

**LETTER OPINION**  
**93-L-277**

September 17, 1993

Mr. Bud Walsh  
Office of Management  
and Budget  
State Capitol  
600 E Boulevard Avenue  
Bismarck, ND 58505

Dear Mr. Walsh:

Thank you for your August 23, 1993, letter inquiring whether the Office of Management and Budget may use the "high-low" per diem rates established by the Internal Revenue Service (IRS) under North Dakota Century Code (N.D.C.C.) ? 44-08-04 rather than the specific rates established by the United States General Services Administration (GSA).

N.D.C.C. ? 44-08-04 provides "[t]he allowance for out-of-state meals, within the continental United States, is equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees by the United States general services administration. . . ." (Emphasis added). The reference to the per diem meals rate established by the GSA was incorporated in the last legislative session. 1993 N.D. Sess. Laws ch. 444. The rule establishing the per diem meal rates for federal employees by the GSA is found at 41 Code Federal Regulations Part 301 - 7. The rates are listed in Appendix A to 41 CFR ch. 301 updated in 58 Fed. Reg. 12890 (1993).

In construing a statute, the overall objective is to ascertain the intent of the Legislature. Production Credit Association of Minot v. Lund, 389 N.W.2d 585 (N.D. 1986). The intent of the Legislature must initially be sought from the language of the statute.

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Milbank Mutual Insurance Co. v. Dairyland Insurance Co., 373 N.W.2d 888 (N.D. 1985). If the language of a "statute is clear and unambiguous, the letter of the statute cannot be disregarded under the pretext of pursuing its spirit because the legislative intent is presumed clear from the face of the statute." Id. at 891; N.D.C.C. ? 1-02-05. "Every word, clause, and sentence used in [a] statute [should] be given meaning and effect." Garner Pub. Sch. v. Golden Valley County Committee, 334 N.W.2d 665 at 670 (N.D. 1983). Further, statutes are to be construed in a way which does not render any provision worthless or meaningless and because the law neither does nor requires idle acts, it cannot be presumed that the Legislature intended statutory provisions to be useless rhetoric. Keyes v. Amundson, 343 N.W.2d 78 (N.D. 1983); N.D.C.C. ? 31-11-05(23).

The language used in N.D.C.C. ? 44-04-08 is plain and unambiguous. It sets the allowance for out-of-state meals at the per diem meals rate established for federal employees by the GSA. The substitution of a "high-low" per diem rate established by the IRS runs contrary to this plain and unambiguous language. Therefore, it is my opinion that the Office of Management and Budget may not use the IRS "high-low" per diem rates rather than the specific rates established by the GSA.

It is my further opinion that all reimbursements for meals effective August 1, 1993, must be made in conformance with the statute.

Sincerely,

Heidi Heitkamp  
ATTORNEY GENERAL

tca/krb