

IRREGULAR SALARY PAYMENTS TO STATE EMPLOYEES - RELATED STATUTES AND BUDGET SECTION ACTION

This memorandum summarizes:

- Sections of the North Dakota Century Code (NDCC) and North Dakota Administrative Code that relate to the distribution of irregular salary payments to state employees and the state compensation plan.
- Budget Section action from 1989-91 to 1999-2001 relating to the distribution of irregular salary payments to state employees.

RELATED STATUTES AND ADMINISTRATIVE RULES

North Dakota Century Code

54-06-24 - This section establishes a state employee suggestion incentive program, which allows state employees to submit cost-saving proposals to a suggestion incentive committee. If a cost-saving proposal is approved by the committee, the submitting employee is eligible to receive a one-time payment equal to 20 percent of the annual savings, up to a maximum of \$2,000.

54-14-03.1 - This section provides that any fiscal irregularities discovered by the Office of Management and Budget must be reported to the Budget Section. Fiscal irregularities are defined to include the use of state funds to provide bonuses, cash incentive awards, and temporary salary adjustments for state employees. During the 1995-97 and 1999-2001 bienniums the Budget Section received reports pursuant to this section and expressed its opposition to the practice of making irregular salary payments to state employees.

54-14-04.3 - This section provides that a state employee may be entitled to severance pay if the employee is dismissed from employment because of reductions in staff, temporary or permanent layoffs, or for other reasons beyond the control of the employee. This section also provides that a state agency may provide financial incentives to encourage an employee to retire or resign if the resulting departure will increase agency efficiencies or reduce expenses.

54-44.3-12 - This section establishes the duties of the director of the Central Personnel Division, which include:

1. Establish rules for the establishment and maintenance of a compensation plan.
2. Develop procedures that must be followed by all state agencies and institutions for employees in the state classified service to ensure that all salaries are paid in a manner consistent with the state's compensation,

classification, and salary administration policies.

North Dakota Administrative Code

North Dakota Administrative Code Chapter 4-07-02 provides salary administration procedures. Section 4-07-02-01 defines a "temporary increase" as a salary increase provided to a classified employee when the employee is temporarily assigned a higher level of responsibilities. Pursuant to Section 4-07-02-02, this chapter applies to all agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by the Central Personnel Division, except those agencies headed by an elected official and institutions in the University System.

North Dakota Administrative Code Section 4-07-02-16 provides that a temporary increase may be granted if:

1. The temporary situation for which the increase is given exists for at least 30 days;
2. The temporary increase ends no more than 30 days after the special circumstances cease to exist; and
3. Consideration is given to the magnitude of the change in responsibility level.

BUDGET SECTION ACTION

Since 1989 the Budget Section has taken the following actions relating to the distribution of irregular salary payments to state employees.

During the 1995-96 interim, the Budget Section, by motion, expressed its opposition to the practice of making salary payments on an irregular basis rather than on the basis of entitlement and merit and requested that this opposition be communicated to all state agencies and institutions. A letter was sent to all state agencies and institutions informing them of the Budget Section action.

In October 1999, the Budget Section, by motion, expressed its opposition to the practice of making salary payments on an irregular basis rather than on the basis of entitlement and merit until standards relating to this practice have been established by the Legislative Assembly and requested that this opposition be communicated to all state agencies and institutions. A letter was sent to all state agencies and institutions informing them of the Budget Section action. The Budget Section also requested that information be presented regarding the development of standards to be used by state agencies for making irregular salary payments.

SUMMARY

North Dakota Century Code Section 54-06-24 allows bonus payments to state employees for approved cost-savings ideas; and NDCC Section 54-14-04.3 provides that a state employee may receive severance pay or a financial incentive to retire. North Dakota Administrative Code Section 4-07-02-16 provides that state agencies subject to the state classification system may provide temporary increases in certain circumstances, including temporary changes in responsibility. North Dakota Century Code Section 54-14-03.1 provides that fiscal irregularities discovered by the Office of Management and

Budget must be reported to the Budget Section. Fiscal irregularities are defined to include the use of state funds to provide bonuses, cash incentive awards, and temporary salary adjustments for state employees.

Pursuant to NDCC Section 54-14-03.1, the Budget Section has received reports on irregular salary payments. The Budget Section, by motion, has twice expressed its opposition to the practice of making salary payments on an irregular basis rather than on the basis of entitlement and merit, and each time this opposition was communicated to all state agencies and institutions.