



Compensation Council

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April 1, 2019

The Honorable Melissa Hortman
Speaker of the House of Representatives

The Honorable Jeremy Miller
President of the Senate

Re: Compensation Council 2019 Recommendations

Dear Madam Speaker and Mr. President:

In accordance with the duties assigned to it by Minnesota Statutes, section 15A.082, to make recommendations to the Legislature on the appropriate levels of salaries for Minnesota's top governmental officials, the Minnesota Compensation Council (Council) held three hearings, received testimony from interested parties, and engaged in extended deliberations. We hope you find this report helpful.

Background

The Compensation Council recommends salaries for Minnesota's Constitutional Officers and all Justices and Judges in Minnesota's court system. The Council also recommends salary limits for the Commissioners of state departments and the heads of certain Metropolitan agencies appointed by the Governor.

Under our Constitutional system of federalism, the states play a key role in governing the nation. In Minnesota our Judges, the Constitutional Officers, and the agency heads lead that government. It is important that they be of the highest caliber. This Council believes that a fair and adequate compensation system is an important element in ensuring that good candidates will seek and serve in those offices.

The statute that establishes the Compensation Council specifically provides that we consider "the amount of compensation paid in government service and the private sector to persons with similar qualifications, the amount of compensation needed to attract and retain experienced and competent persons, and the ability of the state to pay the recommended compensation." We did that in making the findings and recommendations set forth below.

Findings

Judicial Branch

The 2017 Council recommended four increases to salaries of Minnesota's judiciary:

- 3.5% on July 1, 2017
- 3.5% on July 1, 2018
- 4.63% on January 1, 2019
- 4.63 % on January 1, 2020

The 2017 Legislature authorized increases in salaries of members of the Judiciary:

- 2.5% on July 1, 2017
- 2.5% on July 1, 2018

Our Council reviewed extensive written material and heard testimony from the Minnesota District Court Judges Association (MDJA) concerning compensation, pension and other benefits. The Council also heard testimony from St. Catherine University Assistant Professor of Economics, Kristine West, on a 2018 study, "Minnesota Judicial State Court Salaries," commissioned by MDJA and completed by Professor West. The study found that:

- The salary increases enacted by the 2017 Legislature only kept judicial pay on pace with inflation: Judges did not receive previously recommended increases that resulted in real increases in income.
- District Court judges earn 33% less than attorneys with ten years of experience at private law firms. District court judges are currently paid at levels paid to private firm attorneys with 4 to 9 years of experience.
- Several county attorneys earn 13% more than District Court judges before whom they regularly appear. The highest paid assistant county attorneys are on average 3% higher than district court judges.
- While Minnesota does not compete with other states for its judges, it is relevant to examine the ranking of the salaries paid to Minnesota's judiciary compared to other states. A 2018 study found that, when adjusted for cost of living, Minnesota's district court judges ranked 19th nationally.

In their testimony on behalf of MDJA, Judges Jonathan Jasper and John Hoffman expressed a concern that if judicial salaries continue to stagnate, it will be difficult to attract a diverse and high quality pool of candidates from both the public and private sectors. They further noted that in certain judicial districts the number of well-qualified candidates for judicial openings has been very limited. Compensation may be one of the reasons for the limited number of applicants. Testimony indicated that more candidates come from the public sector, with declining numbers from the private sector, likely due to the limited compensation opportunities for judges. The Compensation Council shares the view that a small pool of candidates from only one part of the legal community is a serious concern for the future of the state's judiciary.

The testifiers also expressed specific concern about the challenges of attracting adequate candidate pools for District Courts in Greater Minnesota.

This testimony was reinforced by Lola Velazquez-Aguilu, Chair and Jesse Bethke Gomez, former member, of the Judicial Selection Commission. They attested to the challenges they have had in recruiting qualified candidates to consider appointments to the State's courts.

The Council also heard testimony from Jeff Shorba, State Court Administrator, who explained the Judicial Council's work in developing the Courts' biennial budget proposal. This proposal is premised on all members of the Judiciary and staff receiving 3.5% salary increases each year in the next biennium. The Judicial Council consists of 19 judges and six administrators from throughout the Court system. Thirteen of the judges are District Court judges. The Judicial Council received similar testimony from the District Court Judges Association regarding District Court judges' salaries.

The Judicial Council considered numerous priorities in reaching its funding recommendation decision. These priorities included improving cyber security of the Courts' IT systems, ensuring adequate resources for the treatment courts, mandated psychological services, and adding two district court judges to manage the Courts' caseload. The budget request and embedded salary increases reflects a balancing of those priorities.

The Compensation Council emphasizes the importance for salaries of the Judiciary to be able to attract candidates from the private sector, as well as from the public sector. Because District Court judges are the point of entry for so many members of the Judiciary, the need to attract and retain top quality judges led to the slightly higher salary recommendation for District Court Judges.

Constitutional Officers

The 2017 Legislature did not act on the recommendation of the 2017 Council to increase the salary to \$150,000 for Minnesota's governor, and then maintain the same percentage of that salary for our other Constitutional Officers. Since 2003, the Governor and other Constitutional Officer's salaries have been increased in only one biennium (2015-2016), lagging behind cost of living increases by over 35% (according to the Federal reserve inflation calculator) over that period. In reviewing these salaries, the Council notes that the Governor is responsible for managing the Executive Branch with 50,000 employees, and overseeing a biennial state budget of nearly \$48 billion. According to a 2018 survey by the Council of State Governments, the salary of Minnesota's governor was ranked 35th nationally.

The Attorney General is the state's chief legal officer, plays a key role in litigation defending challenges against the State and seeking to enforce the State's interests, provides legal advice affecting all parts of state and local government, handles criminal prosecutions across the State on behalf of counties, and is often involved in constitutional and other legal dealings with other states and the federal government. The Attorney General oversees legal work for one hundred state agencies and boards, and handles over 700 open legal files per year. The Attorney General manages an operating budget of almost \$40 million, and has over 300 employees.

The Office of the State Auditor oversees local government financial activity in Minnesota by performing audits of local government financial statements and by reviewing documents, data, reports, and complaints reported to the Office. This office is responsible for auditing over \$20 billion in local government spending. The State Auditor manages an operating budget of \$10.8 million, and employs 76 staff.

In comparison, the Office of the Legislative Auditor, in the Legislative Branch, is responsible for conducting financial audits of the Executive Branch, and preparing extensive evaluations of state agency programs. That Office has approximately 65 staff, and an operating budget of approximately \$6.6 million. The Legislative Auditor's salary is approximately \$146,000.

The Secretary of State deals extensively with the administration of critical election laws and with business and corporate filing involving many important parts of the state's economy, relied on by citizens and businesses throughout the State. This office has an increasingly complex challenge

dealing with cyber security issues related to elections and the integrity of voting systems. This Office has an operating budget of about \$11 million, and 76 staff.

The Council concludes that the duties of the State Auditor and Secretary of State are so similar in scope and complexity that the salaries should be the same for both positions.

The Lieutenant Governor handles a variety of functions assigned by the Governor and will become the state's chief executive should the Office of the Governor become vacant. The Lieutenant Governor in many ways operates as chief deputies of state agencies do, convening meetings on behalf of the Governor, assisting the Governor with policy development and implementation, and representing the Governor at meetings and events.

Agency Head Salary Limits

The 2017 Council recommended that the agency head salary limits be de-coupled from the salary of the Governor, and that the ranges continue to be adjusted annually by the Consumer Price Index under Minn. Stat. 15A.0815. No action was taken by the Legislature.

Currently, salary ranges continue to be adjusted for inflation by Minnesota Management and Budget, as provided in the statute. The maximum of the range for most agencies is \$180,000, while the highest salary level paid in that range is \$154,992. As a result, there is a gap of \$25,000, so that the Governor could propose salary increases of up to 16% without adjusting the ranges.

MMB does not recommend to the Council that any changes be made. The Council continues its suggestion that the ranges be de-coupled from the governor's salary.

The Council points out that there are only limited differences in salaries for agency heads in Group I, where most state agency heads are assigned. However, there are substantial differences in sizes of these agencies in terms of budgets and staff size. Some commissioners head agencies with staffs of less than 100 employees, and are paid \$145,000. Other commissioners have 4,000 to 7,000 employees, but are paid a salary of only \$10,000 more. There are similar incongruities when reviewing agency budgets for these same commissioners, which range from almost \$20 billion to under \$500 million. As a result of these apparent inequities, the Council recommends that the Governor's administration either revisit the 2015 Compensation Study that was conducted, or engage in a new evaluation to examine the responsibilities of these offices and an appropriate salary commensurate with the position.

Recommendations

The Council has divided its recommendations into two categories: Those specifically required by the statute and "Other recommendations," which the Council believes will assist in understanding the report and improving the state's compensation system in future years.

I. Statutory recommendations. In accordance with Minnesota Statutes, section 15A.082, the Compensation Council makes three recommendations.

- 1. Judicial Salaries.** With respect to the Justices of the Supreme Court and Judges of the Court of Appeals, salaries be increased as follows:
 - a) by 3.5% on January 1, 2021
 - b) by 3.5% on January 1, 2022

With respect to the Judges on the District Court, salaries be increased as follows:

- c) by 3.75% on January 1, 2021
- d) by 3.75% on January 1, 2022

These increases will enhance the ability of the Courts to attract and retain highly qualified persons of diverse backgrounds in all areas of the state.

- 2. Salaries for constitutional officers.** In recognition of public and private sector salaries for positions with similar responsibilities, and reflecting cost of living increases, we recommend that the salaries of Constitutional Officers be established at these levels, to be effective on these dates:

	January 1, 2021	January 1, 2022
Governor	\$160,000	\$166,000
Lt. Governor	\$110,000	\$114,000
Attorney General	\$152,000	\$157,000
State Auditor	\$144,000	\$149,000
Secretary of State	\$144,000	\$149,000

The Council believes that these salaries better reflect the varied and often critical demands placed on these Constitutional Officers. When combined with our recommended salaries to take effect in 2019, we will enhance the possibility of good candidates for these offices from all walks of life.

- 3. Agency head salary limits of agency heads.**

The Compensation Council recommends that the limits on agency head salaries be de-coupled from the salary of the governor, and that the analysis in recommendation #5 below be completed.

- II. Other recommendations.** In addition to the recommendations required under the Council's statute, section 15A.082, the Council makes these recommendations for your consideration:

- 4. Salaries for constitutional officers.** In addition to the increases recommended earlier, we recommend that the salaries of Constitutional Officers be increased as follows effective July 1, 2019:

Governor	\$150,000
Lt. Governor	\$102,000
Attorney General	\$143,000
State Auditor	\$135,000
Secretary of State	\$135,000

- 5. Constitutional Officer and agency head salary evaluations.** The Legislature should: a) contract for an independent evaluation to determine appropriate salaries of, or salary relationships between, Constitutional Officers; b) either review the compensation study conducted in 2015, or contract for a new independent evaluation of the salary relationships of heads of state agencies listed in Minn. Stat 15A.0815.

- 6. Compensation Council schedule.** The appointments of Compensation Council members by the Governor and Chief Justice are not required until January 15th of the odd-numbered year. With the statutory requirement to submit its report by April 1, there is too little time for the Council

to hear from the courts, Constitutional Officers, the Administration, and other interested parties, and then develop well-considered recommendations.

The Council recommends that members be appointed by December 1 of the even-numbered year and that the Council submit its report to the Legislature by April 1 of the following odd-numbered year. This would provide greater time to request and receive current and comprehensive data in order for the Council to better do its work. The Council then recommends that the effective dates for its salary recommendations be July 1 of that same odd-numbered year, and July 1 of the next even-numbered year. This shortened time frame would parallel that of the Legislative Salary Council, and help ensure that its recommendations would reflect more current economic realities.

The Compensation Council adopted these recommendations at its meeting on March 25, 2019. Minutes and an audio recording of the meeting are available on the Council's website.

I have included a list of the members of the Council at the end of this recommendation. The members worked diligently and thoughtfully to develop these recommendations for consideration by the Legislature. We extend a sincere thank you to the staff of the Legislative Coordinating Commission for their excellent work. We all believe appropriate compensation for our government officials is vital to our state's future and that these recommendations should be implemented.

Respectfully submitted,



Tom Berg
Chair, Compensation Council

cc: Governor Tim Walz
Lt. Governor Peggy Flanagan
Chief Justice Lorie S. Gildea
Attorney General Keith Ellison
State Auditor Julie Blaha
Secretary of State Steve Simon
Senator Paul Gazelka, Majority Leader
Senator Tom Bakk, Minority Leader
Representative Kurt Daudt, Minority Leader

Members of the Compensation Council**Appointed by the Governor**

MaryLynn Dahlquist

Joy DesMarais-Lanz

Thomas Evenson

James Fox

Jessica Macias

Aalok Sharma

Keith Swanson

James Wenzler

Appointed by the Supreme Court

David Asp

Thomas Berg

Annie Deckert

Peter Gregory

Robert Meyerson

Gail Olson

James Robins

Jennifer Zielinski