DEPARTMENT OF JUSTICE
STATE OF NEBRASKA
TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

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September 17, 1986

#86073
NO.
STATE OF NEBRASKA
OFFICIAL
SEP 22 1986
DEPT. OF JUSTICE

SUBJECT: Reimbursement of State Employee Relocation Expenses.

REQUESTED BY: William R. Giovanni, Director of Administrative Services, Nebraska Department of Administrative Services.

WRITTEN BY: Robert M. Spire, Attorney General, Fredrick F. Neid, Assistant Attorney General.

This is in response to your request for an opinion concerning reimbursement and or payment of an allowance for state employee relocation expenses. You have indicated that a policy is being considered which would "pay for the cost of moving the employee's personal property and household goods, and in addition, provide for a moving allowance up to a certain maximum dollar amount, at each agency director's discretion." The allowance would be intended to cover some or all costs of buying and selling a residence to include: realtor commission, title fees, points, mortgage interest differentials and costs associated with the inability to sell an existing residence.

Reimbursement of expenses of state employees must be authorized by specific statutory authority and amounts for payment appropriated by the Legislature. In general, reimbursement of expenses actually incurred by state employees for official state business is authorized. Neb.Rev.Stat. §84-306.01 (Supp. 1985), in part, provides:

> Whenever any state officer, employee, or member of any commission, council, committee, or board of the state is entitled to be reimbursed for actual expenses incurred by him or her in the line of duty, he or she shall be required to

L. Jay Bartel, John M. Boehm, Dale D. Brodkey, Martel J. Bundy, Janie C. Castaneda, Dale A. Comer, Laura L. Freppel, Lynne R. Fritz, Ruth Anne Evans, Yvonne E. Gates, Jill Gradwohl, Royce N. Harper, William L. Howland, Marilyn B. Hutchinson, Mel Kammerlohr, Sharon M. Lindgren, Charles E. Lowe, Steven J. Moeller, Harold I. Mosher, Bernard L. Packett, LeRoy W. Sievers, James H. Spears, Mark D. Starr, John R. Thompson, Susan M. Ugai, Linda L. Willard

> present a claim each month to the Director of Administrative Services. Each claim shall be fully itemized, including when, where, and why the expense was incurred and the actual amount involved. . . .

We are unable to interpret §84-306.01 so broadly as to authorize payment of an allowance which may result in payment to an employee for costs not actually incurred. There is no difficultly in permitting reimbursement of actual expenses of state employees for job-related purposes. However, payment of an allowance, lump sum dollar amount, for certain moving-related costs is not permissible unless the moving costs are actually incurred. The key words of §84-306.01 are "actual expenses incurred" and "fully itemized". The plain meaning of this language is clear, that expenses may be reimbursed only for actual amounts expended and supported by appropriate documentation.

You have included a description of the types of expenses to be included in the moving allowance. We do not determine the validity of these types of expenses in this opinion but only that a monetary allowance in lieu of these expenses is improper. Accordingly, you are advised that the Department of Administrative Services may not, as a matter of policy, provide for payment of a housing or moving allowance in lieu of actual expenses.

Very truly yours,

ROBERT M. SPIRE
Attorney General

Fredrick F. Neid
Assistant Attorney General

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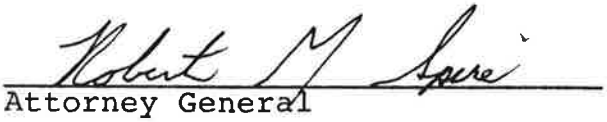
APPROVED:



Attorney General