Senate Council

June 2, 2009

The Senate Council met in special session on the call of the Chair at 3 pm on Tuesday, June 2, 2009 in 203 Student Center. Below is a record of what transpired. All votes were taken via a voice vote unless indicated otherwise.

Chair David Randall called the Senate Council (SC) meeting to order shortly after 3 pm. He noted that the only item for discussion pertained to the proposed changes in UK's retirement vesting practices. He invited Provost's Liaison Richard Greissman to offer background information, which Greissman did.

Those present introduced themselves.

Employee Benefits Director Joey Payne began the explanation of the necessity of the proposed changes by saying that the proposed change originated in the Employee Benefits office as a way to mitigate benefit costs, offer future salary increases, etc. Basically, with the proposed cliff vesting change, UK's matching retirement contributions would be vested only if the employee remained at UK for a minimum of five years' of employment. Payne explained that there were two types of vesting: cliff vesting, in which employees receive the total of the employer's contributions after a specified date; and graduated vesting, in which employees receive a graduated percentage of the employer's contributions. UK was considering the cliff vesting option, which would begin January 1, 2010. He suggested that those present look at the PowerPoint presentation handout and see the potential amounts of money that could be generated – UK could generate almost $12 million in cumulative savings over the next five years and approximately $5 million annually in after that point. The savings amount would begin at about $364,000 during the first year, and grow over time. He noted that an employee who contributed $6,000 to their retirement account would have access to that entire amount immediately, but that if the employee left UK prior to the fifth year, the $12,000 contributed by UK would revert back to UK and be reallocated however UK deemed necessary. The gains and losses resulting from UK's contribution would also be returned to UK. In response to a comment from Swanson, Payne agreed that the proposed change could be viewed as a retention policy.

Steiner asked if specific information was available about how the proposed change would affect faculty, as well as staff employees. Payne replied that such information was not available, but added that there were about 16,000 employees, 12,000 of which are involved in the retirement plan, of which approximately 2,000 were faculty. Steiner opined that the majority of employees who would leave UK prior to the fifth year of employment were likely staff, and Payne agreed. Steiner expressed concern about employees who were let go, stating that the proposed changes would hit those who were most likely to need UK's retirement contribution. Payne directed him to the reinstatement provision in the handout: "Under HR Policy and Procedure (HRP&P) 15, employees who return to a regular full-time position within one year may be reinstated. Employer retirement contributions would be reinstated if the employee is rehired and reinstated." Payne added that another way to view the situation would be to realize that employees in the middle salary ranges were more mobile employees in terms of degrees and professional employment, and could jump to another employer, but would likely have to consider benefits in their entirety if making an employment change. Employees in lower pay ranges might also choose to change employers, but maintenance and clerical-type jobs elsewhere often do not include benefits similar to UK's.

Greissman opined that staff, especially lower-paid staff, see UK's benefits as a financial boon – UK offers benefits of a caliber not often seen elsewhere. He thought that employees routinely remained at UK if at all possible, unless there was an issue of poor performance or familial exigencies. Steiner expressed continued concern about employees who were laid off and the effect of cliff vesting on them.

Professor Kaveh Tagavi wondered if it would be fairer to have an exception for employees who left UK against their will, but the general response was that it was not out of the realm of possibility for an employee to "act up" to ensure termination against their will and the accompanying vesting exception. Guest Tagavi then asked if anyone had thought about simply not having any employer contribution for two years (or three, etc.), with immediate contribution vesting to follow. Payne said that a one-year time period was considered, and said that there used to be a one-year waiting period. The one-year wait actually penalized the individuals who stayed, though. The amount not contributed by UK during that one year, along with interest, could add up to a significant amount by the time of retirement. He said that although it was an option, things would begin to look pretty draconian if benefits were missing during the initial year(s) of employment.

Everett commented about forced layoffs – he opined that in the next couple of years, programs would have to look seriously at the possibilities of layoffs. In response to a comment by Yanarella about terminology, Associate Vice President for Human Resources Kim Wilson explained that there was a difference between a layoff and a reduction in work force. A reduction in work force would occur when a position was eliminated and ceased to exist after a department determined that the area could function without the position. Layoffs would occur if funding were unavailable for a position that the department needed; if funding returns, the person will be brought back. Regarding layoffs, Guest Wilson explained that the Staff Senate suggested expanding the reinstatement period past one year, but that there was a problem with any time frame – many employees come and go, and it was hard to draw the line somewhere that is fair and equitable for all concerned. Although the present time was somewhat fiscally unusual, historically speaking most employees who are subjected to a reduction in work force are able to find work in another area of UK.

Payne continued going over the handout. He explained that if the vesting proposal were approved, employees would only be able to obtain loans on their contributions (not UK's contributions) until vested. If the change were approved, there would be revisions to UK's Human Resources Policy and Procedure 15.0, regarding employee reinstatement, to include retirement vesting reinstatement. In addition, when UK purchases entities, usually related to health care, UK will honor their years of service as it pertained to the vesting schedule. If an employee began working for the "purchased entity" two years prior to UK's purchase, UK would consider that employee to have worked for UK for two years of the five years required for full retirement vesting.

Wood posed a question – if there is a tenured faculty member at the University of North Carolina with a TIAA-CREF [one of UK's two retirement carriers] account and s/he comes to UK to serve as college dean, would that person be told to wait five years for vesting? Wilson replied that the desire was not to make someone wait, but rather offer an incentive to stay.

Returning to the handout, Payne explained that both the employer and employee's contributions would be shown on the retirement statement. If an employee whose UK contributions were not vested were to die, UK's contributions would be automatically and immediately vested and given to beneficiaries. If an employee were to become disabled, UK would continue to make contributions, but those contributions would not be vested until five years of service.

Wood expressed concern about upwardly mobile administrators. She perceived that the average duration of deans of the College of Arts and Sciences was less than five years. Payne said that if there was an issue, the differential could be addressed with an increased salary. Wood said that her concern also applied to chairs, directors, etc. and that such a change would hamper recruitment efforts.

Anderson asked if there was any discussion about offering an exception for someone brought to UK for an employment period of less than three years in duration. Anderson referred to an example she witnessed at another institution, and said that in that case, the issue was health care and the person received an offer which included payment for health insurance. Payne suggested that case pertained to an individual who could buy into a state pension, which was not applicable to UK. He reiterated that if someone were at UK for only a short period, the retirement vesting differential could be made up with salary numbers.

Wilson stated unequivocally that no exceptions could be made for retirement vesting if the proposed changes were approved. Any exception would jeopardize the tax exempt status of the entire plan, so issues such as those raised by Anderson would have to be addressed in some way other than an exception to the proposed policy.

Steiner wondered how long it would take to save substantial amounts of money. Referring to UK's ongoing revision of its general education program, Steiner said that lecturers would be relied upon more and more. He asked Payne to address how lecturers would be affected. Payne said that if a lecturer was in a regular, .75 FTE or greater position, the lecturer would still be able to "earn" the employer contribution. Wilson acknowledged that the proposed change was a big change, and that no one really liked it, but recognized it as a change that would hurt the least. She added that she hoped the policy change would be reversed at some point in the future, when economic times were better.

Steiner noted that he had not heard any discussion about alternatives. The SC had urged discussions about faculty thoughts on saving money, etc., but that had not happened. Although a change to the vesting policy was an option, he opined that it was only one option, of which faculty would not approve. He said he did not think that the savings from the proposed change would kick in for three to four years, definitely not immediately. Wood stated her support for Steiner's comments, saying that the proposed change was draconian act, which was not warranted at the present time, adding that not all segments of the university were going without raises. Greissman said that to save real amounts of money, UK would have to commit to cutting entire programs, which has not even been discussed.

Steiner suggested that increasing undergraduate enrollment at a revenue neutral time would add students and could be structured in such a way as to increase the tuition revenue stream. Greissman disagreed, saying that faculty would be irate if enrollment increased prior to increases in the numbers of faculty. Although UK had a wonderful plan to increase student enrollment via the Top 20 Business Plan, which was predicated on faculty growth, the Commonwealth did not offer sufficient funding to continue moving forward. Steiner said that while there was marked growth, there was no investment in undergraduate education.

Greissman spoke at length regarding funding suggestions and the proposed retirement vesting change. He stated that the proposed changes were an attempt to deal with the current fiscal situation without draconian measures; an alternative would be to discuss personnel staffing. He noted that with the amount of money invested in bringing faculty and senior administrators to campus, it would be a miserable failure if the person left UK after three or four years. Greissman acknowledged Woods' concern about attracting deans, etc., but said that the trumping counterpoint would be that UK cannot bring in senior individuals under the assumption that they would be leaving soon. To make employment the most attractive, there needed to be an attractive benefits package, and the matching retirement funds were indeed unique to UK.

Payne explained that with UK's benchmarks and their defined benefits plans, an employee could be in a state plan with defined benefits, but there was typically a waiting period of five years for vesting, which was a standard length of time. With a defined contribution plan, such as UK's (which is often an optional plan elsewhere), the vesting period (if any vesting were available) ranged between one and five years.

Referring to her disciplinary field, Wood explained that statisticians are trained to solve problems. She asked for clarity regarding what exact problem the University was attempting to solve with the proposed changes. Payne replied that part of the issue was a second consecutive year of no salary increases for employees, with the potential of a third year. Wood asked if the proposed changes were being presented in the spirit of saving money now in order to provide potential raises in the future. She wondered why, while people in the hospital were getting raises, there was a desire to cut retirement funds for faculty and staff on main campus to allow for future pay raises. Payne corrected her, saying that the retirement changes would be in effect for the hospital, as well. Wood expressed agreement with Steiner's comments, saying that there was a better way to go about addressing UK's fiscal needs.

Professor Stephanie Aken expressed confusion with Payne's comments – Guest Aken thought the result of the proposed change would be a return of "non-vested" funds back into the retirement plan. Payne explained that under the proposed change, once an employee left UK, UK would notify the retirement carrier that the money had not been vested. There would be one big forfeiture account, which would be used for future retirement contributions. UK can then decrease the amount it normally sets aside for retirement contributions since that pool of forfeiture funds will be available. Thus, the money that would have been spent on retirement vesting could be reallocated to benefits and salaries. He said he would personally suggest that the money from non-vested accounts be used for salary increases. Payne noted that the non-vested money could also theoretically be used to save about 38 employment positions. Since 98% of UK's budget is used for personnel-related items, the non-vested money could be used to save salaries, increase salaries, or save or lower benefit costs.

Everett expressed concern for the effect the proposed changes would have on lecturers. He asked if there was any thought on what to do to help mitigate negative effects on lecturers who work at UK for a year or two, then are not needed (and not employed) for a year or so, and then come back. Under the proposed changes, Everett thought that lecturers in that position would lose the opportunity to be vested. Greissman said that while he could not answer for all of campus, from his perspective lecturers were not used in that fashion. He spoke to the importance of lecturers' contributions to UK, especially in colleges such as Arts and Sciences, and said that many instructional plans rely on lecturers. Greissman said that the tricky part was to find ways to stabilize UK's budget, which would in turn put lecturers in a better position. It would be difficult to find $5 million in savings (which could be the result of the retirement vesting changes) anywhere else, except through program or personnel cuts. The problem was not so much how to find incremental savings, but how to find substantial amounts of savings quickly without affecting personnel.

Professor Jeff Dembo, referring to UK's benchmarks and the Top 20 Business Plan, said that recruitment was a very important issue. There are a finite number of shining stars, who will look at offers very carefully before making a commitment; UK needs a competitive edge. Guest Dembo posed a question – UK has lost out on competitive faculty salaries since UK still has not caught up to benchmark salary levels, and retirement health benefits have already been cut, so at what point will UK lose any competitive edge? Will the proposed retirement vesting changes put UK even further behind?

Wood referred to her recent past as a department chair – she said that UK was not only competing with the customary benchmarks, but also with Harvard, Yale, etc. The Department of Statistics was recently recognized as being in the top 11 public universities' statistics departments, and in the top 13 of all universities. Salaries, workload and benefits must all be competitive to recruit the best faculty. The key to building and maintaining a good department in the easiest and cheapest way is to bring in bright young faculty. Wood stated that Nobel laureates could be brought in for three years, but successfully recruiting young faculty is the key to building a good program.

Referring to Steiner's comments, McCorvey suggested that there be a faculty-wide competition to solicit suggestions on how UK could save money. Although it might not help with the issue at hand, it would be an interesting and creative way to identify possible financial savings. Steiner added that undergraduate enrollment expansion could also increase UK's revenue stream.

Yanarella stated that he wanted to have sufficient time for SC deliberation. The Chair asked if there were any other issues needing discussion. Wilson asked if there were any questions. Aken commented that it was unfortunate timing, being that many faculty had left campus for the summer. She recalled that the vacation accrual issue came up around the same time last year (too late for a robust faculty discussion) and that there were still hard feelings about that change. She said this was the same type of situation, all over again.

The Chair asked Greissman to explain what Greissman, on behalf of the Provost, wanted as the outcome from the day's meeting. Greissman responded that a basic issue was that of time for sufficient discussion. If SC members thought there had not been enough time for discussion, that perception should be stated plainly. In response to a question from Yanarella, Greissman said that the proposed administrative change to retirement vesting would go to the Board of Trustees (BoT) at some point. SC members had the option of saying that the proposed changes should proceed, or that there was not enough time for discussion, and that more deliberative time was needed.

Wilson said that the latest the proposed changes should go to the BoT would be at the September 2009 BoT meeting. Referring to the lengthy faculty hiring cycle, she noted that faculty were sometimes contacted years in advance and she wanted to avoid a situation in which offers were being made that included a benefits package that could potentially change. She asked those present to spread the word about the proposed changes, so that hiring officials would be aware.

Greissman added that the health care colleges' hiring practices did not usually conform to any timetable, but main campus faculty hires usually took place on or after July 1. He wondered if it would be problematic if the effective date of the proposed changes was to be January 1, since faculty who would be given offer letters in October for July starts and those individuals who were given offer letters earlier for an April 1 start would have different benefits. Wilson said that only faculty on the payroll prior the vesting change would not be affected, regardless of any offer letter. She added that the savings analysis was based on a January 1 effective date.

Steiner asked if the decision to change the retirement vesting policy was already a *fait accompli*, and if the only real issue at hand was the implementation date. Greissman said that if the SC recommended delaying deliberations until September 1, that date would still preclude faculty conversations and the proposal could just as well go to the BoT in June. Wood said that if the proposal was not sent to the BoT until October, it would provide an opportunity for the majority of faculty to weigh in on the discussion. Greissman replied that there was a give and take involved – the more time that is taken prior to implementing the proposed change, fewer savings would be realized.

The Chair opined that if he, as a rank-and-file faculty member, returned to campus in the fall to learn that the proposed retirement vesting changes were going to the BoT at roughly the same time, it would be perceived as the University purposely taking action over the summer when faculty were gone. He thought that if the intent was for a January 1 or July 1 implementation date, a review at the October BoT meeting would not be too late.

Anderson offered a description of how important this issue was to faculty; she routinely sent out queries to Nursing faculty during her tenure on the SC, and she would routinely receive a couple replies but as a result of an email sent out at 11:35 pm (the night before) about the proposed changes, she had received over 15 responses prior to noon. She thought that the majority of concerns expressed during the day's meeting pertained to recruitment and that if time were taken for a discussion, instead of just changing the policy over the summer, a July 1 effective date was still doable. She described it as a moral issue to allow faculty sufficient time to deliberate on the proposed change. Aken said that she had received a number of comments referring to the perception of gradual yet continued chipping away of benefits.

There being no further questions, the invited guests departed, leaving only the SC members and Dembo.

The Chair thanked SC members and Dembo for attending the meeting on such short notice, adding that he thought the proposed changes to be of such import that he had invited Dembo, a past SC chair, to be involved in the deliberations.

SC members offered a variety of comments during the ensuing discussion, some of which are listed below.

- More and more often major administrative changes seem to be made over the summer when many faculty members are not on campus.
- There was a lack of discussion about alternatives to the proposed vesting change.
- If UK does not look more carefully at what the "new normal" will be after the economy settles down and proceeds without expanding the range of options, even more unpleasant proposals will be appearing.
- UK seems to be only reacting to issues, as opposed to being proactive.
- There have been two recent Herald-Leader editorials suggesting that the UK Athletics Association could afford to contribute more than is currently contributed to UK's general fund.
- If rumors are correct that other UK corporation fund balances are being used to shore up losses at the hospital, where does that leave those other funds?
- A plan as drastic as the presented changes to vesting practices should be more than an Human Resources plan presented to people behind closed doors as a *fait accompli*.
- The proposed change should be better framed in terms of how the saved money will be spent – suggesting that the savings would be used for minimal raises was upsetting.
- The anticipated savings during the first year (approximately $364,000) is not nearly enough to give everyone a raise.
- It does not seem unreasonable for the UK Athletics Association to begin contributing more than just over $1 million to UK's general fund, since their budget next year will grow by more than $5 million dollars.
- There are alternatives to the proposed change, and they should be discussed across campus.
- In light of the proposed retirement vesting policy change to raise $5 million in five years, it would be most effective to offer a concrete, alternative proposal.
- It was not clear if the money "saved" would return to a vesting pool, or used in some other fashion.
- Those employees with the most to lose (instructors, lecturers, low-paid staff, etc.) would be affected the most. Those same individuals are also the employees who are most likely to be laid off.

Wood stated that aside from the point of view that would say there is an obligation on the part of the SC to make sure faculty are aware of the proposed change, as well as the rest of campus, and although she spoke against the proposal's very concept, Wood opined that there was just not enough information about the proposed change to retirement vesting practices. She said that there needed to be a general discussion, and perhaps a review by an appropriate University Senate (Senate) committee, to be followed by a report to the SC and Senate. Such a discussion could easily catalyze discussions on alternative cost-saving measures.

Wood **moved** that the SC state that there should be a general campuswide discussion on the implications of the proposed five-year cliff vesting; further, that the issue should be remanded to the Senate's Academic Planning and Priorities Committee; and finally, that the proposed change should not be presented to the Board of Trustees until the University Senate has met and considered the issue in its entirety, in a full Senate session in September. Anderson **seconded**.

There was additional discussion among SC members. It was decided that there would not be sufficient time for the Senate's Academic Planning and Priorities Committee to review the issue, create a report and present it to the Senate, so Wood **revised** her motion to remove reference to review by that committee. Anderson **agreed**.

There being no further discussion, a **vote** was taken on the **motion** that the SC state that there should be a general campuswide discussion on the implications of the proposed five-year cliff vesting and that the proposed change should not be presented to the Board of Trustees until the University Senate has met and considered the issue in its entirety, in a full Senate session in September. The motion **passed** with six in favor.

The meeting adjourned at 5:10.

Respectfully submitted by Dave Randall,
Senate Council Chair

SC members present: Anderson, Kelly, McCorvey, Steiner, Swanson, Randall, Wood and Yanarella.

Provost's Liaison present: Richard Greissman.

Invited guests present: Stephanie Aken, Jeff Dembo, Joey Payne, Kaveh Tagavi and Kim Wilson.

Prepared by Sheila Brothers on July 8, 2009.