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LEGISLATIVE COMPENSATION AND EXPENSE REIMBURSEMENT - BACKGROUND MEMORANDUM

This memorandum provides information on the following:

- The history of legislative compensation and expense reimbursement in North Dakota.
- Recent changes in the amount of additional compensation provided to the Speaker of the House, legislative leaders, and committee chairmen.
- Current rates of compensation and expense reimbursement provided to members of the North Dakota Legislative Assembly.
- 1997-99 biennium expenditures for the Legislative Assembly.
- 1999-2001 biennium appropriations for the Legislative Assembly.
- The history of the Legislative Compensation Commission.
- Recent recommendations of the Legislative Compensation Commission.

HISTORY

As originally adopted in 1889, the North Dakota Constitution provided that legislators were entitled to compensation for their service during each legislative session at the rate of \$5 per day and 10 cents per mile of travel. In 1943 the Legislative Assembly passed House Concurrent Resolution X, which would have amended the constitution to provide that in addition to \$5 per day and 10 cents per mile, legislators be paid \$4 per day reimbursement for other expenses. However, this resolution was narrowly rejected by the voters (86,340 to 85,212) and legislative compensation and expense reimbursement remained at the level set in 1889.

Although the rate of legislative compensation was limited by the constitution, the rate of expense reimbursement was not. In 1945 the Legislative Assembly passed legislation now codified as North Dakota Century Code (NDCC) Section 54-03-20, which provided for expense reimbursement payments to legislators. The level of expense reimbursement was set at \$300 per session. Expense reimbursement was increased to \$600 per session in 1949 and \$1,200 per session in 1957. In 1959 this section was amended to provide that the expense reimbursement was to cover expenses incurred during the session and the interim. In 1965 expense reimbursement was changed to \$1,200 per legislative session and \$35 per month during each legislator's term of office. In 1967 expense reimbursement for each legislator's term of office remained unchanged at \$35 per month, but the additional expense reimbursement provided during

sessions was increased to \$25 per calendar day (a maximum of \$1,500 based on the constitutional limitation then in effect of 60 legislative days, not including the organizational session). From 1967 to 1981 legislative session expense reimbursement was increased six times, from \$25 to \$85 per day, and reimbursement for expenses incurred during each legislator's term of office was increased four times, from \$35 to \$180 per month. However, legislative compensation still remained at \$5 per calendar day during legislative sessions, as provided by the constitution.

The 1889 constitutional provision was repealed on June 8, 1982, by voter approval of measure No. 4, which created Article XI, Section 26, of the Constitution of North Dakota and provides that:

The legislative, executive, and judicial branches are coequal branches of government. Elected members and officials of each branch shall receive as compensation for their services only such amounts as may be specifically set by law. Payment for necessary expenses shall not exceed those allowed for other state employees.

After the adoption of the 1982 constitutional amendment, the subsequent Legislative Assembly (1983) amended NDCC Section 54-03-20 to increase legislative compensation by \$35 to \$40 per day during legislative sessions. Most legislators were also entitled to receive \$50 per day expense reimbursement, a decrease of \$35 from the expense reimbursement rate in effect in 1981. The 1983 combined total of expense reimbursement (\$50) and compensation (\$40) resulted in no overall change from the 1981 combined total of compensation (\$5) and expense reimbursement (\$85). The 1983 Legislative Assembly also added a provision that each legislator was entitled to reimbursement during the legislative session for one round trip per week between the legislator's residence and the Capitol, at the rate provided for state employees.

The 1985 Legislative Assembly amended NDCC Section 54-03-20 to provide that legislators receive compensation of \$90 per calendar day during the legislative session. In addition, legislative expense reimbursement was changed to a maximum of \$600 per month for lodging or mileage. Section 54-03-20 was also amended to provide that the \$180 per month payment to legislators during their term of office was compensation, not reimbursement for expenses.

The 1997 Legislative Assembly made the following legislative compensation and expense reimbursement changes:

- Daily compensation during legislative sessions was increased from \$90 to \$111.
- Monthly compensation during each legislator's term of office was increased from \$180 to \$250.
- The maximum lodging and mileage expense reimbursement allowed during legislative sessions was increased from \$600 to \$650 per month.

In addition to monthly compensation during their term of office and daily compensation during legislative sessions, legislators are entitled to be compensated for time spent in attendance at interim committee meetings. The 1945 Legislative Assembly created the Legislative Research Committee (which eventually became the Legislative Council) to direct

legislative studies and research during the interim and provided that members of the committee and its subcommittees were entitled to compensation of \$5 per day for time spent in attendance at interim meetings. The 1949 Legislative Assembly amended what was codified as NDCC Section 54-35-10 to increase compensation for attending interim meetings to \$10 per day. It was increased again in 1967 to \$20, in 1969 to \$30, in 1975 to \$45, in 1979 to \$52, and in 1981 to \$62.50. This amount was not changed again until 1999, when it was increased to \$75 per day.

The following table summarizes increases in legislative compensation and expense reimbursement from 1889 to 1999:

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			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, to a maximum of \$600 per month.

⁵ House 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.

ADDITIONAL COMPENSATION - 1989 TO 1999 CHANGES

The 1989 Legislative Assembly amended NDCC Section 54-03-10 to provide that additional

compensation of \$5 per day, previously provided only to committee chairmen, also be provided to the assistant majority and minority leaders. Pursuant to this section, the Speaker of the House and majority and

minority leaders are entitled to additional compensation of \$10 per day.

The 1999 Legislative Assembly amended NDCC Section 54-03-20 to provide that majority and minority leaders of the House and Senate are entitled to receive as compensation, in addition to other compensation and expense reimbursements, the sum of \$250 per month.

CURRENT COMPENSATION AND EXPENSE REIMBURSEMENT RATES

The following schedule provides a summary of the current compensation and expense reimbursement rates provided to members of the Legislative Assembly during legislative sessions, monthly during their term of office, and for expenses incurred during the interim:

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 for:	
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

1997-99 BIENNIUM EXPENDITURES FOR THE LEGISLATIVE ASSEMBLY

Assembly for the 1999 legislative session and the 1997-99 interim are shown on the following schedule:

The amounts spent by the 1999 Legislative

	1999 Legislative Session Costs	Other Costs ¹	1997-99 Biennium Total
Legislators' salaries and wages			
Salaries and wages	\$1,796,633	\$882,000	\$2,678,633
Fringe benefits	155,615	76,379	231,994
Health insurance		924,003	924,003
Total legislators' salaries and wages	\$1,952,248	\$1,882,382	\$3,834,630
Mileage and lodging			
Lodging during session	\$331,530		\$331,530
Mileage during session	156,445		156,445
Total mileage and lodging during session	\$487,975	\$0	\$487,975
Total legislators' salaries and wages, mileage, and lodging	\$2,440,223	\$1,882,382	\$4,322,605
Session employees' salaries and wages	667,557		667,557
Other expenses	977,630	1,687,730	2,665,360
Total	\$4,085,410 ²	\$3,570,112	\$7,655,522

¹ Other costs - Includes legislators' monthly compensation and health insurance.

² 1999 legislative session costs per day

74 legislative days (including three-day organizational session)
 111 calendar days (includes the three-day organizational session and travel days to and from the organizational and regular sessions)

Cost Per Day

\$55,208

\$36,805

A comparison of the amounts appropriated and spent for the Legislative Assembly for the 1997-99 biennium is shown on the following schedule:

1997-99 biennium Legislative Assembly appropriation (1997 SB 2001)	\$8,492,713
Add 1995-97 biennium carryover pursuant to 1997 HB 1015	357,061
1997-99 biennium adjusted Legislative Assembly appropriation	\$8,849,774
Less unexpended appropriation authority	1,194,252
Total 1997-99 biennium expenditures for the Legislative Assembly	\$7,655,522

1999-2001 BIENNIUM APPROPRIATIONS FOR THE LEGISLATIVE ASSEMBLY

The following schedule shows the amount appropriated for the Legislative Assembly for the 1999-2001 biennium:

Estimated cost of legislators' session compensation	\$1,914,486 ¹
Estimated cost of legislators' monthly compensation	973,473
Estimated cost of legislators' health insurance	1,047,768
Estimated cost of lodging during session	351,000

Estimated cost of mileage during session	191,100
Estimated cost of session employees' compensation	685,133
Estimated other expenses	3,157,256
Total 1999-2001 biennium appropriation for the Legislative Assembly (1999 HB 1001)	\$8,320,216

¹ Provides funding for a 77-legislative-day 2001 legislative session and a three-day organizational session.

HISTORY OF THE LEGISLATIVE COMPENSATION COMMISSION

The Legislative Compensation Commission was established by the 1969 Legislative Assembly. Consisting of five members appointed by the Governor, the primary duty of the commission was to determine appropriate rates of expense allowance and compensation to be paid to members of the North Dakota Legislative Assembly. In 1979, after 10 years of existence, the law which created the original Legislative Compensation Commission was repealed.

The Legislative Compensation Commission was recreated by passage of 1983 Senate Bill No. 2360. The bill, now codified as NDCC Sections 54-03-19.1 and 54-03-19.2, once again directed the Legislative Compensation Commission to determine appropriate levels of expense allowance and compensation to be paid to members of the Legislative Assembly.

In 1993 NDCC Section 54-03-19.1 was amended to direct the Legislative Compensation Commission to also develop recommendations for a long-term policy on legislative compensation, expense allowance, and insurance benefits. In addition, the 1993 Legislative Assembly amended Section 54-03-19.2 to allow the commission to file with the Legislative Council a bill incorporating its recommendations.

The 1997 Legislative Assembly amended NDCC Section 54-03-19.1 to provide that no more than three of the five appointees to the Legislative Compensation Commission can represent the same political party.

RECENT RECOMMENDATIONS OF THE LEGISLATIVE COMPENSATION COMMISSION

The 1991-92 Legislative Compensation Commission recommended, in its report to the 1993 Legislative Assembly, that legislative compensation for the 1993 session and the 1993-94 interim remain at the level then in effect and that future legislative compensation levels be increased by the same average percentage provided for state employee salary increases.

The 1993-94 Legislative Compensation Commission recommended, in its report to the 1995 Legislative Assembly, that legislators' monthly compensation be increased by \$70 per month, from \$180 to \$250

per month, to partially reflect salary increases provided to state employees during the 1993-95 biennium. (The 1993 Legislative Assembly provided state employee salary increases of \$60 per month and three percent, the first and second years of the 1993-95 biennium, respectively.) The commission also recommended that this amount be paid monthly rather than every six months. These recommendations were incorporated into 1995 House Bill No. 1121, which failed to pass.

The 1995-96 Legislative Compensation Commission recommended three bills for consideration by the 1997 Legislative Assembly:

1. Senate Bill No. 2051, as passed, included the commission's recommended increase in monthly compensation from \$180 to \$250 and the provision that at the legislator's option, this amount could be paid monthly rather than every six months. In addition, this bill was amended to include an increase in the daily compensation paid to legislators during session from \$90 to \$111. The effective date of the bill was changed to apply retroactively to January 1, 1997.
2. Senate Bill No. 2052, as passed, did not include provisions to allow the Legislative Compensation Commission to set rather than recommend the level of legislative compensation, as was included in the bill recommended by the commission. However, as included in the recommended bill, the statutory references to the amount of compensation provided pursuant to NDCC Section 54-35-10 were changed to the fixed dollar amount of \$62.50 per day so that changes to the amount of interim compensation provided to legislators would not affect members of boards and commissions paid at the same rate. The Legislative Assembly also adopted the recommended provision that no more than three of the five members of the commission represent the same political party.
3. Senate Bill No. 2053, as passed, included the commission's recommended increase in legislators' maximum lodging reimbursement from \$600 to \$650 per month but did include the recommended increase in legislators' compensation for attending interim meetings from \$62.50 to \$90.

The 1997-98 Legislative Compensation Commission recommended Senate Bill No. 2055, which provided that legislative compensation for attending interim Legislative Council committee meetings be increased from \$62.50 to \$75 per day. This bill was passed without change by the 1999 Legislative Assembly.