



**STATE OF NORTH CAROLINA
OFFICE OF STATE BUDGET AND MANAGEMENT**

ROY COOPER
GOVERNOR

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STATE BUDGET DIRECTOR

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MEMORANDUM

TO: Department Heads and Chief Fiscal Officers
State Departments, Agencies and Institutions

FROM: Charles Perusse *Charles Perusse*
State Budget Director

SUBJECT: Summary of General Provisions in the 2018 Appropriations Act, Senate Bill 99 (Session Law 2018-5) as amended by Senate Bill 335 (Session Law 2018-97).

The General Assembly has enacted Senate Bill 99, the 2018 Appropriations Act (Session Law 2018-5). This Act contains appropriations and special provisions that affect all State agencies. House Bill 335 makes technical, clarifying and other modifications to Senate Bill 99. These bills may be downloaded from the General Assembly's website at (<http://www.ncleg.net>).

The purpose of this memorandum is to advise you of special provisions and monetary items that have statewide implications. It does not summarize agency specific provisions. It is also not intended to replace an agency's responsibility to review the legislation. The following topics are included: General Budget Provisions, Information Technology, Salaries and Benefits and Capital. Specific guidance, where needed, will be issued in forthcoming memoranda.

GENERAL BUDGET PROVISIONS

INTRODUCTION

SECTION 1.2

This section stipulates that the appropriations made in the Act are for the maximum amounts necessary to provide the services and accomplish the purposes described. This section further states that savings shall be effected where the total amounts appropriated are not required to perform these services or accomplish these purposes and the savings shall revert to the appropriate fund at the end of each fiscal year, except as otherwise provided by law.

ESTABLISHING OR INCREASING FEES

SECTION 6.1

This section specifies that an agency is not required to consult with the Joint Legislative Commission on Governmental Operations prior to establishing or increasing a fee to the level authorized or anticipated in SB 99. Notwithstanding G.S. 150B-21.1A(a), an agency may adopt an emergency rule in accordance with G.S. 150B-21.1A to establish or increase a fee as authorized by SB 99 if the adoption of a rule would otherwise be required under Article 2A of Chapter 150B of the General Statutes.

NON-STATE ENTITIES/REPORT AND REVERSION REQUIREMENTS

SECTION 6.2

This section requires that any non-state entity receiving expansion funds in SB 99 or in SB 257 must report to the Office of State Budget and Management (OSBM) and the Fiscal Research Division (FRD) by June 30, 2019, unless it is required to report on the use of funds under another provision of law. It further provides that General Fund expansion funds to a non-State entity in this act shall not revert until June 30, 2020.

Most non-state entities are already subject to existing reporting requirements and would not need to provide supplemental reporting to OSBM. Please refer to Article 3 of Chapter 159 for requirements applicable to local governments and Article 31 of Chapter 115C for requirements applicable to public schools. All other non-state entities are most likely subject to G.S. 143C-6-23 and the associated rules in the North Carolina Administrative Code (09 NCAC 03M). Prior to disbursing any funds, agencies must have in place the necessary documentation and procedures to comply with the contracting, monitoring and reporting requirements specified in rule and statute.

Agencies are responsible for ensuring state funds awarded to non-state entities are used for their intended purpose and in accordance with applicable rules and statutes, regardless of whether those funds were awarded through a competitive grant program or through legislative direction. The agency is responsible for ensuring appropriate contract, monitoring and reporting procedures are in place to enable effective oversight of funds. Agencies may provide lump sum payments for grants up to \$25,000. For grants over \$25,000, it is recommended that agencies disburse funds in quarterly installments with subsequent payments contingent upon receipt of detailed expenditure reports. However, agencies should conduct a risk assessment and may require disbursements on a more frequent or reimbursement basis depending upon the capability and past performance of each non-state entity.

BUDGET ACCOUNTABILITY AND TRANSPARENCY REFORM INITIATIVE

SECTION 6.3

This section establishes the Budget Accountability and Transparent Reform Initiative to ensure the highest level of transparency for meaningful review of the State budget by all citizens of the State. The Base Budget Reform Plan Pilot will be developed and executed jointly by the Office of State Budget and Management and the Department of Public Safety.

INFORMATION TECHNOLOGY & BUDGET ALIGNMENTS

CYBERSECURITY REGIONAL TRAINING CENTER

SECTION 37.2

This section partners the Department of Information Technology (DIT) and Montreat College to establish a Cybersecurity Regional Training Center (CRTC) in Black Mountain. The mission of the center is to increase the cyber hygiene for State and local government employees and the private sector, enhance the skillset of cybersecurity professionals, and allow for collaboration of public and private entities, industry, and academia to develop new technology, tactics, techniques, and procedures in cybersecurity.

IT INTERNAL SERVICE FUND/RATES CHANGES

SECTION 37.3

This section adds a new subsection pertaining to Internal Service Rate calculations. Personnel costs of consolidated State agencies are not to be included in any 2017-19 biennial calculations.

SALARIES & BENEFITS

TEMPORARY EMPLOYMENT NEEDS OF CABINET & COUNCIL OF STATE AGENCIES

SECTION 26A.2

This section amends G.S. 126-6.3 to require that only Cabinet agencies, not all State agencies, use Temporary Solution; Council of State agencies may use Temporary Solutions at their discretion. The section also requires that each agency that is granted an exception, whether Cabinet or Council of State, shall record weekly hours worked, number of months worked, and amount of time the employee was not employed after 11 consecutive months of service for each temporary employee. Exempted agencies should use the state payroll system to the extent possible for temporary employees. If using the state payroll system is not possible, the agency must report the information required to the Office of State Human Resources.

STATE EMPLOYEE SALARY INCREASES

SB 99 PART XXXV

The Act appropriates funds for a 2% salary increase plus the cost of an increase to the new minimum annual state employee pay rate of \$31,200. The increase is effective July 1, 2018, for most state and state-funded employees except (1) teachers and school-based administrators whose salaries are set in Part VII; (2) all University of North Carolina employees (See Sec. 35.12); (3) local community college employees; (4) member of the State Highway Patrol eligible

for increases provided in Sec. 35.25; and (5) certain employees of the Division of Adult Correction with the Department of Public Safety who are eligible for a larger increase.

In lieu of the 2% legislative increase, State Highway Patrol troopers receive an average increase of 8% and the Secretary of the Department of Public Safety is directed to establish a new salary schedule for troopers (Sec. 35.25). The salaries of positions based in state adult correctional facilities receive a 4% increase as provided in Sec. 35.21 of SB 99 as amended by Sec. 8.2(a) of SB 335 and Sec. 3.1 of SB 750 and the minimum salaries of correctional officers are increased as follows:

Correctional Officer I - \$33,130
Correctional Officer II - \$34,220
Correctional Officer III - \$36,598

Employees paid in accordance with an experience-based step schedule, such as eligible assistant and deputy clerks, magistrates, and State Highway Patrol troopers may request funds from the Pay Plan Reserve established in S.L. 2017-57 after January 1, 2019. SB 99 does not provide a direct appropriation to the Pay Plan Reserve. Sec. 35.17 requires that agencies requesting fund from the Pay Plan Reserve must submit a detailed description of the pay plan design as well as proof that the agency has projected to utilize all salary and benefit funding.

These amounts are reflected in the Conference Committee Report under the specific agencies' sections, except for a Salary Adjustments Compensation Increase Reserve of \$15.3 million available to fund increases to the new minimum annual state employee pay rate of \$31,200.

COMMUNITY COLLEGES SECTION 35.11

This section gives the State Board of Community Colleges flexibility in allocating salary increases for community college employees and requires the Board to report on the use of these funds to the 2019 General Assembly by March 1, 2019.

UNIVERSITY OF NORTH CAROLINA SYSTEM SECTION 35.12

This section gives the UNC Board of Governors flexibility in allocating compensation increases for EHRA and SHRA employees and, after any increases provided, requires that the annual salaries of permanent full-time employees be increased to \$31,200 or the appropriate pro-rata share for permanent part-time employees. The Board is required to report on the use of these funds to the General Assembly by March 1, 2019.

**STATE AGENCY TEACHERS
SECTION 35.13**

This section specifies that employees of schools operated by the Department of Health and Human Services, the Department of Public Safety, the State Board of Education, and employees of the School of Science and Mathematics of the University of North Carolina who are paid on the Teacher Salary Schedule shall be paid as authorized by Sec. 8.1 of the act.

**ALL STATE SUPPORTED PERSONNEL
SECTION 35.14**

Salaries funded partially from the General Fund or Highway Fund and partially from other sources shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

The legislative salary increases provided in this act do not apply to persons separated from service due to resignation, dismissal, reduction in force, death, or retirement or whose last workday was prior to July 1, 2018. Payroll checks issued to employees after July 1 of each year that represent payment of services provided prior to July 1 of each year shall not be eligible for salary increases provided for in this act.

**USE OF FUNDS APPROPRIATED FOR LEGISLATIVELY MANDATED INCREASES
SECTION 35.16**

Appropriations for most employee salary and benefit adjustments are made at the agency level, instead of in a statewide reserve. At the beginning of each agency's section of the Committee Report, there are appropriated reserves to fund Legislative Increases and Retirement Contribution adjustments. The Director of the Budget may reallocate these funds between agencies as needed to ensure that each agency receives sufficient funds. Any recurring funds remaining in the compensation and benefits reserves after this distribution shall be credited to the Pay Plan Reserve.

Please use the attached job aid for further guidance on the distribution of salary and benefit adjustments from agency and statewide reserves.

**COUNCIL OF STATE AGENCIES /EXEMPT EMPLOYEES
SECTION 35.19**

This section provides Council of State agencies sole authority to set the salaries of exempt policy making and exempt managerial positions within the minimum rate and maximum rate plus 10% of the salary ranges established by the State Human Resources Commission.

**CERTAIN STATE AGENCIES/CLASSIFICATION AND SALARY ADMINISTRATION
FLEXIBILITY/PILOT PROGRAM
SECTION 35.19A**

Section 35.19A, added to SB 99 through Sec. 8.3 of SB 335, Budget Technical Corrections, grants Council of State agencies, the Office of the State Controller, the Community College System Office, and the University of North Carolina sole authority in classification, reclassification, hiring decisions, and salary determination for their positions and personnel for FY 2018-19. By March 1, 2019, agencies granted this flexibility are required to report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the flexibility pilot and provide recommendations for extending and/or adjusting the program.

**SPECIAL ANNUAL LEAVE BONUS
SECTION 35.26**

This section states that any full-time, permanent employee of the State or a community college, who is eligible to earn annual leave shall receive an additional five days of annual leave credited on July 1, 2018. Part-time, permanent employees shall receive a pro rata amount of three days. The leave shall remain available during the length of the employee's employment, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward. The additional leave awarded under this section has no cash value and is not eligible for cash in.

The special annual leave granted by Sec. 35.26 differs from past bonus leave in that any vacation leave remaining on December 31 of each year in excess of 30 days shall be reduced by the number of Sec. 35.26 bonus days that were actually used by the employee during the year. Thus, the number of days that would convert to sick leave shall reflect a deduction in the amount of the number of Sec. 35.26 special annual leave used by the employee during the year.

The Office of the State Controller will work with OSHR to develop another employee leave type (code) in HR/Payroll for this special leave and will communicate this information separately.

SALARY-RELATED CONTRIBUTIONS
SECTION 35.27

The General Assembly adopted revised employer contribution rates for the Retirement System for FY 2018-19 as follows:

| | <u>FY 2018-19</u> |
|--|-------------------|
| Teachers and State Employees | 18.86% |
| Law Enforcement Officers | 23.86% |
| University Employees Optional Retirement | 13.25% |
| Community College Optional Retirement | 13.25% |
| Consolidated Judicial Retirement | 40.13% |
| Legislative Retirement | 28.67% |

The revised rates include the cost of a nonrecurring 1.0% cost-of-living adjustment for retirees of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, and the Legislative Retirement System.

The annual employer contributions, payable monthly, by the State for each covered employee or retiree for FY 2018-19 to the State Health Plan for Teachers and State Employees is unchanged from that enacted for FY 2018-19 in the FY 2017-18 budget. The rates are outlined below.

| <u>FY 2018-19</u> | |
|--|---------|
| Medicare Eligible Employees and Retirees | \$4,743 |
| Non-Medicare Eligible Employees and Retirees | \$6,104 |

CAPITAL

REPAIRS AND RENOVATIONS RESERVE ALLOCATION
SECTION 36.5

This section specifies the allocation of \$64.8 million for FY 2018-19 in funds appropriated for repairs and renovations of State buildings pursuant to G.S. 143C-4-3. The allocation formula provides 50% of funds to the University of North Carolina Board of Governors (UNC) for distribution to the various campuses and 50% of funds to OSBM for distribution to the various State agencies. Unlike in previous years, no funds are earmarked.

In making campus allocations of the funds allocated to the UNC System, the Board of Governors shall negatively weight the availability of external funds at each campus, including General Funds carried forward from one year to the next, available for repair and renovations. UNC shall include information about the manner in which this subsection was complied with in a report submitted pursuant to G.S. 143C-4-3(d).

OSBM and UNC shall consult with, or report, to the Joint Legislative Commission on Governmental Operations, as appropriate, in accordance with G.S. 143C-4-3(d).

MISCELLANEOUS CAPITAL ITEMS
SECTION 36.7

This provision, among other items, amends the State Budget Act to define capital projects as a term that includes real property acquisition, new construction, or rehabilitation of existing facilities, and repairs and renovations over \$100,000. Previously, all projects that qualified as capital, had to be approved by the General Assembly either directly or through an existing Statute. This change allows state agencies flexibility to undertake small capital projects in their operating budget.

If you have any questions or concerns relating to this summary, please contact your OSBM analyst by dialing (919) 807-4700.

Job Aid – Distribution of Compensation and Benefits Reserves

Agencies should certify their salary and benefit increase reserves within the appropriate state reserve account listed below.

Certification Statewide NCAS Accounts:

537204 Reserve - Legislative Increase Compensation Reserve (Regular LI)

537206 Reserve - State Retirement System Contributions

To meet the obligations of Sec. 35.16, the Office of State Budget and Management (OSBM) will review and approve the distribution of compensation and benefit reserve funds.

By **September 15, 2018**, each agency should submit type-11 budget revisions to distribute Legislative Increase and Retirement Contribution adjustments out of your agency's reserve and into the proper fund codes and NCAS expenditure accounts within your agency.

Please submit separate budget revisions for:

1. Filled positions receiving legislative compensation increases;
2. Vacant positions being moved to the new statewide minimum rate of \$31,200 or to a new minimum rate set in SB99; and
3. Retirement system contributions.

These revisions will be included in your base budget during the development of your agency's Worksheet I. It is important that you complete the distributions on time so that we can include these revisions as part of your base budget.

Agencies should deplete reserves appropriated to the agency before requesting funds from the **Salary Adjustments Compensation Increase Reserve, budget code, 19004**. If agency reserves are insufficient for required increases, please work with your OSBM analysts to request funds from the Salary Adjustment Compensation Increase Reserve.

As a reminder, agency reserves only fund increases for positions funded in full or in part by net General Fund appropriations. Agencies are responsible for also budgeting the appropriate requirements and receipts to cover any positions partially or fully funded by receipts. Please work with your OSBM analysts if you have any questions.

For distributions out of the agency retirement reserve, please use the rate information in the *Salary-Related Contributions/Employer* (Sec.35.27) of the memorandum. Agencies should use their personnel system Legislative Increase reports (HR/Payroll system for most state agencies) to determine the correct distribution out of the agency's Compensation Increase Reserve.

By **September 31, 2018**, each agency with excess Legislative Increase or Retirement Contribution, appropriations should submit a type-11 budget revision to send funding to the corresponding statewide budget code: **19004 – Salary Adjustments Compensation Increase Reserve**. These revisions will also be included in your Worksheet I base budget.

No later than March 1, 2019, OSBM must report to the Joint Legislative Commission on Governmental Operations on the expenditure of funds for legislatively mandated salary increases and employee benefits.