

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2358\*

Short Title: Disability Income Plan of NC.

(Public)

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Sponsors: Representatives Fitch; Barnhill, Blue, Cunningham, Gist, Hall, H. Hunter, Jeralds, Kennedy, Michaux, Rhyne, Warner, and Wicker.

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Referred to: Public Employees.

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June 6, 1990

A BILL TO BE ENTITLED

1 AN ACT TO EXTEND COVERAGE UNDER THE DISABILITY INCOME PLAN  
2 OF NORTH CAROLINA TO PARTICIPANTS WHO ARE ON AN EMPLOYER  
3 APPROVED LEAVE OF ABSENCE AND IN RECEIPT OF WORKERS'  
4 COMPENSATION BENEFITS.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 135-105(a) reads as rewritten:

8 "(a) Any participant who becomes disabled and is no longer able to  
9 perform his usual occupation may, after at least 365 calendar days succeeding his date  
10 of initial employment as a teacher or employee and at least one year of contributing  
11 membership service, receive a benefit commencing on the first day succeeding the  
12 waiting period; provided that the participant's employer and attending physician shall  
13 certify that such participant is mentally or physically incapacitated for the further  
14 performance of duty, that such incapacity was incurred at the time of active employment  
15 and has been continuous thereafter; provided further that the requirement for one year of  
16 contributing membership service must have been earned within 36 calendar months  
17 immediately preceding the date of disability and further, salary continuation used during  
18 the period as provided in G.S. 135-104 shall count toward the aforementioned one year  
19 requirement.

20 Notwithstanding the requirement that the incapacity was incurred at the time of  
21 active employment, any participant who becomes disabled while on an employer  
22 approved leave of absence and who is eligible for and in receipt of temporary total

1 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97  
2 of the General Statutes, will be eligible for all benefits provided under this Article."

3 Sec. 2. G.S. 135-106(a) reads as rewritten:

4 "(a) Upon the application of a beneficiary or participant or of his legal  
5 representative or any person deemed by the Board of Trustees to represent the  
6 participant or beneficiary, any beneficiary or participant who has had five or more years  
7 of membership service may receive long-term disability benefits from the Plan upon  
8 approval by the Board of Trustees, commencing on the first day succeeding the  
9 conclusion of the short-term disability period provided for in G.S. 135-105, provided  
10 the beneficiary or participant makes application for such benefit within 180 days after  
11 the short-term disability period ceases or after salary continuation payments cease,  
12 whichever is later; Provided, that the Medical Board shall certify that such beneficiary  
13 or participant is mentally or physically incapacitated for the further performance of  
14 duty, that such incapacity was incurred at the time of active employment and has been  
15 continuous thereafter, that such incapacity is likely to be permanent; Provided further  
16 that the Medical Board shall not certify any beneficiary or participant as disabled who is  
17 in receipt of any payments on account of the same incapacity which existed when the  
18 beneficiary first established membership in the Retirement System.

19 The Board of Trustees may require each beneficiary who becomes eligible to receive  
20 a long-term disability benefit to have an annual medical review or examination for the  
21 first five years and thereafter once every three years after the commencement of benefits  
22 under this section. However, the Board of Trustees may require more frequent  
23 examinations and upon the advice of the Medical Board shall determine which cases  
24 require such examination. Should any beneficiary refuse to submit to any examination  
25 required by this subsection or by the Medical Board, his long-term disability benefit  
26 shall be suspended until he submits to an examination, and should his refusal last for  
27 one year, his benefit may be terminated by the Board of Trustees. If the Medical Board  
28 finds that a beneficiary is no longer mentally or physically incapacitated for the further  
29 performance of duty, the Medical Board shall so certify this finding to the Board of  
30 Trustees, and the Board of Trustees may terminate the beneficiary's long-term disability  
31 benefits effective on the last day of the month in which the Medical Board certifies that  
32 the beneficiary is no longer disabled.

33 As to the requirement of five years of membership service, any participant or  
34 beneficiary who does not have five years of membership service within the 96 calendar  
35 months prior to conclusion of the short-term disability period or cessation of salary  
36 continuation payments, whichever is later, shall not be eligible for long-term disability  
37 benefits.

38 Notwithstanding the requirement that the incapacity was incurred at the time of  
39 active employment, any participant who becomes disabled while on an employer  
40 approved leave of absence and who is eligible for and in receipt of temporary total  
41 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97  
42 of the General Statutes, will be eligible for all benefits provided under this Article."

1                   Sec. 3. This act is effective upon ratification and applies to any participant in  
2 the Disability Income Plan of North Carolina who becomes disabled on or after that  
3 date.