



## Office of State Human Resources

**ROY COOPER**  
*Governor*

**BARBARA GIBSON**  
*Director, State Human Resources*

### **MEMORANDUM**

**TO:** Agency Human Resources Directors  
Agency Chief Fiscal Officers

**FROM:** Barbara Gibson, State Human Resources Director *Barbara J. Gibson*  
Kristin Walker, State Budget Director *Kristin Walker*

**DATE:** October 26, 2023

**RE:** **Labor Market Adjustment Reserve**

---

Session Law 2023-134 (the 2023 Appropriations Act) establishes the Labor Market Adjustment Reserve (LMAR), and Section 39.2.(a) of that Act establishes how agencies can use LMAR funds. This memorandum discusses the key provisions governing the use of funds in this reserve. This memo also discusses the structure for reporting use of those funds as required under the Appropriations Act.

#### **Funding**

The Appropriations Act placed in most agencies' budgets LMAR funding equal to the cost of providing a one and one-half percent (1.5%) increase of the agency's appropriated salaries and the increase in associated benefits. In addition, the Appropriations Act authorizes the Director of State Budget to adjust an agency's budgeted receipts to provide an equivalent one and one-half percent (1.5%) LMAR. [Sec. 39.2(c).] All LMAR funds are subject to the same requirements, as detailed below, regardless of funding source. [Sec. 39.2(c)]

#### **Use of Labor Market Adjustment Reserve**

The LMAR shall be used to "award salary adjustments to identified employees." [Appropriations Act, Sec. 39.2(a).] Each agency decides which employees should receive these salary adjustments. There is no need for OSHR to approve any LMAR decisions, but agencies' use of LMAR funds must be reported to OSHR as described in the "Reporting" section of this memo below. Because the Appropriations Act states that LMAR shall be used for "salary adjustments" [Sec. 39.2(a)], LMAR funds may not be used for non-salary pay administration actions, such as sign-on or retention bonuses.

The Appropriations Act's Joint Conference Committee Report provides further information about the legislative intent for use of LMAR funds. The Committee Report states for each agency, "The funds shall

be used by agencies to address specific staffing issues by providing targeted salary increases to recruit and retain capable labor.” [See, for example, page C6 of the Conference Report.] The Appropriations Act specifies that this Committee Report language is “part of this act” and shall “be used to construe this act.” [Sec. 43.2(a)]

### **Requirements for Use of the Labor Market Adjustment Reserve**

The Appropriations Act sets the following requirements for use of LMAR funds:

- Any increase provided to an employee shall not exceed the number that is the greater of (i) fifteen thousand dollars (\$15,000) and (ii) fifteen percent (15%) of their current base salary. [Sec. 39.2(a)(1).]
- Any increase provided to an employee may not result in the employee's salary exceeding the maximum of the salary range associated with the position. [Sec. 39.2(a)(2).]
- No more than twenty-five percent (25%) of the agency's permanent employees may receive a salary increase from the funds appropriated for this purpose. [Sec. 39.2(a)(3).]
  - Fiscal Research, which will receive the report on behalf of the legislature, interprets this provision as 25% of all positions, including vacant positions. OSBM and OSHR agree with this interpretation.
- Certain types of employees are not eligible for LMAR funding. See “Ineligible Employees” in this memo below. [Sec. 39.2(a)(4)]
- Funds must be used to increase salaries paid to employees and shall not be used to supplant other funding sources or for any other purpose. [Sec. 39.2(a)(5)]

### **Ineligible Employees**

Under the Appropriations Act, LMAR funds may not be used for certain types of employees.

- The Act excludes the State Highway Patrol and the State Bureau of Investigation from use of LMAR funds. [Sec. 39.2(b)]
- LMAR funds may not be used on positions whose salaries are set in law. [Sec. 39.2(a)(4)]
- LMAR funds may not be used on employees who are paid based on an experience-based salary schedule that is eligible to receive funding from the Pay Plan Reserve. [Sec. 39.2(a)(4)]

Concerning the last of these types of ineligible employees, agencies may wish to consult G.S. 143C-4-9, which establishes which employees are eligible to receive funding from the Pay Plan Reserve. Correctional officers and probation & parole officers are not eligible, since their salaries are set in law.

### **Time-Limited Employees**

The Appropriations Act does not prohibit use of LMAR funds on time-limited positions or employees with time-limited appointments.

### **Timing of Increases**

At the option of the agency, salary increases from the LMAR may be used to retroactively increase salaries starting on July 1, 2023, provided that the employee was in pay status on that day. This is the effective date of the Appropriations Act. [Sec. 43.8]. Agencies who wish to award LMAR increases retroactively to July are *strongly* encouraged to use a 7/2/2023 date to lessen the impact on reporting in

the Integrated HR-Payroll system. Agencies are advised that retroactive payments greater than the current month plus 90 days will result in an underpayment of Teachers and State Employee Retirement System (TSERS) contributions which are normally deducted through the Integrated HR-Payroll System. To make retroactive contribution(s) will require the employee (and the agency) to complete and submit a Form 466 (Purchasing Retirement System Credit for Unreported Service Through Error) to TSERS to make the retroactive retirement contribution(s).

The Appropriations Act contains language that allows LMAR salary increases to be made during the 2023-2025 biennium. Agencies must report to OSHR, using the standard template, all their uses of LMAR funds to date, by December 15, 2023. [Sec. 39.2(d)]

### **Employees on Leave**

Employees that are out on Leave Without Pay are eligible for the LMAR increase when the employee is reinstated into the position. Funds are not forfeited. Agencies should increase the budgeted salary on the position and report that in the template with the name of the employee who is out on leave.

### **Vacant Positions**

LMAR funds can be used on vacant positions. Like other uses of LMAR funds, this use must be reported under the process identified in the Appropriations Act; see the details below.

### **Indirectly Supported Positions**

If an agency supports a position at another agency (for example, through DIT optimization), it may use LMAR funds to increase that position's salary, with the supported agency's consent. These employees count toward the supported agency's limit in the Appropriations Act that allows only 25% of each agency's permanent employee positions to receive a salary increase from LMAR funds. [Sec. 39.2(a)(3)]. For example, if an agency with 100 employees provided LMAR salary increases to 25 employee positions, no LMAR increases to additional employees could be provided that would take the agency above the 25% limit, even if those LMAR funds were provided by another agency.

### **Reporting**

Agencies must report to OSHR the use of LMAR (including funds from all sources, whether appropriated, highway, receipt, or federal) to date by December 15, 2023. [Appropriations Act, Sec. 39.2(d)] OSHR will submit the combined agency responses to the Fiscal Research Division by January 15, 2024. [Sec. 39.2(d)]

The Act requires that agency reports be made on the uniform reporting template developed by OSHR. [Sec. 39.2(d)] To save time for agency staff, the template is set up to automatically add many pieces of information, such as job classification and the maximum of the salary range. Only the yellow-highlighted columns in the reporting spreadsheet require answers.

The reporting template includes, as required by the Act, a place where agencies must report "the market-based justification for the awarded salary increases." [Sec. 39.2(d)] The template allows agencies to select several common market-based justifications, then allows agencies a free-form field where they can offer other market-based justifications or other comments.

The Appropriations Act provision on reporting to OSHR does not say that it is limited to employers who are subject to the State Human Resources Act. [Sec. 39.2(d)] Therefore, OSHR will be prepared to receive reports from all agencies that received LMAR funds. If there is an interpretation from Fiscal Research that indicates an agency does not need to provide a report to OSHR, then OSHR requests a note so that OSHR knows not to expect a report from that agency.

### **Integrated HR-Payroll System Operational Procedures**

- Agencies must process a salary adjustment action (ZC), using the new reason of Labor Market Adjustment Reserve (38).
- BEST Shared Services will process mass salary adjustment actions for agencies on the following schedule:
  - October Monthly Payroll:
    - Spreadsheet due to BEST by close of business 10/18/2023
    - Possible action effective dates: 7/1/2023 – 10/31/2023
    - If retroactive to July, please consider using a 7/2/23 effective date.
  - November Monthly Payroll:
    - Spreadsheet due to BEST by close of business 11/15/2023
    - Possible action effective dates: 7/1/2023 – 11/30/2023
    - If retroactive to July, please consider using a 7/2/23 effective date.
  - December Monthly Payroll:
    - Spreadsheet due to BEST by close of business 12/11/2023
    - Possible action effective dates: Back on regular schedule which is 60 days. 10/1/2023 – 12/31/2023.
  - Please review the following job aid for questions regarding the Mass Salary Adjustment Program. Spreadsheets must meet the requirements as outlined: [PER-85 Mass Salary Adjustment 9-2-22.pdf | NC OSC](#)

### **Funding Sources**

In accordance with G.S. 143C-6-6, payments on behalf of employees for salary increments, legislative salary increases, longevity payments, and required employer salary-related contributions (e.g. retirement benefits, social security, etc.) shall be paid from the General Fund or the Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund, in support of the salary of the employee; the remainder of the employer's contribution requirements shall be paid from the same source that supplies the remainder of the employee's salary.

### **Questions about the Labor Market Adjustment Reserve**

If you have any questions about LMAR, please contact Andrea Clinkscales of OSHR at [andrea.clinkscales@nc.gov](mailto:andrea.clinkscales@nc.gov), Darryl Childers of OSBM at [Darryl.childers@osbm.nc.gov](mailto:Darryl.childers@osbm.nc.gov) or Lanier McRee of OSBM at [Lanier.McRee@osbm.nc.gov](mailto:Lanier.McRee@osbm.nc.gov).