



## **Compensation Council Legislative Coordinating Commission**

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March 29, 2017

The Honorable Kurt Daudt  
Speaker of the House of Representatives

The Honorable Michelle Fischbach  
President of the Senate

Dear Mr. Speaker and Madam 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 four hearings, received testimony from interested parties, including current legislators from the Senate Finance and the House Ways and Means Committees, and engaged in extended deliberations. We hope you find this report helpful.

### **Background**

In November 2016, Minnesota's citizens voted to amend their Constitution to assign the duty of establishing the salaries of Legislators to the Legislative Salary Council. The Compensation Council continues with its responsibilities to recommend 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 2013 legislature implemented the recommendations of the 2013 Council by approving 4% increases on July 1 2013, 2014, 2015, and 2016. The 2013 Council endorsed the proposals to reform the Judicial Pension Fund, which were also adopted by the Legislature.

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 University of St. Thomas Assistant Professor of Economics, Kristine West, on a 2016 study, “Minnesota Judicial State Court Salaries,” commissioned by MDJA and completed by Professor West. The study found that:

- District Court judges earn 39% less than attorneys at large law firms and 21% less than attorneys at mid-sized firms.
- Several county attorneys earn between 6% and 14% more than District Court judges before whom they regularly appear.
- After a five year salary freeze, and despite regular increases in salaries since 2012, Minnesota’s judges’ salaries have only kept pace with inflation, and have not increased in real terms.
- 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. The 2015 study found that, when adjusted for cost of living, Minnesota’s district court judges ranked 25<sup>th</sup> nationally.

In their testimony on behalf of MDJA, Judges Kevin Mark and Jonathan Jasper noted that judges’ contributions to the judicial retirement program were increased in 2013 and 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. 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.

### **Constitutional Officers**

The 2013 Legislature accepted the recommendation of the 2013 Council, and implemented salary increases of 3% in 2015 and 3% in 2016 for Minnesota's Constitutional Officers. The increases for the Governor were the first since 1998. The other Constitutional Officers' salaries were increased in 2003 when their salaries, which by law are set as a percentage of the Governor's salary, were adjusted upward.

In reviewing these salaries, the 2017 Council noted that the Governor is responsible for managing the Executive Branch with 50,000 employees, and overseeing a biennial state budget of nearly \$44 billion. Despite these duties, the Governor is not the highest paid individual in the Executive Branch. Excluding medical doctors (who are exempt from the state's salary limits), there are over 100 employees in the Executive Branch who are paid more than the Governor. This number appears to be growing, which has the effect of diminishing the stature and possible effectiveness of the state's top executive. According to a 2016 survey by the Council of State Governments, the salary of Minnesota's governor was ranked 16<sup>th</sup> nationally, at a rate of 93% of the national average.

The Attorney General is the state's chief legal officer, plays a key role in litigation, provides legal advice affecting all parts of state and local government, and is often involved in constitutional and other legal dealings with other states and the federal government.

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.

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.

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.

### **Agency Head Salary Limits**

The 2013 Legislature accepted the recommendation of the 2013 Council, and increased the maximums of the salary limits for the two large groups of commissioners to 133% and 120% of the salary of the Governor. With the flexibility provided by these higher limits, the commissioners' salaries were adjusted significantly. However, even with the adjusted limits, the salaries of commissioners are often less than those of managers of local government agencies carrying out that state agency's programs. As a result, top state employees can move to local governments and receive substantial improvements in compensation. This may reduce the number of persons willing to apply for and work in top positions in state government.

In analyzing and discussing these difficult questions, the 2017 Council members reviewed extensive written materials concerning salaries for both state and local officials. The Council also heard testimony from personnel at the Metropolitan Airports Commission and the Public

Utilities Commission. Council members spoke of the public service motivation of Minnesota citizens who serve in these key management positions in state and regional government. Council members understand and applaud this strong commitment to public service, but believe the financial sacrifice for people serving in government should not be so great as to unduly restrict the potential pool of applicants to those of a high level of wealth or income.

### **Recommendations**

The Council has separated 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. We also recommend that the required delay in implementation dates (to 2019 and 2020) for certain salaries be modified for future Compensation Councils as explained in the section "Other recommendations."

1. **Judicial Salaries.** With respect to the Justices of the Supreme Court, and Judges of the Court of Appeals and the District Court, salaries be increased as follows:
  - a) by 4.63% on January 1, 2019
  - b) by 4.63 % on January 1, 2020

These increases, when coupled with our recommended increases to take effect in July 2017 and 2018 will maintain and enhance the ability of the Courts to attract and retain highly qualified judges from all sectors.

2. **Salaries for constitutional officers.** We recommend that the salary of the governor be increased to \$150,000 effective January 1, 2019. Under existing law the salaries of the other Constitutional officers are set as a percentage of the Governors salary as follows: Attorney General 95%, Auditor 85%, Secretary of State 75% and Lieutenant Governor 65%. The recommendation for the Governor's increase will result in salary increases for these constitutional officers as well.

Increasing the Governor's salary is critical in signaling this position as being responsible for managing the Executive Branch, and reinstating some semblance of equity with respect to the salary of other top managers in state government.

3. **Agency head salary limits of agency heads.** The Compensation Council recommends that the limits on agency head salaries be decoupled from the salary of the governor. The Council recommends that the current salary limits in effect on January 1, 2017 continue, and that those limits continue to be adjusted by the Consumer Price Index under Minn. Stat. 15A.0815.

**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:

1. **Judicial salaries.** With respect to the Justices of the Supreme Court, and Judges of the Court of Appeals and the District Court, to increase salaries of Judges as follows:
  - a) by 3.5% on July 1, 2017
  - b) by 3.5% on July 1, 2018

These increases, when coupled with our recommended increases to take effect in January 2019 and 2020 will maintain and enhance the ability of the Courts to attract and retain highly qualified judges.

2. **Effective dates for salary increases.** Prior to the passage of the Constitutional Amendment in 2016, the Council was required to recommend salaries for legislators to be effective two years later as a result of the Constitutional requirement for an election to take place before a pay raise could take effect. This resulted in all of the other recommendations of the Council (except salary limits of agency heads) having that same delayed implementation. Having to project more than two years into the future is difficult and reduces the likelihood of correctness of the council's recommendations.

With the duty to address legislator salaries now assigned to the Legislative Salary Council, the Compensation Council recommends that its duties be modified to recommend salaries which become effective the beginning of the two fiscal years that begin the year the Council meets. The Council understands that in order for the Legislature to consider the recommendations and deal with possible fiscal impacts, that the deadline for its recommendations may need to be accelerated.

3. **Other salaries tied to the salary of the Governor.** The salaries of several Executive Branch directors are tied to the salary of the Governor:

Agency	Relationship to Governor salary
Minnesota Business Finance, Inc. Minn. Stat. 116S. Subd. 1	No greater than Governor salary
Northern Technology Initiative, Inc. Minn. Stat. 116T.03, Subd. 1	No greater than Governor salary
Minnesota Zoo Minn. Stat. 85A.02, Subd. 2a	Any salary greater than 95% of Governor salary paid with nonstate funds

Minnesota State Retirement System Minn. Stat. 352.03, Subd. 5	Board determines, not more than 133% of Governor salary
Public Employee Retirement Association Minn. Stat. 353.03, Subd. 3a	Board determines, not more than 133% of Governor salary
Teachers Retirement Association Minn. Stat. 354.06, Subd. 2	Board determines, not more than 133% of Governor salary

There is little, if any, basis for tying these salaries to the salary of the Governor. The Council has no recommendation as to the salary of these positions, but does recommend that the salaries for these positions not be tied to the salary of the Governor.

4. **Metropolitan Airports Commission member compensation.** The Legislature should require that Minnesota Management and Budget conduct an evaluation to examine the equity of compensating the chair of the Metropolitan Airports Commission under the Agency salary limit statute, Minnesota Statutes 15A.0815, while compensating the other members through \$50 per diems.
5. **Other Constitutional Officers' salaries.** The Legislature should contract for an independent evaluation to determine if the current salary structure of the three Constitutional Officers (Attorney General, Secretary of State, and State Auditor), which are tied to the Governor's salary, properly reflects the duties of their respective offices in relation to that of the Governor and each other.

The Compensation Council adopted these recommendations on March 27, 2017 on an 11 to 1 vote, with four members absent.

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 Mark Dayton  
Lt. Governor Tina Smith  
Chief Justice Lorie S. Gildea  
Attorney General Lori Swanson  
State Auditor Rebecca Otto  
Secretary of State Steve Simon  
Senator Paul Gazelka  
Senator Tom Bakk  
Representative Joyce Peppin  
Representative Melissa Hortman

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

Joseph E. Brown, Sr.  
MaryLynn Dahlquist  
Thomas Evenson  
Dr. James Fox  
Steven Ludwig  
Jessica Macias  
Aalok Sharma  
Keith Swanson

**Appointed by the Supreme Court**

David W. Asp  
Thomas K. Berg  
Annie B. Deckert  
Sarah B. Janecek  
Anna M. Lima  
Robert Meyerson  
Gail M. Olson  
James N. Robins