Memorandum

To: Dr. Jeff Dembo, Senate Council Chair, & Senate Council Members

From: Carolyn S. Bratt, W.L. Matthews Professor of Law

Date: 11/7/2003

Re: Proposed Changes in Retiree Health Insurance

I am presenting a paper next week at a conference so I will not be able to attend the Senate Meeting on Monday or any of the open forums next week. As I am very concerned about the administration's proposal, I decided to briefly enumerate both my concerns and questions for you to consider. I have not included any critique that has been covered in other communications that I know the Senate Council has received. However, I want you to know that I agree with the unidentified staff member concerning the misleading nature of Model D. As that staffer correctly notes, only those who retire in the first year of the model have 14 years of predicted health benefit credits. All those who become subject to the model after its first year of implementation have a shorter period of expected benefits. I am also in agreement with the remarks of Dr. Peffer and Professor Goldman.

1. The Proposal contradicts "The Dream and Challenge: UK Strategic Plan for 2003 – 2006."

    - UK's Mission Statement states that: "The University, as the flagship institution, plays a critical leadership role for the Commonwealth by promoting human and economic development that improves lives within Kentucky's borders and beyond. The University models a diverse community characterized by fairness and social justice." Surely, solving the dilemma of the rising cost of health benefits for all employees by eliminating health benefits for one group (long-term retirees) stands in stark contrast with the institution's claimed mission.

    - In the "Values" Section of the Strategic Plan, UK asserts that: ""The [core] values that guide our decisions and behaviors [include] . . . a sense of community . . . ." What kind of community abandons its most vulnerable members (long-term retirees)? This proposal is the equivalent of a community sending its elders to sea on a melting ice flow!

    - Goal III of the Strategic Plan is to "Attract, Develop and Retain a Distinguished Faculty". To accomplish this objective UK has pledged to "offer competitive salaries and benefits." Before implementing the

proposed change it is incumbent for UK to assess whether it will put us at a competitive disadvantage in attracting, developing and retaining faculty (particularly established scholars who are, on average, older than junior hires). The Task Force Report merely asserts that "many private employers have made changes to their retiree health benefits." However, our benchmark institutions, not private for-profit employers, constitute the relevant comparison group, The report contains absolutely no information about the provision of health benefits for retirees by our benchmarks, or, for that matter, by the other state-assisted institutions of higher education in Kentucky. I wonder why.

2. The meager transition benefit for current employees is fundamentally unfair.

   I oppose the implementation of Model D, but if UK can't not be dissuaded from adopting it, at a minimum there needs to be a significant window (10 years) during which current employees can opt to retire under the annual $7500 cap benefit plan proposed for current retirees and not the $50,000 notional account plan. Unlike younger employees, UK employees within 10 years of retirement have no meaningful opportunity to do anything to cushion the devastating economic consequences of the proposed disappearing health benefit. Younger workers can increase their rate of savings or employ other financial management techniques. Thus, notions of simple fairness dictate that those within a specified number of years of attaining Medicare-eligibility (10) should be "grandparented" into the $7,500 cap health benefit plan that will apply to current retirees.

3. There is insufficient data in the Task Force's Report for a meaningful assessment of the problem and the proposed solution.

   Conclusionary statements appear in the report that if health benefits for retirees are not phased out UK's ability to meet the salary and benefit needs of current employees and to fund its programmatic requirements will be put in jeopardy. However, from the data provided, it is impossible to assess whether the actual cost of providing life-time health benefits for retirees will have such dire consequences. The report does not allow us to "see" the projected costs of life-time retiree health coverage in light of the total University budget and its constituent parts (other types of benefits, salaries, programs, bonuses, etc.) that could be asked to share in shoulder these rising costs.

4. There is no indication that other, less drastic, cost-saving alternatives were explored by the Task Force.

   According to the Executive Summary, the Senior V.P. Administration appointed the task force to "make recommendations on how the University should modify the retiree health benefit. . . ." Thus, the original and only goal was to change the health benefit for retirees and not to determine whether life-time benefits could be maintained by engaging in cost-cutting and cost-savings measures. For example, why weren't issues of fraud,

mismanagement and waste within the current health benefit programs evaluated to see how much savings could be achieved?

5. UK's liability for retiree health benefits remains unfunded whether or not the proposal is implemented.

   In addition to the spurious rationale that the new accounting standards (GASB) require UK to make changes in health benefits for retirees, the Executive Summary also relies on the fact that UK expends about $7 million per year on retiree health benefits on a "pay as you go" basis as a justification. It then points out, rather dramatically, that: "No funding has been set aside for future benefits." So, what? Even if UK adopts the proposed changes, no provision is made for funding future benefits!!

6. Finally, if retiree health benefits are so expensive that they endanger the future of UK, why is this so?

   Our benchmark institutions and Kentucky's other state-assisted institutions have not initiated and do not appear to be contemplating such a drastic change in their health benefit structure for retirees. It seems unlikely that our retiree population is significantly different than theirs or that our health coverage is significantly more generous. What accounts for UK's inability to deal with rising costs while preserving meaningful lifetime post-retirement health benefits to its long-term employees?

There are many other points of concern and unanswered questions in the report, but time and space demand that I stop here. As a former Senate Council Chair and Faculty Trustee, I ask that you, in conjunction with the Faculty and Staff Trustees and the Staff Senate, take the position that this plan cannot be implemented in its current form.

Please let me know how I might assist you.