

N.D.A.G. Letter to Williams (March 14, 1990)

March 14, 1990

Honorable Wade Williams
Representative
Route 1, Box 22
Cleveland, ND 58424

Dear Representative Williams:

It was nice to meet with you the other day. During our conversation, you asked whether or not the Legislature or any of its committees had authority to subpoena witnesses and records. In light of that discussion I am providing you the following information.

I am enclosing a copy of N.D.C.C. ch. 54-03.2 which prescribes the procedures for legislative investigations. N.D.C.C. § 54-03.2-02(2) defines an investigating committee. An investigating committee includes the Legislative Council, and interim committees of the council if they are designated by the council as investigating committees with subpoena powers. Based upon this definition, it would appear the Legislative Council could appoint an interim committee as an investigating committee and provide that that committee had subpoena powers.

N.D.C.C. § 54-03.2-03 provides that an investigating committee is established by motion, resolution, or statute. The document establishing an investigating committee must provide "the committee's purposes, powers, duties, and duration, the subject matter and scope of its investigatory authority, and the number of its members."

N.D.C.C. § 54-03.2-08 authorizes every investigating committee to issue a subpoena upon a majority vote of its members. The subpoena may command a person to appear before the committee or require persons to bring "books, papers, or other documents."

Service of the subpoena is provided for in the same manner as service of a subpoena in civil actions. The subpoena must be served at least seven days before the date of the hearing unless a majority of the members of the committee deem that the seven day period is not practicable and by majority vote give a shorter notice.

N.D.C.C. § 54-03.2-14 provides that a person may be in contempt if they fail or refuse to comply with the subpoena. If the committee in question is an interim committee the application for a contempt proceeding is to be made to the Burleigh County District Court. Contempt under chapter 54-03.2 is punishable as a class B misdemeanor.

I hope the information I have provided is helpful to you. Other questions you would have concerning the procedure for a legislative investigation are likely addressed by N.D.C.C.

ch. 54-03.2, however, if you have other questions concerning this issue, please contact me again.

Sincerely,

Nicholas J. Spaeth

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Enclosure