2026 Compensation Council Minority Report

This Minority Report supplementing the 2026 Compensation Council recommendations is offered primarily to raise a strong objection to the optional legislative recommendation to "establish statutory methods of automatic adoption and funding of the Compensation Council's judicial salary recommendations" based on constitutional, procedural and practical concerns. Secondarily, this report outlines several additional procedural deficiencies contributing to a relatively small number of poorly supported conclusions - most notably detailing a 2025 Council-prescribed salary requiring significant adjustment due to its lack of compliance with the salary minimum set in session law in the three-way administrative split of the Department of Human Services.

The ultimate purpose of this Minority Report is to better inform affected policy makers and staff, and better assist the 2027-28 Council in making prescriptions and recommendations at an especially crucial time as the state almost certainly will be dealing with projected significant fiscal constraints touching all areas of General Fund budgeting. With few exceptions, the Minority Report agrees with the majority of prescriptions forwarded by the Council. The Minority Report also joins in sincerely praising nearly all stakeholders who have participated in the newly adopted two-year Council process for their demonstrated talents and commitment while pointing to areas of concern regarding the procedural deficiencies detailed below.

Background

Briefly, the modern journey of the evolving Compensation Council started internally at the MMB with the 2015 Hay method assessment of state agency heads. In 2017, the Council recommended – and the Legislature later approved removal of the compressed three-tier agency salary ranges – in hopes of replacing them with fully stratified individual salaries to be recommended based on the Hay analysis. In the past nine years, Council jurisdiction has expanded from 28 agency classes (heads and councils / commissions) to 37 classes triggered by major executive branch reorganizations. Consequently, Ms. Leland at MMB has indicated that the original Hay chart assessment requires a major update, and the Council recognizes that implementing full Hay salary levels remains the goal.

In 2023-24, the Minnesota District Judges Association (MDJA) recommended - and the Courts' administrative governing body Judicial Council unanimously approved - implementation of expansion to a two-year Compensation Council process, extending the biennial operations from roughly four months to 20 months. This permanent process was essentially implemented via 2025 session law reconstitution in 2026. A uniquely challenging legislative stalemate required a truncated 19-day Comp Council meeting process in March 2025. Many new Council members arrived as the membership had been expanded from 16 to 24. The time squeeze necessitated less than usual consensus-building between the Chair and Vice Chair (leadership) and other members. Several prescribing motions offered by leadership were appropriately modified by the Council, and later nearly all of those modifications were accepted in whole by the Legislature. However, one significant exception had to be addressed in setting the new Direct Care and Treatment (DCT) CEO salary *(detailed in the Analysis section below)*. As for Judicial salaries, the Comp Council adopted the Judicial Council request of 6% and 6% for FY 2026-27, and the Legislature set those salaries at 0% and 0% - corresponding precisely to the zero yearly adjustments that had been set by the 2025 Legislative Salary Council.

Initially, internal Comp Council discussions had deemed the need for holding three full-day meetings in June-August 2026 to primarily discuss the only required action - Judicial salary recommendations for the FY 2028-29 biennium - in conjunction with Judicial Council preliminary budget planning due by Oct. 15. In

May, the Legislature assigned the new Inspector General (IG) agency head prescription setting to the Council, and further assigned other tasks relating to a new commission handling details of IG agency establishment - also to be staffed by the LCC. The subsequent limited scheduling of June and July half-day afternoon Comp Council meetings - each following monthly Judicial Council meetings in the morning - resulted in motions for the IG salary prescription and Judicial salaries recommendation after only two half-day meetings. The final half-day meeting scheduled for August is devoted to 2026 final report adoption, discussions of potential data collection improvements, and advance planning for the 2027-28 Compensation Council.

Analysis

The reasoning for making judicial salary recommendations in the second year of the current biennium is to dovetail with the Judicial Council deliberations in formulating the next preliminary budget by Oct. 15 of the even year (2026). In June, the MDJA presented its recommendation for a 6% + 6% salary increase and a 'fix' that would transfer authority to the Comp Council to prescribe judicial salaries. However, the governing Judicial Council was still in the midst of preparations for all aspects of the FY 2028-29 Court Administration budget, although it had received the constituent MDJA salary and 'fix' recommendations that morning – without commenting. In preparing for the July meeting, Council leadership drafted the 6% and 6% MDJA recommendation resolution and the MDJA 'fix' resolution while not having Judicial Council input. At the July Judicial Council morning meeting the panel became informed that an early Comp Council determination might shut out any input from the Judicial Council. Rather than focusing on the full array of budget priorities such as phasing in additional judgeships based on weighted caseload analysis, courtroom security improvements and addressing the core mandated services deficit requiring a balance against judicial salaries, the Judicial Council was forced to shift focus entirely toward requesting the 10% + 4% recommendation that was hastily presented verbally to the Comp Council that afternoon. For a second straight monthly Judicial Council meeting, the MDJA 'fix' proposal was not taken into consideration. In the afternoon, the Comp Council leadership pressed forward with asking for approval of the MDJA's 6% + 6% recommendation, and the Council rejected it on a closely divided vote. The Judicial Council's 10% + 4% plan prevailed with the Minority Report's author supporting the 10% for needed catch up in the first year. The Minority Report raises a concern that the state fiscal condition appears likely to deteriorate further over the next two years and that could trigger the rescinding of any planned salary increases for FY 2029.

The Judicial Council seems unlikely to support the MDJA 'fix' for prescribing judicial salaries because abandoning what has historically been a proper overall budget balance would be tilted sharply in favor of judges while relegating staff and other pressing budget needs to secondary status. The roughly 25% of budget devoted to judges salaries (as estimated by Administrator Jeff Shorba) are intricately intertwined with the rest of the court system's operations. While the court budget accounts for "only 1%" of the state budget, the current biennial total of $929 million is enough for inclusion in the globally negotiated target-setting budget routine. The Comp Council's unexplained willingness to rush into the proposed 'fix' without timely, meaningful input from the governing Judicial Council should further devalue the fix's viability. Keep in mind, the Comp Council already has a full plate with prescribing duties for the five constitutional offices and 37 state agency classifications. Those 42 salary class decisions are minor enough to be accommodated in late odd-year budget negotiations, according to the MMB. However, the 322 judicial salaries - with their integral impact on other court operations - require preliminary budget planning that must start much earlier - in the even year. If the November and February forecasts indicate deeper budget troubles, the 2027 Compensation Council can still revisit the Judicial salary guidance with an optional, revised recommendation for FY 2028-29.

The other major failing to be addressed in this report relates to why salary setting of the new DCT CEO was handled improperly in 2025. No critical self-evaluation of factors contributing to that major failure has been pursued in 2026 until disclosure in this Minority Report. As noted above, time constraints have had an adverse impact on the Council's deliberations. A more significant limiting factor is the role of MMB senior staff who consistently failed to adequately assist and inform the Council in a timely fashion of publicly available MMB data and legal requirements that would have given members a deeper understanding of the structural factors used in formulating salary decisions. *Please note that Enterprise Director Leland and Deputy State Budget Director Bunch (who both answer to appointed MMB senior staff) were clear and thorough in providing guidance in their Council presentations related to Hay method analysis and the budget forecast, respectively.*

The clearest evidence of the failure to provide necessary MMB guidance came at the final meeting in 2025 when the Council improperly set the newly established DCT CEO salary at $67,248 below the minimum allowed in session law *[See: Minn. 2024, ch. 125, art. 5, sec. 41, subd. 2(b)]*. MMB made the LCC staff and Council leadership aware of the obscure provision after the final meeting in 2025 so that the 2025 Final Report could be corrected and comply with the law. The most likely apparent reasoning for MMB senior staff's reluctance to inform the Council of the need to set the new agency salary at no less than the level of the previous division director within DHS is that pay disclosed at $261,543 would undoubtedly raise a question as to why a division director's salary far exceeds any state agency head. Public data is available to help explain that reasonable structural anomaly, but gaining that fuller understanding was likely to result in the Council further considering higher agency head salaries. The 2027 Compensation Council should seek out that fuller understanding, and may decide to adjust the compensation of the DCT CEO to something beyond the still-frozen calendar year 2024 division-director salary level. This significant consequence of poor MMB communications would have come to light sooner if Council leadership had initiated a formal self-evaluation effort earlier this year.

Summary Conclusions

The proposed Compensation Council 'fix' to prescribe judicial salaries raises major constitutional, procedural and practical concerns. However, its consideration highlights the deepening rift between the legislative and judicial branches. The entire Compensation Council agrees that the legislative branch has not recognized the legitimate budget needs of the judicial branch. In the short term, this Minority Report urges the Judicial Council to plan for a higher level of public engagement and to communicate the court system's budget needs more assertively directly to legislative leadership.

With a new administration arriving next year, the incoming MMB leadership and the next Compensation Council have an opportunity to repair and build a more productive working relationship. The transition team for the next Governor should reach out to the LCC staff and outgoing Council members who can provide the background information necessary as the selection process of agency heads proceeds. Understanding the likely trends in agency head salary adjustments should be communicated in the hiring process, not later in 2027 when commissioners are already in place.

The 2025-26 Compensation Council faced uniquely difficult challenges and applied unprecedented prescribing responsibilities while implementing a newly devised two-year process. In most respects these significant challenges were met successfully. This Minority Report focused on the areas where the process and procedures clearly need a concerted effort to make improvements. Providing the time necessary to form consensus among members will better serve the next Council, and should replace the leadership-driven top-down style that emerged over the past two years. The LCC and legislative staff should take steps to require agenda item submissions for posting earlier – allowing enough time for members to meaningfully study them before each meeting. Finally, the expanded two-year process would benefit from implementation of a formal Council self-evaluation routine.

Respectfully submitted,

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Supreme Court-appointed Compensation Council member – 2017, 2019, 2025-26