

Statutes Related to Legislator Compensation in Montana

5-2-301. Compensation and expenses for members while in session. (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 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. 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 15-6-134, 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.

Compiler's Comments:

2007 Amendment: Chapter 81 in (1) in first sentence substituted reference to employee earning \$10.33 an hour for "of an entry grade 10 classified state employee in effect" and inserted second sentence regarding adjustment of hourly rate. Amendment effective July 1, 2007.

Applicability: Section 25(2), Ch. 81, L. 2007, provided: "(2) [Sections 16 and 17] [5-2-301 and 5-2-302] apply to legislators for the legislative session convening in January 2009."

2001 Amendment: Chapter 553 in (4) in fourth sentence substituted "legislators are entitled to a new daily rate for those days" for "the average is the new daily rate for legislators for those days" and inserted fifth sentence stating that the new daily rate is the daily rate for the

prior session increased by the percentage increase determined by the survey, a cost of living increase, or 5%. Amendment effective July 1, 2001.

1999 Amendments -- Composite Section: Chapter 44 in (1) at beginning deleted "Except as provided in subsection (8)"; and deleted former (8) that read: "(8) In lieu of the salary provided for in subsection (1) and the expense allowance provided for in subsection (4), a legislator may receive remuneration for services performed during a legislative session. A legislator choosing to receive remuneration for services performed shall file a request to receive payment under this subsection with the legislative services division. A legislator exercising the option to receive remuneration for services performed may not receive more remuneration than legislators paid pursuant to subsections (1) and (4). Remuneration for services performed must be reduced by an amount a day equal to the daily expense allowance for a legislator established under this section when the legislature recesses for more than 3 days". Amendment effective March 8, 1999.

Chapter 558 in (1) increased legislators' pay from grade 8 to grade 10; and made minor changes in style. Amendment effective July 1, 1999.

1997 Amendment: Chapter 417 in (3), near beginning, substituted "a daily allowance" for "\$50 a day"; in (4), in first sentence after "November 15", deleted "1996, and prior to December 15, 1996" and inserted third sentence providing "The department shall include only states with specific daily allowances in the calculation of the average"; in (8), in fourth sentence, substituted "reduced by an amount a day equal to the daily expense allowance for a legislator established under this section" for "reduced \$50 a day"; and made minor changes in style. Amendment effective July 1, 1997.

1995 Amendments: Chapter 455 in (3) inserted "Subject to subsection (4)"; inserted (4) requiring Department of Administration to conduct salary survey; adjusted subsection references; and made minor changes in style.

Chapter 545 in (6), near end of introductory clause, substituted "legislative services division" for "office of the legislative council"; in (8), at end of second sentence, substituted "legislative services division" for "accounting office of the legislative council"; and made minor changes in style. Amendment effective July 1, 1995.

1995 Transition: Section 81, Ch. 545, L. 1995, provided: "(1) The members of the legislative council, as provided in 5-11-101, the members of the legislative finance committee, as provided in 5-12-202, the members of the legislative audit committee, as provided in 5-13-202, and the members of the environmental quality council, as provided in 5-16-101, must be appointed as soon as possible following [the effective date of this section] [effective April 27, 1995.].

(2) To implement the changes provided in [this act], the office of the legislative council, the office of budget and program planning, and the department of administration shall establish all necessary authorizations during the accounting preparation process known as the "turnaround" process, beginning in April or May 1995, to administer the several appropriations made by any means to programs of the legislative branch agencies consolidated under [sections 3 and 4] [5-2-503 and 5-2-504] for fiscal year 1996 or 1997 or the biennium ending June 30, 1997, as appropriations to a single legislative agency while maintaining the specific identification, legislative intent, and purpose for which the appropriations were made. During this transition, the executive director may authenticate documents as required to accomplish the purposes of [this act]. Appropriate changes on the statewide budgeting and accounting system and the payroll, personnel, and position control system must also be made and authorized as required to

accomplish the purposes of [this act].

(3) Personnel and property of the environmental quality council are transferred to the legislative services division effective July 1, 1995."

1991 Amendment: In (1) substituted "entry grade 8" for "grade 8, step 2"; and made minor change in style. Amendment effective April 29, 1991.

1989 Amendment: In (1), at beginning, inserted exception clause; and inserted (7) allowing legislator to receive remuneration in lieu of salary, requiring legislator to file request for such payment, limiting amount to total of salary and expenses, and allowing for reduction during recess. Amendment effective January 10, 1989.

Retroactive Applicability: Section 4, Ch. 1, L. 1989, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to January 1, 1989."

1986 Amendment: In first sentence of (1) substituted "grade 8" for "grade 10" and inserted "in effect when the regular session of the legislature in which they serve is convened under 5-2-103" (effective January 2, 1987).

Title and Effective Date of 1986 Amendment: The title to Ch. 9, Sp. L. June 1986, read: "AN ACT RETURNING THE SALARY OF LEGISLATORS TO THE LEVEL IN EFFECT PRIOR TO THE JANUARY 1, 1987, EFFECTIVE DATE OF THE SALARY RAISE ENACTED BY SECTION 3, CHAPTER 693, LAWS OF 1985; AMENDING SECTION 5-2-301, MCA; AND PROVIDING AN EFFECTIVE DATE." Under sec. 2, Ch. 9, the act was effective January 2, 1987. Thus Ch. 693, L. 1985, went into effect on January 1, 1987, but was nullified by Ch. 9, Sp. L. June 1986, on the next day.

1985 Amendments: Chapter 8 deleted former (3)(b) that provided mileage allowance "for one additional round trip to their place of residence during each session" without submittal of a claim; in (5) near beginning, inserted clause requiring submittal of claim to legislative council and deleted identical clause from end of (5)(a), thus making claim submittal applicable to (5)(b); in (5)(a) increased additional round trips subject to claim submittal requirement from two to three; and inserted (5)(b) relating to additional round trips during special session.

Chapter 693 in (1) increased salary rate from that commensurate to grade 8, step 2, to that commensurate to grade 10, step 2 (effective January 1, 1987); inserted (2) allowing legislators to serve for no salary; and in (3) increased legislative expense allowance from \$45 to \$50 per day during legislative session.

1981 Amendments: Chapters 7 and 605 increased legislative expense allowance from \$40 to \$45 during a session.

Chapter 144 inserted subsection (4) allowing two additional trips.

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) 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.

Compiler's Comments:

2013 Amendment: Chapter 392 in (3) in first sentence after "spent" substituted "on authorized interim or administrative committee legislative business or as otherwise provided by law" for "away from home on authorized legislative business" and in second sentence substituted "legislative interim or administrative committee business or business related to 5-11-305" for "legislative business". Amendment effective July 1, 2013.

2007 Amendments -- Composite Section: Chapter 61 made minor changes in style. Amendment effective October 1, 2007.

Chapter 81 in (3) in first sentence after "pay at the rate" deleted "of a classified state employee"; and made minor changes in style. Amendment effective July 1, 2007.

Style changes were slightly different in the chapters. In each case, the codifier chose appropriate text.

Applicability: Section 25(2), Ch. 81, L. 2007, provided: "(2) [Sections 16 and 17] [5-2-301 and 5-2-302] apply to legislators for the legislative session convening in January 2009."

1989 Amendment: In (3), near beginning, changed reference to 5-2-301 to 5-2-301(1). Amendment effective January 10, 1989.

Retroactive Applicability: Section 4, Ch. 1, L. 1989, provided: "[This act] applies retroactively, within the meaning of 1-2-109, to January 1, 1989."

1985 Amendment: Near beginning of section substituted "a member of the legislature" for "members of the legislative council, legislative subcommittees, and select and interim committees", substituted "legislative business" for "authorized committee business", and inserted "with prior authorization of the appropriate funding authority"; and in (3) substituted "legislative business" for "committee business" in two places.

1981 Amendment: Substituted "authorized committee business" for "business authorized by the legislative council"; in (3) changed the salary from one-fourth day's pay for each 6 hours to a full day's pay for any portion of a day spent on authorized business; added the last sentence in (3) disallowing compensation when lengthened stay is result of business other than authorized committee business.