

MAINE STATE LEGISLATURE

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MAINE STATE
COMPENSATION COMMISSION

INTERIM REPORT

January 15, 1988

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INTRODUCTION

The Maine State Compensation Commission serves for a two-year period which coincides with the legislative biennium. Four Commissioners are appointed by the President of the Senate and Speaker of the House of Representatives, and the fifth member, who serves as a chair, is elected by the four appointed members. The 113th Compensation Commission is the fourth Commission to have been appointed since the law establishing the Commission took effect, and it will serve until December, 1988.

The Commission is charged by law to review the compensation of and make recommendations to the Legislature on the following: the Governor, justices and judges, constitutional officers, legislators, Clerk and Assistant Clerk of the House of Representatives, Secretary and Assistant Secretary of the Senate, and representatives of Indian tribes elected to the Legislature. The Commission is also authorized by 3 M.R.S.A. §2-A, "to make other recommendations."

In its first Interim Report the 113th Commission established a schedule for completing its statutory review and made recommendations to the First Regular Session of the 113th Legislature concerning the salaries of the Clerk and Assistant Clerk of the House of Representatives and the Secretary and Assistant Secretary of the Senate. This interim Report to the Legislature is designed to describe the major issues the Commission plans to address over the next ten months and to make recommendations concerning judicial salaries, various components of legislators' compensation and constitutional officers' salaries.

GOVERNOR

Since submitting its first Interim Report the 113th Commission has discussed a number of issues involving the Governor's retirement plan. The Commission intends to continue its review of these issues over the remaining study period.

The 113th Commission will not be making a recommendation concerning the Governor's salary. As established in Title 2, section 1 of the Revised Statutes, the State Compensation Commission must make a report on this issue in the third year of each gubernatorial term of office, the timing of which makes this issue the responsibility of the 114th State Compensation Commission.

JUSTICES AND JUDGES

The 111th State Compensation Commission made recommendations concerning judicial salaries and retirement that were adopted by the Second Regular Session of the 111th Legislature. A series of annual salary increases were authorized in Title 4 of the Revised Statutes that will be completed with the commencement of State Fiscal Year 1989, on July 1, 1988. Existing statutory language calls for justices and judges to receive those Fiscal Year 1989 salaries "... annually thereafter."

The 111th Commission's salary recommendations were designed to achieve comparability with the salaries of federal judges of similar responsibility. The Commission's goal was to provide justices of Maine's Supreme Judicial Court with the approximate salaries of U.S. Court of Appeals judges, justices of the Maine Superior Court with the approximate salaries of U.S. District Court judges, and Maine District Court judges with approximately 96% of the salaries of U.S. District Court judges.

Since enactment of the salary increases for Maine's justices and judges, federal judicial salaries have received a number of salary increases which have effectively eliminated any link between Federal and Maine Judicial salaries. Maine's justices and judges in Fiscal Year 1989 will receive approximately 82% of the salaries currently received by their peers on the federal bench.

<u>Current Federal Salaries</u>		<u>FY 1989 Maine Salaries</u>	
U.S. Circuit Judges	\$95,000	Supreme Judicial Court Judges	\$77,300
U.S. District Judges	\$89,500	Superior Court Justices	\$73,100
U.S. District Judges	\$85,920	District Court Judges	\$70,176
(96%)			

The Commission is committed to maintaining a level of judicial compensation which will continue to attract and retain well-qualified individuals to Maine's bench while also maintaining the uncompromising commitment to justice upon which Maine's citizens depend. It is important to the Commission that a correlation between federal and state judicial salaries be maintained as Maine wants the same quality of judges as those on the federal courts and prospective jurists for federal and state positions often come from the same pool of talent.

The 113th Commission plans to continue its review of judicial salaries, including adjusting salaries to reflect changes in the cost-of-living, over its remaining ten months and report its recommendations in the Commission's final report in November 1988.

CONSTITUTIONAL OFFICERS

The 111th Legislature, based on recommendations made by the 111th State Compensation Commission, enacted legislation which assigned each of the Constitutional Officers to a salary range within the salary structure established for unclassified employees. The salary range assignments were as follows:

<u>Position</u>	<u>Salary Range</u>	<u>Minimum Step</u>	<u>Maximum Step</u>
Secretary of State	87	A	G
Treasurer of State	87	A	G
State Auditor	88	A	G
Attorney General	90	E	G

The 113th Commission has identified two issues concerning this compensation policy which need to be addressed.

The first issue concerns the maximum step within a salary range to which each officer can be assigned. The Legislative Council was given the authority to adjust the salary of each officer by one step for each year of continuous service after the initial appointment to office. Title 3, section 162-B of the Revised Statutes calls for each of the constitutional officers, upon initial appointment, to be assigned to step A of their respective ranges, with the exception of the Attorney General who is assigned to step E. Each officer cannot exceed step G in their range regardless of years of service. Each salary range contains two additional steps (steps H and I, respectively).

The 111th Commission had recommended that all constitutional officers be placed in salary range 90 and that the 113th Legislature adjust the assignment upward to salary range 91. The 111th Legislature, in turn, adopted the current salary range and assigned a ceiling of step G in recognition that the higher steps were traditionally used as "longevity rewards" to employees.

The 113th Commission finds that three of the four constitutional officers have reached step G of their respective salary ranges and should have access to the next two steps as would other state employees. The Legislative Council should be granted the authority to adjust their salaries to the appropriate step if they so desire.

The second compensation issue reviewed by the Commission concerns establishing the initial salary of the State Auditor at step E rather than step A of salary range 88. During the First Regular Session of the 113th Legislature the Joint Standing

Committee on Appropriations and Financial Affairs reviewed this issue and concluded that they lacked sufficient information to make a decision. The Committee requested the 113th Commission to review the issue as part of its ongoing study.

The State Auditor and the Attorney General are required to meet certain minimum qualifications in order to be chosen by the Legislature. The State Auditor must be a certified public accountant or a college graduate with not less than six years of experience as a professional accountant or auditor. Title 5, section 241 of the Revised Statutes also specifies that five of those six years must include auditing experience and that four years must have been in a supervisory capacity. The Attorney General, of course, must be an attorney. There are no minimum professional qualifications for the Secretary of State and Treasurer of State established in the Revised Statutes.

In the course of its review the Commission learned that the responsibilities of the Audit Department have increased significantly in recent years, especially as impacted by changes in federal audit requirements. The Commission finds that the State Auditor, like the Attorney General, should be appointed initially to step E of salary range 88.

RECOMMENDATIONS

- Eliminate the statutory language which caps the salaries of the Constitutional Officers at step G;
- Authorize the salary of the State Auditor to be set at step E upon initial appointment to office.

LEGISLATORS AND INDIAN REPRESENTATIVES

The 112th Legislature enacted increases in salary and expense allowances for legislators and Indian representatives. These increases, which took effect with the seating of the 113th Legislature in December 1986, were recommended on the basis that the cost of living had increased significantly since legislators' salaries had last been raised. The 113th Commission has reviewed legislators' compensation, weighing carefully Article IV, Part Third, section 7 of the Maine Constitution which prohibits a sitting legislature from increasing its own compensation, recent substantial increases in legislators' compensation and the emerging issue of the Maine Legislature as a part-time or full-time function.

Salary

Each of the last three Legislatures has enacted salary and expense allowance increases which were effective with the seating of the subsequent Legislature. Biennial legislative salaries have been increased 114% since the seating of the 110th Legislature (1981-82); first regular session salaries have been increased 100% (from \$4,500 in 1981 to \$9,000 in 1987) and second regular session salaries have been increased 140% (from \$2,500 in 1982 to \$6,000 in 1988). As compared to legislative salaries ten years ago, this Commission believes that current salaries make possible the participation of all Maine citizens in the political process.

The consensus among the commissioners is that the Maine Legislature is at a crossroad between a part-time and full-time Legislature. The compensation authorized for legislators is adequate as a means of allowing any of Maine's citizens to serve in the Legislature. The larger question is whether the Maine Legislature is to become a full-time, year-round institution and needs to be compensated accordingly. Commission members find that additional direction on this issue is needed from the Legislature. The 113th Commission proposes that the Legislative Council, or its representatives, and Commission members meet over the next ten months specifically to address the future role of the Legislature and its implication on equitable compensation.

One issue that the Commission finds to be in need of immediate attention is the disparity in legislative salaries between the first and second regular sessions. At \$9,000 and \$6,000 for the first and second regular sessions respectively, legislators earn a salary that is 50% greater for the first regular session. Yet, if one were to measure the approximate length of the regular sessions over the recent years (in weeks), the first regular session is 67% longer (approximately 25 weeks versus 15 weeks).

The 113th Commission recommends that legislators' salaries be increased for the first regular session to \$10,000 to achieve a salary 67% greater than the second regular session salary. The Commission is recommending no change in Indian Representatives' compensation at this time.

Leadership Differentials

Regardless of the direction that the Legislature as a whole takes in the near future, it is apparent to the Commission that the role of legislative leadership, in their management role as the Legislative Council or as individual leaders of their respective chambers or caucuses, has already greatly increased. The impact of the "new federalism", which has shifted additional responsibilities to the state level, and the increasing complexities of running the Legislature have had the most pronounced effect on leadership. If the rank and file members of the Legislature are to remain "part-time" legislators, a burden falls on legislative leadership to make themselves available for meetings and consultations with the other branches of government, speak for their respective parties as necessary, and manage staff and administrative matters. The Commission perceives a workload for leadership which has increased significantly in recent years and which should continue to increase if the Legislature remains in a part-time format.

The Commission finds that the current salary differential should be increased as follows:

	(Above Regular Compensation)	
	<u>Current</u>	<u>Proposed</u>
• President/Speaker	50%	60%
• Majority/Minority Leaders	25%	30%
• Assistant Majority/ Assistant Minority Leaders	12.5%	15%

Committee Chairs/Minority "Lead-People" Differentials

The issue of providing additional compensation to joint standing committee chairs and those minority party legislators designated as "lead-persons" by their minority leaders on the joint standing committees was discussed by the 112th State Compensation Commission. Although it was recognized that these legislators assumed a heavier workload, that Commission, in its Interim Report, deferred discussion at that time in favor of addressing the base salary of all legislators.

The 113th Commission finds that this issue has been deferred for too long and, as an equity issue, should be addressed by the 113th Legislature. The Commission is recommending that committee chairs of joint standing committees receive 5% above regular compensation and that minority "lead-people" of joint standing committees, as assigned by their minority leader, receive 2.5% above regular compensation. No legislator serving as committee chair or minority "lead-person" would be eligible for more than one salary differential. A member of leadership serving simultaneously as committee chair or minority "lead-person" could only be eligible for their leadership differential.

Special Session Compensation

The current legislative salary for the First and Second Regular Sessions averages to approximately \$100 for each day the Legislature is in session. Title 3, section 2 of the Revised Statutes establishes a daily compensation of \$100 for each of the Indian Representatives for each day the Legislature is in session.

The \$55 per diem established in Title 3, section 2 appears equitable for those days when legislators must meet outside the regular sessions (eg, committee work, study commissions, etc.) However, in order to establish a consistent "session" compensation, the 113th Commission finds that legislators should receive compensation approximating their daily regular session compensation for those days when the Legislature is in special session. The Commission recommends that a "special session daily compensation" rate of \$100 per day be established as a first step toward conforming daily regular session compensation to special session compensation. The Commission intends to examine whether the "special session daily compensation" rate needs to be extended for those days outside regular of special sessions when the Senate must meet for confirmation votes.

Expense Allowance

The 113th Commission believes, as have the Compensation Commissions before it, that it is unreasonable to expect legislators to subsidize their living expenses while they are in Augusta. As opposed to discerning that salary level which represents adequate compensation, it has been

relatively clear to the Commission that additional increases in the meals allowance and lodging allowance are needed. In recognition that these recommendations will be in effect until at least December 1990, the Commission proposes increasing the meals allowance from \$26 to \$30 per day (a 15.4% increase). Similarly, the Commission proposes increasing the lodging allowance, or mileage allowance in lieu of lodging for those legislators who commute, from \$34 to \$38 per day (an 11.8% increase).

Constituent Service Allowance

Each of the last three Legislatures have voted to increase the annual constituent service allowance. At the current \$500 per year, the Commission finds that it is at a sufficient level to meet the needs of most, if not all, members of the House of Representatives. However, the difference in the size of Senate districts (representing approximately 32,000 voters based on 1980 U.S. Bureau of the Census data) and House districts (representing approximately 7,500 voters based on 1980 U.S. Bureau of the Census data) warrants an increase to each Senator to accommodate their increased cost of doing business.

For that reason, the Commission is recommending that the annual allowance for Senators be increased from \$500 to \$1,000. The Commission will continue to evaluate the needs of Senate and House members and report back in the November 1988 final report.

Legislative Retirement

In 1985, the 112th Legislature created the Maine Legislative Retirement System in part to recognize the differing retirement needs between legislators and state employees. Implementation of this system separated legislators for the first time from the retirement system used by state employees. One provision of the retirement system calls for mandatory membership for all legislators. This provision is especially important to the younger legislator who will be assured of some retirement benefit if he or she becomes vested in the retirement system or desires to withdraw all "employee" contributions if leaving state service prior to satisfying the vesting period. Possible conflicts between state retirement systems also will be studied.

For a small number of legislators, however, mandatory membership in the Legislative Retirement System creates a conflict with federal tax laws. Those legislators who have certain individual or employer-sponsored retirement plans have increased their tax liability once they join the Legislative Retirement System.

The 113th Commission proposes a waiver provision for those legislators who have been negatively impacted by the mandatory membership provision. Specifically, a legislator would be required to petition his/her presiding officer for an exemption from the retirement system, clearly demonstrating the financial consequences to that legislator of mandatory membership. The Office of the Executive Director to the Legislative Council will be requested to provide assistance as required by the petitioning legislator or presiding officer.

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RECOMMENDATIONS

Effective with the seating of the 114th Legislature in December 1988:

1. Continue to study the issue of legislators' salaries and present findings in the 113th Commission's Final Report. Part of this study would include ongoing discussions with the Legislative Council concerning the future role of the Maine Legislature.

2. Increase legislators' salaries from \$9,000 to \$10,000 for the First Regular Session.
3. Increase the legislative leadership differential from current levels to:
 - 60% above regular compensation for Senate President and House Speaker.
 - 30% above regular compensation for Majority and Minority Leaders.
 - 15% above regular compensation for Assistant Majority and Assistant Minority Leaders.
4. Establish a salary for all joint standing committee chairs 5% above regular compensation; establish a salary for all joint standing committee minority party "lead-people" at 2.5% above regular compensation. No legislator would be eligible for more than one salary differential.
5. Establish compensation during each special session "legislative day" at \$100 for each day a legislator is in attendance, consistent with the approximate daily compensation received by legislators during regular sessions. A legislator would continue to receive the \$55 per diem for attendance at authorized committee, subcommittee or commission meetings when the Legislature is not in session..
6. Increase the daily expense allowance to \$68 per day, a \$4 increase (from \$26 to \$30) for meals allowance and a \$4 increase (from \$34 to \$38) for the ceiling on the lodging allowance for legislators residing in Augusta during the session, or mileage in lieu of lodging for those legislators who commute.
7. Increase the annual constituent service allowance from \$500 to \$1,000 for Senators; keep the allowance at \$500 for Representatives.
8. Create a waiver provision to the Maine Legislative Retirement System for those legislators who can demonstrate to their presiding officer that, due to conflicts with their existing retirement plan, "mandatory membership" has produced, or will produce, negative financial consequences.

**CLERK AND ASSISTANT CLERK OF THE HOUSE OF REPRESENTATIVES: SECRETARY
AND ASSISTANT SECRETARY OF THE SENATE**

In an addendum report dated May 26, 1987, the 113th Commission recommended placing the positions listed above in salary ranges within the legislative staff salary structure created by the Legislative Council in the fall of 1986. These recommendations were adopted by the 113th Legislature in Public Law 1987, chapter 349.

The Commission finds no reason to make additional recommendations in this area at this time.