

Appropriations, for Mileage and Per Diem of Members of the Legislature. Legislature, Use of Appropriations for Mileage and Per Diem of Members.

The general appropriation made by the regular session of the legislative assembly, until exhausted, is available for the payment of the mileage and per diem of the members of such assembly when called in special session.

Helena, Montana, December 29, 1909.

Hon. C. M. Crutchfield,

Acting Chairman, Judiciary Committee, House of Representatives,
Helena, Montana.

Dear Sir:—

I am in receipt of a communication from your committee, referring to my office the question as to the legality of the motion or resolution directing the speaker and clerk of the house to make the usual certificate as to the per diem and mileage of the members in attendance upon the special session of the eleventh legislative assembly and forward the same to the state auditor.

House Bill No. 13, passed by the regular session of the eleventh legislative assembly, appropriated the sum of \$45,000.00, or so much thereof as may be necessary, for the payment of the mileage and per diem of the members of the eleventh legislative assembly of the state of Montana. While this is a special session, the persons attending the same are still members of the eleventh legislative assembly, and as there is a balance on hand from said appropriation of \$45,000.00, amounting to the sum of \$5,770.00, I am of the opinion that such balance is now available for the purpose of paying the mileage and per diem of the members actually attending the special session of the eleventh legislative

assembly. It will be noticed that said house bill No. 13, did not limit this appropriation to the payment of the mileage and per diem of the members in attendance upon the regular session of the eleventh legislative assembly, but is a general appropriation for the purpose of paying their mileage and per diem and is applicable at any time during the life of the eleventh legislative assembly.

However, since the session has been called with an understanding that the members would attend without expense to the state, and this was one of the inducements prompting the governor in calling the special session, as stated in his message, therefore I would not feel at liberty to advise the auditor to draw warrants in favor of such claims unless the house passes a resolution directing such use of said unexpended appropriation.

Yours very truly,

ALBERT J. GALEN,

Attorney General.