

Minutes of the

LEGISLATIVE COMPENSATION COMMISSION

Wednesday, May 24, 2000
 Roughrider Room, State Capitol
 Bismarck, North Dakota

Mr. Charles Axtman, Chairman, called the meeting to order at 9:05 a.m.

Members present: Charles Axtman, Rosie Black, Jim Gerl, Steve Gorman, Tish Kelly

Others present: Karen Mund, Legislative Council, Bismarck

Dale Wetzel, Associated Press, Bismarck

- Recommend appropriate levels of legislative compensation, expense allowance, and insurance benefits.

Section 54-03-19.2 provides that the Legislative Compensation Commission must meet at least once each biennium to determine levels of legislative compensation, expense allowance, and insurance benefits which permit citizens to hold legislative office without undue financial sacrifice or disadvantage. This section allows the commission to file with the Legislative Council a bill incorporating its recommendations.

At the request of Chairman Axtman, the Legislative Council staff presented a background memorandum on the history of the Legislative Compensation Commission and legislative compensation and expense reimbursement rates in North Dakota. The following schedule summarizes legislative compensation and expense reimbursement rates from 1889 to 1999:

BACKGROUND INFORMATION

At the request of Chairman Axtman, the Legislative Council staff distributed and reviewed copies of North Dakota Century Code (NDCC) Sections 54-03-19.1 and 54-03-19.2. Section 54-03-19.1 provides that the Legislative Compensation Commission shall:

- Develop recommendations for a long-term policy on legislative compensation, expense allowance, and insurance benefits.

Year	Compensation for Each Calendar Day During Session	Expense Reimbursement			Expense Reimbursement or Compensation for Each Month During Term of Office	Compensation for Each Day Attending Interim Meetings
		Per Session	For Each Day During Session	For Each Month During Session		
1889	\$5	10 cents per mile				
1945	\$5	\$300				\$5.00
1949	\$5	\$600				\$10.00
1957	\$5	\$1,200 ¹				\$10.00
1965	\$5	\$1,200 ²			\$35 ²	\$10.00
1967	\$5		\$25		\$35	\$20.00
1969	\$5		\$35		\$35	\$30.00
1971	\$5		\$40		\$50	\$30.00
1973	\$5		\$50		\$50	\$30.00
1975	\$5		\$60		\$75	\$45.00
1977	\$5		\$60		\$150	\$45.00
1979	\$5		\$70		\$150	\$52.00
1981	\$5		\$85		\$180	\$62.50
1983	\$40 ³		\$50 ³		\$180	\$62.50
1985	\$90			\$600 ⁴	\$180 ⁵	\$62.50
1997	\$111			\$650	\$250	\$62.50
1999	\$111			\$650	\$250	\$75.00

¹ Section 54-03-20 was amended in 1959 to provide that the \$1,200 payment was reimbursement for expenses incurred during the interim and during the session.

² Section 54-03-20 was amended in 1965 to provide that the \$1,200 payment was reimbursement for expenses incurred during the session only and to provide for payments of \$35 per month during each legislator's term of office for uncompensated expenses.

³ Bismarck legislators received \$90 per day during session as compensation and did not receive any amount for daily expense reimbursement.

⁴ Section 54-03-20 was amended to provide that legislators receive reimbursement for lodging or mileage at the rates provided for state employees, not to exceed \$600 per month.

⁵ Section 54-03-20 was amended to provide that the monthly amount paid to legislators during the interim was compensation, not reimbursement for expenses.

The following schedule, also included in the background memorandum, summarizes the current compensation and expense reimbursement rates provided to members of the Legislative Assembly:

Compensation for Regular, Special, or Organizational Sessions	
Salary (Section 54-03-20)	\$111 per calendar day
Additional compensation (Section 54-03-10)	
Speaker of the House	\$10 per calendar day
House majority leader	\$10 per calendar day
Senate majority leader	\$10 per calendar day
House minority leader	\$10 per calendar day
Senate minority leader	\$10 per calendar day
Chairmen of substantive standing committees	\$5 per calendar day
House assistant majority leader	\$5 per calendar day
Senate assistant majority leader	\$5 per calendar day
House assistant minority leader	\$5 per calendar day
Senate assistant minority leader	\$5 per calendar day
Expense Reimbursement for Regular, Special, or Organizational Sessions	
Lodging expenses (Sections 44-08-04 and 54-03-20)	\$42 plus tax per calendar day up to \$650 per month
Mileage (Sections 54-03-20 and 54-06-09)	Twenty-five cents per mile for one round trip each calendar week going to and from the meeting of the Legislative Assembly. If travel is by common carrier, reimbursement must be at coach fare and may not exceed 1.5 times the amount the legislator would be entitled to receive as mileage reimbursement for travel by motor vehicle. Legislators who live in districts outside Bismarck are allowed daily round trip mileage reimbursement of 25 cents per mile or lodging reimbursement of up to \$42 per night plus any applicable state or local taxes, or a combination of mileage and lodging reimbursement up to a maximum of \$650 per month.
Compensation During Term of Office	
Compensation paid to legislators during their term of office, either monthly or every six months at the legislator's option (Section 54-03-20)	\$250 per month
Additional compensation for majority and minority leaders of the House and Senate (Section 54-03-20)	\$250 per month
Compensation for Interim Meetings	
Compensation for attendance at meetings of the Legislative Council and its committees (Section 54-35-10)	\$75 per day
Additional compensation	
Council chairman (Section 54-35-10)	\$5 per day
Committee chairmen (Section 54-35-10)	\$5 per day
Expense Reimbursement for Interim Meetings	
Meals (Section 44-08-04)	Up to \$20 per day in state; an amount equal to the federal per diem meals rate for out-of-state travel
Lodging (Section 44-08-04)	Actual expenses not to exceed \$42 per day, plus any applicable state or local taxes in state; actual expenses out of state
Mileage (Section 54-06-09)	Twenty-five cents per mile by motor vehicle; 18 cents per mile by motor vehicle 150 miles beyond the state border; 35 cents per mile by private airplane

Ms. Kelly said 1997 Senate Bill No. 2051 increased legislative session compensation from \$90 to \$111 per calendar day. She said the bill as introduced by the Legislative Compensation Commission

did not include the increase in legislative session compensation. She asked how the 1997 Legislative Assembly arrived at the \$111 per calendar day amount. The Legislative Council staff indicated the

\$111 per calendar day amount was arrived at by increasing legislative session pay by a portion of the percentage salary increases provided to state employees since 1981.

In response to a question from Mr. Gerl, Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, Legislative Council, said the appropriation for the Legislative Assembly for the 1999-2001 biennium is an increase over the amount spent during the 1997-99 biennium due in part to:

- The 1999-2001 biennium appropriation is based upon providing funding for a 77 legislative day 2001 legislative session (the 1999 legislative session was 71 legislative days).
- The 1999-2001 biennium appropriation provides funding for increased computer and health insurance costs.

Ms. Kelly said 1999 House Bill No. 1415, which amended NDCC Section 54-03-20 to provide additional compensation of \$250 per month for the majority and minority leaders of the House and Senate, was not based on a recommendation of the Legislative Compensation Commission. She asked for the legislative history relating to that bill. The requested information was distributed to the commission and is on file in the Legislative Council office.

At the request of Chairman Axtman, the Legislative Council staff presented a document prepared by the National Conference of State Legislatures entitled *1999 Compensation and Benefits for State Legislators*, which is on file in the Legislative Council office. The information presented includes legislative compensation, expense reimbursement, and other benefits provided to legislators in each of the 50 states.

At the request of Chairman Axtman, the Legislative Council staff presented a memorandum entitled *Legislative Compensation Increases Compared to Inflation and State Employee Salary Increases - 1981 Through 2000*. The following schedule compares actual calendar year 2000 legislative compensation rates to 1981 rates adjusted annually for inflation and percentage salary increases provided to state employees:

	Actual 2000 Compensation Rates	1981 Compensation Rates Adjusted for Inflation	1981 Compensation Rates Adjusted for Salary Increases Provided to State Employees
Interim daily compensation	\$75	\$117.47	\$108.77
Session daily compensation	\$111	\$169.16	\$156.57
Monthly compensation during term of office	\$250	\$338.36	\$313.20

COMMISSION DISCUSSION

Ms. Kelly said both political parties in North Dakota are finding it difficult to recruit candidates. She said some people may want to serve in the Legislative Assembly but cannot afford to do so because of inadequate legislative compensation. Mr. Gerl said it is difficult for a legislator to serve if they are required to lose money each day they are away from their job.

Mr. Axtman said there is a disparity between the levels of compensation in the legislative, executive, and judicial branches of government. Ms. Kelly said some disparity between legislative compensation and the rates of compensation provided in the executive and judicial branches is understandable due to the part-time status of the North Dakota Legislative Assembly. She said it is difficult for a legislator to serve if they cannot "break even" when taking time off from their full-time job.

Mr. Gorman said the 25 cents per mile state mileage reimbursement rate is too low, but any change to that reimbursement rate will affect all state agencies.

In response to a question from Mr. Axtman, Mr. Smith said state employees are encouraged to use Department of Transportation Fleet Services vehicles rather than receive reimbursement for using their own vehicle. He said any change to the 25 cents per mile state reimbursement rate will affect only state employees who travel with their personal vehicle.

Mr. Gerl said the Legislative Compensation Commission should consider legislation, such as was proposed by the commission to the 1997 Legislative Assembly, to give the Legislative Compensation Commission authority to set, rather than recommend, the level of legislative compensation. He said 1997 Senate Bill No. 2052, as introduced, provided that the recommendations of the Legislative Compensation Commission would take effect unless voted down by the Legislative Assembly. He said Legislative Compensation Commissions in Michigan and other states have similar authority. Mr. Axtman said the Legislative Assembly is protective of its legislative powers and may not be supportive of giving the Legislative Compensation Commission such authority.

Ms. Kelly said the Legislative Assembly did not support the proposal in 1997.

The commission recessed for lunch at 11:20 a.m. and reconvened at 1:00 p.m. in the Harvest Room to discuss legislative compensation and reimbursement issues with the Legislative Management Committee.

MEETING WITH LEGISLATIVE MANAGEMENT COMMITTEE

At the request of Senator St. Aubyn, Chairman, Legislative Management Committee, Chairman Axtman addressed the committee. He said the commission has discussed the duties of the Legislative Compensation Commission and reviewed compensation rates provided in other states. He distributed copies of the memorandum entitled *Legislative Compensation Increases Compared to Inflation and State Employee Salary Increases - 1981 Through 2000*, which was previously presented to the Legislative Compensation Commission.

Senator Nething asked what rate of pay would be provided to legislators if the \$111 per calendar day amount currently provided for legislative compensation during session was increased by the percentage salary increases provided to state employees since 1997. Representative Berg said the amount would be increased to approximately \$120 per calendar day.

Senator Nelson said the Legislative Compensation Commission should give consideration to eliminating the differential between legislative session compensation and interim compensation.

Representative Boucher said the rate of legislative pay should be consistent between the legislative session and the interim. He said the commission may also want to consider increasing the 25 cents per mile state mileage reimbursement rate. He said it may be appropriate to consider legislation that would automatically increase the state mileage rate based upon changes in the Internal Revenue Service standard mileage rate. Senator St. Aubyn said increasing the state mileage rate will affect all state agencies, not just the Legislative Assembly.

Mr. Axtman said one reason for the differential between legislative pay during legislative sessions and during the interim is that during the interim, legislators are allowed meal reimbursement of up to \$20 per day. Senator Nething said even considering the \$20 per day amount provided for meals during the interim, there is still a \$16 per day differential between legislative pay during the interim and during the session.

Mr. Gerl said in order to make legislative compensation issues easier for the Legislative Assembly to deal with, the Legislative Compensation Commission should be given authority to set, rather than recommend, the level of legislative compensation. He asked if the members of the Legislative Management Committee would support such a proposal. Senator Nelson said the only way to determine legislative

support for such a proposal is for the commission to recommend the proposal in the form of a bill.

Senator Nething said the Legislative Compensation Commission should act independently in formulating its recommendations and not be influenced by previous support, or lack of support, from the Legislative Assembly.

Representative Boucher said legislative pay adjustments should occur on a more frequent basis than has been the case in the past. He said when adjustments are infrequent, the result is the need for a large increase which is more likely to be viewed negatively by the public.

Representative Berg suggested the Legislative Compensation Commission consider including in its recommendations delayed effective dates so that any increase voted on by the 2001 Legislative Assembly would not take effect until 2003.

COMMISSION DISCUSSION AND STAFF DIRECTIVES

At 1:35 p.m. the Legislative Compensation Commission resumed its meeting in the Roughrider Room.

In response to a question from Mr. Gorman, Mr. Smith said the Legislative Council budget is based on an attendance rate of approximately 88 percent for legislator attendance at interim meetings. Mr. Gorman said the percentage of attendance at interim meetings should be monitored by the Legislative Council to determine if the rate of pay for attending those meetings is inadequate, resulting in decreased attendance.

Mr. Axtman said at a mileage reimbursement rate of 25 cents per mile, state employees are subsidizing state travel costs. He said a more appropriate rate would be the Internal Revenue Service standard mileage rate of 31 cents per mile.

Ms. Kelly said the commission should consider requesting a bill draft to authorize the Legislative Compensation Commission to set, rather than recommend, the level of legislative compensation. Ms. Black said the Legislative Compensation Commission recommended a similar bill to the 1997 Legislative Assembly and the bill was defeated due to the negative publicity. Ms. Black said she supports the proposal, but thinks it is not the right time for the Legislative Compensation Commission to make such a recommendation.

It was moved by Ms. Kelly and seconded by Mr. Gerl that the Legislative Compensation Commission request the Legislative Council staff to prepare a bill draft to give the Legislative Compensation Commission the authority to set, rather than recommend, the level of legislative compensation. Mr. Gerl and Ms. Kelly voted "aye." Mr. Axtman, Ms. Black, and Mr. Gorman voted "nay." **The motion failed.**

The commission discussed the disparity between interim and session compensation amounts.

It was moved by Mr. Gerl and seconded by Ms. Kelly that the Legislative Compensation Commission request the Legislative Council staff to prepare a bill draft to amend NDCC Section 54-03-20 to increase legislative session compensation from \$111 to \$133.50 for the 2001 legislative session and to \$156 for the 2003 legislative session.

Ms. Black expressed concern about increasing legislative compensation by such a large percentage. Mr. Axtman said Mr. Gerl's proposal would provide increases of approximately 20 percent each biennium. Mr. Gerl said the increases he proposed would adjust legislative compensation to \$156 per day, which is the approximate amount legislative compensation would be at for fiscal year 2000 if legislative compensation had been adjusted by the percentage salary increases provided to state employees since 1981.

Ms. Black said that although adequate legislative compensation is a concern to those serving in the Legislative Assembly, it is probably not the main issue preventing people from running for elected office. She said in most cases a person running for the Legislative Assembly is not aware of the amount of pay to be received once elected.

It was moved by Ms. Kelly, seconded by Ms. Black, and carried on a voice vote that the motion be amended to request the Legislative Council staff to prepare a bill draft to amend NDCC Section 54-03-20 to increase legislative compensation from \$111 to \$125 per calendar day during legislative sessions. Mr. Axtman, Ms. Black, Mr. Gerl, Mr. Gorman, and Ms. Kelly voted "aye." No negative votes were cast. **The motion as amended carried.**

It was moved by Ms. Black and seconded by Mr. Gerl that the Legislative Compensation Commission request the Legislative Council staff to prepare a bill draft to amend NDCC Section 54-35-10 to increase legislative interim daily compensation from \$75 to \$111.

Ms. Black suggested the commission consider eliminating the daily meals reimbursement provided to legislators for attending interim meetings. Mr. Smith said there are tax advantages in certain cases for legislators receiving reimbursement for meals rather than compensation. He said if legislative travel includes an overnight stay, the reimbursement for meals is not taxable.

It was moved by Mr. Axtman, seconded by Ms. Black, and carried on a voice vote that the motion be amended to request the Legislative Council staff to prepare a bill draft to amend NDCC Section 54-35-10 to increase legislative interim daily compensation from \$75 to \$100. Mr. Axtman, Ms. Black, Mr. Gerl, Mr. Gorman, and

Ms. Kelly voted "aye." No negative votes were cast. **The motion as amended carried.**

Ms. Kelly said the recommendations of the Arizona Legislative Compensation Commission are put on the ballot for a vote of the people. She requested the Legislative Council staff prepare a memorandum to be presented to the commission at its next meeting regarding the number of legislative compensation measures which have been put on the ballot in Arizona, a description of the legislative compensation recommendations that have been considered, and the number of legislative compensation increases approved by the voters of Arizona.

Ms. Kelly suggested the Legislative Compensation Commission consider requesting a bill draft to increase the state mileage reimbursement rate to the Internal Revenue Service standard mileage rate. Mr. Gorman said the state mileage rate is too low, but an increase to the Internal Revenue Service standard mileage rate may be too large of an increase due to the additional cost to state agencies.

Ms. Kelly requested the Legislative Council staff prepare a memorandum for presentation to the commission at its next meeting regarding the amount added to state agency budgets during the 1995 legislative session when the state mileage rate was increased from 20 to 25 cents per mile pursuant to House Bill No. 1245.

It was moved by Mr. Gorman, seconded by Ms. Kelly, and carried on a roll call vote that the Legislative Compensation Commission request the Legislative Council staff to prepare a bill draft to amend NDCC Section 54-06-09 to increase the state mileage reimbursement rate from 25 to 31 cents per mile. Mr. Axtman, Ms. Black, Mr. Gerl, Mr. Gorman, and Ms. Kelly voted "aye." No negative votes were cast.

Mr. Gerl said the commission needs to consider new methods for establishing the rate of legislative compensation rather than the current method of having legislators vote for their own pay increases. He said if the Legislative Compensation Commission was given the authority to set, rather than recommend, the level of legislative compensation, accountability and responsibility would not be removed from the Legislative Assembly. He said having the Legislative Compensation Commission set the level of legislative compensation may remove the criticism legislators are now subjected to when voting for a legislative pay increase.

Mr. Gorman expressed concern about granting the Legislative Compensation Commission authority to actually set the level of legislative compensation without a vote of the Legislative Assembly. Mr. Axtman said such a proposal would not be supported by the Legislative Assembly.

Mr. Axtman said if the Legislative Compensation Commission recommends periodic changes to the level of legislative compensation, legislators can avoid

the pressure of having to vote for a large pay increase.

Ms. Kelly said to alleviate some of the problems with legislators having to vote for their own pay increases, bills recommended by the Legislative Compensation Commission should not take effect until the following legislative session.

Mr. Smith said prior to the commission's next meeting, the Legislative Council staff will prepare a memorandum identifying the fiscal impact of each of the bill drafts requested by the commission and will mail the bill drafts and the related memorandums to the commission members prior to the commission's next meeting.

It was moved by Mr. Gorman, seconded by Ms. Kelly, and carried on a voice vote that the

Legislative Compensation Commission adjourn subject to the call of the chair. The meeting was adjourned at 1:50 p.m.

Joe R. Morrisette
Senior Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor