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North Carolina Senate President Pro Tempore Phil Berger
North Carolina House of Representatives Speaker Tim Moore
Co-Chairs, Joint Legislative Commission on Government Operations

Re: Response to S.L. 2018-97_Sec. 35.19A.(c)

Dear Members:

This legislative report is the position of the Department of Justice as requested in response to the "Certain State Agencies/Classification and Salary Administration Flexibility/Pilot Program" which was included in Session Law 2018-97 Senate Bill 335. This legislation provided the Department of Justice (hereinafter DOJ) as a Council of State agency the sole authority and discretion to take the following actions concerning classification and salary administration of their respective personnel:

- (1) Classify new positions or reclassify vacant positions within the classification system adopted by the State Human Resources Commission or as otherwise prescribed by law.
- (2) Make hiring decisions based on the flexibility provided under this section.
- (3) Determine the appropriate salary for their respective employees, provided that funding is available within the budgeted salary appropriated to the agency and the salary remains within the minimum and maximum of the salary range associated with the position classification or as otherwise provided by law.

This legislation placed the responsibility for the management of this pilot program on the Human Resources Director for DOJ. It was her responsibility to ensure that each new hire employed pursuant to the classification and salary administration flexibility granted by this legislation met the minimum qualifications for the position. DOJ Human Resources division has a robust process of reviewing hiring recommendations, salary offers, and classification actions to ensure consistency and compliance. DOJ utilizes Office of State Human Resources' (hereinafter OSHR) worksheets, salary schedules, and policies when making HR decisions. Their information is used in addition to other internal DOJ salary databases and further analyses that are performed to ensure all candidates meet the necessary education and experience requirements, salary offers are fair and equitable, and funding is secured. DOJ tracks metrics for all HR actions and supporting documentation is retained to support our decisions.

The legislation further states that the OSHR shall provide assistance to agencies upon request. DOJ's Chief of Staff and Human Resources Director met with the OSHR team shortly after this legislation was enacted. We appreciated their willingness to continue to partner with us and provide support. We requested copies of all interim salary and classification guidance that Cabinet agencies would be required to follow in an effort to ensure that we were voluntarily complying with the proposed interim guidelines, whenever reasonable.

Section 35.19A.(c) states that by March 1, 2019, State entities granted classification and salary administration flexibility under this section shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the following: (1) The number of classification actions taken under this section. (2) The number of salary adjustments made under this section and total additional salary funds awarded. (3) A comparison of the number of agency employees recruited from and the number of agency employees hired by cabinet agencies. (4) Impact of the classification and salary administration flexibility on agency operations, including, but not limited to: a. Hiring time line. b. Recruitment of candidates. c. Retention of key personnel. (5) Any remaining position classification disagreements with the Office of

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State Human Resources. (6) Whether the program should be extended and any recommended adjustments to the program.

DOJ has reclassified 4% of our staff based on the flexibility in this pilot study. This represents 29 position reclassifications within the period of July 1, 2018 – February 1, 2019. We have also reclassified 3 other filled positions with delegated authority from OSHR. Last year we reclassified 27 positions with delegated authority from OSHR.

We processed in-range salary adjustments for 4% of our total workforce from July 2018 – February 2019. This represents 34 in-range adjustments ranging from 2% - 10% totaling \$139,083 in total salary adjustments. 30% of these salary actions were processed using flexibility provided under SB335 (10 salary adjustments for staff at a rate of \$58,701 total). DOJ processed 31 salary adjustments from July 2017 – June 2018 ranging from 1.66% to 10% (totaling \$141,217). The DOJ HR team ensured that appropriate documentation to support the requests were on file, appropriate analysis had been completed and salary calculations aligned with OSHR's new guidelines in the statewide system. Pay factors such as equity, education and experience, and funding availability were all taken into consideration in partnership with Finance and DOJ leadership.

From July 2018 to February 2019 DOJ had an attrition rate of 8.58% (70 separations). Seventeen percent (12 staff) retired, seventeen percent (12 staff) accepted positions with Cabinet agencies, and another thirteen percent (9 staff) accepted positions with the University, boards, commissions, etc. From July 2017 to June 2018 the Department of Justice had an attrition rate of 26.5% (217 separations). Eighteen percent (38 staff) retired or were involved in the reduction-in-force, ten percent (21 staff) accepted positions with Cabinet agencies, and another three percent (7 staff) accepted positions with the University, boards, commissions, etc.

DOJ was able to hire and promote 66 staff from July 2018 to February of 2019. All decisions regarding the recruitment and competitive salary offers for these staff were made by DOJ managers and HR team members. The process of review and approval of these transactions averaged 5 days. From July 2017 to June 2018 the DOJ hired and promoted 148 staff. Approximately five percent (8 staff) of our offers from July 2017 – June 2018 required OSHR approval. These 8 staff averaged 21 days for review and approval when OSHR approval was required.

The original statewide classification and compensation project was expected to be implemented in June 2016 under the prior administration. This project was delayed by legislative action and not to occur any earlier than February 2017. An implementation date of June 1, 2018 was then announced. In order to appropriately prepare for the June 1, 2018 project OSHR ceased accepting any requests for reclassifications of positions on December 19, 2017. On February 1, 2018, OSHR advised that agencies should cease all reclassifications even if delegation of authority existed in an effort to prepare for the implementation of the new statewide classification and compensation system.

In advance of the launch of the statewide project agencies were given the opportunity to advocate for modifications of their individual positions. DOJ submitted a dozen or more requests and received favorable feedback on a few. We were advised that we would be given an opportunity to partner with OSHR in the new system to reclassify positions, if needed. In June of 2018 the new statewide system went live and in October meetings began with OSHR and any voluntary partners who wished to attend OSHR meetings to review requests for reclassification. To date, the DOJ HR staff has voluntarily attended more than 92% of the weekly meetings to review the statewide HR specifications and agency requests. We have been willing partners with OSHR despite the fact that only two of our job families have thus been reviewed and studied. The DOJ HR team plans to continue to provide support and partnership as this a great learning opportunity for our staff. We see this as a way to help provide a resource to the State.

In turn, we would like the opportunity to begin reclassifying our filled positions in a more accelerated manner. OSHR has granted us the authority to reclassify 38% of our existing classifications which represents approximately 40% of the DOJ population. This is in stark contrast to the 80% delegated authority we previously had prior to the statewide classification and compensation launch. Our prior authority allowed us to internally manage approximately 97% of our DOJ population. While we understand OSHR would like to stabilize the new system, it is taking an extended amount of time and is slowing many

work processes down in the interim. As an agency we have no means to accurately record the work that is being performed by our staff in an ever-changing environment and perform timely reclassifications for our filled positions. It has been more than twelve months since we were permitted to reclassify the majority of our filled positions.

OSHR plans to begin a second phase of review in October 2019 for the reclassification of positions. This will likely last well into 2020. We have requested a total of 17 positions to be studied and reviewed for reclassification by OSHR. This represents a total of 2% of our total workforce. We firmly believe that we should have the authority to move forward with the reclassification of these positions and others as business needs dictate. We have appropriate procedures in place and will comply with a request for an annual report regarding our salary and reclassification actions if afforded this additional flexibility.

In today's workplace where unemployment numbers are at an all-time low our agency needs the ability to be nimble and have the autonomy to make hiring, classification, and salary decisions. DOJ has the appropriate rules and policies in place to ensure that we are being fiscally responsible and compliant with policy.

It is the belief of DOJ that "Certain State Agencies/Classification and Salary Administration Flexibility/Pilot Program" within Session Law 2018-97 Senate Bill 335 continue and be reviewed for potential expansion and permanent status. We further believe that our Department and HR staff should be allowed to work in a more efficient manner and provide timely feedback for our customers in order to remain competitive for salary, classification and recruitment. Our turnover rate for the year was under 10%, we were very selective and consistent in processing salary adjustments for staff, and our reclassification rates were also consistent with the levels that we had prior to the legislative pilot being enacted. We firmly believe that in order to meet the needs of our agency and the State we should continue with the flexibility provided in this pilot study and seek further expansion which will allow us to manage all of our agency classification, recruitment, and salary administration. This will inevitably result in quicker turnaround time and provide better customer service for our clients and the State.

We will be happy to respond to any question you may have regarding this report.

Respectfully,

Bradford Sneed
Legislative Counsel

cc: John Poteat, NCGA Fiscal Research