

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1176

Introduced by

Representative Carlson

1 A BILL for an Act to amend and reenact sections 54-03-20, 54-06-09, and 54-35-10 of the North
2 Dakota Century Code, relating to legislative compensation and state officer and employee
3 mileage reimbursement; and to repeal sections 54-03-19.1 and 54-03-19.2 of the North Dakota
4 Century Code, relating to the legislative compensation commission.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 54-03-20 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-03-20. Compensation and expense reimbursement of members of the** 9 **legislative assembly.**

- 10 1. ~~Each~~ Except as otherwise provided in subsection 8, each member of the legislative
11 assembly is entitled to receive as compensation for services the sum of one
12 hundred twenty-five dollars for each calendar day during any organizational,
13 special, or regular legislative session and for each day that member attends a
14 meeting of a legislative committee between the organizational session and the
15 regular session as authorized by legislative rule.
- 16 2. a. Each member of the legislative assembly is entitled to receive reimbursement
17 for lodging, which may not exceed a maximum of nine hundred dollars per
18 calendar month for lodging in state, at the rates and in the manner provided in
19 section 44-08-04 for each calendar day during the period of any
20 organizational, special, or regular session.
- 21 b. Notwithstanding subdivision a:
- 22 (1) A member of the legislative assembly may elect to be reimbursed for
23 less than the amount to which the legislator is entitled under this

subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.

(2) The legislative council may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling exceeds the amount to which a legislator is entitled under subdivision a.

3. a. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle.

b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed nine hundred dollars per month.

4. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.

5. If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator

1 is a member of that committee, a majority or minority leader, or a legislator who is
2 not on that committee but who has the approval of a majority or minority leader to
3 attend.

4 6. A day, or portion of a day, spent in traveling to or returning from an organizational,
5 special, or regular session or a legislative committee meeting must be included as
6 a calendar day during a legislative session or as a day of a legislative committee
7 meeting for the purposes of this section.

8 7. a. In addition, each member is entitled to receive during the term for which the
9 member was elected, as compensation for the execution of public duties
10 during the biennium, the sum of three hundred fifty dollars a month, plus any
11 applicable adjustment under subsection 8, which is payable every six months
12 or monthly, at the member's option.

13 b. If a member dies or resigns from office during the member's term, the
14 member may be paid only the allowances provided for in this section for the
15 period for which the member was actually a member.

16 c. The majority and minority leaders of the house and senate and the chairman
17 of the legislative council, if the chairman is not a majority or minority leader,
18 are each entitled to receive as compensation, in addition to any other
19 compensation or expense reimbursement provided by law, the sum of two
20 hundred fifty dollars per month, plus any applicable adjustment under
21 subsection 8, during the biennium for their execution of public duties.

22 8. Subject to legislative appropriations, the compensation provided for members of
23 the legislative assembly under subsections 1 and 7 must be adjusted at the same
24 time and at the same rate as any general percentage adjustment in compensation
25 for permanent state employees which is approved by the legislative assembly.

26 9. Attendance at any organizational, special, or regular session of the legislative
27 assembly by any member is a conclusive presumption of entitlement as set out in
28 this section and compensation and expense allowances must be excluded from
29 gross income for income tax purposes to the extent permitted for federal income
30 tax purposes under section 127 of the Economic Recovery Tax Act of 1981
31 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].

1 **SECTION 2. AMENDMENT.** Section 54-06-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-06-09. Mileage and travel expense of state officers and employees.**

4 1. ~~State officials, whether elective or appointive, and their deputies, assistants, and~~
5 ~~clerks, or other state employees, entitled by law to be reimbursed for mileage or~~
6 ~~travel expense, must be allowed and paid for mileage and travel expense the~~
7 ~~following amounts:~~

8 a. ~~The sum of thirty seven and one half cents per mile [1.61 kilometers] director~~
9 ~~of the office of management and budget shall establish the mileage~~
10 ~~reimbursement rate for official travel by state officers and employees for each~~
11 ~~mile [1.61 kilometers] actually and necessarily traveled in the performance of~~
12 ~~official duty when the travel is by motor vehicle or private airplane, the use of~~
13 ~~which is required by the employing entity in an amount equal to the mileage~~
14 ~~reimbursement rate established by the United States general services~~
15 ~~administration and in effect on January first of each odd-numbered year. The~~
16 ~~sum of seventy cents per mile [1.61 kilometers] for each mile [1.61 kilometers]~~
17 ~~actually and necessarily traveled in the performance of official duty when the~~
18 ~~travel is by private airplane. Mileage by private aircraft must be computed by~~
19 ~~actual air mileage when only one state employee or official is traveling; if two~~
20 ~~or more state employees or officials are traveling by private aircraft, the actual~~
21 ~~mileage must be based on the road mileage between the geographical points.~~
22 ~~The reimbursement rate determined by the director in each odd-numbered~~
23 ~~year becomes effective on July first of that year.~~

24 b. Reimbursement for private airplane travel must be calculated as follows:

- 25 (1) If reimbursement is for one properly authorized and reimbursable
26 passenger, reimbursement must be paid on a per mile basis as
27 provided in this subsection.
- 28 (2) If reimbursement is claimed for a chartered private aircraft,
29 reimbursement may not exceed the cost of regular coach fare on a
30 commercial flight, if one is scheduled between the point of departure,
31 point of destination, and return, for each properly authorized and

- 1 reimbursable passenger on the charter flight; or, where there is no such
2 regularly scheduled commercial flight, the actual cost of the charter.
- 3 ~~b.~~ c. Except as provided in ~~subdivision a~~ this subsection, when travel is by rail or
4 certificated air taxi commercial operator or other common carrier, including
5 regularly scheduled flights by airlines, an official or employee is entitled to be
6 reimbursed for the amount actually and necessarily expended ~~therefor~~ in the
7 performance of official duties.
- 8 2. No reimbursement may be paid for leased private aircraft, except for leased or
9 rented private aircraft from a recognized fixed base aviation operator who is in the
10 business of leasing and renting private aircraft and is located on an airport open for
11 public use.
- 12 3. ~~If only one person engages in such travel in a motor vehicle exceeding at any~~
13 ~~geographical point three hundred miles [482.80 kilometers] beyond the borders of~~
14 ~~this state, reimbursement is limited to eighteen cents per mile [1.61 kilometers] for~~
15 ~~miles driven in excess of six hundred miles [965.60 kilometers] of round trip~~
16 ~~out-of-state travel.~~
- 17 4. An official, deputy, assistant, clerk, or other employee, when required to travel by
18 motor vehicle or truck in the performance of official duty, shall use a state-owned
19 vehicle whenever possible unless exempted under section 24-02-03.3. However,
20 an agency, institution, department, board, bureau, or commission may allow use of
21 an official's, deputy's, or employee's personal motor vehicle in circumstances
22 authorized by the official, deputy, or the employee's supervisor. If personal motor
23 vehicle use is authorized under this subsection, the agency may also allow mileage
24 reimbursement at a rate less than that otherwise provided in this section. When
25 official travel is by motor vehicle or airplane owned by the state or by any
26 department or political subdivision of the state, no allowance may be made or paid
27 for such mileage, except that governmental entities may share expenses when
28 officials or employees of those entities travel in the same motor vehicle or aircraft.
- 29 5. ~~Notwithstanding the other provisions of this section, state employees permanently~~
30 ~~located outside the state or on assignments outside the state for an indefinite~~
31 ~~period of time, exceeding at least thirty consecutive days, must be allowed and~~

~~paid thirty seven and one half cents per mile [1.61 kilometers] for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle, and the three hundred mile [482.80 kilometer] restriction imposed by subsection 3 does not apply.~~

- 6- 4. Before any allowance for ~~any such~~ mileage or travel expenses may be made, the official, ~~deputy, assistant, clerk, or other~~ employee shall file with the official's or employee's department, institution, board, commission, or agency an itemized statement showing the mileage traveled, the hour of departure and return, the days when and how traveled, the purpose thereof, and such other information and documentation as may be prescribed by rule of the ~~employee's~~ department, institution, board, commission, or agency. The statement must be submitted to the official's or employee's department, institution, board, commission, or agency for approval and must be paid only when approved by the ~~employee's~~ department, institution, board, commission, or agency.

SECTION 3. AMENDMENT. Section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

54-35-10. Compensation of members and leadership.

1. The members of the council and the members of any committee of the council are entitled to be compensated for the time spent in attendance at sessions of the council and of its committees at the ~~rate of one hundred dollars~~ per day rate provided for legislative session compensation under section 54-03-20 and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.
2. In addition to the compensation provided in subsection 1, the chairman of the council shall receive an additional five dollars for each day spent in attendance at sessions of the council and of its committees, and the chairman of each of the council's committees shall receive five dollars for each day spent in attendance at sessions of the council or of the committee which the person chairs.

SECTION 4. REPEAL. Sections 54-03-19.1 and 54-03-19.2 of the North Dakota Century Code are repealed.