

1 House BILL NO. 595
2 INTRODUCED BY [Signature]

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS
5 16-912, 16-2723, 25-226, 25-236, 25-401, 25-404, 43-310, AND
6 59-801, R.C.M. 1947; TO INCREASE THE MILEAGE REIMBURSEMENT
7 ALLOTMENT NOT TO EXCEED NINETEEN CENTS PER MILE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 16-912, R.C.M. 1947, is amended to
11 read as follows:

12 "16-912. Compensation of members of board. (1) Each
13 member of the board of county commissioners in counties of
14 the first, second, third, and fourth class, shall receive an
15 annual salary to be established by resolution of the board
16 of county commissioners in an amount not to exceed the
17 annual salary established in the schedule in section 25-605,
18 R.C.M. 1947, for the clerk and recorder.

19 In addition, each member of the board of county
20 commissioners in counties of the first, second, third and
21 fourth class shall receive ~~twelve-cents-(\$12)~~ the mileage
22 allotment allowed by the United States internal revenue
23 service for the next preceding year, but not to exceed
24 nineteen cents (\$.19) per mile for the distance necessarily
25 traveled in going to and returning from the county seat and

1 his place of residence each day that such trip is actually
2 made, and while engaged in the performance of his official
3 duties.

4 (2) Each member of the board of county commissioners in
5 all other counties is entitled to a salary to be established
6 by the board of county commissioners by resolution in an
7 amount not to exceed thirty-five dollars (\$35) per day for
8 each day's attendance on the sessions of the board and
9 ~~twelve-cents-(\$12)~~ the mileage allotment allowed by the
10 United States internal revenue service for the next
11 preceding year, but not to exceed nineteen cents (\$.19) per
12 mile for the distance necessarily traveled in going to and
13 returning from the county seat and his place of residence,
14 each day that such trip is actually made, provided, however,
15 that any county commissioner whose place of residence is
16 fifty (50) miles or more from the county seat, as measured
17 by the usual route of travel, may elect to receive mileage
18 as provided in this section or, in lieu of mileage, a sum of
19 ten dollars (\$10) per day for each day's attendance on
20 sessions of the board as expenses, while engaged in the
21 performance of his official duties, and no other
22 compensation must be allowed."

23 Section 2. Section 16-2723, R.C.M. 1947, is amended to
24 read as follows:

25 "16-2723. Mileage and expense of sheriff. Sheriffs

1 delivering prisoners at the state prison or mentally ill
 2 persons at the state hospital, shall receive actual expenses
 3 necessarily incurred in their transportation, which shall
 4 include the expenses of the sheriff in going and returning
 5 from such institution. They shall take vouchers for every
 6 item of expenses incurred by them in such transportation,
 7 the amount of which expenses, as shown by the said vouchers
 8 when served by said sheriff, shall be audited and allowed by
 9 the department of administration or by the board of county
 10 commissioners, as the case may be, and paid out of the same
 11 money and in the same manner as are other expense claims
 12 against the state or counties, and no other or further
 13 compensation shall be received by sheriffs for such
 14 expenses, provided that in determining the actual expense,
 15 if travel be by a privately owned vehicle, the mileage rate
 16 shall be allowed as herein provided. While in the discharge
 17 of his duties, both civil and criminal, the sheriff shall
 18 receive ~~twelve-cents-(\$-12)~~ the mileage allotment allowed by
 19 the United States internal revenue service for the next
 20 preceding year, but not to exceed nineteen cents (\$.19) per
 21 mile for each and every mile actually and necessarily
 22 traveled; and for transporting any person by order of court,
 23 except as hereinbefore provided, he shall receive twelve
 24 cents-(\$-12) the mileage allotment allowed by the United
 25 States internal revenue service for the next preceding year,

1 but not to exceed nineteen cents (\$.19) additional per mile,
 2 the same to be in full for transporting and dieting of such
 3 person during such transportation; provided that where more
 4 than one person is transported by the sheriff or when one or
 5 more papers are served on the same trip made for the
 6 transportation of one or more prisoners, but one mileage
 7 shall be charged. The county shall not be liable for, nor
 8 shall the board of county commissioners pay for any claim of
 9 the sheriff or other officer, for any other expense incurred
 10 in travel or for subsistence, in cases where mileage is
 11 allowed under this section; the fees for mileage named in
 12 this section being in full for all such traveling expenses
 13 in both civil and criminal work."

14 Section 3. Section 25-226, R.C.M. 1947, is amended to
 15 read as follows:

16 "25-226. Fees of sheriff. (1) For the service of
 17 summons and complaint on each defendant, one dollar (\$1.00);

18 For levying and serving each writ of attachment of
 19 execution on real or personal property, one dollar (\$1.00);

20 For service of attachment on the body or order of
 21 arrest on each defendant, one dollar (\$1.00);

22 For the service of affidavit, order, and undertaking in
 23 claim and delivery, one dollar (\$1.00);

24 For serving a subpoena, twenty-five cents (25¢) for
 25 each witness summoned;

1 For serving writ of possession or restitution, two
2 dollars (\$2.00);

3 For trial of the right of property or damages,
4 including all services except mileage, three dollars
5 (\$3.00);

6 For taking bond or undertaking in any case authorized
7 by law, one dollar (\$1.00);

8 For serving every notice, rule or order, one dollar
9 (\$1.00), for each person served;

10 For copy of any writ, process or other paper when
11 demanded or required by law, twenty cents (20¢) for each
12 folio;

13 For advertising any property for sale on execution or
14 under any judgment or order of sale, exclusive of cost of
15 publication, one dollar (\$1.00);

16 (2) For the expense in taking and keeping possession of
17 and preserving property under attachment, execution or other
18 process, such sum as the court or judge may order, not to
19 exceed the actual expense incurred, and no keeper must
20 receive to exceed five dollars (\$5.00) per day and no keeper
21 must be employed without an order of court, nor must he be
22 so employed unless the property is of such character as to
23 need the personal attention and supervision of a keeper. No
24 property shall be placed in charge of a keeper if it can be
25 safely and securely stored, or where there is no reasonable

1 danger of loss.

2 (3) In addition to the fees above specified, the
3 sheriff shall receive for each mile actually traveled, in
4 serving any writ, process, order or other paper, including a
5 warrant of arrest, or in conveying a person under arrest
6 before a magistrate or to jail, only his actual expenses
7 when such travel is made by railroad, and when travel is
8 other than by railroad, he shall receive ~~eleven-cents-(11¢)~~
9 the mileage allotment allowed by the United States internal
10 revenue service for the next preceding year, but not to
11 exceed nineteen cents (\$.19) per mile for each mile actually
12 traveled by him both going and returning, and the actual
13 expenses incurred by him in conveying a person under arrest
14 before a magistrate or to jail, and he shall receive the
15 same mileage and his actual expenses for the person conveyed
16 or transported under order of court within the county, the
17 same to be in full payment for transporting and dieting such
18 persons during such transportation; provided that where more
19 than one person is transported by the sheriff or when one or
20 more papers are served on the same trip made for the
21 transportation of one or more prisoners, but one mileage
22 shall be charged.

23 (4) Provided further, that this act shall not apply to
24 the delivery of prisoners at the state prison or at the
25 reform school, or insane persons to the state insane asylum,

1 for which he shall receive the actual expense incurred as
 2 provided by section 16-2723 of this code. Nor shall this act
 3 apply to trips made for the return of fugitives apprehended
 4 and arrested outside the county for which the sheriff shall
 5 receive the actual necessary expenses incurred in going for
 6 and returning with such fugitive, provided that in
 7 determining the actual expense, if travel be by a privately
 8 owned vehicle, the mileage rate shall be allowed as herein
 9 provided. But no mileage must be allowed on an attachment,
 10 order of arrest, order for delivery of personal property, or
 11 any other order, notice or paper, when the same accompanies
 12 the summons, and the service thereof may be made at the time
 13 of the service of the summons, unless for the distance
 14 actually traveled beyond that required to serve the summons.
 15 When two or more papers are served on the same person at the
 16 same time, or when any paper or papers are served on more
 17 than one person on the same trip, but one mileage must be
 18 allowed or charged, and in the service of subpoenas, but one
 19 mileage must be charged when the persons named therein live
 20 in the same place or in the same direction, but mileage must
 21 be charged for the longest distance actually traveled. Any
 22 writ, order or other paper for service, must be received at
 23 any place in the county where a sheriff or a deputy is
 24 found, and mileage must be computed from such place, but if
 25 papers are delivered for service away from the county seat,

1 all necessary copies thereof must be furnished for service.
 2 When two or more officers travel in the same automobile in
 3 the discharge of any duty but one mileage shall be allowed."

4 Section 4. Section 25-236, R.C.M. 1947, is amended to
 5 read as follows:

6 "25-236. Fees of coroner. The coroner is entitled to
 7 receive and collect for his own use the following fees:

8 For each day or fraction of day engaged in making an
 9 investigation relative to a death, whether an inquest is
 10 later held or not, the sum of five dollars (\$5.00), provided
 11 that not more than one day's fees shall be charged for
 12 making an investigation in any one case, except in counties
 13 of the first, second and third class;

14 For each day or fraction of day engaged in holding an
 15 inquest, five dollars (\$5.00), provided that not more than
 16 two days' fees shall be charged for holding an inquest in
 17 any one case;

18 For subpoenaing each witness, including copy of
 19 subpoena, thirty cents (30c);

20 For summoning each juror, including copy of summons,
 21 thirty cents (30c);

22 For each oath administered, five cents (5c);

23 For making transcript of testimony, per folio, fifteen
 24 cents (15c);

25 For each mile actually traveled in the performance of

1 any duty, ~~seven-cents-(7c)~~ the mileage allotment allowed by
 2 the United States internal revenue service for the next
 3 preceding year, but not to exceed nineteen cents (\$.19) per
 4 mile;

5 For filing papers, each five cents (5c);

6 The total amount of fees allowed by the board of county
 7 commissioners to a coroner, except when acting as sheriff,
 8 must not exceed twenty-one hundred dollars (\$2100.00) in any
 9 one year, including compensation paid all clerks,
 10 stenographers and other clerical assistants employed by him,
 11 provided the coroner in a county having a population of
 12 forty-five thousand (45,000) or more, according to the
 13 latest federal census enumeration, may, at the discretion of
 14 the county commissioners receive a salary of not to exceed
 15 three thousand seven hundred fifty dollars (\$3,750.00) per
 16 year and mileage as above provided in lieu of all fees
 17 above-mentioned, and all clerical and stenographic help
 18 except as provided in section 16-3408, shall be included in
 19 such salary. Said population to be based on the latest
 20 United States census.

21 A justice of the peace, acting as coroner, is allowed
 22 the same fees as the coroner, and no more.

23 If acting as sheriff, the coroner is allowed the same
 24 fees as sheriff or constable for like services."

25 Section 5. Section 25-401, R.C.M. 1947, is amended to

1 read as follows:

2 "25-401. Jurors' fees. Grand and trial jurors shall
 3 receive twelve dollars (\$12) per day for attendance before
 4 any court of record and ~~eight-cents--(8c)~~ the mileage
 5 allotment allowed by the United States internal revenue
 6 service for the next preceding year, but not to exceed
 7 nineteen cents (\$.19) per mile each way for traveling from
 8 and to their residence and county seat. Any juror who is
 9 excused from attendance upon his own motion on the first day
 10 of his appearance in obedience to notice, or who has been
 11 summoned as a special juror and not sworn in the trial of
 12 the case, in the discretion of the court, may receive per
 13 diem and mileage."

14 Section 6. Section 25-404, R.C.M. 1947, is amended to
 15 read as follows:

16 "25-404. Witnesses' fees. For attending in any civil
 17 or criminal action or proceeding before any court of record,
 18 referee, or officer authorized to take depositions, or
 19 commissioners to assess damages or otherwise, for each day,
 20 ten dollars (\$10). For mileage in traveling to the place of
 21 trial or hearing, each way, for each mile, ~~eight-cents~~
 22 ~~(8c)~~ the mileage allotment allowed by the United States
 23 internal revenue service for the next preceding year, but
 24 not to exceed nineteen cents (\$.19); provided, however, that
 25 no officer of the United States, the state of Montana, or of

1 any county, incorporated city or town within the limits of
 2 the state of Montana shall receive any per diem when
 3 testifying in a criminal proceedings, and that no witness
 4 shall receive fees in any more than one criminal case on the
 5 same day."

6 Section 7. Section 43-310, R.C.M. 1947, is amended to
 7 read as follows:

8 "43-310. Per diem, mileage and expenses of members.

9 (1) Legislators are entitled to compensation of twenty
 10 dollars (\$20) per legislative day, payable weekly, during a
 11 session of the legislature, and ~~twelve--cents--(12¢)~~ the
 12 mileage allotment allowed by the United States internal
 13 revenue service for the next preceding year, but not to
 14 exceed nineteen cents (\$.19) per mile for each mile of
 15 travel to and from their residences and the place of holding
 16 the session, by the shortest regularly traveled automobile
 17 route.

18 (2) Members are also entitled to thirty-three (\$33) per
 19 day, seven (7) days a week payable weekly during a
 20 legislative session, as reimbursement for expenses incurred
 21 in attending the session. Expense payments shall stop when
 22 the legislature recesses for more than three (3) days and
 23 shall resume when the legislature reconvenes.

24 (3) While going to, attending, and returning from
 25 legislative standing committee meetings and necessary

1 committee business authorized by the chairman of the
 2 legislative council during the legislative interim,
 3 legislators are entitled to:

4 (a) a mileage allowance of ~~twelve--cents--(12¢)~~ the
 5 mileage allotment allowed by the United States internal
 6 revenue service for the next preceding year, but not to
 7 exceed nineteen cents (\$.19) per mile for each mile of
 8 travel,

9 (b) actual expenses, and

10 (c) compensation of twenty dollars (\$20) per day.

11 (4) Legislators are also entitled to a mileage
 12 allowance of ~~twelve--cents--(12¢)~~ the mileage allotment
 13 allowed by the United States internal revenue service for
 14 the next preceding year, but not to exceed nineteen cents
 15 (\$.19) per mile for travel to and from their respective
 16 pre-session caucus meeting."

17 Section 8. Section 59-801, R.C.M. 1947, is amended to
 18 read as follows:

19 "59-801. Mileage of all officers. (1) Members of the
 20 legislative assembly, state officers, township officers,
 21 jurors, witnesses, county agents, and all other persons,
 22 except sheriffs, who may be entitled to mileage, when using
 23 their own automobiles or airplanes in the performance of
 24 official duties, shall be entitled to collect mileage for
 25 the distance actually traveled by automobile, and for the

1 shortest regularly traveled automobile route when travel is
2 by private plane, and no more unless otherwise specifically
3 provided by law; provided, however, that nothing herein
4 contained shall be construed as affecting the validity of
5 section 43-310.

6 (2) Where the individual is authorized to operate a
7 privately owned vehicle even though a state owned vehicle is
8 available, a rate ~~of nine cents- $\{9\}$~~ equal to the mileage
9 allotment allowed by the United States internal revenue
10 service for the next preceding year, but not to exceed
11 nineteen cents (\$.19) per mile shall be paid.

12 (3) Where a privately owned vehicle is used because a
13 state owned or leased vehicle is not available for use or it
14 is in the best interest of the state that a privately owned
15 vehicle be used, ~~twelve cents- $\{12\}$~~ the mileage allotment
16 allowed by the United States internal revenue service for
17 the next preceding year, but not to exceed nineteen cents
18 (\$.19) per mile shall be paid."

-End-