

No. 131

**MILEAGE—COUNTY HIGH SCHOOL TRUSTEES—
SCHOOLS**

Held: County High School Trustee is entitled to seven cents per mile for every mile necessarily traveled from his place of residence to place where high school is located, and return, in attending meetings of board as provided by Section 1262.8, Revised Codes of Montana, 1935, said section not being repealed by Chapter 121, Laws of 1941.

May 28, 1941

Honorable Wesley A. D'Ewart
Senator for Park County
Wilsall, Montana

Dear Senator D'Ewart:

You have submitted the question as to whether Chapter 121, Laws of 1941, controls the mileage to be allowed to county high school trustees in attending meetings of the Board.

In answering your inquiry, it is to be noted that Section 1262.8, Revised Codes of Montana, 1935, is as follows:

"Section 1262.8. Compensation of members of boards of trustees of county high schools. A member of the board of trustees of a

county high school is entitled to all mileage in attending the meetings of the board at a rate of not to exceed seven cents (7c) per mile for every mile necessarily traveled from his place of residence to the place where the high school is located, and return, such mileage to be allowed by the board and paid by its warrant drawn against any moneys in the hands of the county treasurer, belonging to the county high school and not otherwise appropriated. The members of the board shall receive no compensation for their services as trustees."

This is a special statute dealing only with the entitled mileage of a county high school trustee.

Chapter 121, Laws of 1941, provides as follows:

"Section 1. That Section 4884, Revised Codes of Montana, 1935, be amended to read as follows:

"Section 4884. **Mileage of All Officers.** Members of the legislative assembly, state officers, county officers, township officers, jurors, witnesses, county agents and all other persons, except sheriffs who may be entitled to mileage shall be entitled to collect mileage at a rate of not to exceed five cents (5c) per mile for the distance actually traveled, and no more."

There is no reference to the mileage of county high school trustees, either in the title of the Act or in the body thereof, and no inference as to repealing Section 1262.8, Revised Codes of Montana, 1935. This is more of a general statute.

It is a rule of universal application in the construction of statutes—where one act deals with a subject generally and another act deals with a particular part of the same subject and the two are repugnant—the special statute prevails over the general one.

Franzke v. Fergus County, 76 Mont. 150, 245 Pac. 962.

Full intent of the Legislature will be given to a statute when ascertainable, taking into account specific statutes already in existence. If statutes were to be repealed by implication only, confusion might become intolerable. For these reasons courts do not look with favor on repeal by implication.

It is therefore my opinion a county high school trustee is entitled to seven cents per mile in attending meetings of the board for every mile necessarily traveled from his place of residence to the place where the county high school is located and return, as provided by Section 1262.8, Revised Codes of Montana, 1935.

Sincerely yours,

JOHN W. BONNER
Attorney General