



South Dakota Legislative Research Council

Issue Memorandum 98-02 Update

STATE LEGISLATOR COMPENSATION

Current Compensation

Beginning on January 1, 1999, South Dakota's 105 lawmakers received an annual base salary of \$6,000 for each year of their term. In cases where *special sessions* are called, the salary is equal to the daily amount earned during the regular session immediately preceding the special session ($\$6,000 \div 35 \text{ days} = \171.43 ; $\$6,000 \div 40 \text{ days} = \150.00).

Added to the base salary is a living expense allowance, travel reimbursement, and accidental death/dismemberment insurance. The *living expense allowance* is \$95 for each day of session -- \$3,325 and \$3,800 for the 35-day and 40-day sessions, respectively. This allowance covers meals, lodging, laundry, basic office expenses, and other noncompensated costs associated with performing legislative services. *Travel reimbursement* is 5 cents per mile for one trip to and from session and 29 cents per mile (current state rate set by the Board of Finance) for all travel required for legislative service thereafter. *Accidental death/dismemberment insurance* was added to the legislator's compensation plan in 1990. It provides each member with \$200,000 coverage for accidental death or dismemberment 365 days a year.

The Legislative Research Council Executive Board sets reimbursement for interim meals, interim lodging, and out-of-state travel at state rates.

The Executive Board also sets policy regarding air travel. Reimbursement is calculated on 29 cents per actual road mile or the commercial airfare, *whichever is less*. Charter air travel must be arranged with LRC in advance and meet criteria set by the Executive Board.

History

In Article III, § 6 of the 1889 Constitution, all legislators were to be paid \$5 per day for their service to the state. They were also reimbursed 10 cents per mile for one trip to and from session.

In 1891, Governor Mellette's message to the people began with this:

"The State's financial condition could scarcely be more embarrassing and her revenue system could scarcely be worse."

That same year the Legislature passed a resolution to reduce the mileage reimbursement from 10 cents to 5 cents per mile.

In 1921, a \$200 allowance was given to each legislator outside the Pierre area for living expenses. This action was challenged later that year in *Christopherson v. Reeves* based on Article III, § 6 of the constitution which states "members of the Legislature shall receive no other pay or perquisites except salary and mileage." The Supreme Court ruled the \$200 was expense money and not "pay."

All totaled, the early statesmen received about \$500 biennially plus mileage for a 60-day session. Attempts were made in 1915, 1917, 1919, 1921, 1925, 1929, and again in 1931 to amend the constitution and provide various increases to legislator salaries, but all attempts failed.

Finally, in 1946 a constitutional amendment was approved which permitted the Legislature to make salary changes statutorily. A campaign ad in the *Pierre Daily Capitol* newspaper encouraged people

to vote YES on the proposed constitutional amendment by saying:

Suppose there was a law by which a South Dakota farmer had to pay his help at the same scale of wages his father or grandfather paid in 1889. Such a law would, of course, be absurd. Yet that is the way the state of South Dakota has had to do business.

The long-standing \$500 reimbursement level was changed in 1947 by a vote of 86,496 For and 48,911 Against. The reimbursement was changed that same year to \$525 per session, but eliminated the \$200 expense allowance. The reimbursement was increased again 10 years later to \$900.

A 1962 constitutional amendment prompted another change in compensation when the biennial legislative session was changed to an annual session. Legislators received \$1,200 for a short session and \$1,800 for a long session.

Legislative salaries increased to \$5,000 per two-year term in 1969 and remained relatively unchanged until 1988, when they were increased to \$8,000. The 1998 Legislature raised the salary to \$6,000 per year effective in the year 1999. The expense allowance was introduced in 1974 in the amount of \$25/day and has increased to the current rate of \$95/day.

See page 4, *History of Legislator Compensation in South Dakota*.

National Statistics

The highest paid legislators in the United States are those of the District of Columbia, whose salaries are equal to the highest paid government official. In January of 1995, the legislative compensation was \$80,605. New Hampshire has the lowest paid part-time legislature, earning only \$200 for a two-year term and receiving no allowance for travel or daily expenses. South Dakota, and most of the neighboring states, fits in with the group of legislatures that spends little time in session, are

low-paid, and have small staffs. There are approximately 18 legislatures¹ in this category.

Karl T. Kurtz, Director of State Services for the National Conference of State Legislatures, observed that states with low pay are strongly committed to the concept of a citizen legislature. That commitment, however, does not change the fact that ordinary citizens can rarely afford 35-40 days away from their jobs and family.

SUMMARY

Legislative work does not begin with the fall of the gavel in January. It is a full-time job with part-time pay. Legislators often meet with constituents daily and then, of course, there are special sessions and interim meetings. Furthermore, the job and the issues have become more complicated, requiring more and more time to study and craft bills.

If South Dakotans want to keep their citizen legislature, then we must be willing to pay them enough to allow them to be away from their place of business; however, not so much as to turn them into full-time legislators.

¹Small legislatures included in this group: Arkansas, Georgia, Idaho, Kentucky, Maine, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming.

South Dakota vs. Neighboring States

State	Session Length	Salary	Expenses or Per Diem	Travel	Other
South Dakota	35- and 40-day sessions	Two-year salary of \$12,000	\$95 per legislative day	29 cents per mile	Accidental death/dismemberment insurance
North Dakota	Every other year for max of 80 days	Two-year salary of \$17,760	\$650 per month housing; \$250 per month additional compensation	25 cents per mile	Leaders receive additional compensation.
Wyoming	40- and 20-day sessions	Two-year salary of \$7,500	\$80 per calendar day	35 cents per mile	President and Speaker receive additional \$3 per day
Nebraska	60- and 90-day sessions	Annual salary of \$12,000	\$83 legislative day	29 cents per mile	Two full-time staff are provided to each member.
Iowa	Annual session of approx. 105 days	Annual salary of \$20,120	\$86 per calendar day	23 cents per mile	\$200 per month for additional expenses; state retirement plan
Minnesota	Annual session of approx. 120 days	Annual salary of \$29,675	\$56 per day	31.5 cents per mile	State retirement plan; Leaders receive additional compensation

Source: *The Book of the States*, Volume 32, Copyright 1998

History of Legislator Compensation in South Dakota

Year	Legislator Salary	Mileage	Special Session	Expenses	Cite
1889	\$5/day	\$.10/mile			Art. III §6
1892	\$5/day	\$.05/mile			SL 1891, ch 36 Amends Art. III §6 - Reduces mileage reimbursement
1921	\$5/day	\$.05/mile		\$200	SL 1921, ch 279
1946					SL 1945, ch 314 Amends Art. XXI §2- Permits statutory changes in salary
1947	\$1,050/biennial	\$.05/mile			SL 1947, ch 241 §5
1957	\$1,800/biennial	\$.05/mile	\$10/day		SL 1957, ch 257 §1
1962					SL 1961, ch 296 Amends Art. III §7 - Changes from biennial session to annual
1964	\$1,800/prior to 1964 \$1,600/1964 session	\$.05/mile	\$10/day		SL 1964, ch 298 §1
1965	\$1,800/long session \$1,200/short session	\$.05/mile	\$10/day		SL 1965, ch 230 §1
1969	\$3,000/long session \$2,000/short session <i>Effective 1/1/1971</i>	\$.05/mile	\$10/day		SL 1969, ch 207
1970	\$3,000/long session \$2,000/short session	\$.05/mile	Compute at same rate as previous session <i>Effective 1/1/1971</i>		SL 1970, ch 14 §1
1974	\$3,000/long session \$2,000/short session	\$.05/mile	Compute at same rate as previous session	\$25/day <i>Effective 1/1/1975</i>	SL 1974, ch 23 §1
1976	\$3,000/long session \$2,000/short session	\$.05/mile one trip per year. Others at state rate.	Compute at same rate as previous session	\$25/day	SL 1976, ch 23
1978	\$3,000/long session \$2,000/short session	\$.05/mile one trip per year. Others at state rate.	Compute at same rate as previous session	\$50/day	SL 1978, ch 24
1981	\$3,000/long session \$2,800/short session	\$.05/mile one trip per year. Others at state rate.	Compute at same rate as previous session	\$50/day	SL 1981, ch 3 §10
1983	\$3,200/long session \$2,800/short session <i>Effective 1/1/1985</i>	\$.05/mile one trip per year. Others at state rate.	Compute at same rate as previous session	\$75/day <i>Effective 1/1/1985</i>	SL 1983, ch 2 §11
1988	\$4,267/long session \$3,733/short session	\$.05/mile one trip per year. Others at state rate.	Compute at same rate as previous session	\$75/day	SL 1988, ch 8 §5A
1997	\$4,267/long session \$3,733/short session	\$.05/mile one trip per year. Others at state rate.	Compute at same rate as previous session	\$95/day <i>Effective 1/1/1999</i>	SL 1997, ch 18 §1
1998	\$6,000/session <i>Effective 1/1/1999</i>	\$.05/mile one trip per year. Others at state rate.	Compute at same rate as previous session	\$95/day	1998, HB 1212

***South Dakota Constitutional Articles
and
South Dakota Laws
Relating to Legislator Compensation***

Article III § 6. Legislative terms of office - Compensation - Regular sessions.

The terms of office of the members of the Legislature shall be two years; they shall receive for their services the salary fixed by law under the provisions of § 2 of Article XXI of this Constitution, and five cents for every mile of necessary travel in going to and returning from the place of meeting of the Legislature on the most usual route.

No person may serve more than four consecutive terms or a total of eight consecutive years in the senate and more than four consecutive terms or a total of eight consecutive years in the house of representatives. However, this restriction does not apply to partial terms to which a legislator may be appointed or to legislative service before January 1, 1993.

A regular session of the Legislature shall be held in each odd-numbered year and shall not exceed forty legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage.

A regular session of the Legislature shall be held in each even-numbered year beginning with the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays and legislative recess, except in cases of impeachment, and members of the Legislature shall receive no other pay or perquisites except salary and mileage.

Article III § 7. Convening of annual sessions.

The Legislature shall meet at the seat of government on the second Tuesday of January at 12 o'clock m. and at no other time except as provided by this Constitution.

Article XXI § 2. Salary of constitutional officers.

The Legislature by two-thirds vote of each branch thereof at any regular session may fix the salary of any or all constitutional officers including members of the Legislature. In fixing any such salary the Legislature shall determine the effective date thereof and may in its discretion decrease or increase the salary of any officer during his term.

SDCL § 2-4-2. Salary and expense allowances of legislators.

The salary of each member of the Legislature is six thousand dollars for every regular legislative session.

In addition, each legislator shall receive:

(1) Reimbursement to be paid after the legislative session for actual mileage or its equivalent traveled to and from home not more than once each weekend or between days of recess during the regular legislative session, at state rates established by the board of finance,

(2) Expenses of ninety-five dollars per day for each day of a regular or special legislative session as prepaid reimbursement for living expenses, including meals and lodging, laundry, cleaning and pressing of clothing, and all other uncompensated expenses as defined in § 2-4-2.1

incident to the performance of legislative services, and

(3) Five cents once each session for every mile of necessary travel in going to and returning from the place of meeting of the Legislature by the most usual route.

For each day's attendance at special sessions each member in addition to mileage and expenses shall receive a per diem calculated by the director of the legislative research council equal to the normal daily compensation for the regular session immediately preceding the special session.

SDCL § 2-4-2.1. Items constituting uncompensated expenses of legislators.

The term, "uncompensated expenses," as used in this chapter, includes, but is not limited to, postage, stationery, printing, office supplies, telephone, incidental costs in the maintenance of a legislative office at home, subscriptions to publications, conference dues, and travel for attendance at meetings with constituents, and such other unreimbursed costs associated with legislative service.

SDCL § 2-4-4. Time of payment of salaries and allowances.

The salary of the Legislature and the lieutenant governor shall be payable in the same manner as for other state employees under the provisions of § 3-8-6, provided, however, that final payment shall be made on or before the last day of a legislative session.

Mileage of the members of the Legislature and the Lieutenant governor, for attendance upon regular and special sessions, shall be paid at the end of such session.