

MINUTES
LEGISLATIVE ETHICS COMMITTEE
AUGUST 22, 2016 TELECONFERENCE
{Approved: September 15, 2016}

The Legislative Ethics Committee (RSA 14-B:2) held a teleconference on Monday, August 22, 2016, at 9:30 A.M.

The following members participated in the teleconference: the Honorable Donna Sytek, Chairman, Senator Sharon M. Carson, Vice Chairman, Senator Martha Fuller Clark, Representative Janet G. Wall, Representative David A. Welch, the Honorable John A. Graham, and Attorney David H. Bradley. Also participating was: Richard M. Lambert, Executive Administrator.

The Committee's teleconference was held in order to discuss a request for an advisory opinion from Senate Legal Counsel Richard J. Lehmann on behalf of Senate President Chuck W. Morse about whether the Senator could accept payment for the costs of travel, lodging, and meals related to attendance at the national meeting of the Republican Legislative Campaign Committee ("RLCC"), held on August 14-17, 2016, in Pinehurst Resort, NC.

Chairman Sytek summarized the request and materials presented to the Committee by Attorney Lehmann. She stated that the Committee initially received the request on July 22, 2016, and that the Committee requested more information from Attorney Lehmann on July 27, 2016. She noted Attorney Lehmann's response by email, dated August 12, 2016, which stated that "Sen. Morse will not be able to attend any specific break-out sessions at this event. Instead, it appears that he will be attending networking events with other senior elected officials from around the country." Chairman Sytek then said that based on that information it didn't look like Senator Morse's attendance could qualify as attendance at a bona fide educational conference. She said that, if the Committee agreed with that, the only remaining question was whether it met the criteria as an event he was attending in his official capacity representing the Senate. She asked if the other Committee members thought it met that threshold.

Representative Wall said her opinion was that Senator Morse was invited as a representative of the Senate Republicans, not the whole Senate.

Attorney Bradley said he felt the same way. He said he struggled with the previous opinion where the Committee said if you're the President of the Senate or Speaker of the House you can always say you're doing it in your official capacity. He said he thought that if you're representing the body as a whole that is the intent, not just representing the caucus.

Senator Carson said she thought the statute isn't clear.

Chairman Sytek said the statute says "any event" where you're invited in your official capacity.

Representative Wall pointed to the statute and noted that it requires that he represents the Senate, not just one party. She said he's not representing the full Senate.

Senator Carson noted that the Senate President is elected by both the majority and minority, so in that sense he does represent the Senate.

Senator Fuller Clark said it seemed to her that it was a partisan event.

Mr. Graham said he was invited as the President of the Senate, whether the event was partisan or not.

Chairman Sytek said the Committee could be establishing new case law with its opinion regarding a purely partisan event to which you're invited as a leader.

Senator Fuller Clark said she was uncomfortable with the Committee saying that it's okay accepting money from the outside for a political event.

Representative Welch said it is like a campaign contribution.

Senator Carson said that this is something that needs to be completely defined. She asked about a hypothetical situation where a legislator has expenses paid to go to a national political convention. She said this is an issue that needs to be fully vetted by the legislature.

After further discussion, Representative Welch said this is a campaign meeting and referred the Committee to the definition of honorarium. He said he was sure that Senator Morse gave advice on campaign issues at the event and suggested it qualified as an honorarium.

Senator Carson said she was not sure.

After further discussion, Chairman Sytek suggested that the Committee could say that he could accept the payment of the costs of travel, lodging, and food as an honorarium, that has to be reported, but we need to clarify the official capacity exception.

Senator Fuller Clark moved to advise that Senator Morse's appearance at the event qualifies as an honorarium which he must report, and that the Committee notes the difficulty in determining what "official capacity" means in terms of how it relates to partisan events. Senator Carson seconded the motion and the Committee voted 7 to 0 in favor of the motion, with Attorney Bradley stating that he didn't favor including language regarding struggling with official capacity.

The Committee's teleconference concluded at approximately 10:16 A.M.

{Prepared by: Richard M. Lambert, Executive Administrator}