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Drafter: Jaret Coles, 406-444-4022

LC CONCEPT DRAFT FOR SALARY
AND PER DIEM DURING RECESS

67th Legislature

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**** BILL NO. ****

INTRODUCED BY ****

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LEGISLATIVE COMPENSATION AND EXPENSE PAYMENTS DURING THE 67TH LEGISLATIVE SESSION; DEFINING LEGISLATIVE BUSINESS; AMENDING SECTION 5-2-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

WHEREAS, the Legislature has broad authority under the constitutional continuity of government provisions provided in Article III, section 2, of the Montana Constitution; and

WHEREAS, on March 13, 2020, President Trump declared a National Emergency concerning the COVID-19 outbreak; and

WHEREAS, Article V, section 5, of the Montana Constitution provides that no Legislature may fix its own compensation; and

WHEREAS, members of the Legislature may need to conduct legislative business on days when the House of Representatives and the Senate do not meet in order to function during the pandemic; and

WHEREAS, current law does not anticipate legislative business to occur when the House of Representatives and the Senate do not meet during the legislative session, or the significant fixed costs and expenses legislators will incur for housing and transportation on days when the House of Representatives and the Senate are in recess because of the COVID-19 pandemic; and

WHEREAS, providing for compensation and expense reimbursements when the Legislature is conducting legislative business and responding to the pandemic is not prohibited under the Montana Constitution because the continuity of government provisions provide that the Legislature may enact laws to ensure the continuity of government during a period of emergency without regard for other provisions of the Constitution.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

2 **"5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled
3 to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular
4 session of the legislature in which they serve is convened under 5-2-103 for those days during which the
5 legislature is in session, including days when the legislator is engaged in legislative business. The hourly rate
6 must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the
7 house must receive an additional \$5 a day in salary for those days during which the legislature is in session and
8 for days while engaged in legislative business.

9 (2) Legislators may serve for no salary.

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

14 (4) After November 15, and prior to December 15 of each even-numbered year, the department of
15 administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North
16 Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense
17 allowance for Montana legislators in determining the average daily rate for legislators. The department shall
18 include only states with specific daily allowances in the calculation of the average. If the average daily rate is
19 greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days
20 during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session,
21 increased by the percentage rate increase as determined by the survey, a cost-of-living increase to reflect
22 inflation that is calculated pursuant to 2-15-122(5)(a), or 5%, whichever is less. The expense allowance is
23 effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-
24 103.

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

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

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- 1 (a) three additional round trips to their place of residence during each regular session; and
2 (b) additional round trips as authorized by the legislature during special session.
3 (7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special
4 session if it is convened within 7 days of a regular session.
5 (8) The department of administration shall work with the legislative services division to offer options to
6 legislators to receive their session salary provided for in subsection (1) over the 2-year legislative term or a
7 portion of the term. The options must be offered to all legislators in order to assist legislators to manage their
8 income over the term. The per diem allowance and mileage as provided in this section, salary during a special
9 session as provided in 5-3-101, and the salary during the interim as provided for in 5-2-302 may not be affected.

10 (9) For the purposes of this section, the term "legislative business" means the presence of the
11 individual was formally recorded at a meeting of a committee of the legislature on a day when both the house of
12 representatives and the senate did not meet."

13
14 **NEW SECTION. Section 2. {standard} Effective date.** [This act] is effective on passage and
15 approval.

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17 **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the
18 meaning of 1-2-109, to the date of commencement of the 67th legislative session as provided for in 5-2-103.

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20 **NEW SECTION. Section 4. Termination.** [This act] terminates on the date the 67th legislature
21 adjourns sine die.

22 - END -