

Subcommittee Recommendations on Third-Party Compensation Methods
For Legislative Council
May 2018

The Subcommittee on Legislator Compensation considered three options on a third-party compensation method for setting legislator pay. The recommended option uses a method that is the same as the method for setting executive branch officials and supreme court justices. This is similar to the method that the Department of Administration already does for setting legislator session per diem rates. The documentation of the other two options that the subcommittee considered, salary based on the state average hourly or weekly wage, are included in the Appendix A.

RECOMMENDED OPTION: FIVE-STATE SURVEY

This language mirrors the language for determining the compensation of supreme court justices (2-16-403, MCA) and elected state officials (2-16-405, MCA) using a five-state average (including Montana). Based on 2017, without the primary stipend changes made in 5-2-204, MCA, the wage of a legislator is \$11.33 an hour, or 54% of the five-state average, with only the primary stipend in 5-2-204, MCA, legislators' wages are approximately 78% of the five-state legislator salary average.

Section 1. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Prior to June 30 of each even-numbered year, the department of administration shall conduct a salary survey of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. In determining the average salary for the other states' legislators, the department shall:

(a) include the salary for Montana legislators;

(b) base the salary on the number of days allowed in a state for any session, including both a biennial session or annual sessions in a biennium.

(2) If the average five-state salary is greater than the salary for legislators in Montana, then beginning July 1 of the year following the year in which the survey is conducted, the average salary is the new salary for Montana legislators.

(3) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour as established un subsection (2) when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase as provided in subsection (2). The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

~~(2)~~(4) Legislators may serve for no salary.

~~(3)~~(5) Subject to subsection ~~(4)~~(6), legislators are

entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

~~(4)~~(6) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is calculated pursuant to 2-15-122(5)(a), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

~~(5)~~(7) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

~~(6)~~(8) In addition to the mileage allowance provided for in subsection ~~(5)~~(7), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

~~(7)~~(8) Legislators are not entitled to any additional mileage allowance under subsection ~~(5)~~(7) for a special session if it is convened within 7 days of a regular session."

{Internal References to 5-2-301:

2-15-212 x 2-17-803x 2-18-501x 2-18-503x
5-2-302 a 5-3-101x}

Section 2. Section 5-2-302, MCA, is amended to read:

"5-2-302. Compensation and expenses when legislature not in session. When the legislature is not in session, a member of the legislature, while engaged in legislative business with prior authorization of the appropriate funding authority, is entitled to:

(1) a mileage allowance as provided in 2-18-503;
(2) expenses as provided in 2-18-501 and 2-18-502; and
(3) a salary equal to one full day's pay at the rate described in 5-2-301~~(1)~~(3) for each 24-hour period of time (from

midnight to midnight), or portion of a 24-hour period, spent on authorized interim or administrative committee legislative business or as otherwise provided by law. However, if time spent for business other than authorized legislative interim or administrative committee business or business related to 5-11-305 results in lengthening a legislator's stay away from home into an additional 24-hour period, the legislator may not be compensated for the additional day."

{*Internal References to 5-2-302:*

2-2-111	2-15-1019	2-15-1021	2-15-1808
2-15-1820	2-17-803	5-1-104	5-2-203
5-2-203	5-3-101	5-11-305	5-11-708
5-12-203	5-13-203	53-6-1316	69-1-212
75-1-302	75-6-212	90-1-405	

APPENDIX A

OPTION 1

Section 1(1)(a) replaces the base wage that legislators received from 2007 through 2017, with the 2014 (most recent year available) Average Hourly Wage of Montana, based on UI-Based QCEW Data from BLS. This is very close to the fiscal year 2017 average weekly wage (\$755.76/week) divided by 40 hours to obtain an \$18.894/hour. Either source could be used.

In section 1(1)(b), language is added that would apply an inflationary adjustment to the wage in subsection (1)(a). In a 2016 memo presented to the Legislative Council, the inflationary increase over the last 2015-2016 since the 2015 legislative session, was a 0.98% increase compared to a 3.0% wage increase for all Montana workers in 2015.

Section 1. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) (a) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning ~~\$10.33~~ \$18.69 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. ~~The hourly rate must be adjusted by any statutorily required pay increase.~~

(b) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall determine the inflationary wage adjustment in Montana based on the Consumer Price Index for Urban Consumers (CPI-U) for the most recent available 24 months. The inflationary wage adjustment must be applied to the hourly salary legislators are receiving and legislators are entitled to the new daily rate for those days during which the legislature is in session. The hourly wage increase is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(c) The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the

calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is calculated pursuant to 2-15-122(5)(a), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session."

{Internal References to 5-2-301:

2-15-212 x 2-17-803 x 2-18-501x 2-18-503 x
5-2-302 x 5-3-101x 50-4-810 x}

OPTION 2

Section 2 reflects a base salary that is based upon an hourly wage (illustrating the average weekly wage method) and indexed to the most recent average hourly wage by having that calculation done prior to each session. This is not an inflationary adjustment but a wage adjustment based on the growth in salary across Montana workers, more akin to a market adjustment.

Section 1. Section 5-2-301, MCA, is amended to read:

"5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a an hourly salary commensurate to that of the daily rate for an employee earning \$10.33 an hour calculated by dividing the average weekly wage for the fiscal year by 40 hours when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. ~~The hourly rate must be adjusted by any statutorily required pay increase.~~ The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session,

as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is calculated pursuant to 2-15-122(5)(a), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

(a) three additional round trips to their place of residence during each regular session; and

(b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session."

{*Internal References to 5-2-301:*

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