

February 26, 1945

*Legislature*

Mrs. Claire Phelps  
Mrs. Clara Osborne Botzum  
House of Representatives  
Capitol Building  
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL**

Dear Mesdames:

We have your letter of the 24th instant in which you state:

"We have been advised that is is possible for Legislators to be allowed \$5.00 per diem for expenses in addition to one \$3.00 per diem salary. Is this true and what is proper procedure to present this to the House for approval?"

Subdivision 2, Section 1, Part 2, Article 4 of the Arizona Constitution prescribes the compensation and traveling expenses of members of the Legislature. This Section is as follows:

"(2) From and after the adoption of this amendment members of the Legislature shall receive \$3.00 per day; provided however, that they shall receive such compensation for a period not to exceed 60 days in any regular session and for a period of not to exceed 20 days in any one special session. They shall also receive mileage one way by the shortest practical route at the rate of 20¢ per mile. The total number of attaches or employees of the Senate shall not exceed 14 and the total number of attaches or employees of the House of Representatives shall not exceed a number of two-thirds of the members thereof, and the compensation of such attaches or employees except the chief clerk or secretary of each branch shall not exceed \$5.00 per day."

"This amendment shall be in all respects self-executing."

If members of the Legislature are entitled to \$5.00 travel allowance, it must be by virtue of Section 12-713, A.C.A., 1939, as amended by Chapter 12, Laws of 1941.

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"Mileage and traveling expenses.--(a) Whenever the official duties of a public officer make it necessary for him to travel from the point where he is required by law to maintain his office, he shall be allowed actual mileage and traveling expenses. (b) Mileage shall be computed as follows: 1. if to a point without the state, a sum equal to the railway and Pullman fare, or fare by air; 2. if within the state, a sum equal to the fare by railway, stage, or air; or, 3. if a private conveyance is used, not more than five cents (5¢) per mile, measured by the most direct regularly traveled route. In the event more than one (1) officer, employee, or other public agent traveling on official business are transported in the same private conveyance, but one (1) mileage only shall be charged or allowed. A member of a county Board of supervisors living without the limits of the county seat shall be allowed mileage from his home to the corporate limits of the county seat when attending meetings of the board. (c) Claims for lodging and meals shall not exceed five dollars (\$5.00) per day per person."

You will note the Section last quoted provides that when the official duties of an officer make it necessary for him to travel from the point where he is required by law to maintain his office he shall be allowed mileage and traveling expenses.

Members of the Legislature maintain their office at Phoenix, Arizona, regardless of where their legal or voting residence may be. The members do not come within the provisions of said Section 12-713 while they are at Phoenix attending upon their official duties. They are entitled to the \$5.00 travel allowance provided for in said Section 12-713 only when they are traveling away from and returning to Phoenix on official business.

Therefore, it is our opinion that members of the Legislature may collect only the compensation and mileage provided

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for in the above quoted Section of the Constitution while they  
are attending sessions of the Legislature in Phoenix.

Yours truly,

JOHN L. SULLIVAN  
Attorney General

EARL ANDERSON  
Assistant Attorney General

EA:jw