Committee on Personnel & Tenure **October 23, 2014**

3. Authorization to Establish a Plan, Fund, Program or Policy……..Thomas Shanahan/ Brian Usischon

Situation: The North Carolina Retirement Systems Division recently contacted certain employees of the University who have accumulated enough service to retire with a TSERS pension, and informed them that their expected annual pension benefits are likely to be significantly reduced due to an Internal Revenue Code provision unless they retire by December 1, 2014. The 18 affected individuals are key physicians, executives, researchers and others whose service is critical to the University and the state. The expected reduction in pension benefits is the result of the General Assembly's decision to sunset authorization for a Qualified Excess Benefit Arrangement (QEBA) that currently permits the state pension plan to pay pension benefits above the IRC limitation.

Background: N.C. Gen. Stat. § 135-151, authorized the Retirement Systems Division to establish a Qualified Excess Benefit Arrangement (QEBA) effective January 1, 2014, and placed the QEBA under the management of the Board of Trustees of the Teachers and State Employees Retirement System (TSERS). The purpose of the QEBA was to provide the part of the retirement allowance or benefit that would otherwise have been payable by the TSERS defined benefit plan if the limitations under section 415(b) of the Internal Revenue Code had not been in place. The QEBA constitutes a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code. N.C. Gen. Stat. § 135-151 (j) provides that no member of the Teachers' and State Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any new retiree more retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue Code.

Assessment: The sun setting of the Qualified Excess Benefit Arrangement has an immediate negative impact on the University and the state because persons in positions with significant service and executive management responsibilities critical to University research, service and operations will be forced to abruptly retire in order to avoid significant reductions in their anticipated annual pensions. The University is requesting that the board grant authority to the President to establish a plan, fund, program or policy to address the circumstances of people affected by the QEBA.

Action: This item requires a vote.

Authorization to Establish a Plan, Fund, Program or Policy

The Retirement System Division recently contacted employees of The University to inform them of the sunset provisions of a Qualified Excess Benefit Arrangement (QEBA) and their eligibility to participate in the QEBA provided they commence retirement benefits under the Teachers' and State Employees' Retirement System (TSERS) prior to December 31, 2014. There are currently 18 University employees identified by the Retirement System that are potentially affected by the sunset of the Retirement System's ability to utilize a QEBA to handle pension distributions in excess of IRC Section 415(b) limits. The sun setting of the Qualified Excess Benefit Arrangement has an immediate impact on positions with significant management responsibilities and consequences that adversely impact University operations.

N.C. Gen. Stat. § 135-151, authorized the Retirement System Division to establish a Qualified Excess Benefit Arrangement (QEBA) effective January 1, 2014, and placed the QEBA under the management of the Board of Trustees. The purpose of the QEBA was to provide the part of a retirement allowance or benefit that would otherwise have been payable by the Teachers' and State Employees' Retirement System except for the limitations under section 415(b) of the Internal Revenue Code. The QEBA constitutes a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code. N.C. Gen. Stat. § 135-151 (j) provides that no member of the Teachers' and State Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any new retiree more retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue Code.

It is recommended that the board grant authority to the President to: (a) establish a plan, fund or program to address the circumstances of people affected by the sun setting of the Retirement System's Qualified Excess Benefit Arrangement; and (b) authorize payout of vacation leave and/or participation in the phased retirement program for those employees who must retire by December 1, 2014 as a result of the sunset of the QEBA provision. Specifically, the proposed recommendations include the following:

- Authorize the President to establish a University Qualified Benefit Arrangement to cover the reduced benefit not otherwise payable from the Retirement System's QEBA and to establish a funding mechanism for the QEBA.

- Notwithstanding the current provisions of UNC Policy 300.7.2, authorize the President to approve immediate participation in the UNC Phased Retirement Program for employees who must retire by December 1, 2014 because they have received notice from the Retirement Systems Division that failure to do so may result in a limitation or reduction of their annual pension benefits in accordance with Section 415(b) of the Internal Revenue Code. It is recommended that this limited authorization include authority for the President to approve participation in phased retirement by those employees who are age 57 or older and who do not currently have tenure in a faculty appointed, provided that, in the President's judgment, doing so is consistent with applicable federal and state law and regulations and would not cause an operational or compliance deficiency as to the phased retirement program.

- Notwithstanding the provisions of the UNC Policy Manual applicable to the payout of accrued annual leave to EPA employees (SAAO and other EPA non-faculty) authorize the President to approve the payout of annual leave to affected employees above the 30-day maximum.

It is recommended that the Board of Governors grant authority to the President as described above to address the circumstances of University employees affected by the limitation of IRC section 415(b) and benefits payable from the Retirement System Division.