

Minutes of the

LEGISLATIVE COMPENSATION COMMISSION

Wednesday, May 5, 2004
Harvest Room, State Capitol
Bismarck, North Dakota

Mr. Charles Axtman, Chairman, called the meeting to order at 9:10 a.m.

Members present: Charles Axtman, Chris Christopherson, Terry M. Wanzek

Members absent: Meyer Kinnoin, John Mahoney

Others present: See attached appendix

BACKGROUND INFORMATION

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:

- Consist of five members appointed by the Governor with no more than three members representing the same political party.
- Develop recommendations for a long-term policy on legislative compensation, expense allowance, and insurance benefits.
- Recommend appropriate levels of legislative compensation, expense allowance, and insurance benefits.

North Dakota Century Code 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. The commission may consult with the leadership of the Legislative Assembly and review compensation, expense allowance, and insurance benefits for legislative service in other states and in other areas. The commission is to report its findings and recommendations regarding legislative compensation to the Legislative Assembly, and the commission may file with the Legislative Assembly a bill incorporating its recommendations.

The Legislative Council staff presented a memorandum entitled *Legislative Compensation and Expense Reimbursement - Background Memorandum* regarding the history of the Legislative Compensation Commission and legislative compensation and expense reimbursement rates in North Dakota. The following schedule summarizes increases in legislative compensation and expense reimbursement rates from 1889 to 2001:

Year	Compensation for Each Calendar Day During Session	Expense Reimbursement During Session			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
2001	\$125			\$650	\$250	\$100.00

¹Section 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.

²Section 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.

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

⁴Section 54-03-20 was amended to provide that legislators receive reimbursement for lodging or mileage at the rates provided for state employees, to a maximum of \$600 per month.

⁵House Bill No. 1243 (1985) amended Section 54-03-20 to provide that the monthly amount paid to legislators during the interim was

compensation, not reimbursement for expenses.

The Legislative Council staff said the 2003 Legislative Assembly did not make any legislative compensation and expense reimbursement changes; however, the Legislative Assembly considered, but did not approve, increasing the maximum lodging expense reimbursement allowed during legislative sessions from \$650 per month to 50 percent of the daily federal per diem lodging rate for the City of Bismarck for 30 days. The increased reimbursement for lodging during any month of a regular session was not to exceed \$100 over the maximum allowed for lodging per month during the last regular session.

During the 2003 legislative session, 50 percent of the daily federal per diem lodging rate for North Dakota of \$55 for 30 days would have totaled \$825. Due to the provision that the increased reimbursement for lodging was not to exceed \$100 over the maximum allowed during the last regular session, the maximum lodging reimbursement allowed would have been \$750 per month.

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)	\$125 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)	\$45 plus tax per calendar day up to \$650 per month
Mileage (Sections 54-03-20 and 54-06-09)	Thirty-one 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 31 cents per mile or lodging reimbursement of up to \$45 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 and Legislative Council chairman (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)	\$100 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 \$45 per day, plus any applicable state or local taxes in state; actual expenses out of state
Mileage (Section 54-06-09)	Thirty-one cents per mile by motor vehicle; 18 cents per mile by motor vehicle 300 miles beyond the state border; 70 cents per mile by private airplane

In response to a question from Commissioner Axtman, the legislative budget analyst and auditor said the 2003 Legislative Assembly did not increase the maximum lodging expense reimbursement allowed during legislative sessions; however, the

Legislative Assembly considered increasing the maximum lodging expense to 50 percent of the daily federal per diem lodging rate for the City of Bismarck for 30 days with no increase exceeding \$100 over the

maximum allowed for lodging per month during the last regular session.

The Legislative Council staff presented information prepared by the National Conference of State Legislatures regarding legislative compensation levels in other states, a copy of 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.

The Legislative Council staff presented a memorandum entitled *Legislative Compensation Increases Compared to Inflation and State Employee Salary Increases - 1981 Through 2004*. The following schedule compares actual calendar year 2004 legislative compensation rates to 1981 rates adjusted annually for inflation and percentage salary increases provided to state employees:

	Actual 2004 Compensation Rates	1981 Compensation Rates Adjusted for Inflation	1981 Compensation Rates Adjusted for Salary Increases Provided to State Employees
Interim daily compensation	\$100	\$128.14	\$114.27
Session daily compensation	\$125	\$184.52	\$164.50
Monthly compensation during term of office	\$250	\$369.08	\$329.05

COMMENTS BY INTERESTED PERSONS

Mr. Bill Shalhoob, owner and managing partner, Select Inn, Bismarck, provided comments regarding the maximum lodging expense reimbursement allowed during legislative sessions. A copy of his written testimony is on file in the Legislative Council office. He said since 1985 the maximum lodging expense reimbursement allowed during legislative sessions has been raised \$50 from \$600 to \$650 per month. He said the \$650 per month represents \$21.67 per day for a 30-day period. He said the average daily rate for all Bismarck and Mandan hotels for 2003 was \$53.34. He said if the maximum lodging expense reimbursement allowed in 1985 of \$600 was adjusted for inflation based on a 3 percent annual increase, the maximum lodging expense reimbursement would currently be \$1,083.56. He said local area hotel operators suggest an increase in the maximum lodging expense reimbursement of \$250 from \$650 to \$900 per month.

In response to a question from Commissioner Axtman regarding rental of private residences during legislative sessions, Mr. Shalhoob suggested separate maximum lodging expense reimbursement rates for hotels and private residences.

COMMITTEE DISCUSSION AND STAFF DIRECTIVES

In response to a question from Commissioner Wanzek, the legislative budget analyst and auditor said the estimated cost of increasing the maximum lodging expense reimbursement allowed during legislative sessions by \$250 from \$650 to \$900 per month is approximately \$129,000.

In response to questions from Commissioners Axtman and Wanzek, the legislative budget analyst and auditor said the Legislative Council staff will provide information regarding the number of members of the Legislative Assembly staying in hotels and private residences during the 2003 regular legislative session to the commission at its next meeting.

Commissioner Wanzek said the commission may not want to complicate the maximum lodging expense reimbursement provisions by having two rates--one for hotels and one for private residences.

In response to a question from Commissioner Axtman regarding the in-state lodging reimbursement rate, the legislative budget analyst and auditor said the 2001 Legislative Assembly increased the in-state lodging reimbursement rate from \$42 to \$45 per day plus any applicable state or local taxes. The fiscal note associated with the legislation indicated a total cost of the increase to the general fund of approximately \$69,000.

Chairman Axtman called on Mr. Shalhoob for comments regarding the in-state lodging reimbursement rate and the in-state meals reimbursement. Mr. Shalhoob said the North Dakota Hospitality Association will request the 2005 Legislative Assembly provide an increase in the in-state lodging reimbursement rate of \$5 from \$45 to \$50 per day and an increase in the in-state meals reimbursement of \$10 from \$20 to \$30 per day.

In response to a question from Commissioner Axtman, the Legislative Council staff said the in-state meals reimbursement of \$20 per day provides \$4 for breakfast, \$6 for lunch, and \$10 for supper.

Chairman Axtman requested the Office of Management and Budget provide the commission with information regarding the fiscal impact of increasing the in-state lodging reimbursement rate from \$45 to \$50 per day, plus any applicable state or local taxes at the commission's next meeting.

In response to a question from Commissioner Axtman regarding mileage reimbursement, the Legislative Council staff said the current federal mileage reimbursement rate is 37.5 cents per mile.

In response to a question from Commissioner Christopherson, the legislative budget analyst and auditor said any change in the mileage reimbursement would affect state agencies; however, state employees are encouraged to use Department of

Transportation's Fleet Services vehicles rather than receive reimbursement for using their own vehicle.

Chairman Axtman requested the Legislative Council staff provide information regarding the fiscal impact of increasing the mileage reimbursement rate from 31 cents to 35 cents and 37.5 cents per mile at the commission's next meeting.

Chairman Axtman said the most recent increase in legislative compensation was enacted by the 2001 Legislative Assembly. He said daily compensation during legislative sessions was increased from \$111 to \$125 per day and interim compensation was increased from \$75 to \$100 per day.

Commissioner Christopherson said legislative compensation should remain at the current level to offset recent increases in health insurance costs.

In response to a question from Commissioner Axtman, Ms. Karen J. Mund, Legislative Administrator, Legislative Council, said the average compensation for a legislator for a biennium is approximately \$22,400.

In response to a question from Commissioner Axtman, the legislative budget analyst and auditor said the 2003 Legislative Assembly provided state employee salary increases up to 1 percent effective on January 1, 2004, and 2 percent effective on January 1, 2005, for the executive and judicial branches to the extent the increases could be provided from pooled savings realized from eliminated full-time equivalent (FTE) positions and from accumulated savings from other vacant FTE positions. The Office of Management and Budget has reported that the pooled savings for the executive branch do not include sufficient savings from eliminated or vacant positions for state employee salary increases. The judicial branch has reported it has eliminated four FTE positions and, therefore, provided its employees a 1 percent salary increase effective January 1, 2004.

Commissioner Wanzek said if the commission considers an increase in legislative compensation, the increase should be modest.

Chairman Axtman requested the Legislative Council staff conduct a survey of members of the Legislative Management Committee regarding legislative compensation and reimbursement issues and present the findings to the commission at its next meeting.

It was moved by Commissioner Christopherson, seconded by Commissioner Wanzek, and carried on a roll call vote that the Legislative Compensation Commission request the Legislative Council staff to prepare bill drafts and information regarding the related fiscal impact to amend NDCC Section 54-03-02 to increase the maximum lodging expense reimbursement allowed during legislative sessions from \$650 per month to \$900 per month for hotels and \$750 per month for private residences and to amend NDCC Section 54-06-09 to increase the state mileage reimbursement rate from 31 cents to 37.5 cents per mile. Commissioners Axtman, Christopherson, and Wanzek voted "aye." No negative votes were cast.

Chairman Axtman said the next meeting of the Legislative Compensation Commission will be Wednesday, August 18, 2004.

The meeting was adjourned subject to the call of the chair at 10:30 a.m.

Roxanne Woeste
Senior Fiscal Analyst

Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1