staff, and such other assistance as may be necessary
36 to assist the Executive ~~Administrator and Administrator,~~ the Board of Trustees Trustees, and
37 the State Treasurer in carrying out their duties and responsibilities under this Article. The
38 Executive Administrator may designate managerial, professional, or policy-making positions as
39 exempt from the State Personnel Act. The Executive Administrator may also negotiate,
40 renegotiate and execute contracts with third parties in the performance of the Executive
41 Administrator's duties and responsibilities under this Article; provided any contract
42 negotiations, renegotiations and execution with a Claims Processor, with an optional alternative
43 comprehensive health benefit plan, or program thereunder, authorized under ~~G.S. 135-45,~~
44 G.S. 135-48.2, with a preferred provider of institutional or professional hospital and medical
45 care, or with a pharmacy benefit manager shall be done only after consultation with the
46 ~~Committee on Employee Hospital and Medical Benefits.~~ State Treasurer.

47 ~~(d) The Executive Administrator shall be responsible for:~~

48 (1) ~~Cost management programs;~~

49 (2) ~~Education and illness prevention programs;~~

50 (3) ~~Training programs for Health Benefit Representatives;~~

51 (4) ~~Membership functions;~~

- 1 (5) Long-range planning;
2 (6) Provider and participant relations; and
3 (7) Communications.

4 ~~Managed care practices used by the Executive Administrator in cost management programs~~
5 ~~are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223, 58-3-235, 58-3-240,~~
6 ~~58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30.~~

7 ~~(e)(d)~~ The Executive Administrator shall quarterly make reports and recommendations on
8 the Plan to the President Pro Tempore of the ~~Senate~~, Senate and the Speaker of the House of
9 ~~Representatives and the Committee on Employee Hospital and Medical Benefits.~~
10 Representatives.

11 **"§ 135-48.24. Administrative review.**

12 (a) If, after exhaustion of internal appeal handling as outlined in the contract with the
13 Claims Processor any person is aggrieved, the Claims Processor shall bring the matter to the
14 attention of the Executive Administrator and Board of Trustees, which shall promptly decide
15 whether the subject matter of the appeal is a determination subject to external review under Part
16 4 of Article 50 of Chapter 58 of the General Statutes. The Executive Administrator and Board
17 of Trustees shall inform the aggrieved person and the aggrieved person's provider of the
18 decision and shall provide the aggrieved person notice of the aggrieved person's right to appeal
19 that decision as provided in this subsection. If the Executive Administrator and Board of
20 Trustees decide that the subject matter of the appeal is not a determination subject to external
21 review, then the Executive Administrator and Board of Trustees may make a binding decision
22 on the matter in accordance with procedures established by the Executive Administrator and
23 Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written
24 summary of the decisions made pursuant to this section to all employing units, all health benefit
25 representatives, ~~the oversight team provided for in G.S. 135-43.3,~~ all relevant health care
26 providers affected by a decision, and to any other parties requesting a written summary and
27 approved by the Executive Administrator and Board of Trustees to receive a summary
28 immediately following the issuance of a decision. A decision by the Executive Administrator
29 and Board of Trustees that a matter raised on internal appeal is a determination subject to
30 external review as provided in subsection (b) of this section may be contested by the aggrieved
31 person under Chapter 150B of the General Statutes. The person contesting the decision may
32 proceed with external review pending a decision in the contested case under Chapter 150B of
33 the General Statutes.

34 (b) ~~The Executive Administrator and Board of Trustees~~ State Treasurer, in consultation
35 with the Board of Trustees, shall adopt and implement utilization review and internal grievance
36 procedures that are substantially equivalent to those required under G.S. 58-50-61 and
37 G.S. 58-50-62. External review of determinations shall be conducted in accordance with Part 4
38 of Article 50 of Chapter 58 of the General Statutes. As used in this section, "determination" is a
39 decision by the ~~Executive Administrator and Board of Trustees,~~ State Treasurer, or the Plan's
40 designated utilization review organization administrated by or under contract with the Plan that
41 an admission, availability of care, continued stay, or other health care service has been
42 reviewed and, based upon information provided, does not meet the Plan's requirements for
43 medical necessity, appropriateness, health care setting, or level of care or effectiveness, and the
44 requested service is therefore denied, reduced, or terminated.

45 (c) The Board of Trustees shall make the final agency decision in all cases contested
46 pursuant to Chapter 150B of the General Statutes. The Executive Administrator shall execute
47 the Board's final agency decisions. For purposes of G.S. 150B-44, the Board of Trustees is an
48 agency that is a board or commission.

49 **"§ 135-48.25. Rules.**

50 ~~The Executive Administrator and Board of Trustees~~ State Treasurer, in consultation with
51 the Board of Trustees, may adopt rules to implement ~~Parts 2, 3, 4, and 5~~ of this Article. The

~~Executive Administrator and Board of Trustees~~ State Treasurer shall provide to all employing units, all health benefit representatives, ~~the oversight team provided for in G.S. 135-43.3~~, all relevant health care providers affected by a rule, and to any other persons requesting a written description and approved by the ~~Executive Administrator and Board of Trustees~~ State Treasurer written notice and an opportunity to comment not later than 30 days prior to adopting, amending, or rescinding a rule, unless immediate adoption of the rule without notice is necessary in order to fully effectuate the purpose of the rule. Rules of the Board of Trustees shall remain in effect until amended or repealed by the ~~Executive Administrator and Board of Trustees~~ State Treasurer. The ~~Executive Administrator and Board of Trustees~~ State Treasurer shall provide a written description of the rules adopted under this section to all employing units, all health benefit representatives, ~~the oversight team provided for in G.S. 135-43.3~~, all relevant health care providers affected by a rule, and to any other persons requesting a written description and approved by the ~~Executive Administrator and Board of Trustees~~ State Treasurer on a timely basis. Rules adopted by the ~~Executive Administrator and Board of Trustees~~ State Treasurer to implement this Article are not subject to Article 2A of Chapter 150B of the General Statutes.

"§ 135-48.26: Reserved for future codification purposes.

"§ 135-48.27. Reports to the General Assembly; General Assembly access to information.

~~The~~ In addition to the reports required by G.S. 135-48.22(d), the State Treasurer, the Executive Administrator, and Board of Trustees shall report to the General Assembly at such times and in such forms as shall be designated by the ~~Committee on Employee Hospital and Medical Benefits~~, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Employees of the Legislative Services Commission designated by the Legislative Services Officer (i) shall have access to all records related to the Plan of the State Treasurer, the Board of Trustees, the Executive Administrator, the Claims Processor, and the Plan and (ii) shall be entitled to attend all meetings, including executive sessions, of the Board of Trustees.

"§ 135-48.28. Auditing of the Plan.

~~The Board of Trustees and the Executive Administrator of the State Health Plan for Teachers and State Employees and the Claims Processor shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.~~

"Part 3. Plan Operation.

"§ 135-48.30. Powers and duties of the State Treasurer.

The State Treasurer shall have the following powers and duties:

- (1) Administer and operate the State Health Plan for Teachers and State Employees in accordance with G.S. 135-48.2 and the provisions of this Article.
- (2) Set benefits, premium rates, co-pays, deductibles, and coinsurance maximums, subject to approval by the Board of Trustees.
- (3) Set the allowable charges for medical and prescription drug benefits, as necessary.
- (4) Design and implement coordination of benefits policies.
- (5) May offer wellness incentives.
- (6) Set administrative and medical policies that are not in direct conflict with this Article.
- (7) Adopt and implement, in consultation with the Board of Trustees, utilization review and internal grievance procedures that are substantially equivalent to those required under G.S. 58-50-61 and G.S. 58-50-62. External review of determinations shall be conducted in accordance with Part 4 of Article 50 of Chapter 58 of the General Statutes.

- 1 (8) Implement and administer pharmacy and medical utilization management
2 programs and programs to detect and address utilization abuse of benefits.
3 (9) Establish and operate fraud detection and audit programs.
4 (10) Expend funds for any independent audit.
5 (11) Establish procedures to require prior medical approval and implement the
6 procedures after consultation with the Board of Trustees.
7 (12) Prepare and submit to the Governor and the General Assembly cost
8 estimates for the Plan, including those required by Article 15 of Chapter 120
9 of the General Statutes.
10 (13) Disclose to the Governor and the General Assembly changes or additions to
11 the health benefits programs and health care cost containment programs
12 offered under the Plan, together with statements of financial and actuarial
13 effects as required by Article 15 of Chapter 120 of the General Statutes.
14 (14) Secure and maintain tax qualification of the Plan under any applicable
15 provisions of the Internal Revenue Code.
16 (15) Optionally offer Medicare-related options under G.S. 135-48.38.

17 (b) The State Treasurer may delegate his or her powers and duties under this section to
18 the Executive Administrator, the Board of Trustees, and employees of the Plan. In delegating
19 powers or duties, however, the State Treasurer maintains the responsibility for the performance
20 of those powers or duties.

21 "**§ 135-48.31: Reserved for future codification purposes.**"

22 "**§ 135-48.32. Contracts to provide benefits.**"

23 The Plan benefits shall be provided under contracts between the Plan and the claims
24 processors selected by the Plan. The ~~Executive Administrator~~ State Treasurer may contract
25 with a pharmacy benefits manager to administer pharmacy benefits under the Plan. Such
26 contracts shall include the applicable provisions of ~~G.S. 135-45.1 through G.S. 135-45.15~~ this
27 Article and the description of the Plan in the request for proposal, and shall be administered by
28 the respective claims processor or Pharmacy Benefits Manager, which will determine benefits
29 and other questions arising thereunder. The contracts necessarily will conform to applicable
30 State law. If any of the provisions of ~~G.S. 135-45.1 through G.S. 135-45.15~~ this Article and the
31 request for proposals must be modified for inclusion in the contract because of State law, such
32 modification shall be made. The ~~Executive Administrator~~ State Treasurer shall ensure that the
33 terms of the contract between the Plan and the Plan's Claims Processing Contractor, the
34 Pharmacy Benefit Manager, and the Disease Management Contractor require the contractor to
35 provide the following:

- 36 (1) Detailed billing by each entity showing itemized cost information, including
37 individual administrative services provided;
38 (2) Transactional data; and
39 (3) The cost to the Plan for each administrative function performed by the
40 contractor.

41 "**§ 135-48.33. Contracting provisions; large contract review by Board of Trustees and**

42 **Attorney General, auditing, no cost plus contracts.**"

43 (a) The Board of Trustees must approve all Plan contracts in excess of five hundred
44 thousand dollars (\$500,000), including contracts with an initial cost of less than five hundred
45 thousand dollars (\$500,000), but that may exceed five hundred thousand dollars (\$500,000)
46 during the term of the contract.

47 (b) The ~~Executive Administrator and Board of Trustees~~ Plan shall: (i) submit all
48 proposed statewide and agency term contracts for supplies, materials, printing, equipment, and
49 contractual services that exceed one million dollars (\$1,000,000) authorized by ~~subsection (d)~~
50 of this section this Article to the Attorney General or the Attorney General's designee for
51 review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by

1 the ~~Executive Administrator and Board of Trustees Plan~~ under this section a standard clause
2 which provides that the State Auditor and internal auditors of the Plan may audit the records of
3 the contractor during the term of the contract to verify accounts and data affecting fees and
4 performance. The ~~Executive Administrator and Board of Trustees Plan~~ shall not award a cost
5 plus percentage of cost agreement or contract for any purpose.

6 **"§ 135-48.34. Contracts not subject to Article 3 of Chapter 143 of the General Statutes.**

7 The design, adoption, and implementation of the preferred provider contracts, networks,
8 and optional alternative comprehensive health benefit plans, and programs available under the
9 optional alternative plans, as authorized under G.S. 135-48.2, are not subject to the
10 requirements of Article 3 of Chapter 143 of the General Statutes, but are subject to the
11 requirements of G.S. 135-48.33.

12 **"§ 135-48.35. Contract disputes not contested case under the Administrative Procedure**
13 **Act, Chapter 150B of the General Statutes.**

14 A dispute involving the performance, terms, or conditions of a contract between the Plan
15 and an entity under contract with the Plan is not a contested case under Article 3 of Chapter
16 150B of the General Statutes.

17 **"§ 135.48.36: Reserved for future codification purposes.**

18 **"§ 135-48.37. Liability of third person; right of subrogation; right of first recovery.**

19 (a) The Plan shall have the right of subrogation upon all of the Plan member's right to
20 recover from a liable third party for payment made under the Plan, for all medical expenses,
21 including provider, hospital, surgical, or prescription drug expenses, to the extent those
22 payments are related to an injury caused by a liable third party. The Plan member shall do
23 nothing to prejudice these rights. The Plan has the right to first recovery on any amounts so
24 recovered, whether by the Plan or the Plan member, and whether recovered by litigation,
25 arbitration, mediation, settlement, or otherwise. Notwithstanding any other provision of law to
26 the contrary, the recovery limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's
27 right of subrogation of Plan members.

28 (b) If the Plan is precluded from exercising its right of subrogation, it may exercise its
29 rights of recovery ~~pursuant to G.S. 135-40.13(g):~~ against any third party who was overpaid. If
30 the Plan recovers damages from a liable third party in excess of the claims paid, any excess will
31 be paid to the member, less a proportionate share of the costs of collection.

32 (c) In the event a Plan member recovers any amounts from a liable third party to which
33 the Plan is entitled under this section, the Plan may recover the amounts directly from the Plan
34 member. The Plan has a lien, for not more than the value of claims paid related to the liability
35 of the third party, on any damages subsequently recovered against the liable third party. If the
36 Plan member fails to pursue the remedy against a liable third party, the Plan is subrogated to
37 the rights of the Plan member and is entitled to enforce liability in the Plan's own name or in
38 the name of the Plan member for the amount paid by the Plan.

39 (d) In no event shall the Plan's lien exceed fifty percent (50%) of the total damages
40 recovered by the Plan member, exclusive of the Plan member's reasonable costs of collection as
41 determined by the Plan in the Plan's sole discretion. The decision by the Plan as to the
42 reasonable cost of collection is conclusive and is not a "final agency decision" for purposes of a
43 contested case under Chapter 150B of the General Statutes. Notice of the Plan's lien or right to
44 recovery shall be presumed when a Plan member is represented by an attorney, and the attorney
45 shall disburse proceeds pursuant to this section.

46 **"§ 135-48.38. Persons eligible for Medicare; optional participation in other Medicare**
47 **products.**

48 (a) Benefits payable for covered expenses under this Plan ~~in G.S. 135-45.6 through~~
49 ~~G.S. 135-45.10~~ will be reduced by any benefits payable for the same covered expenses under
50 Medicare, so that Medicare will be the primary carrier except where compliance with federal
51 law specifies otherwise.

1 (b) For those participants eligible for Medicare, the Plan will be administered on a
2 "carve out" basis. The provisions of the Plan are applied to the charges not paid by Medicare
3 (Parts A & B). In other words, those charges not paid by Medicare would be subject to the
4 deductible and coinsurance of the Plan just as if the charges not paid by Medicare were the total
5 bill.

6 (c) For those individuals eligible for Part A (at no cost to them), benefits under this
7 program will be reduced by the amounts to which the covered individuals would be entitled to
8 under Parts A and B of Medicare, even if they choose not to enroll for Part B.

9 (d) Notwithstanding the foregoing provisions of this section or any other provisions of
10 the Plan, the ~~Executive Administrator and Board of Trustees~~ State Treasurer may enter into
11 negotiations with the Centers for Medicare and Medicaid Services, U.S. Department of Health
12 and Human Services, in order to secure a more favorable coordination of the Plan's benefits
13 with those provided by Medicare, including but not limited to, measures by which the Plan
14 would provide Medicare benefits for all of its Medicare-eligible members in return for adequate
15 payments from the federal government in providing such benefits. Should such negotiations
16 result in an agreement favorable to the Plan and its Medicare-eligible members, the ~~Executive
17 Administrator and Board of Trustees~~ State Treasurer may, after consultation with the
18 ~~Committee on Employee Hospital and Medical Benefits, Board of Trustees,~~ implement such an
19 agreement which shall supersede all other provisions of the Plan to the contrary related to its
20 payment of claims for Medicare-eligible members.

21 (e) Notwithstanding subsections (a), (b), and (c) of this section, ~~the Plan may offer an
22 optional Medicare Advantage plan to a Medicare eligible Plan member. A Medicare Advantage
23 plan offered by the Plan shall be an insured product offered through a private insurance carrier
24 authorized by the Centers for Medicare and Medicaid Services to offer Medicare Advantage
25 plans. A Medicare Advantage plan offered by the Plan shall not be a self-funded benefit plan
26 underwritten by the State of North Carolina. Prescription drug benefits shall not be included in
27 the benefits offered under a Medicare Advantage insurance product but shall continue to be
28 provided by the Plan as authorized under G.S. 135-45.6. An eligible Plan member may choose
29 to enroll in a Medicare Advantage plan in lieu of any other benefit coverage plan offered under
30 the Plan to Medicare eligible Plan members. A Medicare eligible Plan member must be
31 enrolled in Medicare Part B to participate in an optional Medicare Advantage plan. A
32 non-Medicare eligible dependent of a Medicare Advantage eligible Plan member may enroll on
33 a fully contributory basis in benefit plans offered under the Plan to non-Medicare eligible Plan
34 members. If an enrolled Plan member decides not to re-enroll in an optional Medicare
35 Advantage plan during the Plan's annual enrollment period, the Plan member may at that time
36 re-enroll in other benefit coverage offered by the Plan in accordance with the provisions of
37 subsections (a), (b), and (c) of this section. the State Treasurer may contract for coverage in lieu
38 of current Plan medical and prescription drug benefits for Medicare retirees or to supplement
39 Medicare benefits and may, after consultation with the Board of Trustees, implement such an
40 agreement, which shall supersede all other provisions of the Plan to the contrary related to its
41 payment of claims for Medicare-eligible members.~~

42 "Part 4. Eligibility and Enrollment.

43 "**§ 135-48.40. Categories of eligibility.**

44 (a) Noncontributory Coverage. – The following persons are eligible for coverage under
45 the Plan, on a noncontributory basis, subject to the provisions of ~~G.S. 135-45.4;~~
46 G.S. 135-48.43:

- 47 ~~(3)~~(1) Retired teachers, State employees, members of the General Assembly, and
48 retired State law enforcement officers who retired under the Law
49 Enforcement Officers' Retirement System prior to January 1, 1985. Except
50 as otherwise provided in this subdivision, on and after January 1, 1988, a
51 retiring employee or retiree must have completed at least five years of

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

9 ~~(4)~~(2) Surviving spouses of:

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

16 (b) Partially Contributory Coverage. – The following persons are eligible for coverage
17 under the Plan, on a partially contributory basis, subject to the provisions of ~~G.S. 135-45.4-~~
18 G.S. 135-48.43:

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

- 21 a. Paid from general or special State funds.
22 b. Paid from non-State funds and in a group for which his or her
23 employing unit has agreed to provide coverage.

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

29 (2) Permanent hourly employees who work at least one-half of the workdays of
30 each pay period.

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

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

47 (5) Members of the General Assembly.

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

- 1 (7) Notwithstanding the provisions of ~~G.S. 135-45.12~~, G.S. 135-48.44,
2 employees formerly covered by the provisions of this section, other than
3 retired employees, who have been employed for 12 or more months by an
4 employing unit, or who have completed a contract term of employment of 10
5 or 11 months and whose employing unit is a local school administrative unit,
6 and whose jobs are eliminated because of a reduction, in total or in part, in
7 the funds used to support the job or its responsibilities, provided the
8 employees were covered by the Plan at the time of separation from service
9 resulting from a job elimination. Employees covered by this subsection shall
10 be covered for a period of up to 12 months following a separation from
11 service because of a job elimination. An employee formerly covered by the
12 provisions of this section shall not be eligible for coverage under this
13 subdivision if the employee is provided health benefit coverage on a
14 non-contributory basis by a subsequent employer.
- 15 (8) Any member enrolled pursuant to subdivision (1) or (2) of this subsection
16 who is on approved leave of absence with pay or receiving workers'
17 compensation.
- 18 (9) Employees on approved Family and Medical Leave.
- 19 (c) One-Half Contributory Coverage. – The following persons are eligible for coverage
20 under the Plan, on a one-half contributory basis, subject to the provisions of ~~G.S. 135-45.4~~;
21 G.S. 135-48.43:
- 22 (1) A school employee in a job-sharing position as described in
23 G.S. 115C-326.5. If these employees elect to participate in the Plan, the
24 employing unit shall pay fifty percent (50%) of the Plan's total employer
25 premiums. Individual employees shall pay the balance of the total premiums
26 not paid by the employing unit.
- 27 (2) Employees and members of the General Assembly with 10 but less than 20
28 years of retirement service credit provided the employees were first hired on
29 or after October 1, 2006, and the members first took office on or after
30 February 1, 2007. For such future retirees, the State shall pay fifty percent
31 (50%) of the Plan's total employer premiums. Individual retirees shall pay
32 the balance of the total premiums not paid by the State.
- 33 (d) Fully Contributory Coverage. – The following persons shall be eligible for coverage
34 under the Plan, on a fully contributory basis, subject to the provisions of ~~G.S. 135-45.4~~;
35 G.S. 135-48.43:
- 36 (1) Former members of the General Assembly who enroll before October 1,
37 1986.
- 38 (2) For enrollments after September 30, 1986, former members of the General
39 Assembly if covered under the Plan at termination of membership in the
40 General Assembly. To be eligible for coverage as a former member of the
41 General Assembly, application must be made within 30 days of the end of
42 the term of office. Only members of the General Assembly covered by the
43 Plan at the end of the term of office are eligible. If application is not made
44 within the specified time period, the member forfeits eligibility.
- 45 (3) Surviving spouses of deceased former members of the General Assembly
46 who enroll before October 1, 1986.
- 47 (4) Employees of the General Assembly, not otherwise covered by this section,
48 as determined by the Legislative Services Commission, except for legislative
49 interns and pages.

- 1 (5) For enrollments after September 30, 1986, surviving spouses of deceased
2 former members of the General Assembly, if covered under the Plan at the
3 time of death of the former member of the General Assembly.
- 4 (6) All permanent part-time employees (designated as half-time or more) of an
5 employing unit who meet the conditions outlined in sub-subdivision
6 ~~(a1)(1)a.~~ (b)(1)a. of this section and who are not covered by the provisions
7 of subdivision ~~(a1)(1)~~ (b)(1) of this section.
- 8 (7) The spouses and eligible dependent children of enrolled teachers, State
9 employees, retirees, former members of the General Assembly, former
10 employees covered by the provisions of ~~former subdivision (a)(8)~~ or
11 subdivision ~~(a1)(7)~~ (b)(7) of this section, Disability Income Plan
12 beneficiaries, enrolled continuation members, and members of the General
13 Assembly. Spouses of surviving dependents are not eligible, nor are
14 dependent children if they were not covered at the time of the member's
15 death. Surviving spouses may cover their dependent children provided the
16 children were enrolled at the time of the member's death or enroll within 90
17 days of the member's death.
- 18 (8) Blind persons licensed by the State to operate vending facilities under
19 contract with the Department of Health and Human Services, Division of
20 Services for the Blind and its successors, who are:
- 21 a. Operating such a vending facility;
- 22 b. Former operators of such a vending facility whose service as an
23 operator would have made these operators eligible for an early or
24 service retirement allowance under Article 1 of this Chapter had they
25 been members of the Retirement System; and
- 26 c. Former operators of such a vending facility who attain five or more
27 years of service as operators and who become eligible for and receive
28 a disability benefit under the Social Security Act upon cessation of
29 service as an operator.
- 30 Spouses, dependent children, surviving spouses, and surviving dependent
31 children of such members are not eligible for coverage.
- 32 (9) Surviving spouses of deceased retirees and surviving spouses of deceased
33 teachers, State employees, and members of the General Assembly provided
34 the death of the former Plan member occurred after September 30, 1986, and
35 the surviving spouse was covered under the Plan at the time of death.
- 36 (10) Any eligible dependent child of the deceased retiree, teacher, State
37 employee, member of the General Assembly, former member of the General
38 Assembly, or Disability Income Plan beneficiary, provided the child was
39 covered at the time of death of the retiree, teacher, State employee, member
40 of the General Assembly, former member of the General Assembly, or
41 Disability Income Plan beneficiary, (or was in posse at the time and is
42 covered at birth under this Part), or was covered under the Plan on
43 September 30, 1986. An eligible surviving dependent child can remain
44 covered until age 26 or indefinitely if certified as incapacitated under
45 ~~G.S. 135-45.2(d).~~ G.S. 135-44.41(b).
- 46 (11) Retired teachers, State employees, and members of the General Assembly
47 with less than 10 years of retirement service credit, provided the teachers
48 and State employees were first hired on or after October 1, 2006, and the
49 members first took office on or after February 1, 2007.
- 50 (12) Notwithstanding the provisions of ~~G.S. 135-45.12~~ G.S. 135-48.44, former
51 employees covered by the provisions of this section and their spouses and

- 1 eligible dependent children who were covered by the Plan at the time of the
2 former employees' separation from service pursuant to this section,
3 following expiration of the former employees' coverage provided by this
4 section. Election of coverage under this subdivision shall be made within 90
5 days after the termination of coverage provided under this section.
- 6 (13) Firefighters, rescue squad workers, and members of the National Guard, The
7 following persons, their eligible spouses, and eligible dependent children-
8 children, provided that the person seeking coverage as a subscriber (i) is not
9 eligible for another comprehensive group health benefit plan and (ii) has
10 been without coverage under a comprehensive group health benefit plan for
11 at least six consecutive months:
- 12 a. Firefighters.
 - 13 b. Rescue squad workers.
 - 14 c. Persons receiving a pension from the North Carolina Firemen and
15 Rescue Squad Workers' Pension Fund.
 - 16 d. Members of the North Carolina National Guard.
 - 17 e. Retirees of the North Carolina National Guard with 20 years of
18 service.

19 For the purposes of this subdivision, Medicare benefits, Civilian Health and
20 Medical Program of the Uniformed Services (CHAMPUS) benefits, and
21 other Uniformed Services benefits shall be considered comprehensive group
22 health benefit plans. The Plan may require certification of persons seeking
23 coverage under this subdivision.

24 **"§ 135-48.41. Additional eligibility provisions.**

25 (a) A foster child is covered as a dependent child (i) if living in a regular parent-child
26 relationship with the expectation that the employee will continue to rear the child into
27 adulthood, (ii) if at the time of enrollment, or at the time a foster child relationship is
28 established, whichever occurs first, the employee applies for coverage for such child and
29 submits evidence of a bona fide foster child relationship, identifying the foster child by name
30 and setting forth all relevant aspects of the relationship, (iii) if the claims processor accepts the
31 foster child as a participant through a separate written document identifying the foster child by
32 name and specifically recognizing the foster child relationship, and (iv) if at the time a claim is
33 incurred, the foster child relationship, as identified by the employee, continues to exist.
34 Children placed in a home by a welfare agency which obtains control of, and provides for
35 maintenance of the child, are not eligible participants.

36 (b) A dependent child shall not be eligible for coverage under the Plan if the dependent
37 child is eligible for employer based health care outside of the State Health Plan for Teachers
38 and State Employees. Coverage of a dependent child may be extended beyond the 26th
39 birthday if the dependent is physically or mentally incapacitated to the extent that he or she is
40 incapable of earning a living and (i) such handicap developed or began to develop before the
41 dependent's 19th birthday, or (ii) such handicap developed or began to develop before the
42 dependent's 26th birthday if the dependent was covered by the Plan in accordance with
43 G.S. 135-45.2(e)(7). G.S. 135-48.40(d)(7).

44 (c) No person shall be eligible for coverage as a dependent if eligible as an employee or
45 retired employee, except when a spouse is eligible on a fully contributory basis. In addition, no
46 person shall be eligible for coverage as a dependent of more than one employee or retired
47 employee at the same time.

48 (d) Former employees who are receiving disability retirement benefits or disability
49 income benefits pursuant to Article 6 of Chapter 135 of the General Statutes or who are
50 approved for those benefits but not in receipt of the benefits due to lump-sum payouts of
51 vacation and bonus leave, provided the former employee has at least five years of contributory

1 retirement service with an employing unit of a State-supported retirement system, shall be
2 eligible for the benefit provisions of this Plan, as set forth in this Part, on a noncontributory
3 basis. Such coverage shall terminate as of the end of the month in which such former employee
4 is no longer eligible for disability retirement benefits or disability income benefits pursuant to
5 Article 6 of this Chapter.

6 (e) Employees on official leave of absence without pay may elect to continue this group
7 coverage at group cost provided that they pay the full employee and employer contribution
8 through the employing unit during the leave period.

9 (f) For the support of the benefits made available to any member vested at the time of
10 retirement, their spouses or surviving spouses, and the surviving spouses of employees who are
11 receiving a survivor's alternate benefit under G.S. 135-5(m) of those associations listed in
12 G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1, the North Carolina State
13 Art Society, Inc., and the North Carolina Symphony Society, Inc., each association,
14 organization or board shall pay to the Plan the full cost of providing these benefits under this
15 section as determined by ~~the Board of Trustees of the State Health Plan for Teachers and State~~
16 ~~Employees.~~ In addition, each association, organization or board shall pay to the Plan an amount
17 equal to the cost of the benefits provided under this section to presently retired members of
18 each association, organization or board since such benefits became available at no cost to the
19 retired member. This subsection applies only to those individuals employed prior to July 1,
20 1983, as provided in G.S. 135-27(d).

21 (g) An eligible surviving spouse and any eligible surviving dependent child of a
22 deceased retiree, teacher, State employee, member of the General Assembly, former member of
23 the General Assembly, or Disability Income Plan beneficiary shall be eligible for group
24 benefits under this section without waiting periods for preexisting conditions provided
25 coverage is elected within 90 days after the death of the former plan member. Coverage may be
26 elected at a later time, but will be subject to the 12-month waiting period for preexisting
27 conditions and will be effective the first day of the month following receipt of the application.

28 (h) No person shall be eligible for coverage as an employee or retired employee or as a
29 dependent of an employee or retired employee upon a finding by the ~~Executive Administrator~~
30 ~~or Board of Trustees~~ State Treasurer or by a court of competent jurisdiction that the employee
31 or dependent knowingly and willfully made or caused to be made a false statement or false
32 representation of a material fact in a claim for reimbursement of medical services under the
33 Plan or in any representation or attestation to the Plan.

34 The ~~Executive Administrator and Board of Trustees~~ State Treasurer may make an
35 exception to the provisions of this subsection when persons subject to this subsection have had
36 a cessation of coverage for a period of five years and have made a full and complete restitution
37 to the Plan for all fraudulent claim amounts. Nothing in this subsection shall be construed to
38 obligate the ~~Executive Administrator and Board of Trustees~~ State Treasurer to make an
39 exception as allowed for under this subsection.

40 (i) Any employee receiving benefits pursuant to Article 6 of this Chapter when the
41 employee has less than five years of retirement membership service, or an employee on leave
42 without pay due to illness or injury for up to 12 months, is entitled to continued coverage under
43 the Plan for the employee and any eligible dependents by paying one hundred percent (100%)
44 of the cost.

45 **"§ 135-48.42. Enrollment.**

46 (a) Except as otherwise required by applicable federal law, new employees must be
47 given the opportunity to enroll or decline enrollment for themselves and their dependents
48 within 30 days from the date of employment or from first becoming eligible on a partially
49 contributory basis. Coverage may become effective on the first day of the month following date
50 of entry on payroll or on the first day of the following month. New employees not enrolling
51 themselves and their dependents age 19 and older within 30 days, or not adding dependents

1 when first eligible as provided herein may enroll on the first day of any month but will be
2 subject to a 12-month waiting period for preexisting health conditions, except for employees
3 who elect to change their coverage in accordance with rules established by the ~~Executive~~
4 ~~Administrator and Board of Trustees~~ State Treasurer for optional or alternative plans available
5 under the Plan. Children born to covered employees having coverage type (2) or (3), as
6 outlined in ~~G.S. 135-45.4(d)~~ G.S. 135-48.43(d) shall be automatically covered at the time of
7 birth without any waiting period for preexisting health conditions. Children born to covered
8 employees having coverage type (1) shall be automatically covered at birth without any waiting
9 period for preexisting health conditions so long as the claims processor receives notification
10 within 30 days of the date of birth that the employee desires to change from coverage (1) to
11 coverage type (2) or (3), provided that the employee pays any additional premium required by
12 the coverage type selected retroactive to the first day of the month in which the child was born.

13 (b) Except as otherwise required by applicable federal law, newly acquired dependents
14 (spouse/child) age 19 and older enrolled within 30 days of becoming an eligible dependent will
15 not be subject to the 12-month waiting period for preexisting conditions. A dependent can
16 become qualified due to marriage, adoption, entering a foster child relationship, and at the
17 beginning of each legislative session (applies only to enrolled legislators). Effective date for
18 newly acquired dependents if application was made within the 30 days can be the first day of
19 the following month. Effective date for an adopted child can be date of adoption, or date of
20 placement in the adoptive parents' home, or the first of the month following the date of
21 adoption or placement. Firefighters, rescue squad workers, and members of the National Guard,
22 and their eligible dependents, are subject to the same terms and conditions as are new
23 employees and their dependents covered by this subdivision. Enrollments in these
24 circumstances must occur within 30 days of eligibility to enroll.

25 (c) Eligible dependents younger than age 19 may be enrolled at any time and shall not
26 be subject to any waiting period for a preexisting condition.

27 (d) When an eligible or enrolled member applies to enroll the member's eligible
28 dependent child or spouse, the member shall provide the documentation required by the Plan to
29 verify the dependent's eligibility for coverage.

30 **"§ 135-48.43. Effective dates of coverage.**

31 (a) Employees and Retired Employees. –

32 (1) Employees and retired employees covered under the Predecessor Plan will
33 continue to be covered, subject to the terms hereof.

34 (2) Employees not enrolling or not adding dependents when first eligible may
35 enroll later on the first of any following month, but will be subject to a
36 twelve-month waiting period for preexisting conditions except as provided
37 in subdivision (a)(3) of this section. The waiting period under this
38 subdivision is subject to applicable federal law.

39 (3) Employees not enrolling or adding dependents age 19 and older when first
40 eligible in accordance with ~~G.S. 135-45.3~~ G.S. 135-48.42 may enroll later on
41 the first of any following month but will be subject to a 12-month waiting
42 period for a preexisting health condition, except employees who elect to
43 change their coverage in accordance with rules adopted by the ~~Executive~~
44 ~~Administrator and Board of Trustees~~ State Treasurer for optional alternative
45 plans offered under the Plan.

46 (4) Members of the General Assembly, beginning with the 1985 Session, shall
47 become first eligible with the convening of each Session of the General
48 Assembly, regardless of a Member's service during previous Sessions.
49 Members and their dependents enrolled when first eligible after the
50 convening of each Session of the General Assembly will not be subject to
51 any waiting periods for preexisting health conditions. Members of the 1983

1 Session of the General Assembly, not already enrolled, shall be eligible to
2 enroll themselves and their dependents on or before October 1, 1983,
3 without being subject to any waiting periods for preexisting health
4 conditions.

5 (b) Waiting Periods and Preexisting Conditions. –

6 (1) New employees and dependents age 19 and older enrolling when first
7 eligible are subject to no waiting period for preexisting conditions under the
8 Plan.

9 (2) Employees not enrolling or not adding dependents age 19 and older when
10 first eligible may enroll later on the first of any following month, but will be
11 subject to a twelve-month waiting period for preexisting conditions except as
12 provided in subdivision (a)(3) of this section. The waiting period under this
13 subdivision is subject to applicable federal law.

14 (3) Retiring employees and dependents enrolled when first eligible after an
15 employee's retirement are subject to no waiting period for preexisting
16 conditions under the Plan. Retiring employees not enrolled or not adding
17 dependents age 19 and older when first eligible after an employee's
18 retirement may enroll later on the first of any following month, but will be
19 subject to a 12-month waiting period for preexisting conditions except as
20 provided in subdivision (a)(3) of this section.

21 (4) Employees and dependents enrolling or reenrolling within 12 months after a
22 termination of enrollment or employment that were not enrolled at the time
23 of this previous termination, regardless of the employing units involved,
24 shall not be considered as newly-eligible employees or dependents for the
25 purposes of waiting periods and preexisting conditions. Employees and
26 dependents transferring from optional prepaid alternative plans available
27 under the Plan; employees and dependents immediately returning to service
28 from an employing unit's approved periods of leave without pay for illness,
29 injury, educational improvement, workers' compensation, parental duties, or
30 for military reasons; employees and dependents immediately returning to
31 service from a reduction in an employing unit's work force; retiring
32 employees and dependents reenrolled in accordance with
33 ~~G.S. 135-45.4(b)(3)~~; subdivision (3) of this subsection; formerly-enrolled
34 dependents reenrolling as eligible employees; formerly-enrolled employees
35 reenrolling as eligible dependents; and employees and dependents reenrolled
36 without waiting periods and preexisting conditions under specific rules
37 adopted by the ~~Executive Administrator and Board of Trustees~~ State
38 Treasurer in the best interests of the Plan shall not be considered
39 reenrollments for the purpose of this subdivision. Furthermore, employees
40 accepting permanent, full-time appointments who had previously worked in
41 a part-time or temporary position and their qualified dependents shall not be
42 covered by waiting periods and preexisting conditions under this division
43 provided enrollment as a permanent, full-time employee is made when the
44 employee and his dependents are first eligible to enroll.

45 (5) To administer the 12-month waiting period for preexisting conditions for
46 employees and dependents age 19 and older under this Article, the Plan must
47 give credit against the 12-month period for the time a person was covered
48 under a previous plan if the previous plan's coverage was continuous to a
49 date not more than 63 days before the effective date of coverage. As used in
50 this subdivision, a "previous plan" means any policy, certificate, contract, or
51 any other arrangement provided by any accident and health insurer, any

1 hospital or medical service corporation, any health maintenance
2 organization, any preferred provider organization, any multiple employer
3 welfare arrangement, any self-insured health benefit arrangement, any
4 governmental health benefit or health care plan or program, or any other
5 health benefit arrangement. Waiting periods for preexisting conditions
6 administered under this Article are subject to applicable federal law.

7 (c) Dependents of Employees and Retired Employees. –

- 8 (1) Dependents of employees and retired employees who have family coverage
9 under the Predecessor Plan will continue to be covered subject to the terms
10 hereof.
- 11 (2) Employees who have dependents may apply for family coverage at the time
12 they enroll as provided in subdivisions (a)(2) and (a)(3) of this section and
13 such dependents will be covered under the Plan beginning the same date as
14 such employees.
- 15 (3) Employees and retired employees may change from one category of
16 coverage to a different category of coverage without a waiting period for
17 preexisting conditions, and, as applicable, dependents will be covered under
18 the Plan the first of the month or the first of the second month following the
19 dependent's eligibility for coverage, provided written application is
20 submitted to the Health Benefits Representative within 30 days of becoming
21 eligible.
- 22 (4) Employees or retired employees who wish to change to employee only
23 coverage shall give written notice to their Health Benefits Representative
24 within 30 days after any change in the status of dependents, (resulting from
25 death, divorce, etc.) that requires a change in contract category. The
26 effective date will be the first of the month following the dependent's
27 ineligibility event. If notification was not made within the 30 days following
28 the dependent's ineligibility event, the dependent will be retroactively
29 removed the first of the month following the dependent's ineligibility event,
30 and the coverage category change will be the first of the month following
31 written notification, except in cases of death, in which case the coverage
32 category change will be made retroactive to the first of the month following
33 the death.
- 34 (5) Employees not adding dependents age 19 and older when first eligible may
35 enroll later on the first of any following month, but dependents will be
36 subject to a 12-month waiting period for preexisting health conditions except
37 as provided in subdivision (a)(3) of this section.
- 38 (6) Employees or retired employees who wish to change to employee only
39 coverage even though their dependents continue to be eligible, shall give
40 written notification to their Health Benefits Representative. Except as
41 otherwise required by applicable federal law, the date of this category
42 change will be the first of the month following written notification or any
43 first of the month thereafter as desired by the employee.
- 44 (7) The effective date for newborns or adopted children will be date of birth,
45 date of adoption, or placement with adoptive parent provided member is
46 currently covered under employee and family or employee and child
47 coverage. If the member wishes to add a newborn or adopted child and is
48 currently enrolled in employee only coverage, the member must submit
49 application for coverage and a coverage type change within 30 days of the
50 child's birth or date of adoption or placement. Effective date for the coverage
51 category change is the first of the month in which the child is born, adopted,

1 or placed. Adopted children may also be covered the first of the month
2 following placement or adoption.
3 (d) Categories of Coverage Available. – There are four categories of coverage which an
4 employee or retiree may elect.

5 (1) Employee Only. – Covers enrolled employees only. Maternity benefits are
6 provided to employee only.

7 (2) Employee and Child. – Covers enrolled employee and all eligible dependent
8 children. Maternity benefits are provided to the employee only.

9 (3) Employee and Family. – Covers employee and spouse, and all eligible
10 dependent children. Maternity benefits are provided to employee or enrolled
11 spouse.

12 (4) Employee and ~~spouse~~. Spouse. – Covers employee and spouse only.
13 Maternity benefits are provided to the employee or the employee's enrolled
14 spouse.

15 ~~(e) Notwithstanding any other provision of this section, no coverage under the Plan
16 shall become effective prior to the payment of premiums required by the Plan.~~

17 ~~(f)~~(d) Firefighters, rescue squad workers, and members of the National Guard are subject
18 to the same terms and conditions of this section as are employees. Eligible dependents of
19 firefighters, rescue squad workers, and members of the National Guard are subject to the same
20 terms and conditions of this section as are dependents of employees.

21 ~~(g) Different categories of coverage may be offered for optional alternative plans or
22 programs.~~

23 ~~(h)~~(e) If any provision of this section is in conflict with applicable federal law, federal law
24 shall control to the extent of the conflict.

25 **"§ 135-48.44. Cessation of coverage.**

26 (a) Coverage under this Plan of an employee and his or her surviving spouse or eligible
27 dependent children or of a retired employee and his or her surviving spouse or eligible
28 dependent children shall cease on the earliest of the following dates:

29 (1) The last day of the month in which an employee or retired employee dies.
30 Provided such surviving spouse or eligible dependent children were covered
31 under the Plan at the time of death of the former employee or retired
32 employee, or were covered on September 30, 1986, any such surviving
33 spouse or eligible dependent children may then elect to continue coverage
34 under the Plan by submitting written application to the Claims Processor and
35 by paying the cost for such coverage when due at the applicable fees. Such
36 coverage shall cease on the last day of the month in which such surviving
37 spouse or eligible dependent children die, except as provided by this Article.

38 (2) The last day of the month in which an employee's employment with the State
39 is terminated as provided in subsection (c) of this section.

40 (3) The last day of the month in which a divorce becomes final.

41 (4) The last day of the month in which an employee or retired employee
42 requests cancellation of coverage.

43 (5) The last day of the month in which a covered individual enters active
44 military service.

45 (6) The last day of the month in which a covered individual is found to have
46 knowingly and willfully made or caused to be made a false statement or
47 false representation of a material fact in a claim for reimbursement of
48 medical services under the Plan. The ~~Executive Administrator and Board of~~
49 ~~Trustees~~ State Treasurer may make an exception to the provisions of this
50 subdivision when persons subject to this subdivision have had a cessation of
51 coverage for a period of five years and have made a full and complete

1 restitution to the Plan for all fraudulent claim amounts. Nothing in this
2 subdivision shall be construed to obligate the ~~Executive Administrator and~~
3 ~~Board of Trustees~~ State Treasurer to make an exception as allowed for under
4 this subdivision.

5 (7) The last day of the month in which an employee who is Medicare-eligible
6 selects Medicare to be the primary payer of medical benefits. Coverage for a
7 Medicare-eligible spouse of an employee shall also cease the last day of the
8 month in which Medicare is selected to be the primary payer of medical
9 benefits for the Medicare-eligible spouse. Such members are eligible to
10 apply for conversion coverage.

11 (8) The last day of the month in which a covered individual is found to be
12 ineligible for coverage.

13 (b) Coverage under this Plan as a dependent child ceases when the child ceases to be a
14 dependent child as defined by ~~G.S. 135-45.1~~ G.S. 135-48.1 except, coverage may continue
15 under this Plan for a period of not more than 36 months after loss of dependent status on a fully
16 contributory basis provided the dependent child was covered under the Plan at the time of loss
17 of dependent status.

18 (c) Coverage under the Plan as a surviving dependent child whether covered as a
19 dependent of a surviving spouse, or as an individual member (no living parent), ceases when
20 the child ceases to be a dependent child as defined by ~~G.S. 135-45.1~~, G.S. 135-48.1, except
21 coverage may continue under the Plan on a fully contributory basis for a period of not more
22 than 36 months after loss of dependent status.

23 (d) Termination of employment shall mean termination for any reason, including layoff
24 and leave of absence, except as provided in subdivisions (a)(1) and (2) of this section, but shall
25 not, for purposes of this Plan, include retirement upon which the employee is granted an
26 immediate service or disability pension under and pursuant to a State-supported Retirement
27 System.

28 (1) In the event of termination for any reason other than death, coverage under
29 the Plan for an employee and his or her eligible spouse or dependent
30 children, provided the eligible spouse or dependent children were covered
31 under the Plan at termination of employment may be continued for a period
32 of not more than 18 months following termination of employment on a fully
33 contributory basis. Employees who were covered under the Plan at
34 termination of employment may be continued for a period of not more than
35 18 months or 29 months if determined to be disabled under the Social
36 Security Act, Title II, OASDI or Title XVI, SSI.

37 (2) In the event of approved leave of absence without pay, other than for active
38 duty in the armed forces of the United States, coverage under this Plan for an
39 employee and his or her dependents may be continued during the period of
40 such leave of absence by the employee's paying one hundred percent (100%)
41 of the cost.

42 (3) If employment is terminated in the second half of a calendar month and the
43 covered individual has made the required contribution for any coverage in
44 the following month, that coverage will be continued to the end of the
45 calendar month following the month in which employment was terminated.

46 (4) Employees paid for less than 12 months in a year, who are terminated at the
47 end of the work year and who have made contributions for the non-work
48 months, will continue to be covered to the end of the period for which they
49 have made contributions, with the understanding that if they are not
50 employed by another State-covered employer under this Plan at the
51 beginning of the next work year, the employee will refund to the

1 ex-employer the amount of the employer's cost paid for them during the
2 non-paycheck months.

- 3 (5) Any employee receiving benefits pursuant to Article 6 of this Chapter when
4 the employee has less than five years of retirement membership service, or
5 an employee on leave of absence without pay due to illness or injury for up
6 to 12 months, is entitled to continued coverage under the Plan for the
7 employee and any eligible dependents by the employee's paying one hundred
8 percent (100%) of the cost.

9 (e) A legally divorced spouse and any eligible dependent children of a covered
10 employee or retired employee may continue coverage under this Plan for a period of not more
11 than 36 months following the first of the month after a divorce becomes final on a fully
12 contributory basis, provided the former spouse and any eligible dependent children were
13 covered under the Plan at the time a divorce became final.

14 (f) A legally separated spouse of a covered employee or retired employee may continue
15 coverage under this Plan for a period not to exceed 36 months from the separation date on a
16 fully contributory basis, provided the separated spouse was covered under the Plan at the time
17 of separation and provided the covered employee's or retired employee's actions result in the
18 loss of coverage for the separated spouse. Eligible dependent children may also continue
19 coverage if covered under the Plan at time of separation, provided the employee's or retired
20 employee's actions result in the loss of coverage for the dependent children.

21 (g) Whenever this section gives a right to continuation coverage, such coverage must be
22 elected within the time allowed by applicable federal law.

23 (h) Continuation coverage under this Plan shall not be continued past the occurrence of
24 any one of the following events:

- 25 (1) The termination of the Plan.
26 (2) Failure of a Plan member to pay monthly in advance any required premiums.
27 (3) A person becomes a covered employee or a dependent of a covered
28 employee under any group health plan and that group health plan has no
29 restrictions or limitations on benefits.
30 (4) A person becomes eligible for Medicare benefits on or after the effective
31 date of the continuation coverage.
32 (5) The person was determined to be no longer disabled, provided the 18-month
33 coverage was extended to 29 months due to having been determined to be
34 disabled under the Social Security Act, Title II, OASDI or Title XVI, SSI.
35 (6) The person reaches the maximum applicable continuation period of 18, 29,
36 or 36 months.

37 (i) Notice requirements concerning continuation coverage shall be developed by the
38 ~~Executive Administrator and Board of Trustees.~~ Plan.

39 (j) The spouse and any eligible dependent children of a covered employee may
40 continue coverage under the Plan on a fully contributory basis for a period not to exceed 36
41 months from the date the employee becomes eligible for Medicare benefits which results in a
42 loss of coverage under the Plan, provided that the spouse and eligible dependent children were
43 covered under the Plan at the time the employee became eligible for Medicare benefits which
44 results in a loss of coverage under the Plan.

45 **"§ 135-48.45. Conversion.**

46 (a) Upon a cessation of group coverage under the Plan and/or eligibility for group
47 coverage under the Plan, an employee or dependent shall be entitled to a conversion to
48 nongroup coverage without the necessity of a physical examination. Such conversion coverage
49 shall include hospitalization, surgical, and medical benefits as contained in the major medical
50 and alternative plan conversion provisions of Article 53 of Chapter 58 of the General Statutes.
51 The ~~Executive Administrator and Board of Trustees~~ State Treasurer in ~~their~~ his or her sole

1 discretion shall approve the conversion coverage, which shall be administered by the Claims
2 Processor through an insurance contract arranged by the Claims Processor, or administered as
3 otherwise directed by the ~~Executive Administrator and Board of Trustees~~ State Treasurer. An
4 eligible employee or dependent must apply for conversion coverage within 30 days after
5 termination of group eligibility.

6 (b) The ~~Executive Administrator and Board of Trustees~~ State Treasurer shall provide
7 for the continuation of conversion privilege exercised under the predecessor plan, on a fully
8 contributory basis. The ~~Executive Administrator and Board of Trustees~~ State Treasurer shall
9 consult with the ~~Committee on Employee Hospital and Medical Benefits~~ Board of Trustees
10 before taking action under this subsection.

11 "Part 5. Coverage Mandates and Exclusions; Other Mandates

12 "**§ 135-48.50. Coverage mandates.**

13 The Plan shall provide coverage subject to the following coverage mandates:

14 (1) Reserved.

15 (2) Immunizations. – The Plan shall pay one hundred percent (100%) of
16 allowable medical charges for immunizations for the prevention of
17 contagious diseases as generally accepted medical practices would dictate
18 when directed by a credentialed provider as determined by the claims
19 processor.

20 (3) Insulin. – Prescription benefits shall be provided for insulin even though a
21 prescription is not required.

22 (4) Mental health parity. – Benefits for the treatment of mental illness and
23 chemical dependency are covered by the Plan and shall be subject to the
24 same deductibles, durational limits, and coinsurance factors as are benefits
25 for physical illness generally. Nothing in this subdivision, however, shall
26 prohibit the Plan from requiring the most cost-effective treatment setting to
27 be utilized by a person undergoing necessary care and treatment for
28 chemical dependency.

29 (5) Reserved.

30 (6) Permissive coverage extension. – If a covered service becomes excluded
31 from coverage under the Plan, the Executive Administrator and Claims
32 Processor may, in the event of exceptional situations creating undue
33 hardships or adverse medical conditions, allow persons enrolled in the Plan
34 to remain covered by the Plan's previous coverage for up to three months
35 after the effective date of the change in coverage, provided the persons so
36 enrolled had been undergoing a continuous plan of specific treatment
37 initiated within three months prior to the effective date of the change in
38 coverage.

39 (7) Reconstructive surgery. – Charges for cosmetic surgery or treatment
40 required for correction of damage caused by accidental injury sustained by
41 the covered individual while coverage under this plan is in force on his or
42 her account or to correct congenital deformities or anomalies shall not be
43 excluded if they otherwise qualify as covered medical expenses.
44 Reconstructive breast surgery following mastectomy, as those terms are
45 defined in G.S. 58-51-62, shall be covered.

46 "**§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General**
47 **Statutes.**

48 The following provisions of Chapter 58 of the General Statutes apply to the State Health
49 Plan:

50 (1) G.S. 58-3-191, Managed care reporting and disclosure requirements.

- 1 (2) G.S. 58-3-221, Access to nonformulary and restricted access prescription
2 drugs.
- 3 (3) G.S. 58-3-223, Managed care access to specialist care.
- 4 (4) G.S. 58-3-225, Prompt claim payments under health benefit plans.
- 5 (5) G.S. 58-3-235, Selection of specialist as primary care provider.
- 6 (6) G.S. 58-3-240, Direct access to pediatrician for minors.
- 7 (7) G.S. 58-3-245, Provider directories.
- 8 (8) G.S. 58-3-250, Payment obligations for covered services.
- 9 (9) G.S. 58-3-265, Payment obligations for covered services.
- 10 (10) G.S. 58-3-280, Coverage for the diagnosis and treatment of lymphedema.
- 11 (11) G.S. 58-3-285, Coverage for hearing aids.
- 12 (12) G.S. 58-50-30, Right to choose services of optometrist, podiatrist, licensed
13 clinical social worker, certified substance abuse professional, licensed
14 professional counselor, dentist, chiropractor, psychologist, pharmacist,
15 certified fee-based practicing pastoral counselor, advanced practice nurse,
16 licensed marriage and family therapist, or physician assistant.
- 17 (13) G.S. 58-67-88, Continuity of care.

18 **"§ 135-48.52. General limitations and exclusions.**

19 The Plan shall not provide coverage for or pay any benefits for any of the following:

- 20 (1) Charges to the extent paid, or which the individual is entitled to have paid, or
21 to obtain without cost, in accordance with any government laws or
22 regulations except Medicare. If a charge is made to any such person which
23 he or she is legally required to pay, any benefits under this Plan will be
24 computed in accordance with its provisions, taking into account only such
25 charge. "Any government" includes the federal, State, provincial, or local
26 government, or any political subdivision thereof, of the United States,
27 Canada, or any other country.
- 28 (2) Charges for services rendered in connection with any occupational injury or
29 disease arising out of and in the course of employment with any employer, if
30 (i) the employer furnishes, pays for or provides reimbursement for such
31 charges, or (ii) the employer makes a settlement payment for such charges,
32 or (iii) the person incurring such charges waives or fails to assert his or her
33 rights respecting such charges.
- 34 (3) Charges for any services rendered as a result of injury or sickness due to an
35 act of war, declared or undeclared, which act shall have occurred after the
36 effective date of a person's coverage under the Plan.
- 37 (4) Charges for any services with respect to which there is no legal obligation to
38 pay. For the purposes of this item, any charge which exceeds the charge that
39 would have been made if a person were not covered under this Plan shall, to
40 the extent of such excess, be treated as a charge for which there is no legal
41 obligation to pay; and any charge made by any person for anything which is
42 normally or customarily furnished by such person without payment from the
43 recipient or user thereof shall also be treated as a charge for which there is
44 no legal obligation to pay.
- 45 (5) Charges during a continuous hospital confinement which commenced prior
46 to the effective date of the person's coverage under this Plan.
- 47 (6) Charges for services unless a claim is filed within 18 months from the date
48 of service.
- 49 (7) Charges for sexual dysfunction or hair growth drugs or for nonmedically
50 necessary drugs used for cosmetic purposes.

51 **"§ 135-48.53. Reserved for future codification purposes.**

1 **"§ 135-48.54. Optional participation for charter schools operated by private nonprofit**
2 **corporations.**

3 (a) The board of directors of each charter school operated by a private nonprofit
4 corporation shall elect whether to become a participating employer in the Plan in accordance
5 with this Article. This election shall be in writing, shall be made no later than 30 days after ~~this~~
6 ~~section becomes law, October 28, 1998,~~ and shall be filed with the ~~Executive Administrator~~
7 ~~and Board of Trustees~~ Plan and with the State Board of Education. For each charter school
8 employee who is employed on or before the date the board makes the election, membership in
9 the Plan is effective as of the date the board makes the election. For each charter school
10 employee who is employed after the date the board makes the election, membership in the Plan
11 is effective as of the date of that employee's entry into eligible service. This subsection applies
12 only to charter schools that received State Board of Education approval under
13 G.S. 115C-238.29D in 1997 or 1998.

14 (b) No later than 30 days after both parties have signed the written charter under
15 G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit
16 corporation shall elect whether to become a participating employer in the Plan in accordance
17 with this Article. This election shall be in writing and filed with the ~~Executive Administrator,~~
18 ~~the Board of Trustees,~~ Plan and the State Board of Education. This election is effective for each
19 charter school employee as of the date of that employee's entry into eligible service. This
20 subsection applies to charter schools that receive State Board of Education approval under
21 G.S. 115C-238.29D after 1998.

22 (c) A board's election to become a participating employer in the Plan under this section
23 is irrevocable and shall require all eligible employees of the charter school to participate.

24 (d) If a charter school's board of directors does not elect to become a participating
25 employer in the Plan under this section, that school's employees and the dependents of those
26 employees are not eligible for any benefits under the Plan on account of employment with a
27 charter school.

28 (e) The board of directors of each charter school shall notify each of its employees as to
29 whether the board elected to become a participating employer in the Plan under this section.
30 This notification shall be in writing and shall be provided within 30 days of the board's election
31 or at the time an initial offer for employment is made, whichever occurs last. If the board did
32 not elect to become a participating employer in the Plan, the notice shall include a statement
33 that the employee shall have no legal recourse against the board or the State for any possible
34 benefit under the Plan. The employee shall provide written acknowledgment of the employee's
35 receipt of the notification under this subsection.

36 **"§ 135-48.55. Interest charged to charter schools on late premiums.**

37 The total amount of premiums due the Plan from charter schools as employing units,
38 including amounts withheld from the compensation of Plan members, that is not remitted to the
39 Plan by the fifteenth day of the month following the due date of remittance shall be assessed
40 interest of one and one-half percent (1 1/2%) of the amount due the Plan, per month or fraction
41 thereof, beginning with the sixteenth day of the month following the due date of the remittance.
42 The interest authorized by this section shall be assessed until the premium payment plus the
43 accrued interest amount is remitted to the Plan. The remittance of premium payments under this
44 section shall be presumed to have been made if the remittance is postmarked in the United
45 States mail on a date not later than the fifteenth day of the month following the due date of the
46 remittance.

47 **"§ 135-48.56. Education of covered active and retired employees.**

48 It is the intent of the General Assembly that active employees and retired employees
49 covered under the Plan and its successor Plan shall have several opportunities in each fiscal
50 year to attend presentations conducted by Plan management staff providing detailed
51 information about benefits, limitations, premiums, co-payments, and other pertinent Plan

1 matters. To this end, the Plan's management staff shall conduct multiple presentations each year
2 to Plan members and association groups representing active and retired employees across all
3 geographic regions of the State. Regional meetings shall be held in locations that afford
4 reasonably convenient access to Plan members. The presentations shall be designed not only to
5 present information about the Plan but also to hear and respond to Plan members' questions and
6 concerns.

7 **"§ 135-48.57. Payments for county or city ambulance service.**

8 Allowable payments for services provided by a county or city ambulance service shall be
9 paid directly or shall be co-payable to the county or city ambulance service provider. As used
10 in this subsection, "county or city ambulance service" means ambulance services provided by a
11 county or county-franchised ambulance service supplemented by county funds, or a
12 municipally owned and operated ambulance service or by an ambulance service supplemented
13 by municipal funds.

14 **"§ 135-48.58. Premiums for firefighters, rescue squad workers, and members of National
15 Guard.**

16 In setting premiums for firefighters, rescue squad workers, and members of the National
17 Guard, and their eligible dependents, the ~~Executive Administrator and Board of Trustees~~ Plan
18 shall establish rates separate from those affecting other members of the Plan. These separate
19 premium rates shall include rate factors for incurred but unreported claim costs, for the effects
20 of adverse selection from voluntary participation in the Plan, and for any other actuarially
21 determined measures needed to protect the financial integrity of the Plan for the benefit of its
22 served employees, retired employees, and their eligible dependents.

23 "Part 6. Long-term Care Benefits.

24 **"§ 135-48.60. Undertaking.**

25 (a) The State of North Carolina undertakes to make available an optional program of
26 long-term care benefits for the benefit of its qualified employees, retired employees and their
27 dependents which will pay benefits in accordance with the terms hereof. Retired employees of
28 the Local Governmental Employees' Retirement System pursuant to Article 3 of Chapter 128 of
29 the General Statutes and their dependents are also eligible to be qualified for the benefits
30 provided by this Part.

31 (b) The long-term care benefits provided by this Part shall be made available through
32 the State Health Plan for Teachers and State Employees pursuant to ~~Article~~ Articles 2 and 3A
33 3B of this Chapter (hereinafter called the "Plan") and administered by the ~~Plan's Executive~~
34 ~~Administrator and Board of Trustees.~~ State Treasurer. In administering the benefits provided by
35 this Part, the ~~Executive Administrator and Board of Trustees~~ State Treasurer shall have the
36 same type of powers and duties that are provided under ~~Part 3~~ the other Parts of this Article for
37 hospital and medical benefits. The benefits provided by this Part may be offered by the Plan on
38 a self-insured basis, in which case a third-party claims processor shall be chosen through
39 competitive bids, or through a contract of insurance, in which case a carrier licensed to do
40 business in North Carolina shall be selected on a competitive bid basis in accordance with State
41 law.

42 (c) The benefits authorized by this Part are available only to qualified employees and
43 retired employees who voluntarily elect to provide such benefits for themselves and their
44 qualified dependents. Payroll deductions shall be available from employee salary and disability
45 benefit payments and from retired employee retirement benefit payments for fully contributory
46 premium amounts.

47 (d) The ~~Executive Administrator and Board of Trustees of the Plan~~ State Treasurer shall
48 insure insofar as possible that the long-term care benefits provided by this Part shall be
49 tax-qualified under federal law.

50 **"§ 135-48.61. Long-term care benefits.**

51 (a) Definitions. – The following definitions apply in this section:

- 1 (1) Adult care facility. – A facility which (i) is operated under State law to
2 provide group care for the aged and disabled in a setting away from their
3 residence on a less than 24-hour basis when such aged or disabled would
4 otherwise be in need of full-time personal care away from their residence; or
5 (ii) meets the requirements for certification under Chapter 131D of the
6 General Statutes.
- 7 (2) Assisted living facility. – A facility which (i) is operated under State law to
8 provide residential care for the aged or disabled whose principal need is a
9 home which provides personal care appropriate to their age or disability; or
10 (ii) meets the requirements for licensure under Chapter 131D of the General
11 Statutes.
- 12 (3) Home care agency. – A residential care agency which is (i) operated under
13 State law and which is qualified as a home health care agency under
14 Medicare; or (ii) an agency meeting the requirements for licensure as a home
15 care agency under Chapter 131E of the General Statutes.
- 16 (4) Nursing home. – A facility or a part of a facility which is (i) operated under
17 State law and which is qualified as a skilled nursing or intermediate nursing
18 facility under Medicare; or is (ii) a facility meeting the requirements for
19 licensure under Chapter 131E of the General Statutes.

20 (b) Long-term care benefits provided by this Part are subject to elimination periods,
21 coinsurance provisions, and other limitations separate and apart from those provided for in Part
22 3 the other Parts of this Article. No limitation on out-of-pocket expenses are provided for the
23 benefits covered by this section. Long-term care benefits are as follows:

- 24 (1) Nursing Home Benefits. – The Plan will pay a fixed amount of the
25 reasonable and customary daily charges allowed for nursing facilities
26 providing skilled nursing care and intermediate nursing care up to a
27 maximum amount per day for each day after a fixed number of consecutive
28 days for each nursing home stay. Such daily charges shall be inclusive of
29 semiprivate room and board; skilled and semiskilled nursing services;
30 routine laboratory tests and examinations; physical, occupational, and speech
31 therapy; respiratory and other gas therapy; and drugs, injections, biologicals,
32 fluids, solutions, dietary aids and supplements, and other routine medical
33 supplies and equipment. Readmission to a nursing home within 180 days,
34 exclusive of hospital stays, for the same or related cause or causes shall be
35 considered a single nursing home stay for the purposes of this section.
36 Benefits payable under this subdivision are contingent upon compliance with
37 the following conditions and will, in no instance, be paid under this section
38 without compliance with each of the following conditions:
- 39 a. Confinement to a nursing home is medically appropriate due to an
40 illness, disease, or injury upon recommendation of an admitting
41 physician other than a proprietor, employee, or agent of the nursing
42 home;
- 43 b. Confinement to a nursing home is for any overnight stay for which a
44 charge for a day's stay is due and payable; and
- 45 c. Prior to confinement, the admitting physician secures approval
46 certification from the Plan for confinement.

47 ~~As used in this section, a nursing home is a facility or a part of a facility which is (i) operated~~
48 ~~under State law and which is qualified as a skilled nursing or intermediate nursing facility~~
49 ~~under Medicare; or is (ii) a facility meeting the requirements for licensure under Chapter 131E~~
50 ~~of the General Statutes.~~

1 (2) Custodial Benefits. – The Plan will pay a fixed percentage of the fixed
2 amount of reasonable and customary daily charges allowed by the Plan in
3 subdivision (1) of this section for assisted living facilities, for adult day care
4 facilities, and for home care agencies up to a maximum amount per day for
5 each day after a fixed number of consecutive days that such custodial care is
6 provided. Benefits payable under this subdivision are contingent upon
7 compliance with the following conditions and will, in no instance, be paid
8 under this subdivision without compliance with each of the following
9 conditions:

- 10 a. Use of such custodial benefits is medically appropriate in a treatment
11 plan established and certified initially and at least once every six
12 months by an attending physician or other allied health professionals
13 other than a proprietor, employee, or agent of one or more of the
14 aforementioned facilities and agencies;
- 15 b. Confinement to a nursing home would be medically appropriate
16 without custodial care proposed to be rendered by one or more of the
17 aforementioned facilities or agencies; and
- 18 c. Prior to use of such custodial benefits, an attending physician or
19 other allied health professional secures approval from the Plan for the
20 use of the benefits.

21 ~~As used in this section, an assisted living facility is a facility which (i) is operated under State~~
22 ~~law to provide residential care for the aged or disabled whose principal need is a home which~~
23 ~~provides personal care appropriate to their age or disability; or (ii) meets the requirements for~~
24 ~~licensure under Chapter 131D of the General Statutes. As used in this section, an adult care~~
25 ~~facility is a facility which (i) is operated under State law to provide group care for the aged and~~
26 ~~disabled in a setting away from their residence on a less than 24-hour basis when such aged or~~
27 ~~disabled would otherwise be in need of full-time personal care away from their residence; or~~
28 ~~(ii) meets the requirements for certification under Chapter 131D of the General Statutes. As~~
29 ~~used in this section, a home care agency is a residential care agency which is (i) operated under~~
30 ~~State law and which is qualified as a home health care agency under Medicare; or (ii) an~~
31 ~~agency meeting the requirements for licensure as a home care agency under Chapter 131E of~~
32 ~~the General Statutes.~~

33 (3) Other Benefits. – Upon prior approval of the Plan, other care, services,
34 supplies, and equipment may be used as more cost-effective alternatives to
35 the benefits provided by this section when directed by an attending
36 physician.

37 (4) The Executive Administrator and Board of Trustees of the Plan shall
38 establish the payment percentages, maximum daily payment rates, benefit
39 periods, elimination periods, and maximum lifetime benefits payable for
40 each covered individual for the nursing home and custodial benefits
41 provided by this section. The Executive Administrator and Board of Trustees
42 shall provide for inflationary increases in the maximum daily payment rates
43 and the maximum lifetime benefits payable for each covered individual.

44 (5) ~~The Executive Administrator and Board of Trustees of the Plan shall provide~~
45 ~~a bed reservation benefit whenever Plan members are hospitalized during a~~
46 ~~stay in a nursing home or an assisted living facility.~~

47 (6) ~~The Executive Administrator and Board of Trustees of the Plan shall provide~~
48 ~~for a waiver of premiums involving minimum lengths of stay in a nursing~~
49 ~~home or an assisted living facility. In addition, the Executive Administrator~~
50 ~~and Board of Trustees shall allow coverage to be reinstated upon failure to~~

1 pay premiums, provided certain grace periods are not exceeded and
2 retroactive premium payments are made.

- 3 (7) Limitations and Exclusions to Long-Term Care Benefits. – The benefits
4 provided by this section are for the purpose of meeting the requirements for
5 assistance from the loss of functional capacity associated with a chronic
6 illness, disease, or disabling injury for extended periods of time; and are, in
7 no way, intended to duplicate the benefits provided for acute and other
8 medical care provided by Medicare or Part 3 of this Article. A loss of
9 functional capacity can occur from: (i) an illness, disease, or disabling injury
10 resulting in a physical incapacity to perform the activities of daily living; or
11 (ii) an irreversible organic mental impairment resulting in a mental
12 incapacity. Activities of daily living consist of routine functions involving
13 personal care and mobility.

14 **"§ 135-48.62. Conversion.**

15 Upon cessation of group coverage under this Part, an employee, retired employee, or
16 dependent shall be entitled to a conversion to a nongroup plan of long-term care benefits. The
17 Executive Administrator and Board of Trustees of the Plan shall determine how the conversion
18 rights authorized by this Part shall be administered."
19

20 **MISCELLANEOUS CHANGES**

21 **SECTION 2.11.(a)** G.S. 150B-1(d)(7) reads as rewritten:

22 "(7) The State Health Plan for Teachers and State Employees in administering
23 the provisions of ~~Article 3A~~ Article 3B of Chapter 135 of the General
24 Statutes."

25 **SECTION 2.11.(b)** Sections 1.2 and 1.3(a) of this act are repealed.
26

27 **STATEMENT OF LEGISLATIVE INTENT REGARDING REPEAL OF LANGUAGE**

28 **SECTION 2.12.** In repealing a specific, detailed provision of Article 3A of Chapter
29 135 of the General Statutes and not placing that detailed provision into Article 3B of Chapter
30 135 of the General Statutes, it is not necessarily the intent of the General Assembly to prohibit
31 the State Treasurer or the State Health Plan from having that authority.
32

33 **CARRYOVER OF RULES AND POLICIES**

34 **SECTION 2.13.** Rules and policies adopted by the Executive Administrator and
35 the Board of Trustees prior to the effective date of this section shall continue to be in effect
36 unless the rule or policy directly conflicts with a provision of Article 3B of Chapter 135 of the
37 General Statutes or until the State Treasurer changes the rule or policy.
38

39 **EFFECTIVE DATE FOR PART II**

40 **SECTION 2.14.** Except as otherwise provided, Part II of this act becomes effective
41 January 1, 2012.
42

43 **PART III. MISCELLANEOUS PROVISIONS**

44 **EFFECT OF HEADINGS**

45 **SECTION 3.1.** The headings to the parts and sections of this act are a convenience
46 to the reader and are for reference only. The headings do not expand, limit, or define the text of
47 this act, except for effective dates referring to a part.
48
49

50 **EFFECTIVE DATE**

1 **SECTION 3.2.** Except as otherwise provided, the remainder of this act is effective
2 when it becomes law.