



Report of the Legislative Salary Council

March 29, 2019

Draft
3/27/2019

This report is submitted by the Legislative Salary Council, established under the Minnesota Constitution, Article IV, section 9, and Minnesota Statutes 2016, section 15A.0825.

Prescribed salaries

As provided in the Minnesota Constitution, Article IV, section 9, and Minnesota Statutes 2016, section 15A.0825, the Legislative Salary Council (Council) prescribes the salaries of legislators at \$46,500, effective July 1, 2019.

Background

The citizens of Minnesota voted on November 8, 2016 to amend their Constitution by establishing a Legislative Salary Council to prescribe salaries of Minnesota's legislators. The duties and other terms are specified in State Statute, section 15A.0825.

The Chief Justice of the Supreme Court and the Governor appointed members to fill their respective vacancies in early 2019. A list of the members is included in the Appendix.

The Council met three times between March 1 and March 31, 2019, the deadline for the Council to submit its determination. The Council voted on its prescribed salary for Minnesota's 67 senators and 134 representatives at its meeting on March 15, 2019 and completed its work at its meeting on March 29, 2019 when it voted to adopt the letter of transmittal and this report.

Process

All sixteen members of the 2019 Council served on the Council appointed in 2017. The Council was quickly organized by electing Ms. Deborah Olson to serve as Chair, and Dr. David Metzen as Vice-Chair. It heard a presentation by the Information Policy Analysis Division of the Department of Administration on the State's Open Meeting Law and Data Practice's Act, and adopted data practices policies recommended by the Department.

The Council requested and received substantial data regarding compensation of legislators. The Council received background on compensation policies for members, and data reflecting rates, costs, payments and expenditures of the various components of legislative compensation.

The statute establishing the Council proscribes members of the legislature from communicating with Council members. To improve Council members' understanding of compensation issues, former legislators were invited to speak to the Council. Their presentations were very informative and instructive. A list of those former members is included in the Appendix.

As required by statute, the Council considered the financial status of the State, as indicated in the State's budget forecast. The State Budget Director provided an in-depth explanation of the budget based on the February 2019 forecast.

The Council considered other data: National Conference of State Legislatures' data on salary and compensation for legislatures in other states, and salaries of county board members.

The Council continues to consider per diem payments primarily as a form of salary. The issue of per diem is discussed separately in this report.

Comparable salaries

The Council reviewed other comparable positions and salaries. The jobs of legislators are unique, especially in their time demands. The Council clearly heard that legislators work more than full time when they are in regular session, with committee hearings being held from early morning until well into the evening. Although committee hearings are not generally scheduled on Fridays, other meetings are conducted. Members attend meetings in their districts, and engage with constituents on weekends as well.

Regular session varies: In odd-numbers years, session begins on the first Monday after the first Tuesday in January, and adjourns the third week of May. This longer session is when the legislature enacts the biennial budget, funding state government for two years.

In even-numbered years, the Legislature typically convenes (based on agreement between legislative leaders) the end of January or early February, and then adjourns the third week of May.

Presentations by former legislators indicated consistent themes on serving in the Minnesota Legislature:

- The longer a member serves, the more they are involved in hearings and meetings that require them to be at the Capitol;
- Members serving from Greater Minnesota are especially impacted in terms of absence from family life and ability to maintain their professional life;
- Members from Greater Minnesota also incur additional costs that are not reimbursable (e.g., arranging for snow removal that another member of the household is unable to do).

Other themes were similar to those presented to the 2017 Council.

County commissioners

The Council again examined the salaries of county commissioners, who hold elective office, and serve in parallel functions, but at the county level. As with legislators, there is also a variation in the time demands for county commissioners. Some counties consider their commissioners to be full-time, while others clearly serve in more time-limited capacity.

A sampling of current commissioner salaries shows:

Sampling of county commissioner salaries			
County	Annual salary		County
Hennepin	\$110,796		Olmsted
Ramsey	\$92,423		St. Louis
Anoka	\$67,488		Stearns
Dakota	\$77,450		Scott
Carver	\$62,064		Washington

Other State Legislatures

The National Conference of State Legislatures publishes survey data on compensation paid to legislators across the country. A report for 2018 is included in the Appendix. A review of that data indicates a wide variance in salary, per diem rates, and the number of days legislatures are in session.

This permits comparisons with similar assumptions with other states:

Comparison of salaries and per diem with other selected Legislatures		
State	Salary	Per diem
Minnesota	\$45,000	Senate: \$86 House: \$66
Iowa	\$25,000	\$168
Wisconsin	\$50,950	Senate: Up to \$115 Assembly: Up to \$157
North Dakota	--	\$177
South Dakota	\$6,000	\$144
Washington	\$48,731	\$120

Rationale

The 2019 Legislative Salary Council had the benefit of retaining the identical membership as the 2017 Council. During its deliberations, members generally concluded that the 2017 determination to increase legislator salaries to \$45,000 was appropriate, and a fair and reasonable determination made under the Constitution and Minnesota Statutes 15A.0825.

The focus then turned to the question of whether to provide an adjustment effective July 1, 2019. The Council considered numerous points of information in making its determination. These include, but are not limited to the following:

- Inflation, as measured by CPI-U, increased by 1.91% from December 2017 to December 2018.
- State employee collective bargaining agreements provided 2.0% and 2.25% across the board increases effective July 1, 2017 and July 1, 2018, respectively.
- Social security benefits increased 2.0% and 2.8% effective December 2017 and December 2018.
- Private sector pay increased 2.6% and 3.0% effective December 2017 and December 2018.
- The five non-urban Metropolitan County (7 county Metro Area sans Ramsey and Hennepin counties) commissioner salaries increased 2.8% since the Salary Council's last determination.
- The Salary Council makes a single salary determination effective July of the odd-numbered year. Many of the salary comparisons that the Council considered consisted of two adjustments over a two-year period. The adjustment made by this Council needs to take into account two years in order to keep Legislator salaries whole in real economic terms.
- There was some concern that the February budget forecast indicated a slow-down in the economy, and if inflation for state programs was included, there would be no surplus. In fact, the FY 2022-2023 estimate reflects a negative \$11 million structural balance. Finally, the costs to the Legislature for implementing the 2017 Salary Council's salary determination are not yet reflected in the 2020-21 biennial budget or in the budget forecast.

As it did in 2017, the Council considered what it had heard and the materials it had reviewed during their meetings. This information included:

- Presentations and comments by former legislators.
- National survey data published by the National Conference of State Legislatures.
- All of the elements of legislators' compensation, with a particular focus on those components that are treated as income.
- The budget forecast issued by Minnesota Management and Budget.
- Salaries of county commissioners and other government employees.

The Council considered data indicating that the demographic makeup of the legislature includes fewer young and middle-aged members. The Council believes that Minnesota is best served if the Legislature is diverse. The Council heard consistent themes in discussions with former legislators, that while salary and compensation is not generally an issue when citizens initially decide to run for public office, salaries become an issue in deciding whether to continue serving in elective office.

The Council understands that we are setting the salary not just for those presently serving in the Legislature, but also for those who may desire to serve in the future. Unless Minnesota's Legislature has a reasonable salary level, we will not be able to attract and retain legislators with the best skills and experience to represent us.

As required in the Council's statute, Minnesota Management and Budget, the state agency tasked with preparing the state budget forecast, reported that the agency anticipates a surplus of \$563 million for the FY 18-19 biennium, and a surplus of \$1.052 billion for the FY 20-21 biennium. The Council's salary determination is estimated as having a cost of \$348,000 per year, approximately 0.5% of the \$64.5 million FY 19 base budget of the House of Representatives and the Senate.

The Council's extended discussions resulted in a salary determination that was adopted on a vote of 11 to 3, with two members absent.

Per diem

The second significant point of discussion was the continuing payment of per diems by the Senate and the House of Representatives. The Legislative Salary Council consistently contends that members need to be made whole for their costs of coming to St. Paul for five months each odd-numbered year and four months each even-numbered year to carry out the people's business. However, payments of flat dollar amounts do not reflect members' actual expenses that are incurred. That these flat dollar amounts are significantly and inexplicably different between the House and the Senate (\$66 vs. \$86) supports the concern that these amounts have little to do with expenses. This point is highlighted by the IRS, which treats these payments as income for members who live within 50 miles of the Capitol, [and by the State of Minnesota which pays retirement on per diem, thus recognizing per diem as compensation](#). Legislative Salary Council members strongly believe that for most legislators, per diems are a non-transparent form of additional salary. [Many Council members have indicated they would support an increase in salary to reflect the elimination of per diem.](#)

As a result, the majority of the Council continues to encourage the Minnesota Senate and the House of Representatives to consider eliminating per diems and replacing them with reimbursement for actual expenses. The Council is sympathetic to the challenges of the paperwork involved, but most Council members, with experience in both the public and private sectors, recognize this as a standard business practice.

The Council's 2017 report provides an in-depth examination of the issue of per diem. Our appendix includes an updated report on expenditures for per diem by the House and Senate.

Other benefits

Insurance. By law, Minnesota Statutes 43A.24, subd 2, legislators participate in the health insurance program provided to all state employees. The insurance program includes health, dental, and life insurance.

Premiums vary based on whether the legislator elects single or family coverage. Other costs, such as co-pays, co-insurance and deductibles depend on which tier of services the member elects. Members participate in the same manner as state employees.

Annual premiums for 2019 are:

Annual insurance premiums			
		Legislator contribution	State contribution
Health	Single coverage	\$390	\$7,407
	Family coverage	\$2,659	\$20,268
Dental	Single coverage	\$162	\$316
	Family coverage	\$630	\$784
Life insurance			\$60

Council members note:

- The State health and dental insurance plan represents a significant benefit paid to legislators.
- Given that legislators typically work full time for the Legislature four or five months a year, but substantially less the remaining part of the year, it would be difficult to obtain other insurance while they serve. Some Council members noted that part-time employment is a challenge for many Minnesotans, who are not offered the opportunity to participate in this comprehensive insurance program.

Retirement. Under state law, members participate in a state retirement program, Minnesota Statutes 2016, section 352D. This is a defined contribution program where the State contributes 6.25%, while the legislator contributes 6.0% (effective July 1, 2019.) Participation is mandatory. The member's salary and per diem payments for regular and special sessions are included when calculating the contributions. The legislator, like other state employees who participate in the State's defined contribution programs, can direct the investment in a variety of investment funds selected by the State Board of Investment.

At any time after employment ends, the legislator may withdraw the value of his or her account, including both employee and employer contributions, in a lump sum, which may be rolled, to continue the tax deferral, into an individual retirement account ("IRA"). A withdrawal forfeits the right to elect a retirement annuity at age 55.

At age 55 or later, provided legislative service has ended, the legislator may elect a distribution in the form of a lump sum or an annuity. The annuity, which is a monthly benefit paid for the life of the legislator, is calculated based on the account balance and the age of the legislator at the annuity starting date. In exchange for a lower monthly amount, the legislator may elect a joint and survivor annuity that pays a survivor benefit to a beneficiary after the death of the

legislator. These options are also available if a legislator becomes totally and permanently disabled. Annuities are eligible for post-retirement adjustments (sometimes called “COLAs”).

Retirement contributions based on average per diem payments paid in 2016 are:

State retirement contribution (6.25%)		
	House	Senate
Salary: \$45,000	\$2,813	\$2,813
Average per diem		
House: \$6,746	\$422	
Senate: \$8,803		\$550

Expense reimbursements and allowances

Members of the legislature receive other payments for certain expenses they incur to carry-out the duties of their office. They are also reimbursed for expenses they incur for attending approved conferences or trips.

Mileage. Representatives who live more than 50 miles from the Capitol are reimbursed for their mileage from their homes to the Capitol. Representatives are also reimbursed for mileage for travel in their legislative districts, with a maximum of \$850 per month. (There are exceptions for districts with greater than 1,000 square miles.)

During session, senators are reimbursed for their mileage to and from the Capitol no matter how far they live from the Capitol. Senators are also reimbursed for their mileage for constituent and district meetings. Senators must present documentation to receive the constituent and district mileage.

All mileage reimbursement is based on the federal mileage rate.

Lodging. Members who live more than 50 miles from the Capitol may be reimbursed for lodging expenses. All reimbursements must be documented by receipts or lease agreements.

Representatives may be reimbursed for rent, and related lodging expenses such as furniture rental, local telephone, internet access service, basic media service, utilities, renter’s insurance, non-refundable fees, and parking. The maximum amount is \$1,800 per month. The House of Representatives limits the total of these reimbursements to a maximum of \$32,400 over the two-year length of their terms.

Senators may be reimbursed for rent, utilities, and furniture rental. The maximum reimbursement is \$1,800 per month.

Communications. Members may receive reimbursement for communications expenses.

Representatives may request a communications expense allowance of up to \$125 per month for internet service, an additional phone line, optional telephone services, wireless services, or other communication services needed to maintain frequent and reliable communication with constituents, house staff, and other government officials.

Senators may receive reimbursement for communications expenses up to \$200 per month for such items as telephone, fax, cell phone pager, and Internet services.

For both senators and representatives, if receipts are provided, these will be treated as an expense. If there is no receipt, it will be treated as income and taxed.

Leadership pay. Under Minnesota Statutes section 3.099, Subdivision 3, the Senate and the House Rules Committees may designate additional pay of up to 140% for leadership positions in each body.

Subd. 3. **Leaders.** The senate Committee on Rules and Administration for the senate and the house of representatives Committee on Rules and Legislative Administration for the house of representatives may each designate for their respective body up to three leadership positions to receive up to 140 percent of the compensation of other members.


Budget forecast

The Council's statute, section 15A.0825, Subdivision 7, requires it to take into account the most recent budget forecast. At its March 15th meeting, the Council heard a presentation on the state budget from Britta Reitan, the State Budget Director.

Director Reitan indicated that, based on the February 2019 forecast, the state was estimating a surplus of \$563 million at the end of the current 2018-19 biennium, and a \$1.052 billion surplus at the conclusion of the 2020-2021 biennial budget period. She reported that the budget was structurally balanced, with reserves to help manage through an economic downturn. She indicated there is risk inherent in the forecast, given that 30 months remain until the end of the 20-21 biennium.

Conclusion

The Council formally adopted its letter of transmittal and report at its final meeting on March 29, 2019. The letter was adopted on a [redacted] vote, with [redacted] member absent. This report was adopted at the same meeting on a [redacted] vote, with [redacted] member absent.

We include a minority report, reflecting the perspective that per diem is outside the purview of the Legislative Salary Council, and as such there should not be any recommendations to modify or eliminate it. The author of the minority report was clear that he separately supported the salary determination. That minority report is included as Attachment 

An appendix of key documents is attached.