

**OPINION
67-118**

December 5, 1967 (OPINION)

Honorable Glen Goodman, State Representative

Milton, North Dakota

RE: Legislature - Committee - Expenses

This is in response to your letter in which you state that pursuant to House Concurrent Resolution B-2 the committee met and organized. At its meeting, in the due course of business, a motion was adopted to allow per diem and expenses to legislative members of the committee, and that they be reimbursed for services in the same manner as members on the legislative research committee are reimbursed, limited of course to the funds appropriated.

The legislature, by chapter 3, section 3, subdivision 1, made the following appropriation: "Expenses of committee created pursuant to House Concurrent Resolution B-2 . . . \$5,000.00."

You further advised that a question has been raised whether or not legislative members of the committee may receive a per diem and expenses in the same manner as members of the interim committees are paid for serving on the legislative research committee. You then ask for a ruling or an opinion on this question.

Under section 54-35-10, as amended, of the North Dakota Century Code, committee members of the legislative research committee are entitled to receive \$20.00 a day plus actual expenses incurred while attending such meeting and in the performance of their duties.

The term "expense" has a variable meaning depending upon the context in which it is used or found. In this instance it is not a work of art, neither is it qualified by such terms as "necessary" or "actual" or "traveling" or "living", etc., as is frequently the case in many legislative acts. We believe that where the term "expense" is used in this instance, it has a broad and general meaning and is comprehensive enough to include and embrace all lawful expenditures and lawful disbursements authorized by the committee. If the term "expense" were narrowly construed, it could well result in prohibiting the expenditure of money for postage, telephone and other expenses not related to traveling or lodging, etc. In some instances the term "expense" is equivalent to "cost" which, of course, again is a term which has variable meaning, depending on its use. For further definitions of the term "expense", see Webster's Dictionary and Volume 15A of WORDS AND PHRASES.

Unfortunately House Concurrent Resolution B-2, 1967 Session Laws, does not contain any expression relative to expenses, etc., as is found in a similar committee created by chapter 469 of the 1967 Session Laws relating to the personal property tax study.

We are compelled to observe that a resolution such as B-2 is not an idealistic method of accomplishing the desired results where expenditure of funds are involved and where the committee is not an integral or functional part of a statutory provision such as the legislative research committee. There are inherent pitfalls in a resolution as distinguished here from a legislative enactment pertaining to matters involved here.

Because House Concurrent Resolution B-2 does not state any criteria as to expenditure and yet an appropriation of \$5,000.00 was made for expenses of the committee, as stated above, we believe that the committee must determine on what lawful items it will authorize expenditures.

The committee consists of legislative members of which three are appointed by the Speaker from the House of Representatives and two are appointed by the President Pro Tem from the Senate, and two persons representing the public electric utilities and two persons representing rural electric cooperatives subject to joint approval by the Speaker and the President Pro Tem.

The legislative members are on the committee at the direction of the Senate and House. The private persons are there by invitation and approval. The latter group has, or represents private interests and is vitally concerned for its representative organizations, whereas the legislative members represent the public and the legislature. This constitutes a reasonable distinction. It appears that the committee has recognized this distinction, hence the limitation of per diem to legislative members. It further appears the committee has adopted the allowance to legislative research committee members under section 54-35-10, as amended, as a guide for its legislative members in its committees, which appears reasonable. We would find it difficult to justify a per diem to nonlegislative members on the committee for the reasons stated above.

It is therefore our opinion that the term "expenses" as used in chapter 3, section 3, subdivision 1, "Expenses of committee created pursuant to House Concurrent Resolution B-2", is sufficiently broad and comprehensive enough to include and embrace expenditures within the limitations set forth by law for comparable activities and, in this instance, would authorize an expenditure of the appropriated funds to pay \$20.00 per diem to the legislative members and to reimburse the members for expenses normally authorized for state officers and employees.

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