



Legislative Salary Council

2023 Report of the Legislative Salary Council

March __, 2023

3/9/23

DRAFT FOR DISCUSSION ONLY

This report is submitted by the Legislative Salary Council (Council), established under the Minnesota Constitution, Article IV, section 9, and Minnesota Statutes 2022, section 15A.0825.

This report contains a section headed “per diem” that expresses the Council’s concern both about the relationship between compensation, which is within the Council’s purview, and per diem payments, which are not; and about the lack of transparency and lack of consistency in the way that per diem payments operate. The Council’s past reports have raised this issue but, as far as the Council knows, the House and Senate have not taken any action in response. It may be that the House and Senate do not recognize a problem, or recognize it but are unwilling or unable to address it; but it may also be that the Council’s prior reports have raised the issue too subtly. To avoid any chance that the fault lies with the Council’s approach, this report addresses the issue specifically, including the consequences of continued legislative inaction.

Prescribed salaries

As provided in the Minnesota Constitution, Article IV, section 9, and Minnesota Statutes 2022, section 15A.0825, the Legislative Salary Council prescribes the salary of legislators at \$_____, effective July 1, 2023.

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 2023. A list of the members is included in the Appendix.

The Council met three times between mid-February and March ~~31~~____, ~~2021~~2023, the deadline for the Council to submit its determination. The Council met in person in the Capitol Complex, but away from settings where legislators meet. The Council’s meetings were a hybrid model, with members meeting largely in person, but members were enabled to participate via Zoom. All meetings were open to the public, and to the extent practical, livestreamed on the LCC’s YouTube page. All meetings were recorded and posted to the LCC website. The Council voted on its prescribed salary for Minnesota’s 67 senators and 134 representatives at its meeting on March____, 2023.

Process

The Council was organized by electing Mr. James Fleming to serve as Chair, and Mr. Denny Laufenburger as Vice-Chair. It heard a presentation by the Data Practices Office of the Department of Administration on the State’s Open Meeting Law and Minnesota Government Data Practices 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 between the Council's first meeting and the submission of this report. 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. James Schowalter, Commissioner of Minnesota Management and Budget provided an in-depth explanation of the most recent budget ~~based on forecast from the~~ February 2023 ~~forecast~~.

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

The Council continues to consider per diem payments primarily as a form of compensation that amounts to additional 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 most 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. Members attend meetings in their districts, and engage with constituents on weekends as well.

Regular session varies: In odd-numbered 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. Between regular sessions, the Governor may call legislators back into special session. In 2021 the Senate had 19 special session days, while the House had 16. There were no special sessions in 2022.

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

- Serving in the Legislature reflects a commitment to public service. Legislative salaries are not a significant determining factor in deciding to run for office.
- The level of salary does not reflect the work involved, which is more than full time during legislative session, while including substantial obligations during the interim as well.
- Salary levels are such that they are generally adequate for those who are at the beginning or at the end of their careers, but are inadequate for those in the middle who have families to support.
- There was consensus that current salaries should be increased. However, there were differing perspectives whether salaries should be high enough to support a legislator and their family, versus that of salaries not being at a level that is seen as a way to make a living solely through a legislative career.

Other themes were similar to those presented to previous councils, and included in their reports.

County commissioners

The Council again examined the salaries of county commissioners, who hold elected 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 a more time-limited capacity.

A sampling of current commissioner salaries shows:

Sampling of county commissioner salaries				
County	Annual salary		County	Annual salary
Hennepin	\$113,566		Olmsted	\$50,470
Ramsey	\$97,588		Stearns	\$39,954
Anoka	\$75,192		Scott	\$72,488
Dakota	\$88,463		Washington	\$72,488
Carver	\$74,651			

Between 2020 and 2022, the salaries of the Metropolitan area county commissioners, excluding Hennepin and Ramsey Counties, increased an average of 3.5%. Hennepin County Commissioner pay did not increase, while Ramsey County Commissioner pay increased 0.5% over the two-year period.

Other State Legislatures

The National Conference of State Legislatures publishes survey data on compensation paid to legislators across the country. A report for 2022 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	Percent increase from 2020	Per diem
Minnesota	\$48,250	3.8%	Senate: \$86 House: \$66
Iowa	\$25,000	0.0%	\$175
Wisconsin	\$55,141	4.0%	Senate: Up to \$115 Assembly: Up to \$153
North Dakota	\$537/month	4.3%	\$186
South Dakota	\$11,892	17.4%	\$155
Washington	\$56,881	9.7%	\$185

Rationale

The Council considered numerous points of information in determining the salary to be effective July 2023. These include, but are not limited to the following:

- Inflation, as measured by CPI-U, increased by 7.04% in 2021 and 6.45% in 2022.
- State employee collective bargaining agreements provided 2.5% and 2.5% across the board increases effective July 1, 2021 and July 1, 2022, respectively.
- Social security benefits increased 5.9% and 8.7% effective December 2021 and December 2022.
- Private sector pay increased 5.0% and 5.1% effective December 2021 and December 2022.
- The five non-urban Metropolitan County (7 county Metro Area excluding Ramsey and Hennepin counties) commissioner salaries increased 3.5% 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 explicitly takes into account this two-year period in order to keep Legislator salaries whole in real economic terms.
- MMB's most recent budget forecast projects a general fund balance of \$17.5 billion in FY 24-25, of which \$12.5 billion is leftover from the previous biennium. The forecast references estimates of inflation for the next three years: 2.3% for FY 24, 2.2% for FY 25, and 2.1% for FY 26.

As it did in previous hearing processes, 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 forecasts issued by Minnesota Management and Budget.
- Salaries of county commissioners and other government employees.

In determining its prescribed salary, the Council focused on the testimony of one of the former members, who suggested that legislator compensation be based on 90% of the median household income of Minnesota families. The Council adjusted this figure by 6%, reflecting an average increase of 8% over two years. This amount was added to the current salary (\$48,250) to determine the new salary level -\$_____.

The Council understands that it is 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 ustheir constituents.

As required in the Council's statute, the Council considered the state's most recent budget forecast. Minnesota Management and Budget reported that the agency anticipates a surplus of about \$1.571 billion for the FY 24-25 biennium. The Council's salary determination is estimated as having a cost of \$_____ per year, which includes the salary increase of \$_____ and the impact of the increased salary on Social Security and retirement contributions.

The Council's extended discussions resulted in a salary determination of \$_____, adopted on a vote of _____, with _____ member absent.

Per diem

The second significant point of discussion was the continuing payment of per diems by the Senate and the House of Representatives. Consistent with previous Councils, the Legislative Salary Council 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. While not every legislator accepts per diem or the full amount, the average payments in 2021 (the long budget session) is \$8,324 in the House and \$10,594 in the Senate.

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 if per diem were eliminated. Several Council members have also indicated an unwillingness to increase salaries without elimination, or at least substantial reform, of the per diem system.

The Council believes that higher, publicly-established base salaries determined by this Council, combined with the replacement of per diems with reimbursement of expenses, would bring greater accountability and transparency to the Minnesota Legislature. The Legislative Salary Council, which will likely be comprised of the same members as the current Council, strongly requests that the House of Representatives and the Minnesota Senate take action to make legislators' compensation more transparent by replacing per diem with reimbursement of expenses for their members. The Legislative Salary Council will carefully consider that change when making its salary determination in 2025.

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 2023 are:

Annual insurance premiums			
		Legislator contribution	State contribution
Health	Single coverage	\$462	\$8,778
	Family coverage	\$3,152	\$24,021
Dental	Single coverage	\$162	\$351
	Family coverage	\$665	\$854
Life insurance			\$67

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 chapter 352D. This is a defined contribution program where the State contributes 6.25%, while the legislator contributes 6.0%. Participation is mandatory. The member’s salary and per diem payments for regular and special sessions are included when calculating the contributions. Each legislator, , can direct the investment of the legislator’s account in the plan 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 the legislator’s 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 2022 are:

State retirement contribution (6.25%)		
	House	Senate
Salary: \$48,250	\$3,016	\$3,016
Average per diem (2022)		
House: \$6,618	\$399	
Senate: \$9,653		\$603

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, limited to one round trip per week during session and 15 trips during interim unless related to interim committee work. 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 who live more than 50 miles from the Capitol are reimbursed for their mileage to and 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 \$2,200 per month. The House of Representatives limits the total of these reimbursements to a maximum of \$39,000 over the two-year length of their terms.

Senators may be reimbursed for rent, utilities, and furniture rental. The maximum reimbursement is \$2,200 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 1 meeting, the Council received a presentation on the state budget from Commissioner James Schowalter, based on the February 2023 forecast. The forecast shows a projected surplus \$17.5 billion for the FY 2024-2025 biennium. Revenues are expected to exceed spending through FY 2027.

Conclusion

The Council adopted its salary determination at its meeting on March __, 2023, and decided its report should follow the Council's previous reports with updates for the information the Council reviewed this year. It directed the chair to work with staff to prepare the report, distribute it for review by the Council and then submit the report as provided in statute. These actions were approved on a _____ vote, with ___ member absent.

An appendix of key documents is attached.