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LEGISLATIVE COMPENSATION AND EXPENSE REIMBURSEMENT - BACKGROUND MEMORANDUM

This memorandum provides information on:

- 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 Legislative Assembly.
- 2003-05 biennium expenditures for the Legislative Assembly.
- 2005-07 biennium appropriations for the Legislative Assembly.
- The history of the Legislative Compensation Commission.
- Recent recommendations of the Legislative Compensation Commission.

HISTORY OF LEGISLATIVE COMPENSATION AND EXPENSE REIMBURSEMENT

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 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 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 from $5 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 compensation ($40) and expense reimbursement ($50) 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 employee travel.

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.

The 2001 Legislative Assembly increased daily compensation during legislative sessions from $111 to $125 per day.

The 2003 Legislative Assembly did not make any legislative compensation and expense reimbursement changes; however, the Legislative Assembly considered 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 2005 Legislative Assembly increased legislators' monthly compensation from $250 to $350, effective July 1, 2005, and increased the maximum lodging expense reimbursement allowed during legislative sessions from $650 to $900 per month, effective January 1, 2005.

In addition to daily compensation and expense reimbursement during legislative sessions and monthly compensation during their term of office, 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 is now codified as NDCC Section 54-35-10 to increase compensation to $10 per day. The interim compensation rate 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. It was increased in 2001 to $100 per day.

The following table summarizes increases in legislative compensation and expense reimbursement from 1889 to 2005:

		Expense Reimbursement During Session				
Year	Compensation for Each Calendar Day During Session	Per Session	For Each Day During Session	For Each Month During Session	Expense Reimbursement or Compensation for Each Month During Term of Office	Compensation for Each Day Attending Interim Meetings
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
2001	$125			$650	$250	$100.00
2005	$125			$900[6]	$350[6]	$100.00[7]

[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.

[6]The 2005 Legislative Assembly increased the maximum lodging expense reimbursement allowed during legislative sessions from $650 to $900 per month, effective January 1, 2005, and increased legislators' monthly compensation from $250 to $350, effective July 1, 2005.

[7]In addition to the compensation for each day attending interim meetings, legislators are entitled to receive up to $25 per day for expense reimbursement for meals.

ADDITIONAL COMPENSATION - 1989 TO 2005 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.

The 2001 Legislative Assembly amended NDCC Section 54-03-20 to provide that the chairman of the Legislative Council, if the chairman is not a majority or minority leader, is entitled to receive an additional $250 per month. The 2001 Legislative Assembly also amended Section 54-03-20 (Senate Bill No. 2048) to provide that each member of the Legislative Assembly attending a meeting of a legislative committee between the organizational session and the regular session, as authorized by legislative rule, is entitled to compensation at the session rate. This statutory change was enacted in response to action taken by the Legislative Management Committee during the 1999-2000 interim. The Legislative Management Committee adopted House and Senate Rules 505, which provide that the Appropriations Committees may meet for not more than five calendar days during the period after the adjournment of the organizational session and before the convening of the regular session, as called by the majority leader of each respective legislative chamber.

The 2005 Legislative Assembly provided for a study of the appropriateness of increasing the daily compensation for chairmen of substantive standing committee divisions established by rule of the House or Senate. The 2005-06 Legislative Management Committee is assigned the responsibility to study this issue.

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)	$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)	$50 plus tax per calendar day up to $900 per month
Mileage (Sections 54-03-20 and 54-06-09)	Thirty-seven and a half 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 37.5 cents per mile or lodging reimbursement of up to $50 per night plus any applicable state or local taxes, or a combination of mileage and lodging reimbursement up to a maximum of $900 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)	$350 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 $25 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 $50 per day, plus any applicable state or local taxes in state; actual expenses for out-of-state travel
Mileage (Section 54-06-09)	Thirty-seven and a half 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

2003-05 BIENNIUM EXPENDITURES FOR THE LEGISLATIVE ASSEMBLY

The amounts spent by the 2005 Legislative Assembly for the 2005 regular legislative session and the 2003-05 interim are shown on the following schedule:

	2005 Regular Legislative Session Costs	Other Costs[1]	Total
Costs paid during 2003-05 biennium			
Legislators' salaries and wages			
Salaries and wages	$2,083,390	$901,602	$2,984,992
Fringe benefits	220,463	2,845	223,308
Health insurance	0	1,525,331	1,525,331
Total legislators' salaries and wages	$2,303,853	$2,429,778	$4,733,631
Mileage and lodging			
Lodging during session	$430,875	$0	$430,875
Mileage during session	215,830	0	215,830
Total mileage and lodging	$646,705	$0	$646,705
Total legislators' salaries and wages, mileage, and lodging	$2,950,558	$2,429,778	$5,380,336
Session employees' salaries and wages	789,272	0	789,272
Other expenses	846,298	945,147	1,791,445
2003 legislative session costs	0	18,704[2]	18,704
Total costs paid during 2003-05	$4,586,128	$3,393,629	$7,979,757
Costs paid during 2005-07			
Lodging during session	$750		
Other expenses	23,763		
Total costs paid during 2005-07	$24,513		
Total 2005 session costs	$4,610,641[3]		

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

[2]Represents $18,704 of other expenses for the 2003 legislative session paid in the 2003-05 biennium.

[3]2005 regular legislative session costs per day.

	Cost Per Day
79 legislative days (including three-day organizational session)	$58,363
117 calendar days (includes the three-day organizational session and travel days to and from the organizational and regular sessions	$39,407

The amounts appropriated and spent for the Legislative Assembly for the 2003-05 biennium are shown on the following schedule:

2003-05 biennium Legislative Assembly appropriation (2003 HB 1001)	$8,561,252
Add 1997-99 biennium carryover, pursuant to 1999 SB 2015	223,676
2003-05 biennium adjusted Legislative Assembly appropriation	$8,784,928
Less unexpended appropriation authority	805,171[1]
Total 2003-05 biennium expenditures for the Legislative Assembly	$7,979,757[2]

[1]Of the unexpended amount, $183,651 is available for use during the 2005-07 biennium, pursuant to 1999 Senate Bill No. 2015, and $621,520 is available for use during the 2005-07 biennium, pursuant to 2005 Senate Bill No. 2001.

[2]Includes $18,704 of 2003 legislative session costs paid during the 2003-05 biennium.

2005-07 BIENNIUM APPROPRIATIONS FOR THE LEGISLATIVE ASSEMBLY

The following schedule shows the amount appropriated for the Legislative Assembly for the 2005-07 biennium:

Estimated cost of legislators' session compensation	$2,240,649[1]
Estimated cost of legislators' monthly compensation	1,313,651
Estimated cost of legislators' health insurance ($554 per month premium for 129 legislators)	1,715,184
Estimated cost of lodging during session	462,192
Estimated cost of mileage during session	292,134
Estimated cost of session employees' compensation	809,665
Estimated other expenses	2,658,750
Total 2005-07 biennium appropriation for the Legislative Assembly (2005 SB 2001)	$9,492,225

[1]Provides funding for a 77-legislative-day 2007 legislative session and a 3-legislative-day 2006 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 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 54-30-19.1 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 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 recommendation that monthly compensation be increased 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 increase the session compensation rate from $90 to $111 per day. 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 were 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 from $600 to $650 per month for lodging reimbursement but did not include the recommended increase from $62.50 to $90 per day for attending interim meetings.

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.

The 1999-2000 Legislative Compensation Commission recommended three bills, all of which were passed by the Legislative Assembly, as follows:

1. Senate Bill No. 2175 amended Section 54-03-20 to provide that the session compensation rate be increased from $111 to $125 per calendar day.

2. Senate Bill No. 2176 amended Section 54-35-10 to provide that the interim compensation rate be increased from $75 to $100 per day for each day spent in attendance at sessions of the Legislative Council and its committees.

3. House Bill No. 1197 amended Section 54-06-09 to provide that the state mileage reimbursement rate be increased from 25 to 31 cents per mile.

The 2001-02 Legislative Compensation Commission recommended, in its report to the 2003 Legislative Assembly, that legislative compensation and expense reimbursement remain at the current level.

The 2003-04 Legislative Compensation Commission recommended the compensation for regular, special, or organizational sessions; monthly compensation paid to legislators during their term of office; and compensation for interim meetings remain at the current level. The 2005 Legislative Assembly increased monthly compensation from $250 to $350. The commission also recommended two bills for consideration by the 2005 Legislative Assembly:

1. Senate Bill No. 2059, as passed, did not increase the maximum lodging expense reimbursement allowed during legislative sessions from $650 to $900 per month for licensed lodging establishments and $750 per month for any other lodging as was recommended by the commission. Instead, the bill was amended to increase the maximum lodging expense reimbursement from $650 to $900 per month. The effective date of the bill was changed to apply retroactively to January 1, 2005.

2. Senate Bill No. 2058, as passed, included the commission's recommended increase for the state mileage reimbursement rate from 31 to 37.5 cents per mile.