Article 7.

Qualified Excess Benefit Arrangement.

§ 135-150. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, have the following meanings:

(1) "Board of Trustees" means the Board of Trustees established by G.S. 135-6.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time to time.

(3) "Payee" means a retired member, or the survivor beneficiary of a member or retired member.

(4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit arrangement under section 415(m) of the Internal Revenue Code established under this Article.

(5) "Retirement System" means the Teachers' and State Employees' Retirement System. (2013-405, s. 3(a).)

§ 135-151. Qualified Excess Benefit Arrangement.

(a) The Qualified Excess Benefit Arrangement (QEBA) is established effective January 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA is solely to provide the part of a retirement allowance or benefit that would otherwise have been payable by a Retirement System except for the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in this Article, is intended to constitute a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code.

(b) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee shall participate in the QEBA for any calendar year, or portion of the calendar year, during which he or she receives a retirement allowance or benefit payment on and after January 1, 2014, from the Teachers' and State Employees' Retirement System that is reduced due to the application of the maximum benefit provisions of section 415(b) of the Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor beneficiary of a member or retired member who is receiving monthly retirement benefit payments from a Retirement System.

(c) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a payee shall receive each month, commencing on and after January 1, 2014, a monthly supplemental benefit equal to the difference between the amount of that payee's monthly retirement benefit paid under the Teachers' and State Employees' Retirement System on and after January 1, 2014, and the amount that would have been payable to that payee from the Teachers' and State Employees' Retirement System in that month if not for the reduction due to the application of section 415(b) of the Internal Revenue Code. That supplemental benefit shall be computed and payable under the same terms, at the same time, and to the same person as the related benefit payable under the Retirement System. A payee cannot elect to defer the receipt of all or any part of the supplemental payments due under the QEBA. The supplemental benefit paid under this section shall be taxable under North Carolina law in the same manner as the benefit paid under the Teachers' and State Employees' Retirement System.

(d) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise shall be made or allowed. The benefit liability for the QEBA shall be determined each fiscal year, and

assets shall not be accumulated to pay benefits in future fiscal years. All of the following apply to employer contributions required to pay benefits under the QEBA:

(1) The Board of Trustees, upon the recommendation of the actuary engaged by the Board of Trustees, shall determine the employer contributions required to pay the benefits due under the QEBA for each fiscal year.

(2) The required contributions shall be paid by all participating employers.

(3) The required contributions shall be deposited in a separate fund from the fund into which regular employer contributions are deposited for the Retirement System.

(4) A portion of the employer contribution rate established for retirement benefits as a percentage of covered salaries for teachers, State employees, and State law enforcement officers may be deposited into the separate fund established in accordance with subdivision (3) of this subsection. The amount of the portion allowable under this subdivision shall not exceed one-hundredths percent (0.01%) in any given fiscal year.

(d1) The last employer of a payee who retires on or after August 1, 2016, and who receives any supplemental benefit payment under this section shall be required to reimburse the QEBA in the amount of any supplemental benefit payment made to that payee. The reimbursement amount shall be calculated on an annual basis every calendar year. For purposes of calculating the reimbursement amount, the Board of Trustees may include a pro rata share of direct costs attributable to administration of the QEBA. The total amount of reimbursement owed by The University of North Carolina and UNC Health Care shall not exceed five hundred thousand dollars ($500,000) annually. The Fiscal Research Division of the General Assembly shall be required to review all reimbursement amounts prior to notifying an employer of the reimbursement amount owed.

(e) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay benefits in the current calendar year shall be used for payment of the administrative expenses of the QEBA for the current or future calendar years or shall be paid to the Retirement System as an additional employer contribution.

(f) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs, shall have no right to, and shall have no property interest in, any assets held to support the liabilities created under this Article. To the extent that any person acquires the right to receive benefits under the QEBA, that right shall be no greater than the right of any unsecured general creditor of the State of North Carolina or such other applicable employer under this Article.

(g) Administration. – The QEBA shall be administered by the Board of Trustees, which shall compile and maintain all records necessary or appropriate for administration. The Board of Trustees shall have full discretionary authority to interpret, construe, and implement the QEBA and to adopt such rules and regulations as may be necessary or desirable to implement the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

(h) No Assignment. – Except for the application of the provisions of G.S. 110-136 and G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under G.S. 50-20, any supplemental benefit under this Article shall be exempt from levy and sale, garnishment, attachment, or any other process, and shall be unassignable except as specifically otherwise provided in this Chapter.

(i) Reservation of Power to Change. – The General Assembly reserves the right at any time and, from time to time, to modify or amend, in whole or in part, any or all of the provisions of the

QEBA. No member of the Retirement System and no beneficiary of such a member shall be deemed to have acquired any vested right to a supplemental payment under this Article.

(j) Sunset of Eligibility to Participate in the QEBA. – No member of the Teachers' and State Employees' Retirement System who became a member of the Retirement System on or after January 1, 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any new member more retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue Code. (2013-405, s. 3(a); 2015-67, s. 3(a); 2015-241, s. 30.30A(a); 2016-94, s. 36.23(a), (c); 2025-89, s. 3.6(d).)