

GENERAL ASSEMBLY OF NORTH CAROLINA  
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Short Title: Supplemental Insurance/Pers. Comm./SEIBP. (Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR COMPETITIVE SELECTION OF SUPPLEMENTAL  
INSURANCE PRODUCTS FOR RETIREES AND TO MAKE VARIOUS OTHER  
AMENDMENTS TO STATE PERSONNEL LAWS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 135 of the General Statutes is amended by adding a  
new Article to read:

"Article 7.

"Supplemental Insurance Products for Retirees.

**§ 135-120. Competitive selection of supplemental insurance products paid for by  
retirees.**

(a) Duties of the Department of State Treasurer. – The Department of State  
Treasurer shall:

- (1) Review insurance products currently offered through retirement  
benefit payment deduction to retirees from the Teachers' and State  
Employees' Retirement System, the Local Governmental Employees'  
Retirement System, the Legislative Retirement System, and the  
Consolidated Judicial Retirement System to determine if those  
products meet the needs and desires of retirees.
- (2) Select the types of insurance products that reflect the needs and desires  
of retirees, giving appropriate consideration to the ability of products  
to transition with individuals from active employment into retirement.
- (3) Competitively select insurance products of the types determined by the  
Department of State Treasurer to reflect the needs and desires of  
retirees.

1        (b) Retirement Benefit Payment Deductions. – The company or companies  
2 selected by the Department of State Treasurer shall be permitted to sell through  
3 retirement benefit payment deduction only the products specifically approved by the  
4 Department of State Treasurer. The assignment by the Department of State Treasurer of  
5 a retirement benefit payment deduction shall be for a period of not less than two years  
6 unless the insurance company violates the terms of the written agreement specified in  
7 this subsection. Subject to the provisions of subsection (d) of this section, the insurance  
8 company awarded a retirement benefit payment deduction shall, pursuant to a written  
9 agreement setting out the rights and duties of the insurance company, be afforded an  
10 adequate opportunity to solicit retirees. The selected insurance company shall provide  
11 information about retirement benefit payment deduction. The Department of State  
12 Treasurer shall determine the format and medium the insurance company may use to  
13 provide the information to retirees.

14        (c) Procedure for Selection of Supplemental Insurance Product Proposals. – The  
15 following procedures shall apply to the selection of all supplemental insurance products  
16 under this section:

17            (1) All supplemental insurance product proposals shall be sealed. The  
18 Department of State Treasurer shall open all proposals in public, at  
19 which time the proposals become public records open to public  
20 inspection.

21            (2) After the public opening, a committee designated by the Department of  
22 State Treasurer shall review the proposals and examine the cost,  
23 coverage, and quality of the products, the reputation and capabilities of  
24 the insurance companies submitting the proposals, and other  
25 appropriate criteria. The committee shall determine which proposal, if  
26 any, would meet the needs and desires of the retirees, and may reject  
27 any or all proposals. Upon completion of its review, the committee  
28 shall present its findings to the Board of Trustees and make  
29 recommendations as to the awarding of a service contract. Upon  
30 acceptance of the committee's findings and recommendations, the  
31 Board of Trustees shall award a contract to make retirement benefit  
32 deductions for supplemental insurance products to the company  
33 submitting the proposal that best meets the needs and desires of the  
34 retirees.

35            (3) A company may seek to modify or withdraw a proposal only after the  
36 public opening and only on the basis that the proposal contains an  
37 unintentional clerical error as opposed to an error in judgment. A  
38 company seeking to modify or withdraw a proposal shall submit to the  
39 Department of State Treasurer a written request, with facts and  
40 evidence in support of its position, prior to the award of the retirement  
41 benefit payment deduction slot, but not later than two days after the  
42 public opening of the proposals. The Department of State Treasurer  
43 shall promptly review the request, examine the nature of the error, and  
44 determine whether to permit or deny the request.

1       (d) Confidentiality of Names and Addresses of Retired State and Local  
2 Employees. – The Department of State Treasurer shall provide the selected insurance  
3 company with the names and addresses of retirees in order for the company to provide  
4 information to retirees about purchasing their selected insurance product. The selected  
5 company shall keep the names and addresses of the retirees confidential and shall not  
6 provide the information to any third party or use the information to solicit retirees for  
7 insurance products other than those selected by the Department of State Treasurer. The  
8 insurance company shall provide retirees with each solicitation the option to elect not to  
9 receive any future solicitations by providing a preaddressed and postage prepaid card  
10 the retiree may return to the insurance company.

11       (e) Option to Continue Supplemental Insurance. – At the termination of any  
12 contract entered into under this section, or when retirement benefit payment deduction  
13 is no longer available for a product, the insurance company shall provide covered  
14 retirees the option to continue supplemental insurance on a direct billing basis. When  
15 retirement benefit payment deduction is no longer available, the insurance company  
16 may not terminate insurance products purchased under the retirement benefit payment  
17 deduction plan without the retiree's specific written consent solely because the premium  
18 is no longer deducted from retirement benefit payments."

19               **SECTION 2.(a)** G.S. 143-34.1(c) reads as rewritten:

20       **"§ 143-34.1. Positions included in the State's payroll must be approved by the**  
21       **Director of Budget; payment of benefits and other salary-related items**  
22       **must be made from same source as salary; dependent care assistance**  
23       **program authorized; flexible compensation benefits authorized.**

24       ...

25       (c) The Director of the Budget is authorized to provide eligible officers and  
26 employees of State departments, institutions, and agencies not covered by the provisions  
27 of G.S. 116-17.2 a program of dependent care assistance as available under Section 129  
28 and related sections of the Internal Revenue Code of 1986, as amended. The Director of  
29 the Budget may delegate to the Office of State Personnel the authority to administer a  
30 plan under this subsection, that authorizes ~~authorize~~ State departments, institutions, and  
31 agencies to enter into annual agreements with employees who elect to participate in the  
32 program to provide for a reduction in salary. With the approval of the Director of the  
33 Budget, savings in the employer's share of contributions under the Federal Insurance  
34 Contributions Act on account of the reduction in salary may be used to pay some or all  
35 of the administrative expenses of the program. Should the Director decide to contract  
36 with a third party to administer the terms and conditions of a program of dependent care  
37 assistance, he may select a contractor only upon a thorough and completely competitive  
38 procurement process.

39       (d) Notwithstanding any other provisions of law relating to the salaries of  
40 officers and employees of departments, institutions, and agencies of State government,  
41 the Director of the Budget is authorized to provide a plan of flexible compensation to  
42 eligible officers and employees of State departments, institutions, and agencies not  
43 covered by the provisions of G.S. 116-17.2 for benefits available under Section 125 and  
44 related sections of the Internal Revenue Code of 1986 as amended. This plan shall not

1 replace, substitute for, or duplicate any benefits provided to employees and officers  
2 under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3, 4, and 6 of  
3 Chapter 135 of the General Statutes. The plan may, however, include offerings for  
4 products and benefits that are supplemental or additional to these statutory benefits. In  
5 providing a plan of flexible compensation, the Director of the Budget may delegate to  
6 the Office of State Personnel the authority to administer a plan under this subsection,  
7 that authorizes ~~authorize~~ State departments, institutions, and agencies to enter into  
8 agreements with their employees for reductions in the salaries of employees electing to  
9 participate in the plan of flexible compensation provided by this section. With the  
10 approval of the Director of the Budget, savings in the employer's share of contributions  
11 under the Federal Insurance Contributions Act on account of the reduction in salary may  
12 be used to pay some or all of the administrative expenses of the program. Should the  
13 Director of the Budget or the Office of State Personnel decide to contract with a third  
14 party to administer the terms and conditions of a plan of flexible compensation as  
15 provided by this section, it may select such a contractor only upon a thorough and  
16 completely advertised competitive procurement process."

17 **SECTION 2.(b)** G.S. 116-17.2 reads as rewritten:

18 **"§ 116-17.2. Flexible Compensation Plan.**

19 Notwithstanding any other provisions of law relating to the salaries of employees of  
20 The University of North Carolina, the Board of Governors of The University of North  
21 Carolina is authorized to provide a plan of flexible compensation to eligible employees  
22 of constituent institutions for benefits available under Section 125 and related sections  
23 of the Internal Revenue Code of 1986 as amended. This plan shall not include those  
24 benefits provided to employees under Articles 1, 3, and 6 of Chapter 135 of the General  
25 Statutes nor any vacation leave, sick leave, or any other leave that may be carried  
26 forward from year to year by employees as a form of deferred compensation. In  
27 providing a plan of flexible compensation, the Board of Governors may delegate to the  
28 Office of State Personnel the authority to administer a plan under this subsection that  
29 authorizes ~~authorize~~ constituent institutions to enter into agreements with their  
30 employees for reductions in the salaries of employees electing to participate in the plan  
31 of flexible compensation provided by this section. With the approval of the Director of  
32 the Budget, savings in the employer's share of contributions under the Federal Insurance  
33 Contributions Act on account of the reduction in salary may be used to pay some or all  
34 of the administrative expenses of the program. Should the Board of Governors decide to  
35 contract with a third party to administer the terms and conditions of a plan of flexible  
36 compensation as provided by this section, it may select such a contractor only upon a  
37 thorough and completely advertised competitive procurement process."

38 **SECTION 2.(c)** G.S. 126-3 reads as rewritten:

39 **"§ 126-3. Office of State Personnel established and responsibilities outlined;  
40 administration and supervision; appointment, compensation and tenure  
41 of Director.**

42 ...

43 (b) The Office shall be responsible for the following activities, and such other  
44 activities as specified in this Chapter:

- 1           ...
- 2           (8)   Developing criteria and standards to measure the level of compliance
- 3                   or noncompliance with established Commission policies, rules,
- 4                   procedures, criteria, and standards in agencies, departments, and
- 5                   institutions to which authority has been delegated for classification,
- 6                   salary administration and other decentralized programs, and
- 7                   determining through routine monitoring and periodic review process,
- 8                   that agencies, departments, and institutions are in compliance or
- 9                   noncompliance with established Commission policies, rules,
- 10                  procedures, criteria, and standards; and
- 11           (9)   Implementing corrective actions in cases of ~~noncompliance~~.
- 12                  noncompliance;
- 13           (10) Administering a plan of dependent care assistance and flexible
- 14                  compensation at the request of the Director of the Budget and the
- 15                  Board of Governors of The University of North Carolina and pursuant
- 16                  to the requirements of G.S. 143.34.1 and G.S. 116-17.2; and
- 17           (11) Offering additional or supplemental products using the same process
- 18                  and committee members as those used to evaluate the products offered
- 19                  in subdivision (10) of this subsection. Appropriate consideration
- 20                  should be given to the ability of products to transition with individuals
- 21                  from active employment into retirement. The contracts for post-tax
- 22                  products shall include a conversion option for employees when they
- 23                  retire and companies shall provide retirees the option to continue
- 24                  coverage on a direct billing basis. Employee Insurance Committees
- 25                  authorized pursuant to G.S. 58-31-60 may elect not to offer the
- 26                  products authorized in this subdivision."

27           **SECTION 3.(a)** Article 36A Chapter 143 of the General Statutes is repealed.

28           **SECTION 3.(b)** Chapter 126 of the General Statutes is amended by adding a  
 29 new Article to read:

30   "Article 16.

31   "State Employee Incentive Bonus Program.

32           **"§ 126-95. State Employee Incentive Bonus Program.**

33           (a) It is the policy of the State to promote employee suggestions through the

34           State Employee Incentive Bonus Program so that employees and groups of employees

35           may be recognized and rewarded for adopted suggestions and the achievement of

36           individual or group goals that improve their agencies and State governmental

37           operations. The Office of State Personnel shall administer the State Employee Incentive

38           Bonus Program and policy as approved by the State Personnel Commission.

39           (b) The following definitions apply in this section:

40                   (1) Baseline reversion. – The two-year historical average of reversions by

41                   a State department, agency, or institution.

42                   (2) Participating agency. – All State agencies, departments, and

43                   institutions and The University of North Carolina shall implement a

1                    State Employee Incentive Bonus Program that is not inconsistent with  
2                    the policy approved by the State Personnel Commission.

3                    (3) SEIBP. – Acronym for the State Employee Incentive Bonus Program.

4                    (4) State employee. – Any of the following:

5                    a.     A person who is a contributing member of the Teachers' and  
6                    State Employees' Retirement System of North Carolina, the  
7                    Consolidated Judicial Retirement System of North Carolina, or  
8                    the Optional Program.

9                    b.     A person who receives wages from the State as a part-time or  
10                    temporary worker, but is not otherwise a contributing member  
11                    of one of the retirement programs listed in sub-subdivision a. of  
12                    this subdivision.

13 **"§ 126-96. State employee incentive bonus.**

14                    (a) A State employee or team of State employees may receive an incentive bonus  
15 or bonuses in reward for suggestions or innovations resulting in monetary savings to the  
16 State, increased revenues to the State, or improved quality of services delivered to the  
17 public.

18                    (b) The amount of savings generated by suggestions and innovations shall be  
19 determined after a 12-month period of implementation. No incentive bonus shall be paid  
20 prior to the expiration of 12 months, and payment may be delayed further as reasonably  
21 required to ensure that a complete cost implementation cycle is evaluated fully.

22                    (c) Any savings are to be calculated using the actual expenditures for a program,  
23 activity, or service compared to the budgeted amount for the same, if an amount has  
24 been budgeted for the program, activity, or service. The savings calculation shall  
25 include the amount of any reversions in excess of the baseline reversion. Any savings  
26 realized through the State Employee Incentive Bonus Program shall be weighed against  
27 continued service to the public and the assurance that there is not a negative impact on  
28 State programs.

29                    (d) If a suggestion or innovation affects a program, activity, or service for which  
30 no separate budgeted amount has been made, the State Coordinator, in conjunction with  
31 the agency evaluator or agency fiscal officer, or both for that suggestion or innovation,  
32 shall determine the budgetary impact of the suggestion or innovation.

33                    (e) Federal and local government funds and corporate and foundation grant funds  
34 are excluded from the SEIBP.

35                    (f) The Department of Administration shall establish the SEIBP reserve fund in  
36 which all savings for all suggestions shall be deposited as earned. Each participating  
37 agency shall be responsible for transferring savings to the SEIBP reserve fund. The  
38 funds may be encumbered as needed to ensure payment to the General Fund, to the  
39 suggester, and for distribution as required by G.S. 126-97. The Department of  
40 Administration shall provide the SEIBP reserve fund summary at the close of each  
41 fiscal year to the Office of State Personnel, the Office of State Budget and Management  
42 and to the participating agencies. The Office of State Budget and Management shall  
43 have oversight responsibility for ensuring that the required reversions and transfers are

1 made to the General Fund, and that all encumbered funds are accounted for and paid as  
2 required by law.

3 (g) No distribution of suggester awards shall occur until reversion requirements  
4 to the General Fund are met and distributions as required by G.S. 126-97 are satisfied  
5 and verified by the Office of State Budget and Management. When all of the  
6 requirements of G.S. 126-97 are fulfilled, the Department of Administration shall notify  
7 the Office of State Personnel of the transfer to the suggester's agency funds required to  
8 award the suggester. The Office of State Personnel shall authorize the agency to make  
9 the suggester's award. The suggester's agency shall make the suggestion award and  
10 ensure that all taxes and withholding requirements are met.

11 (h) Implementation costs may be prorated over a maximum of three years for  
12 suggestions or innovations that are capital intensive, involve leading-edge technology,  
13 or involve unconventional processes that require longer than 12 months for  
14 implementation. The amount of the average annual savings minus the average annual  
15 implementation cost shall be used as the basis for the agency to recommend a suggester  
16 award. The State Review Committee shall consult the Office of State Budget and  
17 Management to make the final award determination in these cases.

18 (i) There is established in the Department of Administration a nonreverting fund  
19 to be administered by the Office of State Personnel for the training and education of  
20 permanent State employees to address specific mission critical needs and objectives.  
21 Funds shall be credited from the SEIBP to the fund as provided by this Article.

22 (j) Elected officials and upper management employees are not eligible for this  
23 bonus program.

24 **"§ 126-97. Allocation of incentive bonus funds; nonmonetary recognition.**

25 (a) If a State employee's suggestion or innovation results in a monetary savings  
26 or increased revenue to the State, the funds saved or increased shall be distributed  
27 according to the following scale or subject to guidelines as set forth by the funding  
28 source:

29 (1) Twenty percent (20%) of the annualized savings or increased  
30 revenues, up to a maximum of twenty thousand dollars (\$20,000) for  
31 any one State employee, to constitute gainsharing. If a team of State  
32 employees is the suggester, the bonus provided in this subdivision  
33 shall be divided equally among the team members, except that no team  
34 member shall receive in excess of twenty thousand dollars (\$20,000),  
35 nor shall the team receive an aggregate amount in excess of one  
36 hundred thousand dollars (\$100,000). These funds shall not revert.

37 (2) Fifty percent (50%) allocated as follows:

38 a. Thirty percent (30%) to the implementing agency for  
39 nonrecurring budget items to be used (i) by the implementing  
40 agency to provide equipment, supplies, training, and limited but  
41 appropriate recognition for the division, section, or group  
42 responsible for the implementation of the cost-saving measure  
43 and (ii) to meet other similar needs within the agency.

1           b. Ten percent (10%) to the Office of State Personnel for  
2           augmenting funding for the management and administration of  
3           the SEIBP. These funds shall not revert.

4           c. Ten percent (10%) to the State employee education and training  
5           fund administered by the Office of State Personnel under  
6           G.S. 143-342.21(i). These funds shall not revert.

7           (3) The thirty percent (30%) remainder to the General Fund for  
8           nonrecurring budget items.

9           (b) Of the pool of funds identified in subsection (a) of this section, only the  
10          General Fund distribution shall be subject to reversion, under nonemergency budget  
11          conditions. SEIBP funds arising from savings at The University of North Carolina, the  
12          North Carolina Community Colleges System, the Highway Trust Fund, enterprise  
13          funds, and receipt-supported organizations shall be exempt from the General Fund  
14          reversion requirements under nonemergency budget conditions.

15          (c) The budget of a State agency shall not be reduced in the following fiscal year  
16          by an amount similar to the monetary savings or increased revenues realized by the  
17          State Employee Incentive Bonus Program. The agency budget shall be reduced in  
18          subsequent years only if structural or organizational changes are made that warrant the  
19          reductions, including the transfer of responsibility for an activity or service to another  
20          agency or the elimination of some function of State government.

21          (d) If a suggestion or innovation results in improved quality of services to the  
22          public or to other State agencies, departments, and institutions, but not in monetary  
23          savings to the State, the suggester shall receive a nonmonetary award in the form of a  
24          certificate, leave with pay, or other similar recognition.

25          (e) For suggestions approved in programs that are not funded in part or whole  
26          through the General Fund, the State Review Committee shall ensure that the funds that  
27          would otherwise be distributed to the General Fund are allocated to the appropriate  
28          funding source.

29          **§ 126-98. Suggestion and review process; role of agency coordinator and agency**  
30          **evaluator.**

31          (a) The process for a State employee or team of State employees to submit a  
32          cost-saving or revenue-increasing proposal shall begin with the employee or team of  
33          employees submitting the suggestion or innovation to an agency coordinator. The  
34          agency coordinator, in conjunction with an agency evaluator, shall review the  
35          suggestion or innovation and upon the approval of the agency head or their designee  
36          shall submit the suggestion to the State Review Committee established in G.S. 126-7.8.

37          (b) An agency coordinator shall be appointed by the head of each participating  
38          agency to serve as liaison between the agency, the suggester, the agency evaluator, and  
39          the SEIBP office. The duties of the agency coordinator shall include:

40                  (1) Serving as an information source and maintaining sufficient forms  
41                  necessary to submit suggestions.

42                  (2) Presenting, in conjunction with the agency evaluator, the  
43                  recommendation for an award to the State Review Committee.



1           (3) Working in conjunction with the agency evaluator to process a  
2           particular suggestion or innovation within 180 days, except when there  
3           are extenuating circumstances.

4           An agency may have more than one coordinator if required to provide sufficient  
5           services to State employees.

6           (c) An agency evaluator shall be designated by the management of the  
7           implementing agency to evaluate one or more suggestions. The duties of an agency  
8           evaluator shall include:

9           (1) Receiving from the agency coordinator and reviewing within 90 days,  
10           when possible, the feasibility and effectiveness of cost-saving or  
11           revenue-increasing measures suggested by State employees.

12           (2) Being knowledgeable of the subject program, activity, or service.

13           (3) Determining, in conjunction with the agency fiscal officer, the  
14           budgetary impact of a suggestion or innovation.

15           (4) Judging impartially both the positive and negative effects of a  
16           suggestion or innovation on the current functions of the subject  
17           program, activity, or service.

18           (d) The State SEIBP Coordinator shall be appointed by the State Personnel  
19           Director and shall be responsible for general oversight and coordination of the State  
20           Employee Incentive Bonus Program. The State coordinator shall be a State employee  
21           reporting to the Office of State Personnel. The State coordinator shall be responsible for  
22           day-to-day SEIBP program management and administration of the technical aspects of  
23           the program. The State coordinator shall be an ex officio voting member of the State  
24           Review Committee.

25           **"§ 126-99. Incentive Bonus Review Committee.**

26           (a) The Incentive Bonus Review Committee, hereinafter "State Review  
27           Committee", shall consist of 11 members, as follows:

28           (1) The State SEIBP Coordinator.

29           (2) A representative of the Office of State Budget and Management.

30           (3) Three representatives from cabinet agencies as appointed by the State  
31           Personnel Director.

32           (4) A representative of The University of North Carolina.

33           (5) A representative of the Department of Justice.

34           (6) A representative of the Department of State Auditor.

35           (7) One State employee appointed by the Speaker of the House of  
36           Representatives.

37           (8) One State employee appointed by the President Pro Tempore of the  
38           Senate.

39           (9) One State employee appointed by the Governor.

40           (b) The duties of the State Review Committee shall include:

41           (1) Receiving from and reviewing suggestions and innovations submitted  
42           by the various agency coordinators.

43           (2) Determining the impact of a suggestion or innovation on State  
44           government services by judging the monetary savings, increased

1                    revenues, or improved quality of services generated by a suggestion or  
2                    innovation.

3            (3)    Recommending approval or rejection of suggestions and innovations  
4                    submitted by the agencies ensuring that the State employee incentive  
5                    bonus process does not result in a negative impact on services  
6                    provided to taxpayers by State government.

7            (c)    All administrative, management, clerical, and other functions and services  
8                    required by the State Review Committee shall be supplied by the Office of State  
9                    Personnel. The Office of State Personnel shall report annually to the Joint Legislative  
10                   Commission on Governmental Operations on the administration of the State Employee  
11                   Incentive Bonus Program.

12    **"§ 126-100. Innovations deemed property of the State; effect of decisions**  
13                   **regarding bonuses.**

14            (a)    Subject to G.S. 126-96(e), all suggestions or innovations submitted by State  
15                   employees pursuant to this Article are the property of the State, and all related  
16                   intellectual property rights shall be assigned to the State.

17            (b)    Decisions regarding the proposed award of bonuses by the agency  
18                   coordinator and the State Review Committee that are approved by the State Personnel  
19                   Director or designee are final and are not subject to review under the contested case  
20                   procedures of Chapter 150B of the General Statutes."

21                   **SECTION 4.** This act is effective when it becomes law.