GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1998

SESSION LAW 1998-1 EXTRA SESSION
SENATE BILL 2

AN ACT TO ESTABLISH THE HEALTH INSURANCE PROGRAM FOR CHILDREN AND TO AUTHORIZE A TAX CREDIT FOR CERTAIN PURCHASERS OF DEPENDENT HEALTH INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 108A of the General Statutes is amended by adding the following new Part to read:

"Part 8. Health Insurance Program for Children.

"**§ 108A-70.18. Definitions.**

Unless the context clearly requires otherwise, the term:

(1) 'Comprehensive health coverage' means creditable health coverage as defined under Title XXI.

(2) 'Family income' has the same meaning as used in determining eligibility for the Medical Assistance Program.

(3) 'FPL' or 'federal poverty level' means the federal poverty guidelines established by the United States Department of Health and Human Services, as revised each April 1.

(4) 'Medical Assistance Program' means the State Medical Assistance Program established under Part 6 of Article 2 of Chapter 108A of the General Statutes.

(5) 'Program' means The Health Insurance Program for Children established in this Part.

(6) 'State Plan' means the State Child Health Plan for the State Children's Health Insurance Program established under Title XXI.

(7) 'Title XXI' means Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552, codified in scattered sections of 42 U.S.C. (1997).

(8) 'Uninsured' means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date the Program becomes effective. Effective six months from date the Program becomes effective, 'uninsured' means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under

this subdivision shall be waived if the child has lost Medicaid eligibility due to a change in family income or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business.

"**§ 108A-70.19. Short title; purpose; no entitlement.**

This Part may be cited as 'The Health Insurance Program for Children Act of 1998.' The purpose of this Part is to provide comprehensive health insurance coverage to uninsured low-income children who are residents of this State. Coverage shall be provided from federal funds received, State funds appropriated, and other nonappropriated funds made available for this purpose. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to coverage under the Program.

"**§ 108A-70.20. Program established.**

The Health Insurance Program for Children is established. The Program shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Administration of Program benefits and claims processing shall be as provided under Part 5 of Article 3 of Chapter 135 of the General Statutes.

"**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

(1) Children must:

a. Be under the age of 19;

b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;

c. Be uninsured;

d. Be in a family that meets the following family income requirements:

1. Infants under the age of one year whose family income is from one hundred eighty-five percent (185%) through two hundred percent (200%) of the federal poverty level;

2. Children age one year through five years whose family income is above one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level; and

3. Children age six years through eighteen years whose family income is above one hundred percent (100%) through two hundred percent (200%) of the federal poverty level;

e. Be a resident of this State and eligible under federal law; and

f. Have paid the Program enrollment fee required under this Part.

(2) Proof of family income and residency and declaration of uninsured status shall be provided by the applicant at the time of application for Program coverage. The family member who is legally responsible for the children enrolled in the Program has a duty to report any change in the enrollee's status within 60 days of the change of status.

(3) If a responsible parent is under a court order to provide or maintain health insurance for a child and has failed to comply with the court order, then the child is deemed uninsured for purposes of determining eligibility for Program benefits if at the time of application the custodial parent shows proof of agreement to notify and cooperate with the child support enforcement agency in enforcing the order.

If health insurance other than under the Program is provided to the child after enrollment and prior to the expiration of the eligibility period for which the child is enrolled in the Program, then the child is deemed to be insured and ineligible for continued coverage under the Program. The custodial parent has a duty to notify the Department within 10 days of receipt of the other health insurance, and the Department, upon receipt of notice, shall disenroll the child from the Program. As used in this paragraph, the term 'responsible parent' means a person who is under a court order to pay child support.

(4) Except as otherwise provided in this section, enrollment shall be continuous for one year. At the end of each year, applicants may reapply for Program benefits.

(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, including optional prepaid plans. Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the average wholesale price for the prescription drug or the amounts published by the Health Care Financing Administration plus a fee established by the provider not to exceed the amount authorized under subdivision (d)(3) of this section. All other health care providers providing services to Program enrollees shall accept as payment in full for services rendered the maximum allowable charges under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan for services less any copayments assessed to enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program shall be required by the Plan to change health care providers as a result of being enrolled in the Program.

In addition to the benefits provided under the Plan, the following services and supplies are covered under the Health Insurance Program for Children established under this Part:

(1) Dental: Oral examinations, teeth cleaning, and scaling twice during a 12-month period, full mouth X rays once every 60 months, supplemental bitewing X rays showing the back of the teeth once

during a 12-month period, fluoride applications once during a 12-month period, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth. No benefits are to be provided for services under this subsection that are not performed by or upon the direction of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that do not meet the standards accepted by the American Dental Association.

(2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. Optical services, supplies, and solutions must be obtained from licensed or certified opthamologists, optometrists, or optical dispensing laboratories. Eyeglass lenses are limited to single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to those made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require prior approval of the Plan. Upon prior approval by the Plan, refractions may be covered more often than once every 12 months.

(3) Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist, otolaryngologist, or other hearing aid specialist approved by the Plan. Prior approval of the Plan is required for hearing aids, accessories, earmolds, repairs, loaners, and rental aids.

(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be fifty dollars ($50.00) per year per child with a maximum annual enrollment fee of one hundred dollars ($100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

(d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. Families covered under the Program whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be responsible for copayments to providers as follows:

(1) Five dollars ($5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;
(2) Five dollars ($5.00) per child for each outpatient hospital visit;
(3) A six-dollar ($6.00) fee for each outpatient prescription drug purchased;
(4) Twenty dollars ($20.00) for each emergency room visit unless:
a. The child is admitted to the hospital, or
b. No other reasonable care was available as determined by the Claims Processing Contractor of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis.

(e) Cost-Sharing Limitations. – The total annual aggregate cost-sharing, including fees, with respect to all children in a family receiving Program benefits under this Part shall not exceed five percent (5%) of the family's income for the year involved. To assist the Department in monitoring and ensuring that the limitations of this subsection are not exceeded, the Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall provide data to the Department showing cost-sharing paid by Program enrollees.

(f) Coverage From Private Plans. – The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:

(1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;
(2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
(3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
(4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan, do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty-five percent (225%)

of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The same benefits, copayments, and other conditions of enrollment under the Program shall apply to extended coverage purchased under this subsection.

(h) No State Funds for Voluntary Participation. – No State or federal funds shall be used to cover, subsidize, or otherwise offset the cost of coverage obtained under subsection (g) of this section.

"**§ 108A-70.22. Allocation of federal and State funds for Program; consultation with Joint Legislative Health Care Oversight Committee.**

The Department of Health and Human Services, after having consulted with and received advice from the Joint Legislative Health Care Oversight Committee established under G.S. 120-70.110, shall from total funds available to the Department for Program implementation, allocate and adjust, as needed, funds to pay the North Carolina Teachers' and State Employees' Major Medical Plan in accordance with G.S. 108A-70.23 and Part 5 of Article 3 of Chapter 135 of the General Statutes, and funds to pay for eligible services provided for children with special needs in accordance with G.S. 108A-70.23.

"**§ 108A-70.23. Services for children with special needs established; definition; eligibility; services; limitation; recommendations; no entitlement.**

(a) The Department shall, from federal funds received and State funds appropriated for the Program, pay for services for children with special needs as authorized under this section. As used in this section, the term 'children with special needs' or 'special needs child' means children who have been diagnosed as having one or more of the following conditions which in the opinion of the diagnosing physician (i) is likely to continue indefinitely, (ii) interferes with daily routine, and (iii) require extensive medical intervention and extensive family management:

(1) Birth defect, including genetic, congenital, or acquired disorders;

(2) Developmental disability as defined under G.S. 122C-3;

(3) Mental or behavioral disorder; or

(4) Chronic and complex illnesses.

(b) Eligibility for Services. – In order to be eligible for services under this section a special needs child must be enrolled in the Program.

(c) Services Provided. – The services authorized to be provided to children eligible under this section are as follows:

(1) The same level of services as provided for special needs children under the Medical Assistance Program as authorized in the Current Operations Appropriations Act except that no services for long-term care shall be provided under this section, and except that services for respite care shall be provided only under emergency circumstances; and

(2) Only those services eligible under this section that are not covered or otherwise provided under Part 5 of Article 3 of Chapter 135 of the General Statutes.

(d) Limitation. – Funds may be expended for services under this section only if the special needs child is enrolled in the Program, the services provided under this section are not provided under Part 5 of Article 3 of Chapter 135 of the General Statutes, and the child meets the definition of a special needs child under this section.

(e) Case Management Services. – The Department shall develop procedures for the provision of case management services by the Department to eligible special needs children. Case management services shall be developed to ensure to the maximum extent possible that services are provided in the most efficient and effective manner considering the special needs of the child. The cost of providing case management services for children with special needs shall be paid from funds available for services under this section.

(f) Recommendations by Commission on Children With Special Health Care Needs. – In implementing this section the Department shall consider the recommendations of the Commission on Children With Special Health Care Needs established under Article 71 of Chapter 143 of the General Statutes. The Department, in consultation with the Commission on Children With Special Health Care Needs shall develop procedures for providing respite care services under emergency circumstances.

(g) No Entitlement. – Nothing in this section shall be construed as entitling any person to services under this section.

"**§ 108A-70.24. Claims processing; payments.**

(a) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall be responsible for the administration and processing of claims for benefits under the Program, as provided under Part 5 of Article 3 of Chapter 135 of the General Statutes.

(b) The Department shall, from State and federal appropriations, and from any other funds made available for this purpose, make premium payments to the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care to children eligible for benefits under this Part.

(c) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall also be responsible for the administration and processing of claims for benefits provided under G.S. 108A-70.23 and not covered by Part 5 of Article 3 of Chapter 135 of the General Statutes. Such claims payments shall be made against accounts maintained by the Department.

"**§ 108A-70.25. State Plan for Health Insurance Program for Children.**

The Department shall develop and submit a State Plan to implement 'The Health Insurance Program for Children' authorized under this Part to the federal government as application for federal funds under Title XXI. The State Plan submitted under this Part shall be developed by the Department only as authorized by and in accordance with this Part. No provision in the State Plan submitted under this Part may expand or otherwise alter the scope or purpose of the Program from that authorized under this Part. The Department shall include in the State Plan submitted only those items required by this Part and required by the federal government to qualify for federal funds under Title XXI

and necessary to secure the State's federal fund allotment for the applicable fiscal period. Except as otherwise provided in this section, the Department shall not amend the State Plan nor submit any amendments thereto to the federal government for review or approval without the specific approval of the General Assembly. In the event federal law requires that an amendment be made to the State Plan and further requires that the amendment be submitted or implemented within a time period when the General Assembly is not and will not be in session to approve the amendment, then the Department may submit the amendment to the federal government for review and approval without the approval of the General Assembly. Prior to submitting an amendment to the federal government without General Assembly approval as authorized in this section, the Department shall report the proposed amendment to the Joint Legislative Health Care Oversight Committee and to members of the Joint Appropriations Subcommittee on Health and Human Services. The report shall include an explanation of the amendment, the necessity therefor, and the federal time limits required for implementation of the amendment.

"**§ 108A-70.26. Application process; outreach efforts; appeals.**

(a) Application. – The Department shall use an application form for the Program that is concise, relatively easy for the applicant to comprehend and complete, and only as lengthy as necessary for identifying applicants, determining eligibility for the Program or Medicaid, and providing information to applicants on requirements for application submission and proof of eligibility. Application forms shall be obtainable from public health departments and county departments of social services. Applications shall be processed by the county department of social services and may be submitted by mail. The Department may adopt rules for the submission and processing of applications and for securing the proof of eligibility for benefits under this Part.

The application form for the Program shall have printed on it or attached to it a notice stating substantially: 'The Health Insurance Program for Children' is a federally and State funded program that may be discontinued if federal funds are not provided for its continuation.

(b) Outreach Efforts. – The Department shall adopt procedures to ensure that the Program is adequately publicized statewide and to comply with federal outreach requirements. The Department shall make information about the Program available through the Internet and shall explore the feasibility of securing a 24-hour toll-free telephone number to facilitate access to Program information. In order to avoid duplication of efforts, in developing outreach procedures the Department shall establish system linkages to ensure the collaboration and coordination of information between and among the Program and such ongoing programs and efforts as:

WIC Program.
Maternal and Child Health Block Grant.
Children's Special Health Services.
Smart Start.
Head Start.

The Department shall seek private and federal grant funds for outreach activities. The Department shall also seek the participation of the private sector in providing no-cost or

low-cost avenues for publicizing the Program in local communities and statewide. The Department may work with the State Health Plan Purchasing Alliance Board to develop programs that utilize the expertise and resources of the Alliances in outreach activities to employees of small businesses.

(c) Appeals. – A person who is dissatisfied with the action of a county department of social services with respect to the determination of eligibility for benefits under the Program may appeal the action in accordance with G.S. 108A-79.

"**§ 108A-70.27. Data collection; reporting.**

(a) The Department shall ensure that the following data are collected, analyzed, and reported in a manner that will most effectively and expeditiously enable the State to evaluate Program goals, objectives, operations, and health outcomes for children:

(1) Number of applicants for coverage under the Program;
(2) Number of Program applicants deemed eligible for Medicaid;
(3) Number of applicants deemed eligible for the Program, by income level, age, and family size;
(4) Number of applicants deemed ineligible for the Program and the basis for ineligibility;
(5) Number of applications made at county departments of social services, public health departments, and by mail;
(6) Total number of children enrolled in the Program to date and for the immediately preceding fiscal year;
(7) Total number of children enrolled in Medicaid through the Program application process;
(8) Trends showing the Program's impact on hospital utilization, immunization rates, and other indicators of quality of care, and cost-effectiveness and efficiency;
(9) Trends relating to the health status of children;
(10) Other data that would be useful in carrying out the purposes of this Part.

(b) The Department shall report annually to the Joint Legislative Health Care Oversight Committee and shall provide a copy of the report to the Joint Appropriations Subcommittees on Health and Human Services. The report shall include:

(1) Data collected as required under subsection (a) of this section and an analysis thereof giving trends and projections for continued Program funding;
(2) Program areas working most effectively and least effectively;
(3) Performance measures used to ensure Program quality, fiscal integrity, ease of access, and appropriate utilization of preventive and medical care;
(4) Effectiveness of system linkages in addressing access, quality of care, and Program efficiency;
(5) Recommended changes in the Program necessary to improve Program efficiency and effectiveness;

(6) Any other information requested by the Committee pertinent to the provision of health insurance for children and the implementation of the Program.

(c) The Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Major Medical Plan ('Plan') shall provide to the Department data required under this section that are collected by the Plan. Data shall be reported by the Plan in sufficient detail to meet federal reporting requirements under Title XXI. The Plan shall report periodically to the Joint Legislative Health Care Oversight Committee claims processing data for the Program and any other information the Plan or the Committee deems appropriate and relevant to assist the Committee in its review of the Program.

"**§ 108A-70.28. Fraudulent misrepresentation.**

(a) It shall be unlawful for any person to knowingly and willfully, and with intent to defraud, make or cause to be made a false statement or representation of a material fact in an application for coverage under this Part or intended for use in determining eligibility for coverage.

(b) It shall be unlawful for any applicant, recipient, or person acting on behalf of the applicant or recipient to knowingly and willfully, and with intent to defraud, conceal, or fail to disclose any condition, fact, or event affecting the applicant's or recipient's initial or continued eligibility to receive coverage or benefits under this Part.

(c) It is unlawful for any person knowingly, willingly, and with intent to defraud, to obtain or attempt to obtain, or to assist, aid, or abet another person, either directly or indirectly, to obtain money, services, or any other thing of value to which the person is not entitled as a recipient under this Part, or otherwise to deliberately misuse a Program identification card. This misuse includes the sale, alteration, or lending of the Program identification card to others for services and the use of the card by someone other than the recipient to receive or attempt to receive Program coverage for services rendered to that individual.

Proof of intent to defraud does not require proof of intent to defraud any particular person.

(d) A person who violates a provision of this section shall be guilty of a Class I felony.

(e) For purposes of this section the word 'person' includes any natural person, association, consortium, corporation, body politic, partnership, or other group, entity, or organization."

Section 2. (a) G.S. 120-70.110 reads as rewritten:

"**§ 120-70.110. Creation and membership of Joint Legislative Health Care Oversight Committee.**

There is established the Joint Legislative Health Care Oversight Committee. The Committee consists of ~~14~~ 16 members as follows:

(1) ~~Seven~~ Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least three of whom are members of the minority party; and

(2) ~~Seven~~ Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

(b) Initial terms of the additional members appointed under subsection (a) of this section shall begin upon appointment and shall expire on the convening of the 2001 General Assembly, except if those members are not reelected to serve in the 1999 General Assembly then their terms shall expire upon the convening of the 1999 General Assembly.

(c) G.S. 120-70.111 reads as rewritten:

"**§ 120-70.111. Purpose and powers of Committee.**

(a) The Joint Legislative Health Care Oversight Committee shall review, on a continuing basis, the provision of health care and health care coverage to the citizens of this State, in order to make ongoing recommendations to the General Assembly on ways to improve health care for North ~~Carolinas~~Carolinians. To this end, the Committee shall study the delivery, availability, and cost of health care in North Carolina. The Committee shall also review, on a continuing basis, the implementation of the State Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes. As part of its review, the Committee shall advise and consult with the Department of Health and Human Services as provided under G.S. 108A-70.21. The Committee may also study other matters related to health care and health care coverage in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

(c) The Committee may use employees of the Legislative Services Office and may employ contractual services as approved by the Legislative Services Commission to review and monitor, on a continuing basis, the implementation of the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes. The Committee shall have access to all records of the Department of Health and Human Services pertaining to the Health Insurance Program for Children and shall be kept apprised by the Department of communications between the Department and the Health Care Financing Administration with respect to development, submission, and approval of and amendments to the State Plan for the Health Insurance Program for Children. The Committee and its employees shall also be entitled to attend all meetings and have access to all records of the North Carolina

Teachers' and State Employees' Comprehensive Major Medical Plan pertaining to the Health Insurance Program for Children that are not confidential in accordance with G.S. 135-37. G.S 135-37 shall be applicable to the Health Insurance Program for Children to the same extent that is applicable to teachers and State employees."

Section 3. (a) Chapter 143 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 71.

"Commission on Children With Special Health Care Needs.

"**§ 143-682. Commission established.**

(a) There is established the Commission on Children With Special Health Care Needs. The Department of Health and Human Services shall provide staff services and space for Commission meetings. The purpose of the Commission is to monitor and evaluate the availability and provision of health services to special needs children in this State, and to monitor and evaluate services provided to special needs children under the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes.

(b) The Commission shall consist of seven members appointed by the Governor, as follows:

(1) A parent of a special needs child;

(2) A licensed psychiatrist recommended by the North Carolina Psychiatric Association;

(3) A licensed psychologist recommended by the North Carolina Psychological Association;

(4) A licensed pediatrician whose practice includes services for special needs children, recommended by the Pediatric Society of North Carolina;

(5) A representative of one of the children's hospitals in the State, recommended by the Pediatric Society of North Carolina;

(6) A local public health director recommended by the Association of Local Health Directors; and

(7) An educator providing education services to special needs children, recommended by the North Carolina Council of Administrators of Special Education.

(c) The Governor shall appoint from among Commission members the person who shall serve as chair of the Commission. Of the initial appointments, two shall serve one-year terms, two shall serve two-year terms, and three shall serve three-year terms. Thereafter, terms shall be for two years. Vacancies occurring before expiration of a term shall be filled from the same appointment category in accordance with subsection (b) of this section.

"**§ 143-683. Powers and duties of the Commission.**

The Commission shall have the following powers and duties:

(1) Study the needs of children with special health care needs in this State for health care services not presently provided or regularly available

through State or federal programs or through private or employer-sponsored health insurance plans;

(2) Develop guidelines for case management services, quality assurance measures, and periodic evaluations to determine efficacy of health services provided to special needs children;

(3) Develop and coordinate an outreach program of case managers to assist children with special health care needs and their families in accessing available State and federal resources for all health care services;

(4) Review rules adopted by the Commission for Health Services pertaining to the provision of services for special needs children and make recommendations for modifications or additions to the rules necessary to improve services to these children or to make service delivery more efficient and effective;

(5) Review policies and practices of the Department of Health and Human Services and recommend to the Secretary of Health and Human Services changes that would improve implementation of health programs for children with special health care needs;

(6) Report to each session of the General Assembly not later than the first day of its convening. The report shall include a summary of the Commission's work and any recommendations the Commission may have on ways to improve the efficiency and effectiveness of health services delivery to children with special health care needs in this State, The Commission shall provide a copy of its report to the General Assembly's Commission on Children With Special Needs;

(7) Study the feasibility of establishing a privately funded risk pool to provide insurance coverage and services for children with special health care needs;

(8) Make recommendations to the Department and to the Commission for Health Services regarding quality assurance measures and mechanisms to enhance the health outcomes of children with special health care needs;

(9) Establish subcommittees as necessary to provide assistance and advice to the Commission in conducting its studies and other activities. The Commission may appoint non-Commission members to the subcommittees;

(10) Seek grants and other funds from private and federal sources to carry out the purposes of this Article; and

(11) Conduct other activities the Commission deems appropriate and necessary to carry out the purposes of this Article.

"**§ 143-684. Compensation and expenses of Commission members; travel reimbursements.**

Members of the Commission shall serve without compensation but may receive travel and subsistence as follows:

(1) Commission members who are officials or employees of a State agency or unit of local government, in accordance with G.S. 138-6.

(2) All other Commission members at the rate established in G.S. 138-5."

(b) The Governor shall appoint members of the Commission on Children With Special Health Care Needs within 45 days of the date this act becomes law.

Section 4. (a) Article 3 of Chapter 135 of the General Statutes is amended by adding the following new Part to read:

"Part 5. Health Insurance Program for Children.

"**§ 135-42. Undertaking.**

(a) The State of North Carolina undertakes to make available a health insurance program for children (hereinafter called the 'Program') to provide comprehensive acute medical care to low-income, uninsured children who are residents of this State and who meet the eligibility requirements established for the Program under Part 8 of Article 2 of Chapter 108A of the General Statutes. The Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan (hereinafter called the 'Plan') shall administer the Program under this Part and shall carry out their duties and responsibilities in accordance with Parts 2 and 3 of this Article and with applicable provisions of Part 8 of Article 2 of Chapter 108A. The Plan's self-insured indemnity program shall not incur any financial obligations for the Program in excess of the amount of funds that the Plan's self-insured indemnity program receives for the Program.

(b) The benefits provided under the Program shall be equivalent to and made available through the Plan pursuant to Articles 2 and 3 of this Chapter and as provided under G.S. 108A-70.21(b) and administered by the Plan's Executive Administrator and Board of Trustees. To the extent there is a conflict between the provisions of Part 8 of Article 2 of Chapter 108A and Part 3 of this Article pertaining to eligibility, fees, deductibles, copayments, and other cost-sharing charges, the provisions of Part 8 of Article 2 of Chapter 108A shall control. In administering the benefits provided by this Part, the Executive Administrator and Board of Trustees shall have the same type of powers and duties that are provided under Part 3 of this Article for hospital and medical benefits.

(c) The benefits authorized by this Part are available only to children who are residents of this State and who meet the eligibility requirements established for the Program under Part 8 of Article 2 of Chapter 108A of the General Statutes.

"**§ 135-42.1. Right to alter, amend, or repeal.**

The General Assembly reserves the right to alter, amend, or repeal this Part."

(b) G.S. 135-38(c) reads as rewritten:

"(c) The Committee shall review programs of hospital, medical and related care provided by Part 3 and Part 5 of this Article and programs of long-term care benefits provided by Part 4 of this Article as recommended by the Executive Administrator and Board of Trustees of the Plan. The Executive Administrator and the Board of Trustees shall provide the Committee with any information or assistance requested by the Committee in performing its duties under this Article. The Committee shall meet not less than once each quarter to review the actions of the Executive Administrator and

Board of Trustees. At each meeting, the Executive Administrator shall report to the Committee on any administrative and medical policies which have been issued as rules and regulations in accordance with G.S. 135-39.8, and on any benefit denials, resulting from the policies, which have been appealed to the Board of Trustees."

(c) G.S. 135-39.5 is amended by adding a new subdivision to read:

"(23) Implementing and administering a program of child health insurance benefits pursuant to Part 5 of this Article."

(d) G.S. 135-39.6 is amended by adding the following subsection to read:

"(d) Separate and apart from the special funds authorized by subsections (a), (b), and (c) of this section, there shall be a Child Health Insurance Fund. All premium receipts or any other receipts, including earnings on investments, occurring or arising in connection with acute medical care benefits provided under the Health Insurance Program for Children shall be deposited into the Child Health Insurance Fund. Disbursements from the Child Health Insurance Fund shall include any and all amounts required to pay the benefits and administrative costs of the Health Insurance Program for Children as may be determined by the Executive Administrator and Board of Trustees."

(e) G.S. 135-39.6A is amended by adding the following subsection to read:

"(c) The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under Part 5 of this Article. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care for children eligible for benefits provided under Part 5 of this Article."

(f) G.S. 135-39.8 reads as rewritten:

"**§ 135-39.8. Rules and regulations.**

The Executive Administrator and Board of Trustees may issue rules and regulations to implement Parts ~~2, 3, and 4~~ 2, 3, 4, and 5 of this Article. Rules and regulations of the Board of Trustees shall remain in effect until amended or repealed by the Executive Administrator and Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written description of the rules and regulations issued under this section to all employing units, all health benefit representatives, the oversight team provided for in G.S. 135-39.3, all relevant health care providers affected by a rule or regulation, and to any other parties requesting a written description and approved by the Executive Administrator and Board of Trustees to receive a description on a timely basis."

(g) The title of Chapter 135 of the General Statutes reads as rewritten:

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

(h) The title of Article 3 of Chapter 135 of the General Statutes reads as rewritten:

"Other Teacher, Employee ~~Benefits.~~ Benefits;
Child Health Benefits."

Section 5. (a) Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.27. Credit for child health insurance.**

(a) Credit. – Subject to the limitations provided in this section, a taxpayer is allowed a credit against the tax imposed by this Division if the taxpayer paid a health insurance premium during the taxable year that provided insurance coverage for the taxpayer's dependent children. The amount of the credit is the amount provided in the table below that corresponds to the taxpayer's adjusted gross income, as a percentage of the applicable federal poverty level (FPL), as defined in G.S. 108A-70.18, based on the taxpayer's family size.

AGI as % of FPL	Credit Amount
0 - 225	$300
Over 225	$100

(b) Income Limitation. – To be eligible for the credit allowed under this section, the taxpayer's adjusted gross income (AGI), as calculated under the Code, must be less than the amount listed in the table below:

Filing Status	AGI
Married, filing jointly	$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000

(c) Credit Limitations. – The credit allowed by this section may not exceed the amount of health insurance premium the taxpayer paid during the taxable year that provided insurance coverage for the taxpayer's dependent children. A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. In order to claim a credit under this section, a taxpayer must provide any information required by the Secretary to establish the taxpayer's eligibility for the credit and the amount of the credit.

(d) No Double Benefit. – If the taxpayer claimed a deduction for health insurance costs of self-employed individuals under section 162(l) of the Code for the taxable year, the amount of credit otherwise allowed the taxpayer under this section is reduced by the applicable percentage provided in section 162(l) of the Code. If the taxpayer claimed a deduction for medical care expenses under section 213 of the Code for the taxable year, the taxpayer is not allowed a credit under this section. A taxpayer who claims the credit allowed by this section must provide any information required by the Secretary to demonstrate that the amount paid for premiums for which the credit is claimed was not excluded from the taxpayer's gross income for the taxable year.

(e) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits

allowable, the Secretary shall refund the excess to the taxpayer. The refundable excess is governed by the provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this Division. In computing the amount of tax against which multiple credits are allowed, nonrefundable credits are subtracted before refundable credits.

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

(1) Comprehensive health insurance plan. – Any of the following plans, policies, or contracts that provide health benefits coverage for dependent children for inpatient and outpatient hospital services, physicians' surgical and medical services, and laboratory and X-ray services: accident and health insurance policy or certificate; hospital or medical service corporation contract; HMO subscriber contract; plan provided by a MEWA or plan provided by another benefit arrangement, to the extent permitted by ERISA, and the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan established under Part 3 of Article 3 of Chapter 135 of the General Statutes. 'Comprehensive health insurance plan' does not mean any plan implemented or administered through the Department of Health and Human Services.

(2) Dependent child. – A child under the age of 19 for whom the taxpayer is allowed to deduct a personal exemption under section 151(c)(1)(B) of the Code for the taxable year.

(3) Family size. – The number of individuals for whom the taxpayer is entitled to deduct a personal exemption under the Code for the taxable year.

(4) Health insurance premium. – An amount paid by the taxpayer for insurance coverage of the taxpayer's dependent children under a private or employer-sponsored comprehensive health insurance plan and an amount paid to purchase extended coverage under the Health Insurance Program for Children pursuant to G.S. 108A-70.21. The term does not include, however, amounts deducted from or not included in the taxpayer's gross income for the taxable year, as calculated in subsection (d) of this section."

(b) G.S. 105-160.3(b) is amended by adding a new subdivision to read:

"(4) G.S. 105-151.27. Credit for child health insurance."

(c) The Department of Revenue shall withhold from collections under Division II of Article 4 of Chapter 105 of the General Statutes for the 1999-2000 fiscal year the amount necessary to reimburse it for its additional costs of printing, postage, programming, and administration directly attributable to this act. It is the intent of the General Assembly to appropriate funds to the Department of Revenue for the 1999-2001 fiscal biennium to cover the costs of auditing ten percent (10%) of the tax credits claimed under this section. These costs include salary, benefits, and work space for 10 auditors and two clerical support positions. It is also the intent of the General Assembly

to appropriate funds to the Department of Revenue for the 1999-2000 fiscal year for the one-time programming costs required for the credit authorized by this section.

(d) This section is effective for taxable years beginning on or after January 1, 1999, and expires on the effective date of an act repealing the Health Insurance Program for Children established under this act.

(e) This section becomes effective only if the United States Secretary of Health and Human Services approves the State Plan to implement the Health Insurance Program for Children established under this act.

Section 6. G.S. 143-626(2) reads as rewritten:

"(2) Accept applications by carriers to qualify as Accountable Health Carriers, determine the eligibility of carriers to become Accountable Health Carriers according to criteria described in G.S. 143-629, designate carriers as Accountable Health Carriers, ~~and~~ approve one additional qualified health care plan to be offered to small employers beyond the basic and standard health care ~~plans.~~ plans, and approve programs that provide options for the purchase of private insurance for dependent coverage that meets the requirements of the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes and Title XXI of the Social Security Act. The Board shall report programs approved to the Joint Legislative Health Care Oversight Committee established under G.S. 120-70.110."

Section 7. In order to ensure that health insurance coverage provided to children from public funds is not duplicative of coverage provided to the same children pursuant to court orders for medical support or health insurance, the Department of Health and Human Services shall develop a plan for collecting and retrieving data to enable the Department to readily identify children covered by support orders and also covered under private health insurance, or eligible for coverage under the State Medicaid Program or the Health Insurance Program for Children established in this act. No later than October 1, 1998, the Department shall report on the development of this plan to the Joint Legislative Health Care Oversight Committee.

Section 8. Except for immunization, no State funds, federal funds, or funds from any other source may be used under the Health Insurance Program for Children established under this act to reimburse medical services performed in school-based health clinic settings. The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall conduct a survey of any claims paid by the Plan's self-insured indemnity program during each of the last three plan years. Any results of the survey shall be used by the Plan in conducting a study of the array of medical services delivered in school-based settings and whether or not such services should be eliminated, curtailed, or expanded. No later than March 31, 1999, the Plan shall make its findings and recommendations pursuant to this study known to the Committee on Employee Hospital and Medical Benefits, the Joint Legislative Health Care Oversight Committee, and the 1999 Session of the General Assembly.

Section 9. Not later than September 1, 1998, the Department of Health and Human Services shall select a name for the Health Insurance Program for Children established under this act. The Department shall establish procedures for public input into the selection of the name of the Program. Prior to final selection of the Program name by the Department, the Department shall report to the Joint Legislative Health Care Oversight Committee the results of the public input solicited by the Department and the name selected by the Department.

Section 10.(a) There is appropriated from the General Fund to the Department of Health and Human Services the sum of fifteen million six hundred seventeen thousand eight hundred twenty-two dollars ($15,617,822) for the 1998-99 fiscal year to be used for the Health Insurance Program for Children established under this act and under Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552. The Office of State Budget and Management shall include in the proposed continuation budget the amount of State funds necessary for Program implementation for the budgeted fiscal year but not more than the amount necessary to draw down the maximum amount of federal funds available to the State for the budgeted fiscal year for the Health Insurance Program for Children under Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552.

(b) Of the funds appropriated under subsection (a) of this section, the Department of Health and Human Services may use up to two million dollars ($2,000,000) for the 1998-99 fiscal year to cover unmatched start-up costs for the Health Insurance Program for Children established under this act.

(c) No State funds appropriated under this act may be expended for any purpose other than as provided under this act for the implementation of the Health Insurance Program for Children established under this act and approved by the United States Secretary of Health and Human Services under Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552.

(d) Funds appropriated under this section and not expended or obligated in the 1998-99 fiscal year shall revert to the General Fund on June 30, 1999.

Section 11. Section 10 of this act becomes effective July 1, 1998. Health insurance coverage provided to children under the Health Insurance Program for Children established under this act shall become effective no earlier than October 1, 1998. The remainder of this act is effective when it becomes law. Since the Health Insurance Program for Children established in this act is dependent upon federal funds, it is the intent of the General Assembly that the Health Insurance Program for Children will continue and benefits will be paid for so long as federal funds are available and State funds are specifically appropriated for this purpose.

In the General Assembly read three times and ratified this the 30th day of April, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker

Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:22 a.m. this 7th day of May, 1998