

The System of Attorney Allocation in North Carolina State Government is Decentralized



**Final Report to the Joint Legislative
Program Evaluation Oversight Committee**

Report Number 2018-01

April 9, 2018



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John W. Turcotte
Director

April 9, 2018

Senator Brent Jackson, Co-Chair, Joint Legislative Program Evaluation Oversight Committee
Representative Craig Horn, Co-Chair, Joint Legislative Program Evaluation Oversight Committee

North Carolina General Assembly
Legislative Building
16 West Jones Street
Raleigh, NC 27601

Honorable Co-Chairs:

Session Law 2017-57 directed the Joint Legislative Program Evaluation Oversight Committee to revise its 2017–18 work plan for the Program Evaluation Division to include an evaluation of the allocation of attorneys in state government, including the use of general counsel within state agencies, the use of private attorneys, and the use of attorneys in the Department of Justice (DOJ).

I am pleased to report that the Department of Justice and Office of State Human Resources cooperated with us fully and were at all times courteous to our evaluators during the evaluation.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Turcotte".

John W. Turcotte
Director



PROGRAM EVALUATION DIVISION

NORTH CAROLINA GENERAL ASSEMBLY

March 2018

Report No. 2018-01

The System of Attorney Allocation in North Carolina State Government is Decentralized

Summary

The 2017 Appropriations Act (Session Law 2017-57) directed the Joint Legislative Program Evaluation Oversight Committee to revise its 2017–18 work plan for the Program Evaluation Division to include an evaluation of the allocation of attorneys in state government, including the use of general counsel within state agencies, the use of private attorneys, and the use of attorneys in the Department of Justice (DOJ).

The use of attorneys and legal professionals is widespread throughout North Carolina state government. Attorneys work in all branches of state government. Concentrating on traditional, state-level attorney positions, the Program Evaluation Division examined 719 attorney positions with total budgeted salaries of \$67.7 million at 34 state government organizations.

All of the 21 principal departments in North Carolina state government have at least one in-house general counsel or a similar attorney position. At a minimum, the general counsel is responsible for ensuring that the organizational head acts within the law. The role of general counsel in state government has expanded in recent decades in a manner similar to that witnessed within corporations and law firms.

One of the responsibilities of the Attorney General, who heads the Department of Justice, is to represent all state departments, agencies, institutions, commissions, bureaus, and other organized activities of the State that receive support, in whole or in part, from the State. As of September 15, 2017, DOJ had 304 attorney positions with total budgeted salaries of \$27.6 million. Because only 42% of the 719 positions examined by the Program Evaluation Division are under the control of DOJ, the State's system of attorney allocation can be characterized as being decentralized.

North Carolina state entities are able to use private attorneys for legal assistance in some instances. For example, the Governor's Office may use private attorneys for representation in litigation, and the General Assembly has the right to seek independent representation. In addition, state organizations may employ private counsel when given explicit approval from the Governor's Office or from the General Assembly. The 2017 Appropriations Act stipulated that no state funds shall be withdrawn from the state treasury to pay for litigation services provided by private counsel except as expressly authorized by an appropriation of the General Assembly.

Purpose and Scope

Session Law 2017-57 directed the Joint Legislative Program Evaluation Oversight Committee to revise its 2017–18 work plan for the Program Evaluation Division to include an evaluation of the allocation of attorneys in state government, including the use of general counsel within state agencies, the use of private attorneys, and the use of attorneys in the Department of Justice.¹

Three research questions guided this evaluation:

1. How are attorneys distributed and used in North Carolina state government organizations?²
2. How are Department of Justice attorneys used?
3. How does state government use private attorneys?

The Program Evaluation Division collected data from several sources including

- data queries of 34 North Carolina state government organizations;
- a review of laws governing the regulation of the allocation of attorneys in North Carolina state government;
- a review of statutorily required performance reports;
- a review of professional literature and academic journals;
- a review of similar evaluations previously performed in North Carolina and other states; and
- interviews conducted with staff at the Department of Justice and the Office of State Human Resources.

Background

The use of attorneys and legal professionals is widespread throughout North Carolina state government. Attorneys work in all branches of state government and are present at each of the 21 principal state departments, each of which has at least one in-house general counsel or a similar attorney position.³

The Program Evaluation Division identified 3,363 legal positions in state government as of September 15, 2017. This total represents all legal positions in the Office of the State Controller (OSC) Integrated HR/Payroll System plus all attorney positions in the University of North Carolina System and the General Assembly; it is a snapshot of the number of such positions that existed as of one particular day.⁴ As depicted in Exhibit 1, total salaries and benefits budgeted by the State for these positions as of this date were estimated at \$352 million.

¹ N.C. Sess. Law 2017-57, Section 17.3.

² The Program Evaluation Division defined the “allocation of attorneys” as the distribution of attorneys in state government.

³ The North Carolina State Constitution and General Statutes designate the following 21 entities as principal administrative departments in state government: Office of the Governor, Office of the Lieutenant Governor, Agriculture & Consumer Services, Insurance, Justice, Labor, Public Instruction, State Treasurer, Secretary of State, State Auditor, Administration, Commerce, Environmental Quality, Health And Human Services, Information Technology, Military and Veterans Affairs, Natural And Cultural Resources, Public Safety, Revenue, Transportation, and the Community College System.

⁴ The OSC Integrated HR/Payroll System is the State’s electronic payroll and human resource software and was formerly known as BEACON.

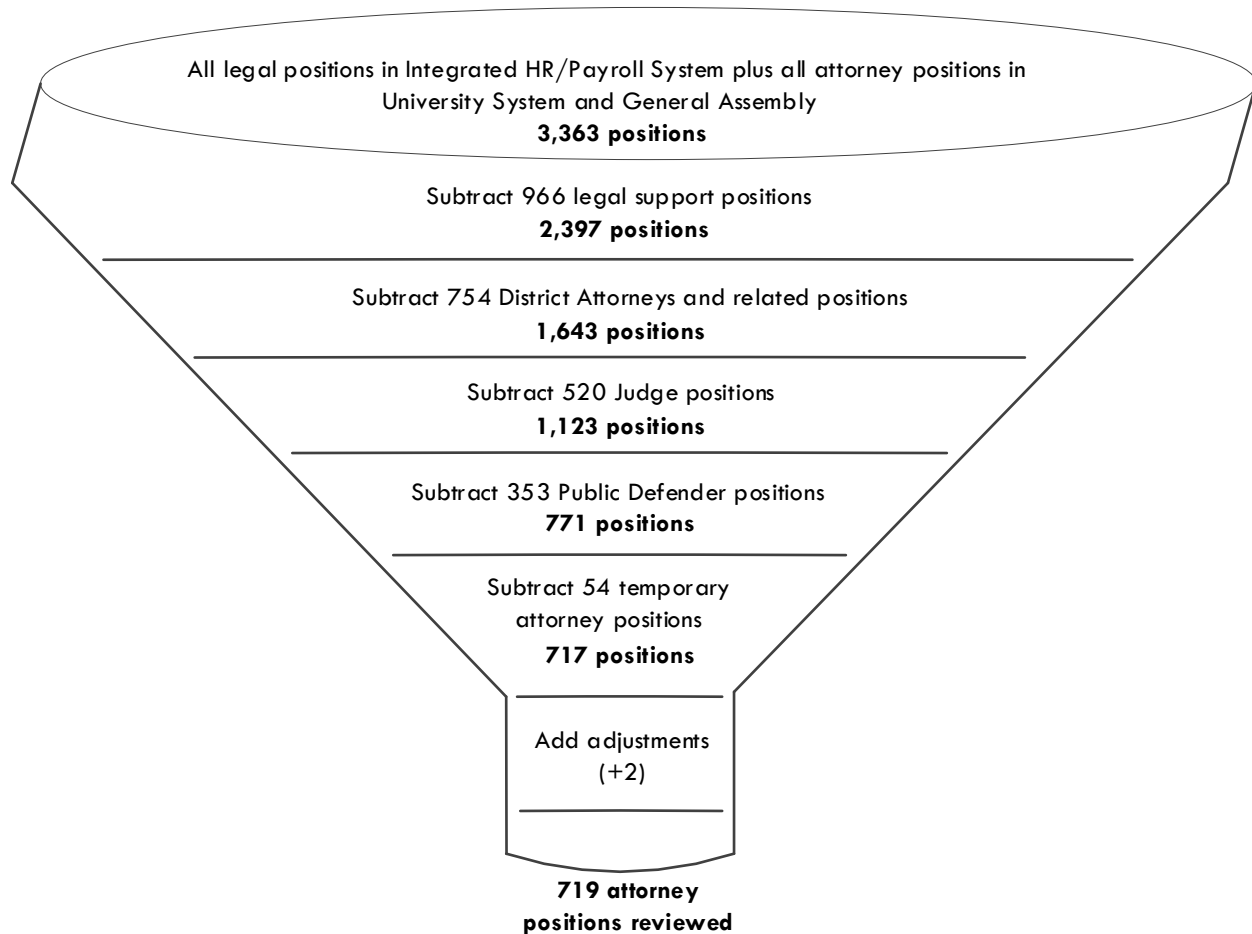
Exhibit 1Number and Cost of
Legal Positions in
North Carolina State
Government

| State Government | Number of Positions | Budgeted Amount |
|-------------------------|----------------------------|------------------------|
| Executive Branch | 776 | |
| Judicial Branch | 2,536 | |
| Legislative Branch | 51 | |
| Total Salaries | | \$ 267,103,505 |
| Total Benefits | | 85,030,868 |
| Totals | 3,363 | \$ 352,134,373 |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations.

The Program Evaluation Division limited its in-depth review to 719 attorney positions in 34 state government organizations. The division's focus was on traditional, state-level attorney positions (i.e., not positions at the judicial district or county level). As a result, the Program Evaluation Division excluded judges, district attorneys, and public defenders from this evaluation. Exhibit 2 demonstrates how the Program Evaluation Division winnowed down the initial dataset of 3,363 positions to reach the 719 positions selected for its in-depth review.

Exhibit 2: Methodology Used to Select Attorney Positions for In-Depth Review



Note: The two adjustments are for one attorney position at the Office of the Lieutenant Governor and one attorney position at the Community College System that were listed as "executive" positions rather than "legal" positions.

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations.

Legal support staff employees were also excluded from this evaluation because they are generally not required to have graduated from an accredited law school nor are they required to have a license to practice law in North Carolina. Examples of legal support staff are magistrates, clerks of court, paralegals, and research assistants.

The Program Evaluation Division's final selection of 719 attorney positions for its in-depth review is comprised of 622 positions in the Executive Branch, 46 positions in the Judicial Branch, and 51 positions in the Legislative Branch. Of the 622 positions in the Executive Branch, 78 serve the seven boards and commissions that are reported to the Payroll System.

PED defined "attorney" positions in this evaluation as being classified as one of the following in the OSC Integrated HR/Payroll System.

- **Attorney.** These positions generally require graduation from an accredited law school and a license to practice law in North Carolina.
- **Agency Legal Specialist.** These positions generally require graduation from an accredited law school but not a license to

practice law in North Carolina. In most cases, an agency legal specialist may possess official legal licensure but he/she does not act as an active practicing attorney.

Whereas attorneys issue formal opinions on legal matters, agency legal specialists generally do research, prepare reports, and do preliminary work on cases that might, subsequently, be taken to court through attorneys in the Attorney General's Office. Agency legal specialists are generally paid less than attorneys. In this report, for convenience, we refer to agency legal specialists and licensed attorneys collectively as attorneys.⁵

The Legislative Research Commission of the North Carolina General Assembly examined the allocation of attorneys in state government in 1988 and expressed concerns about the level of decentralization of attorney staff. In 2017, the General Assembly directed the Program Evaluation Division to evaluate the allocation of attorneys.

Questions and Answers

1. How are attorneys distributed and used in North Carolina state government organizations?

Attorneys work in all branches of North Carolina state government. As stated in the Background, the Program Evaluation Division's final selection of 719 attorney positions for its in-depth review is comprised of 622 positions in the Executive Branch, 46 positions in the Judicial Branch, and 51 positions in the Legislative Branch. Exhibit 3 displays the distribution of these positions in state government. The following details are provided for each position in Appendices A through H:

- position title,
- count,
- budgeted salary,
- funding source,
- whether the position is filled by a licensed attorney, and
- whether the position is authorized to litigate.

⁵ Hundreds of other state government employees are licensed to practice law in North Carolina or have graduated from an accredited law school but do not work in legal positions. The Dean of Students and a police lieutenant in the UNC system are examples of such employees.

Exhibit 3: Allocation of Attorneys in North Carolina State Government as of September 15, 2017

| Organization | Number of Attorney Positions | Budgeted Salaries |
|---|-------------------------------------|--------------------------|
| Executive Branch – Council of State | | |
| Office of the Governor/OSHR | 5 | \$ 577,399 |
| Office of the Lieutenant Governor | 1 | 105,872 |
| Agriculture & Consumer Services | 3 | 224,552 |
| Insurance | 8 | 716,230 |
| Justice | 304 | 27,632,974 |
| Labor | 3 | 219,009 |
| Public Instruction | 2 | 177,758 |
| State Treasurer | 10 | 1,096,722 |
| Secretary of State | 14 | 1,042,021 |
| State Auditor | 1 | 113,640 |
| Executive Branch – Governor's Cabinet | | |
| Administration | 2 | \$ 245,165 |
| Commerce | 57 | 3,976,474 |
| Environmental Quality | 6 | 533,534 |
| Health and Human Services | 14 | 1,101,076 |
| Information Technology | 1 | 106,540 |
| Military and Veteran Affairs | 1 | 71,000 |
| Natural and Cultural Resources | 5 | 315,695 |
| Public Safety | 10 | 960,639 |
| Revenue | 5 | 423,511 |
| Transportation | 4 | 401,426 |
| Higher Education | | |
| Community College System | 2 | \$ 179,204 |
| University System | 78 | 10,995,952 |
| Boards and Commissions | | |
| Alcoholic Beverage Control Commission | 4 | \$ 315,922 |
| Industrial Commission | 41 | 3,372,661 |
| Office of the Commissioner of Banks | 3 | 235,035 |
| State Board of Elections and Ethics Enforcement | 9 | 804,532 |
| Utilities Commission | 7 | 776,321 |
| Utilities Commission - Public Staff | 13 | 1,471,079 |
| Wildlife Resources Commission | 1 | 68,564 |
| Judicial Branch | | |
| Administrative Office of the Courts | 31 | \$ 2,666,016 |
| Court of Appeals | 11 | 892,839 |
| Supreme Court | 4 | 352,592 |
| Independent, Quasi-Judicial | | |
| Office of Administrative Hearings | 8 | \$ 642,146 |
| Legislative Branch | | |
| General Assembly | 51 | \$ 4,922,930 |
| Total Attorney Positions Reviewed | 719 | \$ 67,737,030 |

Notes: Position details for the 34 state government organizations listed above are provided in Appendices A through H of this report. The Office of State Human Resources (OSHR) is an independent agency but organizationally it exists within the Governor's Office. The total for the Department of Commerce represents a combination of 4 attorney positions at the Main Division and 53 at the Division of Employment Security. The estimated cost of benefits paid by the State for the 719 attorney positions listed above is approximately \$21 million.

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations.

In addition to state agencies, there are approximately 400 boards and commissions that operate as part of North Carolina state government. Included in these boards are 55 independent occupational licensing agencies. Many of these boards and commissions obtain legal services from the Department of Justice or have private counsel on retainer. Seven boards and commissions have full-time attorney positions that are reported in the OSC Integrated HR/Payroll System and are therefore included in this report.

Attorneys in state government are used in different capacities. Usage varies with the mission of each department. One role filled by some attorneys in state government organizations is that of general counsel. The role of general counsel varies depending on the state organization being served. At a minimum, the general counsel is responsible for ensuring that the organizational head acts within the law. The general counsel position is an important one as described below by legal scholars Elizabeth Chambliss and Dana Remus:

The role of state agency general counsel is an important topic. State law, and state administrative law in particular, affects everyday life in countless ways. State agencies are principally responsible for education, land use, roads, occupational licensing, public health, social services, and the administration of many grant and benefit programs.

The counseling function of state agency lawyers is especially important. Like corporate counsel, agency general counsel are positioned to provide day-to-day, front-end advice about a wide range of issues. In the absence of litigation, much of this advice is not reviewed. Agency counsels' interpretation of statutes and regulations may significantly shape formal law - or create an institutional precedent that affects the de facto implementation of state law for years to come. Agency counsel also have significant influence over the make-or-buy decision and the choice of private counsel for agency litigation.⁶

There are some state entities that, due to the litigious nature of their work, have limited statutory authority to be represented by in-house counsel. As shown in Exhibit 4, the Program Evaluation Division identified six state organizations that have in-house counsel positions authorized by statute to appear in court in civil or administrative proceedings and, in two cases, to assist in prosecuting criminal actions. The authorization is limited, applying only to actions in specific kinds of proceedings. The authorization does not apply to other actions.

⁶ Elizabeth Chambliss and Dana Remus, *Nothing Could Be Finer?: The Role of Agency General Counsel in North and South Carolina*, 84 *Fordham L. Rev.* 2039 (2016).

Exhibit 4

Some North Carolina State Government Organizations Have Limited Authority to Litigate Using Their Own In-House Attorneys^{7,8,9,10}

| Organization | Number of Attorneys |
|---------------------------------------|---------------------|
| Utilities Commission – Public Staff | 13 |
| Department of the Secretary of State | 9 |
| DOC – Division of Employment Security | 8 |
| Alcoholic Beverage Control Commission | 4 |
| Administrative Office of the Courts | 2 |
| Department of Insurance | 2 |
| Total | 38 |

Source: Program Evaluation Division based on query responses from 34 state government organizations included in this evaluation.

In summary, attorneys are distributed throughout state government and used in various capacities that include limited litigating and serving as general counsel. The role of general counsel positions at state government organizations is important and has expanded in recent decades. All of the 21 principal departments in North Carolina state government have at least one in-house general counsel or similar attorney position.

2. How are Department of Justice attorneys used?

One of the responsibilities of the Attorney General is to represent all state departments, agencies, institutions, commissions, bureaus, or other organized activities of the State that receive support, in whole or in part, from the State.¹¹ Attorneys in the Attorney General's Office have the following responsibilities:

- representing all state government departments, agencies, and commissions in legal matters;
- providing legal opinions to the General Assembly, Governor, or any other public official when requested;
- consulting with and advising judges, district attorneys, magistrates, and municipal and county attorneys when they request assistance and when permitted under the Rules of Professional Conduct;
- intervening in proceedings before any courts, regulatory officers, agencies, or bodies (either state or federal) on behalf of the State;

⁷ The Department of the Secretary of State cited four provisions that permit its attorneys to appear in court: N.C. Gen. Stat. §§ 78A-57, 78C-39, 78D-24, and 80-11.1. Each of these statutes defines certain actions as crimes and allows some attorneys in the Department of the Secretary of State to assist district attorneys as special prosecutors in the prosecution of those crimes.

⁸ Alcoholic Beverage Control Commission attorneys are employees of the Commission. These attorneys process administrative violations involving permittees, interpret statutes and rules, and advise the Commission on legal issues. In accordance with N.C. Gen. Stat. § 18B-200(d) these attorneys also represent the Commission in contested cases before the Office of Administrative Hearings, a quasi-judicial organization. Statute does not authorize in-house counsel to appear in court on behalf of the Commission

⁹ The two Guardian Ad Litem (GAL) Associate Counsel positions at the Administrative Office of the Courts are expected to represent abused/neglected/dependent children in court on an as-needed basis across the state, in the event that a local GAL Program is unable to secure representation.

¹⁰ N.C. Sess. Law 2017-197, Section 5.7 authorizes a pilot project that will expire on June 30, 2019, allowing the Administrative Office of the Courts to appoint up to two special prosecutors per member of the Council of State, at the request of a member of the Council of State, to assist in the prosecution of insurance fraud cases. Such attorneys cannot appear in court on behalf of the Department of Insurance in civil actions.

¹¹ N.C. Gen. Stat. § 114-2(2).

- instituting court proceeding on behalf of the State, its agencies, or its citizens in any and all public interest matters; and
- handling all criminal appeals from state trial courts.

The Legal Services Branch of the Department of Justice (DOJ) was divided into eight divisions as of September 15, 2017.

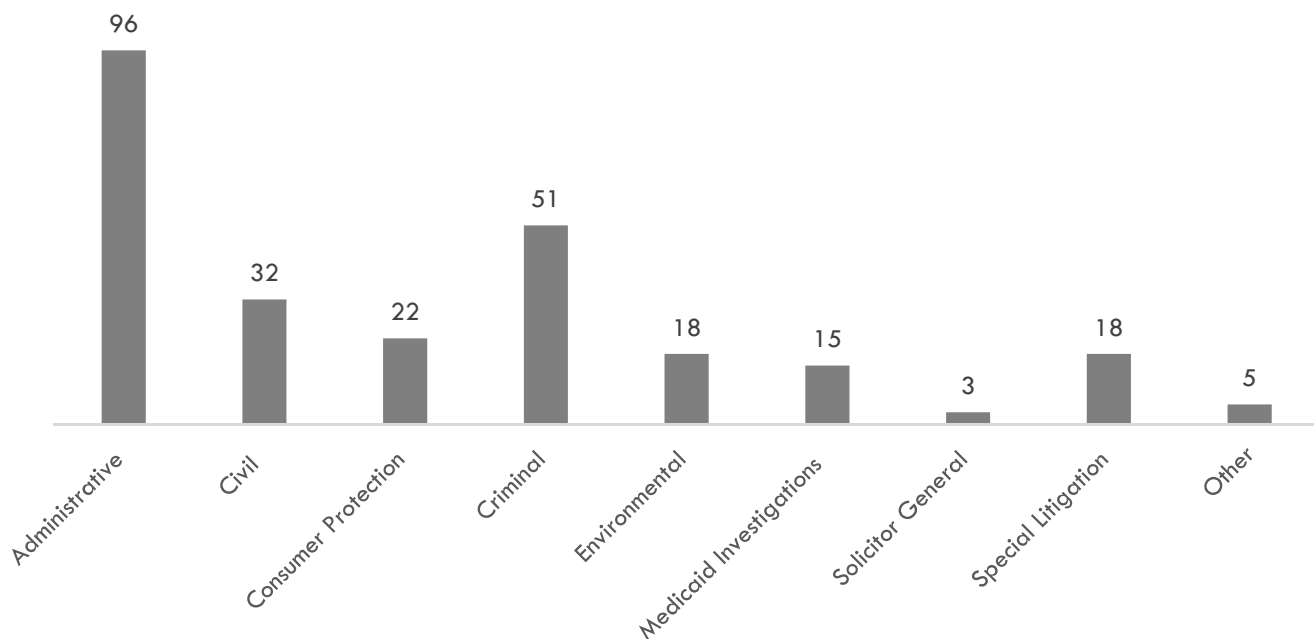
1. **Administrative Division** provides legal advice and representation to most state agencies. Sections include
 - Composite Litigation Group,
 - Health Services,
 - Human Services and Medical Facilities,
 - Public Assistance,
 - Public Health and Child Welfare,
 - Services to State Agencies,
 - Tort Claims, and
 - Workers' Compensation.
2. **Civil Division** handles civil claims and litigation involving the State, its officials and employees. Sections include
 - Insurance,
 - Labor,
 - Motor Vehicles,
 - Property Control,
 - Revenue, and
 - Transportation.
3. **Consumer Protection Division** protects the public from unlawful business practices. The Division educates consumers, mediates commercial disputes between consumers and businesses, enforces state consumer protection laws, represents the public in matters before the Public Utilities Commission, and makes policy recommendations to the General Assembly. Sections include
 - Consumer Protection,
 - Antitrust,
 - Telemarketing Fraud, and
 - Public Protection.
4. **Criminal Division** handles criminal matters for which the Attorney General is responsible, including criminal appeals, death penalty cases, legal representation, and advice related to law enforcement. Additionally, the Division assists in prosecuting certain criminal cases and cases involving the Department of Public Safety. Sections include
 - Criminal Appellate,
 - Capital Litigation/Federal Habeas,
 - Public Safety,
 - Law Enforcement Liaison, and
 - Special Prosecutions, which prosecutes or assists in criminal cases upon the request of a local district attorney.
5. **Environmental Division** advises and represents the Department of Environmental Quality and various environmental commissions. The

Division also investigates and prosecutes environmental crimes and civil actions. Sections include

- Air and Natural Resources,
 - Waste Management, and
 - Water and Land.
6. **Medicaid Investigations Division** is responsible for the investigation and prosecution of Medicaid providers who commit fraud, patient physical abuse, and the embezzlement of patient funds.
 7. **Solicitor General Division** is responsible for handling civil appeals before state and federal appellate courts and coordinating the agency's participation in amicus briefs.¹²
 8. **The Special Litigation Division** handles complex litigation. Within this Division, the Education Section represents the University of North Carolina System, State Board of Education, Department of Public Instruction, and Community College System. Staff members also advise local school boards and public school administrators.

Exhibit 5 shows the number of attorneys assigned to the different divisions of the Legal Services Branch of DOJ as of September 15, 2017.

Exhibit 5: The Department of Justice Manages 260 Attorney Positions in its Legal Services Branch



Note: Positions categorized as Other consist of three General Counsel positions that report directly to the Attorney General, one attorney position (Chief Deputy Attorney General) that reports directly to the Attorney General, and one Agency Legal Specialist responsible for training activities that reports directly to the Chief Deputy.

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and the Department of Justice.

¹² Amicus briefs are legal documents filed in appellate court cases by non-litigants with a strong interest in the subject matter. The briefs advise the court of relevant, additional information or arguments that the court might wish to consider.

Of 719 attorneys across state government, 304 (42%) are under the control of the Department of Justice, meaning North Carolina has a decentralized system of attorney allocation. The Program Evaluation Division identified 304 DOJ attorney positions with total budgeted salaries of \$27.6 million as of September 15, 2017. In addition to the 260 positions in the Legal Services Branch as previously depicted in Exhibit 5, DOJ also manages 43 attorney positions at the Department of Transportation and 1 position at the Department of Public Safety. Twenty of these 304 positions will be eliminated during Fiscal Year 2017–18 due to a reduction in force resulting from a \$10 million budget decrease in the 2017 Appropriations Act. Details about all of these 304 positions are included in Appendix A.

State government organizations use attorneys in the Attorney General's Office to provide a variety of legal functions. These attorneys handle litigation in state, federal, and administrative hearings as well as formal responses to subpoenas as needed. They review all contracts and settlement agreements as required by law and provide advice and review requests for proposals and contracts. These attorneys also provide legal advice and interpretation of state and federal laws and rules and regulations.

Some state government organizations contract with DOJ to provide legal services. Of the 304 attorneys under the Attorney General's supervision, 116 are receipt-based positions. Various state government organizations make payroll-related reimbursements to DOJ to support these staff positions. As shown in Exhibit 6, payroll-related reimbursements to DOJ from other state government organizations totaled more than \$8.8 million in Fiscal Year 2016–17.

Exhibit 6: Payroll-Related Reimbursements to the Department of Justice, FY 2016–17

| Agency | Payroll Related Reimbursements |
|---|--------------------------------|
| Department of Health and Human Services | \$ 4,150,227 |
| Department of Transportation | 720,634 |
| Department of Public Instruction | 598,548 |
| Board of Governors | 594,899 |
| Department of Information Technology | 344,493 |
| UNC Hospitals | 304,143 |
| Department of State Treasurer | 302,772 |
| State Education Assistance Authority | 253,250 |
| Administrative Office of the Courts | 226,372 |
| Department of Agriculture & Consumer Services | 182,035 |
| Appraisal Board | 136,400 |
| State Health Plan | 130,013 |
| Department of Public Safety | 128,899 |
| Department of Revenue | 126,661 |
| Wildlife Resources Commission | 124,768 |
| Department of the Secretary of State | 83,900 |
| Irrigation Contractors' Licensing Board | 72,290 |
| Industrial Commission | 71,378 |
| Board of Licenses Professional Counselors | 62,448 |
| Psychology Board | 62,448 |
| Department of Commerce | 60,397 |
| UNC General Administration | 34,794 |
| Hearing Aid Dealers & Fitters Board | 24,097 |
| Department of Natural & Cultural Resources | 12,699 |
| Department of Environmental Quality | 880 |
| Total | \$ 8,809,446 |

Source: Program Evaluation Division based on review of Department of Justice Report on Attorney Activity, FY 2016-17.

By statute, the Attorney General is specifically directed to provide legal assistance to the following five government organizations:

1. Department of Revenue (N.C. Gen. Stat. § 114-4),
2. Department of Transportation (N.C. Gen. Stat. § 114-4.2),
3. Commissioner of Insurance (N.C. Gen. Stat. § 114-4.2A),
4. University of North Carolina Hospitals at Chapel Hill (N.C. Gen. Stat. § 114-4.2B), and
5. North Carolina Real Estate Commission (N.C. Gen. Stat. § 114-4.2C)

In addition, the Attorney General must designate an attorney to specialize in the law of the handicapped (N.C. Gen. Stat. § 114-4.2F).

In summary, the Attorney General represents all state departments, agencies, institutions, commissions, bureaus, or other organized activities of the State that receive support, in whole or in part, from the State. The Legal Services Branch of the Attorney General's Office consists of eight divisions that provide a variety of legal functions for state government organizations. Some state government organizations contract with the Department of Justice to provide services. Because fewer than half of

attorney positions reviewed by the Program Evaluation Division are under DOJ's control, North Carolina can be said to have a decentralized system of attorney allocation.

3. How does state government use private attorneys?

In some instances, North Carolina state government organizations are able to use private attorneys for legal assistance. For example, the Governor's Office may use private attorneys for representation in litigation, and the General Assembly has the right to seek independent representation. In addition, state organizations may employ private counsel when given explicit approval from the Governor's Office.¹³ At times, statute specifically authorizes the use of private attorneys at a state organization.¹⁴

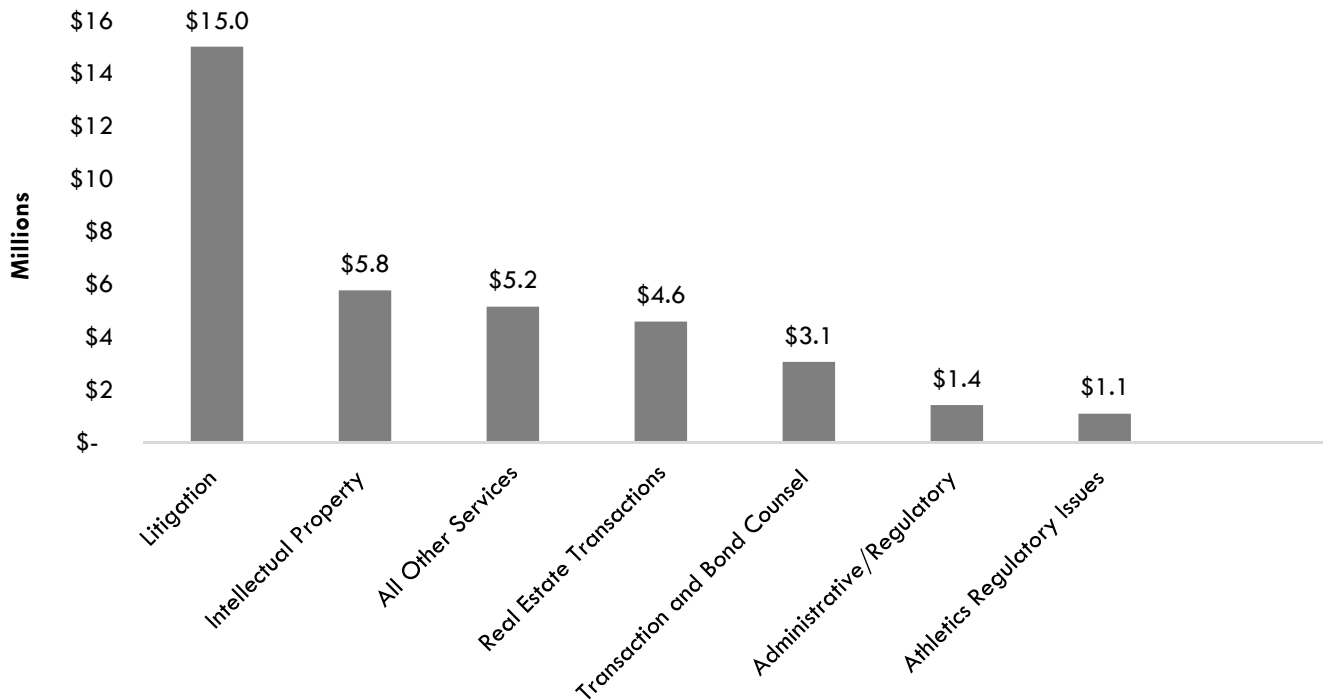
The Program Evaluation Division attempted a ten-year trend analysis of contracted legal services by agency but data from the North Carolina Accounting System was not suitable for the Division's purposes. As a result, the Division had 34 state organizations self-report on their spending for these services for the last fiscal year. In Fiscal Year 2016–17, state entities spent \$36 million on private attorneys.¹⁵ As depicted in Exhibit 7, the most expensive uses were litigation, real estate transactions, and intellectual property matters.

¹³ In accordance with N.C. Gen. Stat. § 147-17(a), no department, officer, agency, institution, commission, bureau, or other organized activity of the State which receives support, in whole or in part, from the State can employ private counsel, except with the approval of the Governor. The Governor shall give his or her approval only if the Attorney General has advised the Governor that it is impracticable for the Attorney General to render the legal services.

¹⁴ N.C. Gen. Stat. § 136-18.03 is an example of this type of authority granted to the Department of Transportation, whereby it may hire outside private counsel without approval from the Attorney General. In addition, the General Assembly has granted independent authority to hire outside private counsel to numerous boards and commissions.

¹⁵ This amount was self-reported by the 34 state organizations that were included in this evaluation.

Exhibit 7: Litigation is the Leading Expense for Which State Organizations Engaged Private Attorneys, FY 2016–17



Source: Program Evaluation Division based on self-reported data from the 34 state organizations that were included in this evaluation.

Use of private attorneys varies by state entity. Exhibit 8 depicts the state organizations that spent more than \$1 million on private attorneys in Fiscal Year 2016–17. Organizations spending the most on private attorneys were the university system, General Assembly, Department of Transportation, State Treasurer, and Office of the Governor. Thirteen entities reported no spending on private attorneys in Fiscal Year 2016–17 and another eight organizations spent less than \$100,000 on outside legal assistance. Details of the specific uses of private attorneys by state government organizations in Fiscal Year 2016–17 are provided in Appendix I and Appendix J. These details include the name of the attorney hired, purpose of being hired, and the fee that was paid.

Exhibit 8: Five State Organizations Spent More than \$1 Million for Private Attorneys in FY 2016–17

| Name of State Organization | Total Amount Spent (in millions) |
|----------------------------|----------------------------------|
| University System | \$ 22.3 |
| General Assembly | 4.0 |
| Transportation | 3.3 |
| State Treasurer | 2.9 |
| Office of the Governor | 1.3 |

Source: Program Evaluation Division based on self-reported data from the 34 state organizations that were included in this evaluation.

Effective July 1, 2017, the 2017 Appropriations Act modified N.C. Gen. Stat. § 114-2.3 by stipulating that no state funds shall be withdrawn from the state treasury to pay for litigation services provided by private counsel except as expressly authorized by an appropriation of the General Assembly.

In summary, this report has described the distribution of attorneys as it currently exists in North Carolina. Attorneys work in all branches of state government and provide a variety of services. All principal departments in state government have at least one in-house general counsel or a similar position. In some instances, state entities may employ private counsel. The Department of Justice oversees 304 of the 719 attorney positions selected by the Program Evaluation Division for the purposes of this study. Because DOJ controls fewer than half of these identified attorney positions, North Carolina state government's system of attorney distribution can be deemed decentralized. The General Assembly could consider leaving the system as it is or could consider changing the system to make it either more or less decentralized.

Appendices

Appendix A: Department of Justice Attorney Position Details

Appendix B: Other Council of State Attorney Position Details

Appendix C: Governor's Cabinet Attorney Position Details

Appendix D: Higher Education Attorney Position Details

Appendix E: Boards and Commissions Attorney Position Details

Appendix F: Justice Branch Attorney Position Details

Appendix G: Independent, Quasi-Judicial Attorney Position Details

Appendix H: Legislative Branch Attorney Position Details

Appendix I: Specific Uses of Private Attorneys, FY 2016–17

Appendix J: University System Private Attorneys, FY 2016–17

Agency Response

A draft of this report was submitted to the Department of Justice and the Office of State Human Resources to review. Their responses are provided following the appendices.

Program Evaluation Division Contact and Acknowledgments

For more information on this report, please contact the lead evaluator, Jim Horne, at jim.horne@ncleg.net.

Staff members who made key contributions to this report include Sara Nienow and Adora Thayer. John W. Turcotte is the director of the Program Evaluation Division.

Appendix A: Department of Justice Attorney Position Details

| Division | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
|----------------|-------------------------|-------|-----------------|---------------------------------------|--------------------|-------------------------|
| Administrative | Attorney I | 2 | \$ 133,469 | Receipts | Vacant | Yes |
| Administrative | Attorney I | 4 | 247,963 | Receipts | Yes | Yes |
| Administrative | Attorney I | 1 | 61,293 | To be abolished | Vacant | N/A |
| Administrative | Attorney II | 1 | 79,575 | Appropriations | Vacant | Yes |
| Administrative | Attorney II | 7 | 509,513 | Appropriations | Yes | Yes |
| Administrative | Attorney II | 1 | 68,766 | Receipts | Vacant | Yes |
| Administrative | Attorney II | 10 | 709,688 | Receipts | Yes | Yes |
| Administrative | Attorney III | 1 | 78,450 | Appropriations | Vacant | Yes |
| Administrative | Attorney III | 6 | 538,008 | Appropriations | Yes | Yes |
| Administrative | Attorney III | 5 | 424,333 | Receipts | Vacant | Yes |
| Administrative | Attorney III | 25 | 2,142,914 | Receipts | Yes | Yes |
| Administrative | Attorney III | 1 | 78,450 | To be abolished | Vacant | N/A |
| Administrative | Attorney IV | 2 | 189,345 | Appropriations | Yes | Yes |
| Administrative | Attorney IV | 1 | 92,000 | Appropriations (91%) Receipts (9%) | Yes | Yes |
| Administrative | Attorney IV | 1 | 77,991 | Receipts | Vacant | Yes |
| Administrative | Attorney IV | 13 | 1,276,077 | Receipts | Yes | Yes |
| Administrative | Attorney IV | 1 | 98,000 | To be abolished | Vacant | N/A |
| Administrative | Attorney Supervisor I | 3 | 302,324 | Receipts | Yes | Yes |
| Administrative | Attorney Supervisor II | 5 | 539,103 | Appropriations | Yes | Yes |
| Administrative | Attorney Supervisor II | 2 | 224,285 | Receipts | Yes | Yes |
| Administrative | Attorney Supervisor II | 1 | 110,859 | To be abolished | Yes | Yes |
| Administrative | Deputy Attorney General | 1 | 125,845 | Appropriations | Vacant | Yes |
| Administrative | Legislative Affairs | 1 | 82,062 | Receipts | Yes | Yes |
| Administrative | Policy Director | 1 | 97,000 | Appropriations | Yes | Yes |
| Civil | Attorney I | 1 | 61,293 | Appropriations | Yes | Yes |
| Civil | Attorney I | 1 | 61,293 | Receipts | Yes | Yes |
| Civil | Attorney I | 1 | 62,577 | To be abolished | Vacant | N/A |
| Civil | Attorney II | 1 | 69,766 | Appropriations | Yes | Yes |

| Division | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
|---------------------|-------------------------|-------|-----------------|--|--------------------|-------------------------|
| Civil | Attorney II | 1 | \$ 69,766 | Receipts | Yes | Yes |
| Civil | Attorney III | 1 | 97,413 | Appropriations | Vacant | Yes |
| Civil | Attorney III | 11 | 989,363 | Appropriations | Yes | Yes |
| Civil | Attorney III | 1 | 83,414 | Appropriations (25%) Receipts (75%) | Yes | Yes |
| Civil | Attorney III | 3 | 258,025 | Receipts | Yes | Yes |
| Civil | Attorney III | 1 | 92,618 | To be abolished | Vacant | N/A |
| Civil | Attorney IV | 1 | 93,291 | Appropriations | Yes | Yes |
| Civil | Attorney IV | 1 | 101,595 | Appropriations | Yes | Yes |
| Civil | Attorney IV | 1 | 98,000 | Receipts | Yes | Yes |
| Civil | Attorney Supervisor I | 1 | 103,284 | Appropriations | Yes | Yes |
| Civil | Attorney Supervisor II | 3 | 357,949 | Appropriations | Yes | Yes |
| Civil | Attorney Supervisor II | 1 | 114,680 | Receipts | Yes | Yes |
| Civil | Attorney Supervisor II | 1 | 125,929 | To be abolished | Yes | Yes |
| Civil | Deputy Attorney General | 1 | 125,845 | Appropriations | Yes | Yes |
| Consumer Protection | Attorney I | 1 | 62,577 | Receipts | Yes | Yes |
| Consumer Protection | Attorney II | 2 | 140,641 | Receipts | Yes | Yes |
| Consumer Protection | Attorney III | 1 | 83,171 | Receipts | Vacant | Yes |
| Consumer Protection | Attorney III | 8 | 693,933 | Receipts | Yes | Yes |
| Consumer Protection | Attorney IV | 1 | 101,445 | Receipts | Vacant | Yes |
| Consumer Protection | Attorney IV | 6 | 597,880 | Receipts | Yes | Yes |
| Consumer Protection | Attorney Supervisor II | 2 | 210,303 | Receipts | Yes | Yes |
| Consumer Protection | Deputy Attorney General | 1 | 125,845 | Receipts | Yes | Yes |
| Criminal | Attorney I | 2 | 130,606 | Appropriations | Yes | Yes |
| Criminal | Attorney I | 5 | 315,025 | To be abolished | Vacant | N/A |
| Criminal | Attorney I | 1 | 61,293 | To be abolished | Yes | Yes |
| Criminal | Attorney II | 4 | 317,888 | Appropriations | Yes | Yes |
| Criminal | Attorney II | 1 | 70,875 | Receipts | Yes | Yes |
| Criminal | Attorney II | 1 | 68,766 | To be abolished | Vacant | N/A |
| Criminal | Attorney III | 1 | 88,610 | Appropriations | Vacant | Yes |

| Division | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
|-------------------------|-------------------------------|-------|-----------------|---------------------------------------|--------------------|-------------------------|
| Criminal | Attorney III | 14 | \$ 1,225,786 | Appropriations | Yes | Yes |
| Criminal | Attorney III | 1 | 85,883 | Receipts | Vacant | Yes |
| Criminal | Attorney III | 1 | 83,414 | Receipts | Yes | Yes |
| Criminal | Attorney IV | 10 | 1,003,863 | Appropriations | Yes | Yes |
| Criminal | Attorney IV | 1 | 94,908 | Receipts | Yes | Yes |
| Criminal | Attorney IV | 3 | 335,176 | To be abolished | Yes | Yes |
| Criminal | Attorney Supervisor II | 4 | 434,021 | Appropriations | Yes | Yes |
| Criminal | Attorney Supervisor II | 1 | 123,707 | To be abolished | Yes | Yes |
| Criminal | Deputy Attorney General | 1 | 125,845 | Appropriations | Yes | Yes |
| Environmental | Attorney II | 1 | 69,766 | Appropriations | Yes | Yes |
| Environmental | Attorney III | 8 | 686,576 | Appropriations | Yes | Yes |
| Environmental | Attorney III | 1 | 78,450 | Receipts | Vacant | Yes |
| Environmental | Attorney III | 1 | 83,414 | Receipts | Yes | Yes |
| Environmental | Attorney IV | 2 | 200,403 | Appropriations | Yes | Yes |
| Environmental | Attorney IV | 1 | 105,518 | Receipts | Yes | Yes |
| Environmental | Attorney IV | 1 | 106,540 | To be abolished | Yes | Yes |
| Environmental | Attorney Supervisor II | 1 | 105,518 | Appropriations | Vacant | Yes |
| Environmental | Attorney Supervisor II | 2 | 219,020 | Appropriations | Yes | Yes |
| General Counsel | Deputy General Counsel | 2 | 192,000 | Receipts | Yes | Yes |
| General Counsel | General Counsel | 1 | 126,000 | Receipts | Yes | Yes |
| Legal Services Branch | Agency Legal Specialist II | 1 | 76,949 | Appropriations | No | No |
| Legal Services Branch | Chief Deputy Attorney General | 1 | 165,343 | Appropriations | Yes | Yes |
| Medicaid Investigations | Attorney II | 1 | 72,263 | Appropriations (25%) Federal (75%) | Yes | Yes |
| Medicaid Investigations | Attorney III | 1 | 89,456 | Appropriations (25%) Federal (75%) | Vacant | Yes |
| Medicaid Investigations | Attorney III | 6 | 530,412 | Appropriations (25%) Federal (75%) | Yes | Yes |
| Medicaid Investigations | Attorney IV | 2 | 189,919 | Appropriations (25%) Federal (75%) | Yes | Yes |
| Medicaid Investigations | Attorney Supervisor I | 3 | 284,115 | Appropriations (25%) Federal (75%) | Yes | Yes |

| Division | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
|--|-------------------------|-----------------|---------------------------------|---------------------------------------|-------------------------|-------------------------|
| Medicaid Investigations | Attorney Supervisor II | 1 | \$ 129,761 | Appropriations (25%) Federal (75%) | Yes | Yes |
| Medicaid Investigations | Deputy Attorney General | 1 | 125,845 | Appropriations (25%) Federal (75%) | Yes | Yes |
| Solicitor General | Attorney | 1 | 96,000 | Receipts | Yes | Yes |
| Solicitor General | Attorney IV | 1 | 96,000 | Appropriations | Yes | Yes |
| Solicitor General | Deputy Attorney General | 1 | 126,000 | Appropriations | Yes | Yes |
| Special Litigation | Attorney II | 1 | 82,653 | Receipts | Yes | Yes |
| Special Litigation | Attorney III | 1 | 82,062 | Appropriations | Vacant | Yes |
| Special Litigation | Attorney III | 2 | 164,828 | Receipts | Vacant | Yes |
| Special Litigation | Attorney III | 2 | 166,828 | Receipts | Yes | Yes |
| Special Litigation | Attorney IV | 5 | 523,229 | Appropriations | Yes | Yes |
| Special Litigation | Attorney IV | 4 | 398,689 | Receipts | Yes | Yes |
| Special Litigation | Attorney IV | 1 | 99,383 | To be abolished | Yes | Yes |
| Special Litigation | Attorney Supervisor II | 1 | 89,978 | Appropriations | Vacant | Yes |
| Special Litigation | Deputy Attorney General | 1 | 125,845 | Appropriations | Yes | Yes |
| DOJ – Legal Services Branch Subtotals | | 260 | \$23,523,638 | | | |
| Department of Justice Attorneys at Department of Transportation | | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? | |
| Attorney II (DOJ attorney at DOT) | 4 | \$ 308,906 | Highway Fund | Yes | Yes | |
| Attorney III (DOJ attorney at DOT) | 29 | 2,604,761 | Highway Fund | Yes | Yes | |
| Attorney IV (DOJ attorney at DOT) | 6 | 626,807 | Highway Fund | Yes | Yes | |
| Attorney Supervisor II (DOJ attorney at DOT) | 4 | 469,567 | Highway Fund | Yes | Yes | |
| DOJ Attorneys at DOT Subtotals | | 43 | \$ 4,010,041 | | | |
| Department of Justice Attorney at Department of Public Safety | | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? | |
| Attorney III (DOJ Attorney at DPS) | 1 | \$ 99,295 | Federal (50%) Receipts (50%) | Yes | Yes | |
| DOJ Attorney at DPS Subtotals | | 1 | \$ 99,295 | | | |
| DOJ Totals | | 304 | \$ 27,632,974 | | | |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and the Department of Justice.

Appendix B: Other Council of State Attorney Position Details

| Office of the Governor | | | | | |
|--|--------------|------------------------|--|---------------------------|--------------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Chief Legal Counsel | 1 | \$ 131,000 | Appropriations | Yes | No |
| Deputy General Counsel | 1 | 129,905 | Appropriations | Yes | No |
| Assistant General Counsel | 1 | 71,369 | Appropriations (50%) Receipts (50%) | Yes | No |
| Manager of Legal Affairs & SHRC (OSHR Attorney) | 1 | 104,175 | Appropriations | Yes | No |
| OSHR Attorney | 1 | 140,950 | Appropriations (55%) Receipts (45%) | Yes | No |
| GOV Totals (includes OSHR) | 5 | \$ 577,399 | | | |
| Office of the Lieutenant Governor | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel & Policy Director | 1 | \$ 105,872 | Appropriations | Yes | No |
| LT GOV Totals | 1 | \$ 105,872 | | | |
| Department of Agriculture & Consumer Services | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Executive Legal Specialist | 1 | \$ 102,500 | Appropriations | Yes | No |
| Assistant General Counsel | 1 | 70,267 | Appropriations | Yes | No |
| Agency Legal Specialist I | 1 | 51,785 | Appropriations | Yes | No |
| DA&CS Totals | 3 | \$ 224,552 | | | |

| Department of Insurance | | | | | |
|---|----------|-------------------|---|--------------------|-------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel (Attorney Supervisor II) | 1 | \$ 126,000 | Appropriations (80%) Receipts (20%) | Yes | No |
| General Counsel's Office (Attorney IV) | 1 | 55,933 | Appropriations | Yes | No |
| General Counsel's Office (Attorney IV) | 1 | 122,849 | Receipts | Yes | No |
| General Counsel's Office (Attorney III) | 1 | 79,500 | Appropriations | Vacant | No |
| Legislative Counsel (Attorney III) | 1 | 84,000 | Appropriations | Yes | No |
| Chief Fraud Prosecutor (Attorney III) | 1 | 86,100 | Appropriations | Yes | No |
| Fraud Prosecutor (Attorney II) | 2 | 161,848 | Appropriations | Vacant | Limited |
| DOI Totals | 8 | \$ 716,230 | | | |
| Department of Labor | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel | 1 | \$ 103,224 | Appropriations (90%) Receipts (5%) Federal (5%) | Yes | No |
| Agency Legal Specialist II | 1 | 62,915 | Appropriations | Yes | No |
| General Counsel-OSHA Review Board | 1 | 52,870 | Appropriations | Yes | No |
| DOL Totals | 3 | \$ 219,009 | | | |
| Department of Public Instruction | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Attorney I | 1 | \$ 78,358 | Receipts | Yes | No |
| Attorney II | 1 | 99,400 | Appropriations | Yes | No |
| DPI Totals | 2 | \$ 177,758 | | | |

| Department of the State Treasurer | | | | | |
|---|--------------|------------------------|-----------------------|---------------------------|--------------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency Legal Specialist II | 1 | \$ 61,900 | Receipts | Yes | No |
| Attorney II | 3 | 296,000 | Receipts | Yes | No |
| Attorney III | 1 | 93,365 | Receipts | Yes | No |
| Deputy General Counsel | 1 | 145,145 | Receipts | Vacant | No |
| General Counsel | 1 | 141,000 | Receipts | Yes | No |
| Investment Deputy General Counsel | 2 | 259,812 | Receipts | Yes | No |
| State Health Plan Deputy General Counsel | 1 | 99,500 | Receipts | Vacant | No |
| DST Totals | 10 | \$ 1,096,722 | | | |
| Department of the Secretary of State | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency Legal Specialist I | 1 | \$ 51,569 | Receipts | Vacant | No |
| Agency Legal Specialist I | 1 | 63,805 | Appropriations | Yes | No |
| Agency Legal Specialist I | 1 | 53,343 | Receipts | Yes | No |
| Attorney I | 2 | 125,884 | Receipts | Vacant | No |
| Attorney II | 3 | 206,757 | Appropriations | yes | Limited |
| Attorney III | 2 | 158,900 | Appropriations | Yes | Limited |
| Attorney Supervisor II | 1 | 99,975 | Appropriations | Yes | Limited |
| Deputy Secretary Registration Services (Attorney III) | 1 | 110,074 | Appropriations | Yes | Limited |
| General Counsel (Agency Legal Specialist III) | 1 | 86,705 | Appropriations | Yes | Limited |
| Lobbying Compliance Director (Attorney II) | 1 | 85,009 | Appropriations | Yes | Limited |
| SOS Totals | 14 | \$ 1,042,021 | | | |
| Office of the State Auditor | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel | 1 | \$ 113,640 | Appropriations | Yes | No |
| OSA Totals | 1 | \$ 113,640 | | | |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations.

Appendix C: Governor's Cabinet Attorney Position Details

| Department of Administration | | | | | |
|--|-----------|---------------------|--|--------------------|-------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency General Counsel | 1 | \$ 131,000 | Appropriations (75%) Receipts (25%) | Yes | No |
| Attorney | 1 | 114,165 | Appropriations | No | No |
| DOA Totals | 2 | \$ 245,165 | | | |
| Department of Commerce - Main Division | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel | 1 | \$ 122,000 | Appropriations (90%) Receipts (10%) | Yes | No |
| Assistant General Counsel | 1 | 66,000 | Appropriations (65%) Receipts (35%) | Yes | No |
| Legal Specialist-DOC | 1 | 67,285 | Appropriations (95%) Receipts (5%) | Yes | No |
| Legal Specialist-DWS | 1 | 75,000 | Federal | Yes | No |
| DOC – Main Division Subtotals | 4 | \$ 330,285 | | | |
| Department of Commerce - Division of Employment Security | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Deputy Chairman & Chief Counsel (Attorney Supervisor) | 1 | \$ 127,890 | Receipts | Vacant | Limited |
| Acting Chief Counsel (Attorney) | 1 | 111,117 | Receipts | Yes | Limited |
| Staff Attorney (Attorney) | 5 | 456,573 | Receipts | Yes | Limited |
| Staff Attorney (Attorney) | 1 | 72,573 | Receipts | Vacant | Limited |
| Chief Appeals Referee (Attorney Supervisor) | 1 | 90,981 | Receipts | Yes | No |
| Deputy Chief Appeals Referee (Legal Specialist) | 2 | 148,753 | Receipts | Yes | No |
| UI Senior Appeals Hearing Officer (Legal Specialist) | 2 | 138,156 | Receipts | Yes | No |
| UI Appeals Hearing Officer (Legal Specialist) | 24 | 1,520,017 | Receipts | Yes | No |
| UI Appeals Hearing Officer (Legal Specialist) | 1 | 67,807 | Receipts | No | No |
| UI Appeals Hearing Officer (Legal Specialist) | 15 | 912,322 | Receipts | Vacant | No |
| DOC – DES Subtotals | 53 | \$ 3,646,189 | | | |
| DOC Totals | 57 | \$ 3,976,474 | | | |

| Department of Environmental Quality | | | | | |
|---|-----------|---------------------|---|--------------------|-------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel (Attorney III) | 1 | \$ 122,800 | Appropriations | Yes | No |
| Assistant General Counsel (Attorney III) | 1 | 100,115 | Appropriations (45%) Federal (35%) Receipts (20%) | Yes | No |
| Assistant General Counsel (Attorney III) | 1 | 94,737 | Federal (69%) Receipts (31%) | Yes | No |
| Assistant General Counsel (Attorney III) | 1 | 81,000 | Appropriations | Yes | No |
| Assistant General Counsel (Attorney II) | 1 | 67,441 | Appropriations (40%) Federal (10%) Receipts (50%) | Yes | No |
| Assistant General Counsel (Attorney II) | 1 | 67,441 | Appropriations (50%) Receipts (50%) | Yes | No |
| DEQ Totals | 6 | \$ 533,534 | | | |
| Department of Health and Human Services | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel (Attorney Supervisor) | 1 | \$ 130,467 | Appropriations (88%) Federal (12%) | Yes | No |
| Assistant General Counsel II (Attorney III) | 1 | 92,678 | Appropriations (88%) Federal (12%) | Yes | No |
| Assistant General Counsel (Attorney II) | 1 | 82,200 | Appropriations (88%) Federal (12%) | Yes | No |
| Attorney III | 1 | 96,552 | Appropriations (88%) Federal (12%) | Yes | No |
| Attorney III | 1 | 113,883 | Appropriations (88%) Federal (12%) | Vacant | No |
| Attorney II | 1 | 104,000 | Appropriations (1%) Receipts (99%) | Yes | No |
| Agency Legal Specialist III | 1 | 28,697 | Appropriations (88%) Federal (12%) | Yes | No |
| Agency Legal Specialist III | 1 | 67,073 | Appropriations | Yes | No |
| Agency Legal Specialist II | 1 | 66,975 | Appropriations (48%) Federal (52%) | Yes | No |
| Agency Legal Specialist I | 1 | 70,278 | Appropriations (15%) Federal (85%) | Vacant | No |
| Agency Legal Specialist I | 1 | 48,195 | Federal | Yes | No |
| Agency Legal Specialist I | 1 | 57,662 | Appropriations | Yes | No |
| Agency Legal Specialist I | 1 | 76,760 | Appropriations (88%) Receipts (12%) | Vacant | No |
| Agency Legal Specialist I | 1 | 65,656 | Appropriations (88%) Federal (12%) | Yes | No |
| DHHS Totals | 14 | \$ 1,101,076 | | | |

| Department of Information Technology | | | | | |
|--|-----------|-------------------|----------------|--------------------|-------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency General Counsel II | 1 | \$ 106,540 | Receipts | Yes | No |
| DIT Totals | 1 | \$ 106,540 | | | |
| Department of Military and Veterans Affairs | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency General Counsel/Legislative Liaison | 1 | \$ 71,000 | Appropriations | Yes | No |
| DMVA Totals | 1 | \$ 71,000 | | | |
| Department of Natural and Cultural Resources | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency Legal Specialist I | 1 | \$ 53,273 | Appropriations | Yes | No |
| Agency Legal Specialist II | 1 | 55,709 | Appropriations | Yes | No |
| Attorney I | 1 | 59,254 | Appropriations | Yes | No |
| Attorney II | 1 | 66,459 | Appropriations | Yes | No |
| Attorney III | 1 | 81,000 | Appropriations | Yes | No |
| DNCR Totals | 5 | \$ 315,695 | | | |
| Department of Public Safety | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| General Counsel | 1 | \$ 133,636 | Appropriations | Yes | No |
| Chief Deputy General Counsel | 1 | 125,483 | Appropriations | Yes | No |
| Assistant General Counsel | 5 | 468,899 | Appropriations | Yes | No |
| Associate General Counsel | 2 | 126,155 | Appropriations | Yes | No |
| Attorney IV | 1 | 106,466 | Appropriations | Yes | No |
| DPS Totals | 10 | \$ 960,639 | | | |

| Department of Revenue | | | | | |
|---|----------|-------------------|----------------|--------------------|-------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency General Counsel I | 1 | \$ 98,000 | Receipts | Yes | No |
| Agency Legal Specialist I | 1 | 53,600 | Appropriations | Yes | No |
| Agency Legal Specialist II | 2 | 144,036 | Receipts | Yes | No |
| Attorney III | 1 | 127,875 | Appropriations | Yes | No |
| DOR Totals | 5 | \$ 423,511 | | | |
| Department of Transportation | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency General Counsel II | 1 | \$ 126,529 | Highway Fund | Yes | No |
| Senior Deputy General Counsel (Attorney IV) | 1 | 105,000 | Highway Fund | Yes | No |
| Deputy General Counsel (Attorney II) | 1 | 97,007 | Highway Fund | Yes | No |
| Attorney II | 1 | 72,890 | Highway Fund | Yes | No |
| DOT Totals | 4 | \$ 401,426 | | | |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations.

Appendix D: Higher Education Attorney Position Details

| Community College System | | | | | | |
|-------------------------------------|---|----------|-------------------|--|--------------------|-------------------------|
| Organization | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Community College System | General Counsel | 1 | \$ 97,004 | Appropriations | Yes | No |
| Community College System | Associate Legal Counsel | 1 | 82,200 | Appropriations | Yes | No |
| CCS Totals | | 2 | \$ 179,204 | | | |
| University of North Carolina System | | | | | | |
| Campus | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Appalachian State | Assistant General Counsel | 1 | \$ 94,481 | Appropriations | Yes | No |
| Appalachian State | General Counsel | 1 | 160,687 | Appropriations | Yes | No |
| Appalachian State | Deputy General Counsel | 1 | 141,844 | Appropriations | Yes | No |
| East Carolina | Assistant University Attorney | 1 | 90,000 | Appropriations | Yes | No |
| East Carolina | Associate University Attorney | 4 | 477,650 | Appropriations | Yes | No |
| East Carolina | Associate University Attorney, Health Sciences | 1 | 171,200 | Appropriations (49%) ECUP Funds ¹⁶ (51%) | Yes | No |
| East Carolina | Senior Associate University Attorney | 1 | 135,500 | Appropriations | Yes | No |
| East Carolina | University Counsel & Vice Chancellor, Legal Affairs | 1 | 215,353 | Appropriations | Yes | No |
| Elizabeth City State | General Counsel | 1 | 133,725 | Appropriations | Yes | No |
| Elizabeth City State | Assistant General Counsel | 1 | 79,170 | Appropriations | Yes | No |
| Fayetteville State | University Legal Counsel | 1 | 171,712 | Appropriations | Yes | No |
| Fayetteville State | Assistant University Counsel | 1 | 98,918 | Appropriations | Yes | No |
| NC Agricultural & Technical State | Deputy General Counsel | 1 | 121,800 | Appropriations | Yes | No |
| NC Agricultural & Technical State | General Counsel | 1 | 194,802 | Appropriations | Yes | No |
| NC Central | Assistant University Legal Counsel | 1 | 101,500 | Appropriations | Yes | No |
| NC Central | Chief Legal Counsel | 1 | 157,325 | Appropriations | Yes | No |
| NCSEAA ¹⁷ | Associate General Counsel | 1 | 96,425 | SEAA Receipts | Yes | No |
| NCSEAA | Director & General Counsel SEAA | 1 | 151,163 | SEAA Receipts | Yes | No |

¹⁶ ECUP Funds are from the ECU Physicians medical facility practice plan.

¹⁷ NCSEAA stands for the North Carolina State Education Assistance Authority, which is an independent state entity that receives some administrative support through the UNC System Office.

| University of North Carolina System | | | | | | |
|-------------------------------------|--|-------|-----------------|----------------|--------------------|-------------------------|
| Campus | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| NC State | Assistant General Counsel | 2 | 242,811 | Appropriations | Yes | No |
| NC State | Associate General Counsel | 4 | 647,956 | Appropriations | Yes | No |
| NC State | Deputy General Counsel | 1 | 205,514 | Appropriations | Yes | No |
| NC State | Vice Chancellor & General Counsel | 1 | \$ 328,011 | Appropriations | Yes | No |
| UNC at Asheville | General Counsel | 1 | 116,000 | Appropriations | Yes | No |
| UNC at Chapel Hill | Assistant University Counsel | 7 | 759,496 | Appropriations | Yes | No |
| UNC at Chapel Hill | Associate University Counsel | 6 | 842,194 | Appropriations | Yes | No |
| UNC at Chapel Hill | Director of Tax Policy and Analysis & Assistant University Counsel | 1 | 150,000 | Appropriations | Yes | No |
| UNC at Chapel Hill | Senior University Counsel and AVC | 3 | 557,175 | Appropriations | Yes | No |
| UNC at Chapel Hill | Vice Chancellor and General Counsel | 1 | 437,349 | Appropriations | Yes | No |
| UNC at Charlotte | Assistant General Counsel | 1 | 90,000 | Appropriations | Yes | No |
| UNC at Charlotte | Associate General Counsel | 2 | 224,315 | Appropriations | Yes | No |
| UNC at Charlotte | Deputy General Counsel | 1 | 147,000 | Appropriations | No ¹⁸ | No |
| UNC at Charlotte | Senior Associate General Counsel | 1 | 87,544 | Appropriations | Yes | No |
| UNC at Charlotte | VC and General Counsel | 1 | 218,842 | Appropriations | Yes | No |
| UNC at Greensboro | General Counsel | 1 | 205,000 | Appropriations | No ¹⁹ | No |
| UNC at Greensboro | Associate General Counsel | 2 | 238,260 | Appropriations | Yes | No |
| UNC at Greensboro | Deputy General Counsel | 1 | 127,348 | Appropriations | Yes | No |
| UNC System Office | Assistant General Counsel | 3 | 277,181 | Appropriations | Yes | No |
| UNC System Office | Associate General Manager UNCTV & UNCTV General Counsel | 1 | 168,454 | Appropriations | Yes | No |
| UNC System Office | Associate General Counsel | 1 | 124,277 | Appropriations | Yes | No |
| UNC System Office | Senior Vice President for Governance, Legal, and Risk Management and General Counsel | 1 | 310,500 | Appropriations | Yes | No |
| UNC System Office | Staff Attorney | 1 | 66,000 | Appropriations | Yes | No |

¹⁸ Pending NC Bar admission.

¹⁹ Licensed in Illinois. NC Bar application in process.

| University of North Carolina System | | | | | | |
|-------------------------------------|---|-----------|----------------------|----------------|--------------------|-------------------------|
| Campus | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| UNC System Office | Vice President For Legal Affairs & Deputy General Counsel | 1 | \$ 205,000 | Appropriations | Yes | No |
| UNC at Pembroke | Assistant General Counsel | 1 | 79,381 | Appropriations | Yes | No |
| UNC at Pembroke | General Counsel | 1 | 146,485 | Appropriations | Yes | No |
| UNC School of the Arts | General Counsel | 1 | 162,400 | Appropriations | Yes | No |
| UNC at Wilmington | Assistant General Counsel | 2 | 165,613 | Appropriations | Yes | No |
| UNC at Wilmington | Associate General Counsel | 1 | 116,725 | Appropriations | Yes | No |
| UNC at Wilmington | General Counsel | 1 | 167,475 | Appropriations | Yes | No |
| Western Carolina | General Counsel | 1 | 176,500 | Appropriations | Yes | No |
| Western Carolina | Associate General Counsel/Title IX Coordinator | 1 | 120,000 | Appropriations | Yes | No |
| Western Carolina | Assistant General Counsel/Chief Compliance Officer | 1 | 90,000 | Appropriations | Yes | No |
| Winston-Salem State | Assistant University Counsel | 1 | 77,389 | Appropriations | Yes | No |
| Winston-Salem State | Chief Legal Counsel | 1 | 124,502 | Appropriations | Yes | No |
| UNC System Totals | | 78 | \$ 10,995,952 | | | |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations. All of the university data was self-reported by the University of North Carolina System.

Appendix E: Boards and Commissions Attorney Position Details

| Alcoholic Beverage Control Commission | | | | | |
|--|--------------|------------------------|--|---------------------------|--------------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Legal Specialist (ABC Commission) | 4 | \$ 315,922 | Receipts | Yes | Limited |
| ABC Commission Totals | 4 | \$ 315,922 | | | |
| Industrial Commission | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Deputy Commissioner Industrial Commission | 2 | \$ 214,450 | Appropriations | Yes | No |
| Deputy Commissioner Industrial Commission | 1 | 96,411 | Appropriations (88%) Receipts (12%) | Yes | No |
| Deputy Commissioner Industrial Commission | 1 | 96,411 | Appropriations (85%) Receipts (15%) | Yes | No |
| Deputy Commissioner Industrial Commission | 4 | 411,088 | Appropriations (80%) Receipts (20%) | Yes | No |
| Deputy Commissioner Industrial Commission | 1 | 96,411 | Appropriations (78%) Receipts (22%) | Yes | No |
| Deputy Commissioner Industrial Commission | 2 | 192,822 | Appropriations (75%) Receipts (25%) | Yes | No |
| Deputy Commissioner Industrial Commission | 10 | 1,014,998 | Receipts | Yes | No |
| General Counsel | 1 | 83,215 | Receipts | Yes | No |
| Legal Specialist | 1 | 57,165 | Receipts | Yes | No |
| Legal Specialist | 1 | 72,492 | Appropriations | Yes | No |
| Legal Specialist | 1 | 56,165 | Receipts | Vacant | No |
| Legal Specialist | 16 | 981,033 | Receipts | Yes | No |
| IC Totals | 41 | \$ 3,372,661 | | | |
| Office of the Commissioner of Banks | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| NCCOB Executive | 1 | \$ 110,161 | Receipts | Yes | No |
| NCCOB Attorney | 2 | 124,874 | Receipts | Yes | No |
| NCCOB Totals | 3 | \$ 235,035 | | | |

| State Board of Elections and Ethics Enforcement | | | | | |
|---|-----------|---------------------|--|--------------------|-------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Agency General Counsel I | 1 | \$ 72,060 | Appropriations | Yes | No |
| Agency Legal Specialist I | 1 | 51,805 | Appropriations | No | No |
| Attorney II | 5 | 488,800 | Appropriations | Yes | No |
| Attorney III | 1 | 81,000 | Appropriations | Yes | No |
| Attorney Supervisor I | 1 | 110,867 | Appropriations | Vacant | No |
| SBEEE Totals | 9 | \$ 804,532 | | | |
| Utilities Commission | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Attorney Executive | 1 | \$ 146,892 | Receipts | Yes | No |
| Senior Staff Attorney | 2 | 234,192 | Receipts | Yes | No |
| Staff Attorney | 4 | 395,237 | Receipts | Yes | No |
| UC Totals | 7 | \$ 776,321 | | | |
| Utilities Commission – Public Staff | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Chief Counsel | 1 | \$ 156,000 | Receipts | Yes | Limited |
| Staff Attorney | 10 | 1,111,249 | Receipts | Yes | Limited |
| Staff Attorney | 2 | 203,830 | Receipts | Vacant | Limited |
| UC-PS Totals | 13 | \$ 1,471,079 | | | |
| Wildlife Resources Commission | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Legal Services Director | 1 | \$ 68,564 | Appropriations (10%) Receipts (90%) | Vacant | No |
| WRC Totals | 1 | \$ 68,564 | | | |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations.

Appendix F: Judicial Branch Attorney Position Details

| Administrative Office of the Courts | | | | | |
|--|--------------|------------------------|-----------------------|---------------------------|--------------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Chief Legal Counsel of External Affairs | 1 | \$ 100,702 | Appropriations | Vacant | No |
| Assistant Legal Counsel | 1 | 93,734 | Appropriations | Vacant | No |
| Assistant Legal Counsel | 6 | 615,616 | Appropriations | Yes | No |
| Assistant Legal Counsel | 1 | 92,855 | Receipts | Yes | No |
| Executive Director - CALJ | 1 | 89,292 | Receipts | Vacant | No |
| Executive Director-CALJ | 1 | 89,292 | Appropriations | Vacant | No |
| GAL Associate Counsel | 2 | 163,005 | Appropriations | Yes | Limited |
| GAL Attorney Advocate | 1 | 75,524 | Appropriations | Vacant | No |
| GAL Attorney Advocate | 11 | 785,038 | Appropriations | Yes | No |
| General Counsel | 2 | 234,960 | Appropriations | Yes | No |
| Project Coordinator | 1 | 89,750 | Appropriations | Yes | No |
| Spec Counsel-Public Affairs & Innovation | 1 | 100,702 | Appropriations | Yes | No |
| Trial Court Associate Counsel | 2 | 135,546 | Appropriations | Vacant | No |
| AOC Totals | 31 | \$ 2,666,016 | | | |
| Court of Appeals | | | | | |
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Clerk Of Court Of Appeals | 1 | \$ 130,270 | Appropriations | Yes | No |
| Staff Attorney I | 4 | 247,575 | Appropriations | Yes | No |
| Staff Attorney II | 3 | 223,035 | Appropriations | Yes | No |
| Staff Attorney III | 2 | 173,195 | Appropriations | Yes | No |
| Staff Attorney IV | 1 | 118,764 | Appropriations | Yes | No |
| COA Totals | 11 | \$ 892,839 | | | |

| Supreme Court | | | | | | |
|--|----------|-------------------|----------------|--------------------|-------------------------|--|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? | |
| Clerk Of Supreme Court | 1 | \$ 137,363 | Appropriations | Yes | No | |
| Director of Central Staff | 1 | 69,850 | Appropriations | Yes | No | |
| General Legal Counsel & Chief of Staff | 1 | 90,465 | Appropriations | Yes | No | |
| SC Staff Attorney | 1 | 54,914 | Appropriations | No | No | |
| SC Totals | 4 | \$ 352,592 | | | | |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and state government organizations.

Appendix G: Independent, Quasi-Judicial Attorney Position Details

| Office of Administrative Hearings | | | | | |
|--|----------|-------------------|----------------|--------------------|-------------------------|
| Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
| Rules Review Commission Legal Counsel | 4 | \$ 310,459 | Appropriations | Yes | No |
| Medicaid ALJ (Attorney II) | 1 | 103,126 | Receipts | Yes | No |
| General Counsel (Attorney II) | 1 | 103,126 | Appropriations | Yes | No |
| Human Rights Commission Legal Counsel (Attorney) | 1 | 72,092 | Appropriations | Yes | No |
| Agency Legal Specialist I (Law Clerk) | 1 | 53,343 | Appropriations | No | No |
| OAH Totals | 8 | \$ 642,146 | | | |

Source: Program Evaluation Division based on data from the OSC Integrated HR/Payroll System and the Office of Administrative Hearings.

Appendix H: Legislative Branch Attorney Position Details

| North Carolina General Assembly | | | | | | | |
|---------------------------------|-----------------------------------|-----------|--------------------|----------------|--------------------|-------------------------|--|
| Division | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? | |
| Administrative | LSO - Legal Analyst I | 1 | \$ 77,500 | Appropriations | Yes | No | |
| Bill Drafting | Division Director | 1 | 158,863 | Appropriations | Yes | No | |
| Bill Drafting | Legislative Analyst I | 5 | 310,709 | Appropriations | Yes | No | |
| Bill Drafting | Legislative Analyst II | 1 | 71,000 | Appropriations | Yes | No | |
| Bill Drafting | Principal Legislative Analyst | 6 | 692,398 | Appropriations | Yes | No | |
| Bill Drafting | Senior Legislative Analyst | 5 | 466,962 | Appropriations | Yes | No | |
| House | Chief of Staff | 1 | 173,944 | Appropriations | Yes | No | |
| House | Legislative Counsel | 1 | 106,000 | Appropriations | Yes | No | |
| Legislative Analysis | Division Director | 1 | 150,205 | Appropriations | Yes | No | |
| Legislative Analysis | Legislative Analyst I | 9 | 584,960 | Appropriations | Yes | No | |
| Legislative Analysis | Legislative Analyst II | 4 | 338,113 | Appropriations | Yes | No | |
| Legislative Analysis | Principal Legislative Analyst | 12 | 1,307,938 | Appropriations | Yes | No | |
| Senate | Counsel to Rules Committee Chair | 1 | 122,800 | Appropriations | Yes | No | |
| Senate | General Counsel | 1 | 156,000 | Appropriations | Yes | No | |
| Senate | Redistricting and Finance Counsel | 1 | 105,038 | Appropriations | Yes | No | |
| Senate | Senior Policy Advisor | 1 | 100,500 | Appropriations | Yes | No | |
| NCGA Totals | | 51 | \$4,922,930 | | | | |

Vacant NCGA Attorney Positions:

| Division | Position | Count | Budgeted Salary | Funding Source | Licensed Attorney? | Authorized to Litigate? |
|----------------------|----------------------------|-------|-----------------|----------------|--------------------|-------------------------|
| Legislative Analysis | Legislative Analyst I | 1 | TBD | Appropriations | Vacant | No |
| Legislative Analysis | Legislative Analyst II | 1 | TBD | Appropriations | Vacant | No |
| Legislative Analysis | Senior Legislative Analyst | 1 | TBD | Appropriations | Vacant | No |

Source: Program Evaluation Division based on data from the North Carolina General Assembly.

Appendix I: Specific Uses of Private Attorneys, FY 2016-17

| Organization | Private Attorney Hired | Purpose | Total Fee FY 2016-17 |
|--|---|--|-------------------------|
| Administration | Robert F Orr | Litigation | \$ 33,483 |
| Administration | Wyrick Robbins Yates & Ponton LLP | Litigation | 25,431 |
| Administrative Office of the Courts Court of Appeals Supreme Court | Coats & Bennett Martha Thompson Brocker Law Firm Bell Davis Pitt Tim Fulton Walker & Owen | Real estate law, Intellectual property, Litigation, Bar grievance, Petition for removal | 130,194 |
| Commerce | Robert F Orr | Litigation | 894 |
| Environmental Quality | Alston & Bird, LLP | Litigation | 86,235 |
| Environmental Quality | Burns, Day & Presnell, PA | Litigation | 9,963 |
| Environmental Quality | Kilpatrick Townsend LLP | Document review and litigation | 368,742 |
| General Assembly | Bancroft PLLC | Litigation | 385,627 |
| General Assembly | Cooper And Kirk, PLLC | Litigation | 205,501 |
| General Assembly | Kirkland And Ellis, LLP | Litigation | 150,000 |
| General Assembly | Michael A Hannah | Litigation | 177,000 |
| General Assembly | Nelson, Mullins, Riley, and Scar, LLP | Litigation | 522,500 |
| General Assembly | Ogletree, Deakins, Nash, and Smoak | Litigation | 882,842 |
| General Assembly | Phelps Dunbar, LLP | Litigation | 12,213 |
| General Assembly | Robert D Potter, Jr | Litigation | 144,578 |
| General Assembly | Safran Law Offices | Provide legal advice to LSO | 70,848 |
| General Assembly | Schaerr Duncan, LLP | Litigation | 1,427,299 |
| General Assembly | Scott Gaylord | Litigation | 280 |
| General Assembly | Sean Patrick Trende | Litigation | 28,200 |
| General Assembly | Thomas B Hofeller | Litigation (Expert Witness) | 5,400 |
| General Assembly | Thomas L Brunell | Litigation (Expert Witness) | 11,200 |
| Health And Human Services | Alston & Bird, LLP | Litigation | 7,305 |
| Health And Human Services | Covington and Burling, LLP | Subscription - Joint State Advisory | 2,500 |
| Health And Human Services | Manatt, Phelps, and Phillips, LLP | Litigation | 89,049 |
| Health And Human Services | Ogletree, Deakins, Nash, Smoak | Litigation | 204,858 |
| Health And Human Services | Poyner Spruill | Litigation | 5,898 |
| Health And Human Services | Robinson, Bradshaw, and Hinson | Litigation | 209,051 |
| Health And Human Services | Robinson, Bradshaw, and Hinson | Litigation | 42,754 |
| Industrial Commission | Michael McKnight & Phil Strach | Litigation | 90,268 |
| Justice | Kell C Mercer | Litigation | 11,288 |
| Justice | Phillip Telfer | Consumer law | 60,301 |
| Labor | Charles Brewer R Joyce Garret Ellen Gelbin Richard Koch Carroll Tuttle Reagan Weaver | Contracts for six Review Commission attorneys who resolve occupational safety disputes | 23,263 |
| Office of Administrative Hearings | John W Smith | Temp administrative law judge | 658 |
| Office of the Governor | Bowers Law Office LLC | Litigation | 156,931 |
| Office of the Governor | Brooks Pierce | Litigation | 445,560 |
| Office of the Governor | Campbell Shatley, PLLC | Litigation | 6,638 |

| Organization | Private Attorney Hired | Purpose | Total Fee FY 2016-17 |
|------------------------|--|--|-------------------------|
| Office of the Governor | Manatt, Phelps, and Phillips LLP | Health and public assistance | \$ 153,853 |
| Office of the Governor | McGlinchey Stafford PLLC | Litigation | 98,881 |
| Office of the Governor | Millberg, Gordon, and Stewart PLLC | Litigation | 165,226 |
| Office of the Governor | Robert F Orr | Litigation | 9,230 |
| Office of the Governor | Robinson, Bradshaw, and Hinson | Litigation | 228,609 |
| Public Instruction | Blanchard, Miller, Lewis & Isley, PA | Litigation | 201,281 |
| Public Instruction | Robert F Orr, Andrew H Erteschik, Saad Gul, John M Durnovich | Litigation | 386,329 |
| Public Safety | Bowers Law Office LLC | Litigation | 96,653 |
| Public Safety | John C Hunter | Litigation | 4,770 |
| Public Safety | McGlinchey Stafford PLLC | Litigation | 79,938 |
| Public Safety | Millberg, Gordon, and Stewart PPL | Litigation | 115,498 |
| Public Safety | Robinson Bradshaw | Litigation | 54,880 |
| Revenue | Freisem, Macon, Swann & Malone | Out-of-state collections | 2,254 |
| Revenue | John Jolly, Jr | Court-ordered mediation | 450 |
| Revenue | Lam, Lyn & Philip, PC | Out-of-state collections | 2,000 |
| Revenue | Lawcraft: Rogers, Morris & Zeigler | Out-of-state collections | 4,994 |
| Revenue | Parker Hudson Rainer & Dobbs, LLP | Court-ordered mediation | 3,373 |
| Revenue | Richardson, Plowden & Robinson, PA | Out-of-state collections | 840 |
| Revenue | Robert F Orr | Litigation | 8,580 |
| Revenue | Weltman, Weinberg & Reis Co, LPA | Out-of-state collections | 5 |
| State Treasurer | Alston & Bird, LLP | Administrative/regulatory law | 43,489 |
| State Treasurer | Cohen Milstein Sellers & Toll, PLLC | Ethics compliance consulting | 150,273 |
| State Treasurer | Groom Law Group | Tax counsel | 101,818 |
| State Treasurer | Hunton & Williams, LLP | Disclosure | 50,588 |
| State Treasurer | Ice Miller LLP | Investment litigation | 2,067 |
| State Treasurer | K&L Gates LLP | Transaction and/or bond counsel | 527,036 |
| State Treasurer | Moore & Van Allen | Disclosure, securities evaluation | 40,000 |
| State Treasurer | Parker, Poe, Adams & Bernstein | Transaction and/or bond counsel | 105,900 |
| State Treasurer | Robinson Bradshaw | Transaction and/or bond counsel | 164,779 |
| State Treasurer | Smith, Anderson, Blount, Dorsett, and Mitchell | Investment litigation, securities evaluation | 405 |
| State Treasurer | Womble, Carlyle, Sandridge & Rice | Transaction and/or bond counsel | 1,721,872 |
| Transportation | Anderson & Strickland PA | Real estate law | 8,500 |
| Transportation | Autry Legal PLLC | Real estate law | 16,600 |
| Transportation | Bain & McRae LLP | Real estate law | 4,172 |
| Transportation | Benjamin H Harding Jr PLLC | Real estate law | 488 |
| Transportation | Biggers & Associates PLLC | Real estate law | 4,225 |
| Transportation | Brigham Law Office PLLC | Real estate law | 3,200 |
| Transportation | Bryant Legal Inc | Real estate law | 575 |
| Transportation | Carolyn B Winfrey, Attorney at Law | Real estate law | 8,490 |
| Transportation | Clarence E Horton Jr | Real estate law | 425 |
| Transportation | Clarence H Dickson Iii | Real estate law | 3,100 |
| Transportation | Clark, Griffin & McCollum, LLP | Real estate law | 652 |
| Transportation | Clement Law Office | Real estate law | 200 |

| Organization | Private Attorney Hired | Purpose | Total Fee FY 2016-17 |
|----------------|--|---------------------------------|-------------------------|
| Transportation | Cloninger, Barbour, Searson & Jones | Real estate law | \$ 1,609 |
| Transportation | Conner, Gwyn, and Schenck, PLLC | Real estate law | 13,331 |
| Transportation | Craige, Jenkins, Liipfert & Walker, LLP | Real estate law | 28,824 |
| Transportation | Dan R Murray, Attorney | Real estate law | 626 |
| Transportation | David L Isenhower, Attorney | Real estate law | 14,402 |
| Transportation | Dees, Smith, Powell, Jarrett, Dees & Jones, LLP | Real estate law | 7,341 |
| Transportation | Di Santi, Watson & Capua | Real estate law | 3,950 |
| Transportation | Earwood, Moore, Carpenter & Guy | Real estate law | 967 |
| Transportation | Edgar Bernard Gregory | Real estate law | 1,475 |
| Transportation | FisherBroyles LLP | Real estate law | 3,750 |
| Transportation | Gavin & Cox, Attorneys at Law | Real estate law | 2,950 |
| Transportation | Goldsmith, Goldsmith & Dews PA | Real estate law | 1,983 |
| Transportation | Goosmann, Rose, Colvard & Cramer | Real estate law | 5,000 |
| Transportation | Graham, Nuckolls, Conner Law Firm | Real estate law | 7,000 |
| Transportation | Graham-Davis Law Firm PLLC | Real estate law | 400 |
| Transportation | Groome, Tuttle, Pike & Blair | Real estate law | 31,257 |
| Transportation | Hamlet & Associates | Litigation | 20,730 |
| Transportation | Hartsell Williams | Litigation | 307,579 |
| Transportation | Heather R Klein | Real estate law | 1,150 |
| Transportation | Hogue Hill LLP | Litigation | 37,450 |
| Transportation | Hollers & Atkinson, Attorneys at Law | Real estate law | 2,100 |
| Transportation | Holt, Longest, Wall, Blaetz & Mosely | Real estate law | 3,285 |
| Transportation | Holton Law Firm PLLC | Real estate law | 500 |
| Transportation | Hornthal, Riley, Ellis & Maland LLP | Real estate law | 600 |
| Transportation | Hunton & Williams LLP | Transaction and/or bond counsel | 484,295 |
| Transportation | Hutchens Law Firm | Real estate law | 3,760 |
| Transportation | Isaacson Isaacson Sheridan Fountain & Leftwich LLP | Real estate law | 8,754 |
| Transportation | Jacqueline R Clare | Real estate law | 1,131 |
| Transportation | James M Shannonhouse, Jr | Real estate law | 95 |
| Transportation | James McElroy & Diehl PA | Real estate law | 3,308 |
| Transportation | Jennifer B Lewis PLLC | Real estate law | 277 |
| Transportation | Jennifer S Brearley | Real estate law | 575 |
| Transportation | Jones Law Firm | Real estate law | 750 |
| Transportation | Kelly Johnson, PA | Real estate law | 4,306 |
| Transportation | Kenneth C Titus | Real estate law | 300 |
| Transportation | Koy E Dawkins PA | Real estate law | 459 |
| Transportation | L G Gordon Jr PA | Real estate law | 683 |
| Transportation | Lanier, King & Paysour, PLLC | Real estate law | 7,170 |
| Transportation | W Daniel Grist PLLC | Real estate law | 8,834 |
| Transportation | Lewis, Brisbois, Bisgaard & Smith LLP | Litigation | 258,285 |
| Transportation | Margaret Ann Anderson | Real estate law | 1,764 |
| Transportation | McKeever & Smith PA | Real estate law | 100 |
| Transportation | Meynardie & Nanney PLLC | Real estate law | 1,113 |

| Organization | Private Attorney Hired | Purpose | Total Fee FY 2016-17 |
|----------------|---|-------------------------------|-------------------------|
| Transportation | Michael S Yopp PA | Real estate law | \$ 200 |
| Transportation | Michaëlle Poore PA | Real estate law | 1,183 |
| Transportation | Miller & Hall PA | Real estate law | 1,854 |
| Transportation | Moore & Van Allen PLLC | Real estate law | 25,718 |
| Transportation | Morton and Griffin, Attorneys at Law | Real estate law | 500 |
| Transportation | Myers, Bigel, & Sibley, PA | Intellectual property | 8,189 |
| Transportation | NC Eminent Domain Law Firm | Real estate law | 5,926 |
| Transportation | Ogletree, Deakins, Nash, Smoak & Stewart PC | Intellectual property | 231,618 |
| Transportation | Parker Poe Adams & Bernstein LLP | Real estate law | 32,801 |
| Transportation | Paul Louis Bidwell | Real estate law | 500 |
| Transportation | Pollock & Pollock PLLC | Real estate law | 4,451 |
| Transportation | Ragsdale Liggett PLLC | Real estate law | 875 |
| Transportation | Rebecca F Person PLLC | Real estate law | 14,127 |
| Transportation | Coleman Legal PLLC | Real estate law | 1,600 |
| Transportation | Ridenour & Goss PA | Real estate law | 3,605 |
| Transportation | Robbins May and Rich, LLP | Real estate law | 6,604 |
| Transportation | Roberson, Haworth & Reese PLLC | Real estate law | 1,050 |
| Transportation | Robert A O'Quinn, Attorney at Law | Real estate law | 1,503 |
| Transportation | Rogers Townsend & Thomas PC | Real estate law | 327 |
| Transportation | Ronald E Spivey | Real estate law | 1,305 |
| Transportation | Ronald L Perkinson, Attorney at Law | Real estate law | 579 |
| Transportation | Ronald L Stephens | Real estate law | 3,194 |
| Transportation | Ronald L Perkinson, Attorney at Law | Real estate law | 1,625 |
| Transportation | Rountree Losee LLP | Evaluation of maritime claims | 21,966 |
| Transportation | Russell F Ferree, Attorney at Law | Real estate law | 5,400 |
| Transportation | Sam Q Carlisle II, Attorney at Law | Real estate law | 6,092 |
| Transportation | Sharon Tracey Barrett | Real estate law | 1,125 |
| Transportation | Smith Moore Leatherwood | Litigation | 54,373 |
| Transportation | Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan LLP | Litigation | 881,917 |
| Transportation | Starnes, Aycocock, Haire, Hogan, Saunders & Rigsbee PLLC | Real estate law | 1,158 |
| Transportation | Tallant Law Office | Real estate law | 2,500 |
| Transportation | Teague, Campbell, Dennis & Gorham | Litigation | 489,848 |
| Transportation | Parker Law Office PLLC | Real estate law | 13,278 |
| Transportation | Schweppe Law Firm, PA | Real estate law | 8,225 |
| Transportation | Shoaf Law Firm PA | Real estate law | 8,900 |
| Transportation | Stepp Law Firm | Real estate law | 1,500 |
| Transportation | Wortman Law Firm PLLC | Real estate law | 100 |
| Transportation | Thomas C Duncan PLLC | Real estate law | 1,825 |
| Transportation | Tillman, Hinkle & Whichard PLLC | Real estate law | 300 |
| Transportation | Timothy S Kincaid | Real estate law | 338 |
| Transportation | Troutman Sanders LLP | Bankruptcy law | 44,908 |
| Transportation | Wayne P Huckel | Real estate law | 7,256 |

| Organization | Private Attorney Hired | Purpose | Total Fee FY 2016-17 |
|---|---|-------------------------------|-------------------------|
| Transportation | West & Smith LLP, Attorneys at Law | Real estate law | \$ 248 |
| Transportation | William E Spainhour | Real estate law | 2,794 |
| Transportation | William J Morgan PA | Real estate law | 2,563 |
| Transportation | William L Nelson, Attorney at Law | Real estate law | 1,500 |
| Transportation | William Robert Pittman | Real estate law | 356 |
| Transportation | William T Cozart, Attorney | Real estate law | 20,995 |
| Transportation | Womble, Carlyle, Sandridge & Rice | Consumer law | 14,779 |
| Transportation | Wyatt, Early, Harris, & Wheeler LLP | Real estate law | 23,375 |
| Transportation | Young, Moore, and Henderson PA | Real estate law | 3,370 |
| Utilities Commission | Duncan, Weinberg, Benzer & Pembroke, PC | Administrative/regulatory law | 82,953 |
| University System | See Appendix J for details | See Appendix J for details | 22,265,931 |
| Agriculture & Consumer Services | none | none | - |
| Community College System | none | none | - |
| Information Technology | none | none | - |
| Insurance | none | none | - |
| Military And Veteran Affairs | none | none | - |
| Natural And Cultural Resources | none | none | - |
| Office of Commissioner of Banks | none | none | - |
| Office of the Lieutenant Governor | none | none | - |
| State Auditor | none | none | - |
| State Board of Elections And Ethics Enforcement | none | none | - |
| Secretary of State | none | none | - |
| Utilities Commission - Public Staff | none | none | - |
| Wildlife Resources Commission | none | none | - |
| Total | | | \$ 36,214,671 |

Source: Program Evaluation Division based on self-reported data from the 34 state organizations that were included in this evaluation.

Appendix J: University System Private Attorneys, FY 2016–17

| Campus | Private Attorney Hired | Purpose | Total Fee FY 2016–17 |
|----------------------|---|-----------------------------------|-------------------------|
| Appalachian State | Nelson, Mullins, Riley & Scarborough, LLP | Intellectual property | \$ 34 |
| Appalachian State | Poyner Spruill | Utility law expertise | 19,523 |
| East Carolina | McDermott, Will & Emory, LLP | Healthcare | 829,943 |
| East Carolina | Blick Law Firm | Education law | 15,850 |
| East Carolina | Wyrick Robbins Yates & Ponton LLC | Healthcare law specialties | 193,303 |
| East Carolina | Parker Poe Adams & Bernstein LLP | Intellectual property | 2,902 |
| East Carolina | Parker Poe Adams & Bernstein LLP | Intellectual property | 4,015 |
| East Carolina | Parsons Summa | Intellectual property | 12,510 |
| East Carolina | Batten Lee, PLLC | Litigation | 19,830 |
| East Carolina | Jenkins, Wilson, Taylor & Hunt, PA | Research | 7,747 |
| East Carolina | Myers, Bigel, Sibley & Sajovec PA | Research | 221,899 |
| East Carolina | Parker Poe Adams & Bernstein LLP | Research | 875 |
| Fayetteville State | Parsons Summa | Intellectual property | 22,731 |
| NC A&T | Jenkins, Wilson, Taylor & Hunt PA | Intellectual property | 33,532 |
| NC A&T | MacCord Mason PLLC | Intellectual property | 19,373 |
| NC A&T | Myers, Bigel & Sibley, PA | Intellectual property | 8,893 |
| NC A&T | Smith Moore Leatherwood | Intellectual property | 22,227 |
| NC Central | Ladas & Parry, LLP | Intellectual property | 26,017 |
| NC Central | Alston & Bird, LLP | Intellectual property | 6,363 |
| NC Central | Olive & Olive | Intellectual property | 18,206 |
| NC Central | Myers, Biegel, Sibley & Sajovec, PLLC | Intellectual property | 8,060 |
| NCSEAA ²⁰ | Latimer Levay Fyock, LLC | Bankruptcy law | 7,434 |
| NCSEAA | McNair Law Firm, PA | Tax counsel to update NC 529 Plan | 6,568 |
| NC State | Parker Poe Adams & Bernstein LLP | Intellectual property | 13,382 |
| NC State | Kocian Solc Balastik Law Firm | International compliance | 11,652 |
| NC State | Connor Gwyn Schenck, PLLC | OSHA Review Commission | 1,739 |
| NC State | Parker Poe Adams & Bernstein LLP | Real estate law | 11,966 |
| NC State | Parker Poe Adams & Bernstein LLP | Real estate law | 254 |
| NC State | Moore & Van Allen PLLC | Superfund | 3,689 |
| NC State | Parker Poe Adams & Bernstein LLP | Bond counsel | 45,000 |
| NC State | Alston & Bird, LLP | Intellectual property | 142,344 |
| NC State | Jenkins, Wilson, Taylor & Hunt, PA | Intellectual property | 160,206 |
| NC State | Kilpatrick, Townsend & Stockton, LLP | Intellectual property | 79,351 |
| NC State | Meunier Carlin & Curfman LLC | Intellectual property | 152,744 |
| NC State | Michael Best & Friedrich LLP | Intellectual property | 139,636 |
| NC State | Moore & Van Allen PLLC | Intellectual property | 14,735 |
| NC State | Myers Bigel, PA | Intellectual property | 834,088 |
| NC State | Olive Law Group, PLLC | Intellectual property | 78,595 |
| NC State | Parker Poe Adams & Bernstein LLP | Intellectual property | 1,558 |

²⁰ NCSEAA stands for the North Carolina State Education Assistance Authority, which is an independent state entity that receives some administrative support through the UNC System Office.

| Campus | Private Attorney Hired | Purpose | Total Fee FY 2016–17 |
|--------------------|--------------------------------------|------------------------------------|---------------------------------|
| NC State | Thomas Hostemeyer, LLP | Intellectual property | 123,070 |
| NC State | Womble, Carlyle, Sandridge & Rice | Intellectual property | 212,225 |
| UNC System Office | Gray, Miller, and Persch, LLP | Administrative/regulatory law | 3,185 |
| UNC System Office | McGuire Woods, LLP | Tax/Employee Benefits law | 42,034 |
| UNC System Office | Jones Day | Litigation | 1,688,531 |
| UNC-TV | Brooks Pierce | Administrative/regulatory law | 42,323 |
| UNC-TV | Womble, Carlyle, Sandridge & Rice | Intellectual property | 2,474 |
| UNC-TV | Brooks Pierce | Spectrum repack | 13,413 |
| UNC at Asheville | Van Winkle Law Firm | Intellectual property | 4,227 |
| UNC at Chapel Hill | Brooks Pierce | Administrative/regulatory law | 57,193 |
| UNC at Chapel Hill | Hogan Lovells US LLP | Administrative/regulatory law | 1,192,035 |
| UNC at Chapel Hill | Robinson, Bradshaw & Hinson, PA | Antitrust | 166,666 |
| UNC at Chapel Hill | Womble, Carlyle, Sandridge & Rice | Antitrust | 44,257 |
| UNC at Chapel Hill | Bond Schoeneck & King PLLC | Athletics regulatory issues | 1,094,255 |
| UNC at Chapel Hill | Jetlaw, LLC | Aviation | 6,934 |
| UNC at Chapel Hill | Cadwalader, Wickersham & Taft, LLP | Education law | 139,752 |
| UNC at Chapel Hill | McGuire Woods, LLP | Employee benefits | 24,000 |
| UNC at Chapel Hill | Cozen O'Connor | Title IX | 74,504 |
| UNC at Chapel Hill | Pepper Hamilton LLP | Title IX | 306,147 |
| UNC at Chapel Hill | K & L Gates, LLP | Healthcare; employment | 590,262 |
| UNC at Chapel Hill | Sivaraman Law, PC | Immigration law | 3,700 |
| UNC at Chapel Hill | Andrews Kurth, LLP | Intellectual property | 22,612 |
| UNC at Chapel Hill | Ballard Spahr, LLP | Intellectual property | 59,027 |
| UNC at Chapel Hill | Casimir Jones | Intellectual property | 39,816 |
| UNC at Chapel Hill | Dann, Dorfman, Herrell & Skillman | Intellectual property | 61,170 |
| UNC at Chapel Hill | Hutchison PLLC | Intellectual property | 4,152 |
| UNC at Chapel Hill | Jenkins, Wilson, Taylor & Hunt, PA | Intellectual property | 714,958 |
| UNC at Chapel Hill | Kilpatrick, Townsend & Stockton, LLP | Intellectual property | 16,164 |
| UNC at Chapel Hill | Bentley J Olive, PLLC | Intellectual property | 112,119 |
| UNC at Chapel Hill | Myers, Bigel & Sibley, PA | Intellectual property | 1,673,019 |
| UNC at Chapel Hill | NK Patent Law, PLLC | Intellectual property | 5,890 |
| UNC at Chapel Hill | Passé Intellectual Property LLC | Intellectual property | 19,050 |
| UNC at Chapel Hill | Sterne, Kessler, and Goldstein | Intellectual property | 145,221 |
| UNC at Chapel Hill | Stipkala & Klosowski, LLC | Intellectual property | 9,859 |
| UNC at Chapel Hill | Stites & Harbison, PLLC | Intellectual property | 38,740 |
| UNC at Chapel Hill | Withrow & Terranova, PLLC | Intellectual property | 4,333 |
| UNC at Chapel Hill | Wyrick Robbins Yates & Ponton LLC | Intellectual property | 7,134 |
| UNC at Chapel Hill | Alston & Bird, LLP | Intellectual property; bankruptcy | 534,135 |
| UNC at Chapel Hill | Moore & Van Allen, PLLC | Intellectual property; environment | 31,668 |
| UNC at Chapel Hill | Skadden, Arps, Slate, Meagher & Flom | Litigation | 4,490,728 |
| UNC at Chapel Hill | Sidley Austin, LLP | NCAA matters | 462,894 |
| UNC at Chapel Hill | Manning, Fulton & Skinner, PA | Real estate law | 1,024,943 |
| UNC at Chapel Hill | Schell Bray, PLLC | Real estate law | 3,099,616 |
| UNC at Chapel Hill | Bertrand M Harding Jr | Tax advice | 20,149 |

| Campus | Private Attorney Hired | Purpose | Total Fee FY 2016–17 |
|------------------------|--|------------------------------------|---------------------------------|
| UNC at Chapel Hill | Parker Poe Adams & Bernstein LLP | Transaction and/or bond counsel | 10,247 |
| UNC at Charlotte | Clements Bernard, PLLC | Intellectual property | 86,738 |
| UNC at Charlotte | Erickson Kernell IP | Intellectual property | 5,390 |
| UNC at Charlotte | Additon, Higgins & Pendleton, PA | Intellectual property | 538 |
| UNC at Charlotte | Hasse & Nesbitt, LLC | Intellectual property | 17,055 |
| UNC at Charlotte | Jenkins, Wilson, Taylor & Hunt, PA | Intellectual property | 47,428 |
| UNC at Charlotte | K & L Gates, LLP | Intellectual property | 5,037 |
| UNC at Charlotte | Kilpatrick, Townsend & Stockton, LLP | Intellectual property | 330 |
| UNC at Charlotte | Bentley J Olive, PLLC | Intellectual property | 3,190 |
| UNC at Charlotte | Leak & Schroeder, PLLC | Intellectual property | 2,080 |
| UNC at Charlotte | Marshall, Gerstein & Borun, LLP | Intellectual property | 12,858 |
| UNC at Charlotte | McDermott, Will & Emory, LLP | Intellectual property | 5,830 |
| UNC at Charlotte | McDonnell, Boehnen, Hulbert & Berghoff | Intellectual property | 39,585 |
| UNC at Charlotte | Miller & Hall, PA | Intellectual property | 1,599 |
| UNC at Charlotte | Myers, Bigel, Sibley & Sajovec, PA | Intellectual property | 123 |
| UNC at Charlotte | Nixon & Vanderhye, PC | Intellectual property | 14,262 |
| UNC at Charlotte | Oloff PLC | Intellectual property | 19,386 |
| UNC at Charlotte | Pedigo Law Firm, PLLC | Intellectual property | 2,541 |
| UNC at Charlotte | Pike IP Law, PLLC | Intellectual property | 5,742 |
| UNC at Charlotte | Smith Moore Leatherwood | Intellectual property | 85,964 |
| UNC at Charlotte | Thomas Horstemeyer, LLP | Intellectual property | 3,152 |
| UNC at Charlotte | Tillman Wright, PLLC | Intellectual property | 22,178 |
| UNC at Charlotte | VLP Law Group, LLP | Intellectual property | 175 |
| UNC at Greensboro | Kilpatrick, Townsend & Stockton, LLP | Intellectual property | 13,701 |
| UNC at Greensboro | Myers, Bigel, Sibley & Sajovec PA | Intellectual property | 10,788 |
| UNC at Greensboro | Olive & Olive | Intellectual property | 20,846 |
| UNC at Greensboro | Smith Moore Leatherwood | Intellectual property | 12,290 |
| UNC at Pembroke | Cooper & Dunham, LLP | Intellectual property | 29,525 |
| UNC at Wilmington | McDonnell, Boehnen, Hulbert & Berghoff | Intellectual property | 9,929 |
| UNC at Wilmington | Nexsen Pruet, LLC | Intellectual property | 36,794 |
| UNC at Wilmington | Parker Poe Adams & Bernstein, LLP | Intellectual property | 758 |
| UNC at Wilmington | T Michael Satterfield | Real estate law | 767 |
| UNC at Wilmington | Brooks Pierce | Research grant | 150 |
| UNC at Wilmington | R Blackmore | External adjudicator | 1,350 |
| UNC School of the Arts | Kilpatrick, Townsend & Stockton, LLP | Real estate/environmental | - |
| Western Carolina | Bell, Davis & Pitt, PA | Capital improvement | 27 |
| Western Carolina | Van Winkle Law Firm | Capital improvement | 300 |
| Western Carolina | Brooks Pierce | Counsel campus radio station | 1,938 |
| Western Carolina | Parker Poe Adams & Bernstein, LLP | Debt consolidation | 2,375 |
| Western Carolina | Cauley Pridgen, PA | Regulatory work | 3,498 |
| Western Carolina | Marshall, Roth & Gregory, PC | Real estate law | 3,483 |
| Western Carolina | Ridenour & Goss, Attorneys at Law | Real estate law | 3,151 |
| Western Carolina | Williams Mullen | Tax exempt application for housing | 3,810 |

| Campus | Private Attorney Hired | Purpose | Total Fee FY 2016–17 |
|----------------------------------|-----------------------------------|-----------------------|---------------------------------|
| Winston-Salem State University | Myers Bigel & Sibley PA | Trademark Application | 1,663 |
| Winston-Salem State University | Myers Bigel & Sibley PA | Trademark Application | 894 |
| Winston-Salem State University | Moore and Van Allen, PLLC | 2017 Bond Issuance | 30,000 |
| Winston-Salem State University | Parker Poe Adams & Bernstein, LLP | 2017 Bond Issuance | 55,000 |
| Winston-Salem State University | Myers Bigel & Sibley PA | Trademark Application | 4,112 |
| Total – University System | | | \$ 22,265,931 |

Source: Program Evaluation Division based on self-reported data from the University of North Carolina System.



NORTH CAROLINA GENERAL ASSEMBLY

Legislative Services Office

Paul Coble, Legislative Services Officer

Program Evaluation Division
300 N. Salisbury Street, Suite 100
Raleigh, NC 27603-5925
Tel. 919-301-1404 Fax 919-301-1406

John W. Turcotte
Director

March 5, 2018

Senator Phil Berger, Senate President Pro Tempore
Representative Tim Moore, Speaker
Senator Brent Jackson, Co-Chair, Joint Legislative Program Evaluation Oversight Committee
Representative Craig Horn, Co-Chair, Joint Legislative Program Evaluation Oversight Committee
Members of the General Assembly

President Pro Tempore Berger, Speaker Moore, Senator Jackson, Representative Horn, and Members:

As part of the Program Evaluation Division's (PED) protocol, agencies have the opportunity to respond to evaluation reports. This response is included as part of the report. The Department of Justice (DOJ) took issue with some conclusions made by PED in its report, *The System of Attorney Allocation in North Carolina State Government is Decentralized*, and with the accuracy of some of the report data. However, the points raised by DOJ are misinformed and represent an attempt to mischaracterize and misconstrue our report. As a result, it is necessary to inform and correct statements made by DOJ in its formal response. A careful read of the PED report reveals that the comments submitted by DOJ misinterpret the evaluation's results.

General Comments. PED staff worked extensively with DOJ on an almost daily basis during the 30-day review process and the concerns expressed in the department's final response were not expressed during this review process.

DOJ begins by challenging the evaluation's approach, stating:

"While we believe the report provides much useful data, the report also appears to draw some faulty conclusions from those data.

*"The primary faulty conclusion in the report is signaled by the report's title: *The System of Attorney Allocation in North Carolina State Government is Decentralized*. The conclusion embedded in this title—that attorney allocation in state government is "decentralized"—is explained in the "Summary" section on the first page of the report: "Because only 42% of the 719 positions examined by the Program Evaluation Division are under the control of DOJ, the State's system of attorney allocation can be characterized as being decentralized." We believe that this conclusion lacks necessary and meaningful context, focusing simply on how attorney positions are allocated in state government rather than on how specific kinds of legal services are allocated."*

PED Response. PED disagrees with the DOJ comment above. In 1990, then-North Carolina Attorney General, the Honorable Lacy H. Thornburg, concluded in an article published in the *Campbell Law Review*

that attorney allocation in North Carolina was “decentralized”.¹ Attorney General Thornburg’s statement refers to the results of the same 1988 Legislative Research Commission study that is referenced in the PED report on page 5. Attorney General Thornburg further stated, **“At the time of the study, it was determined that there were almost as many legal positions outside the direct control of the Attorney General as there were within his control.”** Attorney General Thornburg recommended moving 57 attorney positions from state agencies to the Department of Justice in order to “consolidate” the attorney positions and move away from the decentralized structure that existed at the state agencies. PED’s conclusion is that this decentralized condition still exists. This article by then-Attorney General Thornburg was the basis for PED’s approach and conclusions, which were also informed by the Legislative Research Commission’s 1988 study on the allocation of attorneys.

DOJ also states,

“As a result, the report fails to note that certain categories of legal services (e.g., litigation) are highly centralized.”

PED Response. PED disagrees with the DOJ comment above. On page 8 of the PED report, under Question 2: How are Department of Justice attorneys used?, the report states in bold: **“One of the responsibilities of the Attorney General is to represent all state departments, agencies, institutions, commissions, bureaus, or other organized activities of the State that receive support, in whole or in part, from the State.”**

On page 7 of the PED report, under Question 1: How are attorneys distributed and used in North Carolina state government organizations?, the report states: *“There are some state entities that, due to the litigious nature of their work, have limited statutory authority to be represented by in-house counsel. As shown in Exhibit 4, the Program Evaluation Division identified six state organizations that have in-house counsel positions authorized by statute to appear in court in civil or administrative proceedings and, in two cases, to assist in prosecuting criminal actions. The authorization is limited, applying only to actions in specific kinds of proceedings. The authorization does not apply to other actions.”*

Thus, the report recognizes litigation is handled by DOJ. If DOJ had proposed alternative language during the review process to better reflect this conclusion, PED could have considered inserting it.

Further, DOJ is critical of the data self-reported by agencies that was presented in Appendix I:

“As an additional matter with regard to private counsel, we note that Appendix I to the report, which purports to list specific payments made to private attorneys in Fiscal Year 2016-17, includes a number of entries that are not for the provision of legal services to State agencies. As just a few examples, the list includes payments by the General Assembly to non-lawyer expert witnesses (Sean Patrick Trende, Thomas B. Hofeller and Thomas L. Brunell), payments by the Office of Administrative Hearings to a temporary administrative law judge (John W. Smith), and payments by the Department of Revenue to mediators for court-ordered mediation (John Jolly, Jr., and Parker, Hudson and Rainer). We understand that these mistaken entries are likely due to errors in agencies’ reports about their own operations, not the fault of the Program Evaluation Division; nonetheless, we believe these examples indicate that Appendix I includes more than payments for legal services rendered to State agencies.”

¹ The Honorable Lacy H. Thornburg, *Changes in the State’s Law Firm: The Powers, Duties and Operations of the Office of the Attorney General*, Campbell Law Review, Volume 12, Issue 3, Article 1, Summer 1990.

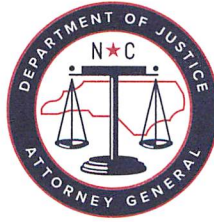
PED Response. As DOJ points out, the data PED used for this appendix was self-reported by agencies. PED researched the six examples that were identified as “errors” by DOJ. Review of the six examples revealed that four were, in fact, private attorneys hired by state organizations for various purposes, as was reported by PED. Two of the examples involved national experts who were not attorneys. These individuals were contracted to provide legal services as “expert witnesses” in litigation matters before the State. These individuals were paid a total of \$16,600 out of the total of \$36,214,671 (.046% of the total) that was self-reported by the 34 state organizations. Therefore, these two errors have no impact on PED’s conclusions or the data presented in the report. For the record, Expert Witness Fees are properly classified in the North Carolina Accounting System as Contracted Legal Services. Expert Witness Fees are charges paid to private citizens for bona fide legal services rendered. Though they are not always attorneys, these individuals are considered “experts” in their field and are used by attorneys in litigating cases in court, and therefore payments made to them are highly related to the cost of hiring private attorneys by state agencies.

Sincerely,

A handwritten signature in cursive script, appearing to read "J. W. Turcotte". The signature is written in black ink and is positioned above the printed name and title.

John W. Turcotte
Director

JOSH STEIN
ATTORNEY GENERAL



Alexander McC. Peters
Chief Deputy Attorney General
919.716.6400
apeters@ncdoj.gov

March 2, 2018

John W. Turcotte, Director
Program Evaluation Division, North Carolina General Assembly
Legislative Office Building, Suite 100
300 North Salisbury Street
Raleigh, NC 27603-5925

Re: Department of Justice Response to Program Evaluation Division Report on Attorney Allocation

Dear Mr. Turcotte:

Thank you for the opportunity to respond to the Program Evaluation Division's report on the allocation of attorneys in North Carolina state government. The Department of Justice ("DOJ") appreciates the work that has gone into preparing this report, as well as previous opportunities to offer comments and suggestions. While we believe the report provides much useful data, the report also appears to draw some faulty conclusions from those data.

The primary faulty conclusion in the report is signaled by the report's title: *The System of Attorney Allocation in North Carolina State Government is Decentralized*. The conclusion embedded in this title—that attorney allocation in state government is "decentralized"—is explained in the "Summary" section on the first page of the report: "Because only 42% of the 719 positions examined by the Program Evaluation Division are under the control of DOJ, the State's system of attorney allocation can be characterized as being decentralized." We believe that this conclusion lacks necessary and meaningful context, focusing simply on how attorney positions are allocated in state government rather than on how specific kinds of legal services are allocated.

As a result, **the report fails to note that certain categories of legal services (e.g., litigation) are highly centralized**. The report considers 719 total attorney positions in state government and correctly notes that 304 of these positions are under the control of DOJ. (The remainder of the positions are found in other Council of State and Cabinet agencies of the Executive Branch, the Legislative and Judicial Branches, the University and Community College systems, various boards and commissions, and the Office of Administrative Hearings.) While the numbers alone might suggest a "decentralized" allocation of attorneys, that suggestion is belied by consideration of the specific functions performed by attorneys in state government.

In particular, the data in the report demonstrate that the allocation of attorneys who represent the state and its agencies in court is, in fact, *highly* centralized. Of the 316 litigating attorney positions referenced in the report, 96% are in DOJ. The 12 positions outside DOJ are in the Alcoholic Beverage Control Commission and the Department of Commerce–Division of Employment Security, and the ability of in-house attorneys to appear in court on behalf of those agencies is limited to specific circumstances. Thus, representation of the State and its agencies in court is carried out almost exclusively by DOJ.

There are sound policy reasons for centralizing litigation services within DOJ. The Program Evaluation Division’s report cites a law review article by law professors Elizabeth Chambliss and Dana Remus, *Nothing Could Be Finer?: The Role of Agency General Counsel in North and South Carolina*, 84 Fordham L. Rev. 2039, 2049 (2016). That article notes the sharp distinction between agency counsel representation and litigation representation:

The core function of the agency general counsel is to advise the agency. “The agency counsel is indeed a counselor, not a litigator.” Embedded within their clients, agency general counsel develop specialized expertise and institutional knowledge, which they use in advising on law, process, and policy. The litigation function remains with the Attorney General, who, in both states, is statutorily empowered to litigate on behalf of all state entities.

(Footnotes omitted.)

We described in our earlier response some of the benefits of an approach that concentrates the provision of legal services, particularly legal services related to litigation (pending or potential), in DOJ. Such an approach provides the State and its citizens with a high level of efficiency, consistency, and expertise, focused on the State as a whole, which cannot be achieved when legal services are dispersed across state agencies. For example, centralizing these legal services in DOJ:

- Allows attorneys who work together, but represent different state agencies, to take advantage of a storehouse of accumulated legal experience and expertise that can be deployed in pursuit of their respective missions.
- Allows attorneys and their agency clients to tap into the vast experience and expertise that exists within DOJ not only for substantive areas pertinent to particular state agencies, but also for recurring issues that arise across different state agencies.
- Allows attorneys to pool and learn from a wider range of litigation expertise, both

trial and appellate, in state court, federal court, and in administrative proceedings.

- Ensures greater consistency among legal positions and approaches taken by the State across all state agencies.
- Increases information-sharing among agencies, particularly in anticipating and resolving similar interests or tensions between the goals of different state agencies whose work may be affected by the same legal issue.
- Helps address inevitable issue conflicts and other ethical concerns by allowing clients to be referred to other divisions within DOJ when necessary, instead of requiring the retention of outside counsel to handle conflict situations.
- Gives lawyers for state agencies access to certain specialized training opportunities frequently provided among the national network of Attorney General Offices (*e.g.*, National Association of Attorneys General workshops).

In addition, centralization of legal services, especially litigation, allows for critical oversight and supervision regarding how the State's legal matters are handled. This is a significant benefit. As noted by Chambliss and Remus,

. . . because the work and structure of authority in each state agency is so different, agency general counsel tend to operate in a professional vacuum, with no immediate peer group among attorneys and many other potential sources of authority. . . . [A]gency counsel have broad discretion, but little accountability or guidance.

Nothing Could Be Finer?: The Role of Agency General Counsel in North and South Carolina, 84 Fordham L. Rev. at 2041 (footnotes omitted).

By contrast, attorneys in DOJ who litigate on behalf of the State and provide counsel to it and its agencies work under the oversight of the State's Attorney General and his immediate deputies, which helps to ensure both consistency of positions taken and a high level of quality in the provision of legal services. This oversight over the provision of legal services extends to the retention of outside counsel by State agencies, as the same statute that provides that "[t]he Attorney General shall be counsel for all departments, officers, agencies, institutions, commissions, bureaus or other organized activities of the State which receive support in whole or in part from the State," also provides that State agencies can be authorized by the Governor to retain private counsel only when "the Attorney General shall advise the Governor that it is impracticable for him to render legal services to" such agency. N.C. GEN. STAT. § 147-17. Thus, both oversight over litigation

and litigation-related matters involving the State and oversight over the circumstances in which agencies can retain outside counsel is centralized in DOJ.

Cost savings is another reason why centralization is important. DOJ attorneys cost a fraction of what outside counsel charge. Under the state law that requires DOJ to charge certain boards and commissions for DOJ attorneys' time, DOJ bills out Attorney II positions with paralegal support at DOJ's cost, \$66 per hour. Attorney Supervisor positions, DOJ's most senior roles, are billed out at \$94 per hour. These numbers show that DOJ attorneys are at least three times less expensive than private attorneys, who routinely charge a minimum of \$300 per hour to provide the same services. DOJ attorneys are also compensated at a lower rate than in-house attorneys, making DOJ attorneys more cost-effective. According to the data in the appendices to the Program Evaluation Division report, the average in-house attorney at an executive branch agency has a salary \$7,000 greater than the average DOJ salary. The average university attorney's salary is \$48,000 more than the average DOJ salary.

As an additional matter with regard to private counsel, we note that Appendix I to the report, which purports to list specific payments made to private attorneys in Fiscal Year 2016–17, includes a number of entries that are not for the provision of legal services to State agencies. As just a few examples, the list includes payments by the General Assembly to non-lawyer expert witnesses (Sean Patrick Trende, Thomas B. Hofeller and Thomas L. Brunell), payments by the Office of Administrative Hearings to a temporary administrative law judge (John W. Smith), and payments by the Department of Revenue to mediators for court-ordered mediation (John Jolly, Jr., and Parker, Hudson and Rainer). We understand that these mistaken entries are likely due to errors in agencies' reports about their own operations, not the fault of the Program Evaluation Division; nonetheless, we believe these examples indicate that Appendix I includes more than payments for legal services rendered to State agencies.

Thank you again for the opportunity to respond to the Program Evaluation Division's report.

Very truly yours,



Alexander McC. Peters
Chief Deputy Attorney General



Office of State Human Resources

ROY COOPER
Governor

BARBARA GIBSON
Director, State Human Resources

March 2, 2018

Mr. John W. Turcotte, Director
Program Evaluation Division
300 North Salisbury Street, Suite 100
Raleigh, NC 27603-5925

RE: Formal Response to PED Final Report No. 2018-01

Dear Mr. Turcotte:

On behalf of the Office of State Human Resources (OSHR), thank you for the opportunity to review the Program Evaluation Division's Report entitled *The System of Attorney Allocation in State Government is Decentralized* provided to us on February 23, 2018. Please accept this letter as our formal response.

OSHR shares a strong commitment to cost effective and efficient legal representation for the State of North Carolina. North Carolina has the ninth largest population in the United States with a budget, assets, and expenses that exceed \$43.1 billion dollars a year and yet only has the fourteenth highest state government FTE employment. ("*North Carolina Rankings Among States by Indicator, PED Report, February 2017*") Additionally, state attorneys represent only 1.08 percent of the more than 71,996 state employees in the executive branch (*PED Report* p. 3 notes 776 state attorneys). This ratio for North Carolina is lower than the state and federal government averages and fails to account for the \$10 million-dollar recurring reduction to the North Carolina Department of Justice (NCDOJ) that likely reduces this ratio further for North Carolina. ("*U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics, May 2016*" (available at <https://www.bls.gov/oes/current/oes231011.htm>))

After review by this office, OSHR agrees that adding examples of incidences where the General Assembly statutorily authorized or directs boards or agencies to hire private counsel clarifies that private counsel is hired outside the statutory scheme outlined in N.C. Gen. Stat. § 114-2(2) and § 147-17(a). Finally, OSHR agrees that it is appropriate to acknowledge the study's limitation in presenting data from only seven of the three hundred and seventy-one boards and commissions. There are numerous boards, especially licensing boards, that have the authority imbedded in their enabling legislation to hire private attorneys.

Equal Opportunity Employer
State of North Carolina | Office of State Human Resources
116 West Jones Street | 1331 Mail Service Center | Raleigh, NC 27699-1331
oshr.nc.gov | 919 807 4800 T | 919 715 9750 F

Page 2

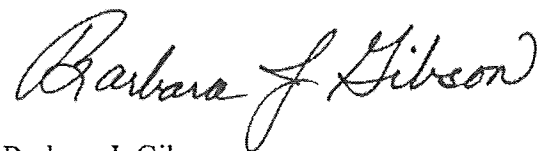
Mr. John W. Turcotte, Director

Program Evaluation Division

March 2, 2018

Thank you, again, for the opportunity to review the PED Final Report on *The System of Attorney Allocation in State Government is Decentralized*.

Very Truly Yours,

A handwritten signature in cursive script that reads "Barbara J. Gibson". The signature is written in black ink and is positioned above the printed name.

Barbara J. Gibson