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Legislature Compensation & Expenses
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December 27, 1976

Honorable James Tierney
R.D. #2
Lisbon Falls, Maine 04252

Dear Representative Tierney:

This responds to several questions you have posed regarding interpretation of 3 M.R.S.A. § 2 relating to meetings of the Legislature and compensation of Legislators for legislative services, as this section has most recently been amended by P.L. 1975, § 1. Specifically, you have asked the following questions:

1. What constitutes a legislative day within the 100-day limit? A legislative day does not include days when both Houses are recessed.

The legislative history of enactment of P.L. 1975, c. 750 clearly indicates that the term "legislative day" as used in that legislation was different from calendar days, and was to be interpreted in the same context as the 107th Legislature construed legislative days. Thus, in debating adoption of Senate Amendment "A" to L.D. 2037 (S-440) the amendment which initially introduced the concept of legislative days, Senator Clifford noted that it focused on 100 or 50 "legislative as opposed to calendar days," Legislative Record, Senate, March 17, 1976, pages 499-500. The pages of the Senate debate, cited above, also emphasized that the Legislators were considering the term "legislative days" in the context in which it was then used. Thus, Senator Huber twice referred to the session having lasted 42 legislative days.

Further, the assumption that legislative days was intended to mean the same as the term "legislative days" in the 107th Legislature is confirmed by the statements of Representative Carey and Representative McKernan in House debate, Legislative Record, House, March 22, 1976, where they refer to the Legislature having lasted 45 legislative days. Thus, the term "legislative days" is to be construed in the same manner as that term was construed in the 107th Legislature to mean days on which the Legislature actually meets.

2. When the Legislature is in recess during a session, may Legislators be paid expenses for doing committee work?

A Legislator may only receive compensation for committee work when the Legislature is not in daily session where the activities of the members of the committee have the approval of the Speaker of the House or the President of the Senate. Where such approval is given, members shall receive \$25 for each day's attendance at committee meetings and an additional meal and housing allowance in the amount of \$25 for each day they spend overnight. In lieu of the \$25 meal and housing allowance, the members may receive expenses of up to \$12 for meals and \$13 for mileage per day for such approved committee work. These expenses (the \$12 and \$13) may be paid regardless of whether the Legislator spends the night.

The provisions relating to compensation and reimbursement for expenses when the Legislature is not meeting in daily session are provided in the last paragraph of 3 M.R.S.A. § 2. The phrasing of that statute is somewhat imprecise. However, a review of the statute indicates that the Legislature intended that committees be able to meet on days when the Legislature is not in daily session. CF. Legislative Record, Senate, March 17, 1976, p. 500, where an earlier version of Chapter 750, Senate Amendment "A" (S-440) was debated. The Legislature further intended that where such committee meetings take place with the approval of the Speaker of the House or the President of the Senate that members receive reimbursement. The term "daily sessions" used in § 2 must be construed to mean times when the Legislature is meeting. It cannot be construed to mean at any time during a regular session, even when the Legislature is in recess. If that construction were intended, the term "daily" would be unnecessary surplusage.

The reimbursement specified by § 2 is \$25 for each day's attendance at such meetings and "a meal and housing allowance in the amount of \$25 for each day in attendance at such meetings." The sentence relating to the meal and housing allowance then continues and mentions overnight accommodations. A subsequent sentence appears to provide a meal allowance of up to \$12 and a mileage allowance of \$13. Reading the two sentences consistently, it would appear that, therefore, members would be entitled to the flat rate of expenses of \$25 for each day they attend meetings and occupy overnight accommodations, or, alternatively, members would be entitled to reimbursement for expenses of \$12 for a meal allowance and \$13 for mileage if they do not occupy overnight accommodations. Further, it should be emphasized that this reimbursement for expenses or allowance of \$25 is in addition to the \$25 compensation a member receives for each day at such committee meetings which occur outside of daily sessions.

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It should be emphasized that section 2 appears to give the Speaker of the House and the President of the Senate complete discretion in approving or disapproving such committee meetings.

3. May Legislators be compensated when they are in Augusta to work on draft bills or undertake other activities outside of their committee work on days when the Legislature is not meeting in daily session?

The last paragraph of § 2 limits the circumstances under which members of the Legislature other than the leadership may be compensated to authorized committee meetings. Therefore, it does not appear that members of the Legislature who are in Augusta to work on bills could receive the special \$25 per day compensation and the meal and housing allowance authorized in § 2 unless the work is part of an approved committee meeting.


4. Is there any difference in the provisions relating to compensation for either session of the Legislature?

The law relating to compensation other than giving more money in the first year and less in the second year does not appear to distinguish between the regular legislative sessions. In addition, it should also be noted that members will receive \$25 per diem for each day's attendance at any special session.

5. What expenses (not including compensation) may be paid under the provisions of Title 3, § 2?

Under Title 3, § 2, if a member does not stay overnight so that he receives the \$25 meal and housing allowance, he may be paid, instead, a \$12 meal allowance, without regard to actual expenses for meals, and a mileage allowance which does not exceed \$13 per day and which represents actual mileage. Beyond this provision, no provision is made for payment of living or other such expenses. However, Legislators, as all other State employees, are entitled to reimbursement for expenses incurred in the normal course of their business, subject to such limits as may be published by the Legislature in such areas as long distance telephone calls, stationary and the like. These matters are, however, subject to the absolute discretion of the Legislature and regulations the Legislature may wish to publish, as such matters are not directly addressed in any law.

I hope this information is helpful to you.

Sincerely,

JOSEPH E. BRENNAN
Attorney General

JEB/ec
cc: William Garside
All Legislative Leadership