

CHAPTER NO. 528

SENATE BILL NO. 481

INTRODUCED BY REGAN, FASBENDER, STEPHENS, KOLSTAD

IN THE SENATE

February 12, 1979	Introduced and referred to Committee on Taxation.
February 13, 1979	Fiscal note requested.
February 16, 1979	Fiscal note returned.
February 17, 1979	Committee recommend bill do pass as amended. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, pass consideration.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on Taxation.
March 12, 1979	Rereferred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 20, 1979	Second reading, pass consideration.
March 21, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in as amended.

**IN THE SENATE**

March 24, 1979	Returned from second house. Concurred in as amended.
March 26, 1979	Second reading, pass consideration until 3-28-79.
March 28, 1979	Second reading, amendments adopted.
March 29, 1979	Third reading, amendments adopted. Sent to enrolling.  Reported correctly enrolled.

1 *Senate* BILL NO. *481*  
 2 INTRODUCED BY *Regan Fishender* *STEPHENS KOLET*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT  
 5 JUDICIAL OFFICERS AND DISTRICT COURT REPORTERS SHALL RECEIVE  
 6 THE SAME MILEAGE AND EXPENSES THAT STATE EMPLOYEES RECEIVE;  
 7 EXEMPTING JUDICIAL OFFICERS DURING THEIR CURRENT TERMS OF  
 8 OFFICE; AMENDING SECTIONS 3-2-104, 3-5-211, 3-5-213 THROUGH  
 9 3-5-216, 3-5-602, 3-6-203, 3-10-203, 3-10-209, 3-10-234,  
 10 3-11-202, 3-11-204, 3-11-205, AND 3-12-201, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 3-2-104, MCA, is amended to read:

14 "3-2-104. Salaries -- affidavit required for payment  
 15 -- expenses. (1) The salaries of justices of the supreme  
 16 court are provided for in 2-16-405.

17 (2) The state auditor shall not draw a warrant in  
 18 payment of the services of any justice of the supreme court  
 19 until such justice shall have filed with the auditor an  
 20 affidavit that no cause, motion, or other proceeding in his  
 21 court remains pending and undecided for a period of 90 days  
 22 after the same shall have been submitted for decision unless  
 23 casualty or sickness shall have intervened.

24 ~~(3) Justices of the supreme court shall receive their~~  
 25 ~~travel expenses, as provided in 2-18-501 through 2-18-503,~~

1 ~~incurred in the performance of their official duties."~~

2 Section 2. Section 3-5-211, MCA, is amended to read:

3 "3-5-211. Salaries of district judges. The annual  
 4 salary of each district judge is \$35,000. ~~Each district~~  
 5 ~~judge shall receive his travel expenses, as provided in~~  
 6 ~~2-18-501 through 2-18-503, incurred in the performance of~~  
 7 ~~his official duties."~~

8 Section 3. Section 3-5-213, MCA, is amended to read:

9 "3-5-213. Expenses when out of district. A judge who  
 10 sits in the place of another judge in the trial or hearing  
 11 of an action or proceeding in a district other than his own  
 12 or in the supreme court or who attends a conference of  
 13 judges in Helena called by the chief justice of the supreme  
 14 court shall be paid his ~~actual--and--necessary~~ travel  
 15 ~~expenses, as provided in 2-18-501 through 2-18-503,~~ while  
 16 engaged in that service as follows:

17 (1) his travel expenses in going from the county seat  
 18 which he makes his place of residence to the place of trial  
 19 or conference and return; and

20 (2) his board and lodging while engaged in the trial,  
 21 hearing, or conference."

22 Section 4. Section 3-5-214, MCA, is amended to read:

23 "3-5-214. Certification and filing of expense claim.  
 24 As soon as his services in connection with the trial or  
 25 hearing are concluded, the judge shall certify in detail the

1 ~~amount of money necessarily and actually expended by him for~~  
 2 ~~his traveling [travel] expenses and board and lodging, as~~  
 3 ~~specified in 3-5-213, and shall file the claim with the~~  
 4 ~~state to be processed as provided by law."~~

5 Section 5. Section 3-5-215, MCA, is amended to read:

6 "3-5-215. Expenses when not in county of residence. A  
 7 district judge of a judicial district composed of more than  
 8 one county who, for the purpose of holding court and  
 9 disposing of judicial business, goes to a county of his  
 10 judicial district other than the county in which he resides  
 11 and therein holds court or transacts judicial business shall  
 12 be paid ~~out of his actual and necessary [travel] expenses of~~  
 13 ~~transportation and living, as provided in 2-18-501 through~~  
 14 ~~2-18-503,~~ incurred on account thereof from the time he  
 15 leaves his place of residence until he returns thereto."

16 Section 6. Section 3-5-216, MCA, is amended to read:

17 "3-5-216. Itemized statements -- verification --  
 18 filing. (1) On the first of each month or within 3 days  
 19 thereafter, such district judge who may desire to avail  
 20 himself of the provisions of 3-5-215 shall make out an  
 21 itemized claim against the state of Montana showing with  
 22 dates and particulars ~~of moneys paid out and expended by~~  
 23 ~~him within his travel expenses for~~ the preceding month ~~for~~  
 24 ~~and on account of such expenses.~~

25 (2) He shall verify such claim by certifying that the

1 items of the claim are true and correct and are wholly  
 2 unpaid and that the expenditures therein enumerated were  
 3 ~~actually and necessarily~~ made in the discharge of official  
 4 business while away from home.

5 (3) He shall then file such claim with the state to be  
 6 processed as provided by law."

7 Section 7. Section 3-5-602, MCA, is amended to read:

8 "3-5-602. Salary and expenses -- apportionment. (1)  
 9 Each reporter is entitled to receive an annual salary of not  
 10 less than \$12,500 or more than \$16,000 and no other  
 11 compensation except as provided in 3-5-604. The salary shall  
 12 be set by the judge in the district in which the reporter  
 13 works. It is payable in monthly installments out of the  
 14 general funds of the counties comprising the district for  
 15 which the reporter is appointed, in proportion to the number  
 16 of civil and criminal actions commenced in the district  
 17 court in and for each county in the preceding year. The  
 18 judge of the district shall, on January 1 of each year or  
 19 soon thereafter as possible, apportion the amount of the  
 20 salary to be paid by each county in his district on the  
 21 basis prescribed in this subsection.

22 (2) In judicial districts comprising more than one  
 23 county, the reporter is allowed, in addition to the salary  
 24 and fees provided for in subsection (1), his ~~actual and~~  
 25 ~~necessary travel expenses of transportation and living, as~~

1 ~~provided in 2-18-501 through 2-18-503,~~ when he goes on  
2 official business to a county of his judicial district other  
3 than the county in which he resides, from the time he leaves  
4 his place of residence until he returns thereto. The  
5 expenses shall be apportioned and payable in the same way as  
6 the salary."

7 Section 8. Section 3-6-203, MCA, is amended to read:

8 "3-6-203. Salary. The salary of the municipal court  
9 judge shall be set by city ordinance and shall be payable  
10 monthly by the city treasurer. ~~The municipal court judge~~  
11 ~~shall receive his travel expenses, as provided in 2-18-501~~  
12 ~~through 2-18-503, incurred in the performance of his~~  
13 ~~official duties."~~

14 Section 9. Section 3-10-203, MCA, is amended to read:

15 "3-10-203. Orientation course -- annual training. (1)  
16 The university of Montana law school shall present a course  
17 of study as soon as is practical following each general  
18 election. ~~Mileage-and-per-diem travel expenses, as provided~~  
19 ~~in 2-18-501 through 2-18-503,~~ shall be paid the elected or  
20 appointed justice of the peace for attending the course and  
21 shall be a proper charge against the county wherein the  
22 justice of the peace will hold court.

23 (2) There shall be an annual training session for all  
24 elected and appointed justices of the peace. This training  
25 session, which may be held in conjunction with the Montana

1 magistrates' association convention, shall be supervised by  
2 the supreme court. ~~Mileage-and-per-diem travel expenses, as~~  
3 ~~provided in 2-18-501 through 2-18-503,~~ shall be paid the  
4 elected or appointed justice of the peace for attending the  
5 course and shall be a proper charge against the county  
6 wherein the justice holds court."

7 Section 10. Section 3-10-209, MCA, is amended to read:

8 "3-10-209. Expenses. All ~~actual-and-necessary travel~~  
9 ~~expenses, as provided in 2-18-501 through 2-18-503,~~ incurred  
10 by the justice of the peace in the performance of his  
11 official duties are a legal charge against the county."

12 Section 11. Section 3-10-234, MCA, is amended to read:

13 "3-10-234. ~~Necessary-expenses Expenses~~ of acting  
14 justice. Whenever a justice of the peace or another person  
15 is called in to preside over the court of a justice under  
16 3-10-231, the visiting justice or other person shall be paid  
17 ~~all-necessary-and-actual his travel expenses, including~~  
18 ~~mileage as provided in 2-18-501 through 2-18-503.~~ If the  
19 acting justice is not a justice of the peace receiving a  
20 salary, he shall also receive such compensation as is proper  
21 for the time involved. The cost of implementing this section  
22 is a proper charge against the county where the court is  
23 held."

24 Section 12. Section 3-11-202, MCA, is amended to read:

25 "3-11-202. Salary. The annual salary and compensation

1 of city judges must be fixed by ordinance. Each city judge  
 2 shall receive his travel expenses as provided in 2-18-501  
 3 through 2-18-503, incurred in the performance of his  
 4 official duties."

5 Section 13. Section 3-11-204, MCA, is amended to read:

6 "3-11-204. Training session for judges. There shall be  
 7 an annual training session for all elected and appointed  
 8 judges. This training session, which may be held in  
 9 conjunction with the Montana magistrates' association  
 10 convention, shall be supervised by the supreme court.  
 11 ~~Mileage and per diem~~ Travel expenses, as provided in  
 12 2-18-501 through 2-18-503, shall be paid the elected or  
 13 appointed judge for attending the course and shall be a  
 14 proper charge against the city wherein the judge holds  
 15 court."

16 Section 14. Section 3-11-205, MCA, is amended to read:

17 "3-11-205. Justice of the peace acting as city judge.  
 18 In towns, the council may designate a justice of the peace  
 19 of the county in which the town is situated to act as city  
 20 judge and may by ordinance fix his compensation for his  
 21 services, and the justice of the peace so designated may act  
 22 as a city judge in all cases arising out of a violation of  
 23 ordinances where the town is a party. Where the justice of  
 24 the peace must travel from his town of residence to hold  
 25 court, he shall be paid ~~per diem and mileage~~ his travel

1 expenses, as provided in 2-18-501 through 2-18-503, by the  
 2 town in which court is held."

3 Section 15. Section 3-12-201, MCA, is amended to read:

4 "3-12-201. Appointment -- salary and expenses --  
 5 qualifications. (1) The judges of the judicial district in  
 6 which a small claims court has been created shall appoint a  
 7 judge of the small claims court who shall:

8 (a) take the oath required of judges;

9 (b) serve at the pleasure of the district court  
 10 judges;

11 (c) be paid a salary set by the district court judges  
 12 and travel expenses, as provided in 2-18-501 through  
 13 2-18-503; and

14 (d) be an attorney licensed to practice law in  
 15 Montana.

16 (2) The judges of the district court may appoint more  
 17 than one small claims court judge for any small claims  
 18 court. The salary shall be prorated among the judges  
 19 appointed."

20 Section 16. Transition. A judicial officer, as defined  
 21 in 1-1-202, who is occupying his judicial office on the  
 22 effective date of this act shall continue to be paid  
 23 expenses on the same basis as he is receiving them on the  
 24 effective date of this act until the expiration of his term  
 25 of office. All judicial officers who take office or begin a

1 new term of office after the effective date of this act  
2 shall receive expenses as provided in this act.

3 Section 17. Severability. If a part of this act is  
4 invalid, all valid parts that are severable from the invalid  
5 part remain in effect. If a part of this act is invalid in  
6 one or more of its applications, the part remains in effect  
7 in all valid applications that are severable from the  
8 invalid applications.

-End-

SB 481

STATE OF MONTANA

REQUEST NO. 329-79

FISCAL NOTE

Form BD-15

In compliance with a written request received 02 / 13, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 481 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 481 is an act to provide judicial officers and court reporters the same mileage and expenses that other state employees receive, exempting judicial officers during their current term of office.

ASSUMPTIONS:

- 1) Terms for county judicial personnel are beyond the 80-81 biennium.
- 2) The percentage figure derived for District Judges applies to county judicial officers and court reporters.
- 3) The percentage figure derived below will remain constant in the fiscal years subsequent to the 80-81 biennium.

FISCAL IMPACT:

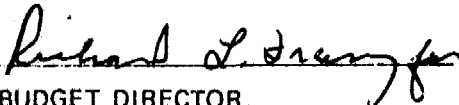
Since the terms of judicial officers in the state all run beyond the 80-81 biennium there will be no fiscal impact in that period.

LOCAL IMPACT:

If court reporters expenses are comparable to district judges, the savings to the county will be approximately 2-5% in travel expenses for applicable employees.

LONG RANGING AFFECTS:

The 2-5% savings will remain in affect in fiscal years subsequent to FY 1981, as the terms of Judicial personnel end, and a new term is begun.

  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/16/79



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2 INTRODUCED BY REGAN, FASBENDER, STEPHENS, KOLSTAD

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6 THE SAME MILEAGE AND EXPENSES THAT STATE EMPLOYEES RECEIVE;  
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9 3-5-216, 3-5-602, 3-6-203, 3-10-203, 3-10-209, 3-10-234,  
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17 (2) The state auditor shall not draw a warrant in  
18 payment of the services of any justice of the supreme court  
19 until such justice shall have filed with the auditor an  
20 affidavit that no cause, motion, or other proceeding in his  
21 court remains pending and undecided for a period of 90 days  
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23 casualty or sickness shall have intervened.

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25 ~~THE JUSTICES of the supreme court shall receive-their~~ BE THE

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6 salary of each district judge is \$35,000. ~~Each ACTUAL AND~~  
7 ~~NECESSARY EXPENSES FOR EACH district judge shall receive-his~~  
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10 ~~official duties."~~

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15 or in the supreme court or who attends a conference of  
16 judges in Helena called by the chief justice of the supreme  
17 court shall be paid his ~~actual--and--necessary~~ ACTUAL AND  
18 NECESSARY travel expenses, ~~as DEFINED AND provided in~~  
19 ~~2-18-501 through 2-18-503,~~ while engaged in that service as  
20 follows:

21 (1) his travel expenses in going from the county seat  
22 which he makes his place of residence to the place of trial  
23 or conference and return; and

24 (2) his board and lodging while engaged in the trial,  
25 hearing, or conference."

1 Section 4. Section 3-5-214, MCA, is amended to read:

2 "3-5-214. Certification and filing of expense claim.  
3 As soon as his services in connection with the trial or  
4 hearing are concluded, the judge shall certify in detail the  
5 ~~amount of money necessary and actually expended by him for~~  
6 his ACTUAL AND NECESSARY traveling travel expenses and board  
7 ~~and lodging~~ as specified in 3-5-213, and shall file the  
8 claim with the state to be processed as provided by law."

9 Section 5. Section 3-5-215, MCA, is amended to read:

10 "3-5-215. Expenses when not in county of residence. A  
11 district judge of a judicial district composed of more than  
12 one county who, for the purpose of holding court and  
13 disposing of judicial business, goes to a county of his  
14 judicial district other than the county in which he resides  
15 and therein holds court or transacts judicial business shall  
16 be paid ~~at of his actual and necessary~~ ACTUAL AND NECESSARY  
17 travel expenses of transportation and living, as DEFINED AND  
18 provided in 2-18-501 through 2-18-503, incurred on account  
19 thereof from the time he leaves his place of residence until  
20 he returns thereto."

21 Section 6. Section 3-5-216, MCA, is amended to read:

22 "3-5-216. Itemized statements -- verification --  
23 filing. (1) On the first of each month or within 3 days  
24 thereafter, such district judge who may desire to avail  
25 himself of the provisions of 3-5-215 shall make out an

1 itemized claim against the state of Montana showing with  
2 dates and particulars ~~of moneys paid out and expended by~~  
3 ~~him within his~~ ACTUAL AND NECESSARY travel expenses for the  
4 preceding month ~~for and on account of such expenses.~~

5 (2) He shall verify such claim by certifying that the  
6 items of the claim are true and correct and are wholly  
7 unpaid and that the expenditures therein enumerated were  
8 ~~actually and necessarily~~ made in the discharge of official  
9 business while away from home.

10 (3) He shall then file such claim with the state to be  
11 processed as provided by law."

12 Section 7. Section 3-5-602, MCA, is amended to read:

13 "3-5-602. Salary and expenses -- apportionment. (1)  
14 Each reporter is entitled to receive an annual salary of not  
15 less than \$12,500 or more than \$16,000 and no other  
16 compensation except as provided in 3-5-604. The salary shall  
17 be set by the judge in the district in which the reporter  
18 works. It is payable in monthly installments out of the  
19 general funds of the counties comprising the district for  
20 which the reporter is appointed, in proportion to the number  
21 of civil and criminal actions commenced in the district  
22 court in and for each county in the preceding year. The  
23 judge of the district shall, on January 1 of each year or as  
24 soon thereafter as possible, apportion the amount of the  
25 salary to be paid by each county in his district on the

1 basis prescribed in this subsection.

2 (2) In judicial districts comprising more than one  
3 county, the reporter is allowed, in addition to the salary  
4 and fees provided for in subsection (1), his ~~actual and~~  
5 necessary ACTUAL AND NECESSARY travel expenses of  
6 transportation--and--living, as DEFINED AND provided in  
7 2-18-501 through 2-18-503, when he goes on official business  
8 to a county of his judicial district other than the county  
9 in which he resides, from the time he leaves his place of  
10 residence until he returns thereto. The expenses shall be  
11 apportioned and payable in the same way as the salary."

12 Section 8. Section 3-6-203, MCA, is amended to read:

13 "3-6-203. Salary. The salary of the municipal court  
14 judge shall be set by city ordinance and shall be payable  
15 monthly by the city treasurer. ~~The ACTUAL AND NECESSARY~~  
16 EXPENSES FOR THE municipal court judge shall receive-his BE  
17 THE travel expenses, as DEFINED AND provided in 2-18-501  
18 through 2-18-503, incurred in the performance of his  
19 official duties."

20 Section 9. Section 3-10-203, MCA, is amended to read:

21 "3-10-203. Orientation course -- annual training. (1)  
22 The university of Montana law school shall present a course  
23 of study as soon as is practical following each general  
24 election. ~~Mileage-and-per-diem travel~~ ACTUAL AND NECESSARY  
25 TRAVEL expenses, as DEFINED AND provided in 2-18-501 through

1 ~~2-18-501~~, shall be paid the elected or appointed justice of  
2 the peace for attending the course and shall be a proper  
3 charge against the county wherein the justice of the peace  
4 will hold court.

5 (2) There shall be an annual training session for all  
6 elected and appointed justices of the peace. This training  
7 session, which may be held in conjunction with the Montana  
8 magistrates' association convention, shall be supervised by  
9 the supreme court. ~~Mileage-and-per-diem travel~~ ACTUAL AND  
10 NECESSARY TRAVEL expenses, as DEFINED AND provided in  
11 2-18-501 through 2-18-503, shall be paid the elected or  
12 appointed justice of the peace for attending the course and  
13 shall be a proper charge against the county wherein the  
14 justice holds court."

15 Section 10. Section 3-10-209, MCA, is amended to read:

16 "3-10-209. Expenses. All ~~actual and necessary~~ ACTUAL  
17 AND NECESSARY travel expenses, as DEFINED AND provided in  
18 2-18-501 through 2-18-503, incurred by the justice of the  
19 peace in the performance of his official duties are a legal  
20 charge against the county."

21 Section 11. Section 3-10-234, MCA, is amended to read:

22 "3-10-234. Necessary---expenses Expenses of acting  
23 justice. Whenever a justice of the peace or another person  
24 is called in to preside over the court of a justice under  
25 3-10-231, the visiting justice or other person shall be paid

~~ent-necessary-and-actual~~ his ACTUAL AND NECESSARY travel expenses, ~~including--mitage~~ as DEFINED AND provided in 2-18-501 through 2-18-503. If the acting justice is not a justice of the peace receiving a salary, he shall also receive such compensation as is proper for the time involved. The cost of implementing this section is a proper charge against the county where the court is held."

Section 12. Section 3-11-202, MCA, is amended to read:

"3-11-202. Salary. The annual salary and compensation of city judges must be fixed by ordinance. Each city judge shall receive his ACTUAL AND NECESSARY travel expenses, as DEFINED AND provided in 2-18-501 through 2-18-503, incurred in the performance of his official duties."

Section 13. Section 3-11-204, MCA, is amended to read:

"3-11-204. Training session for judges. There shall be an annual training session for all elected and appointed judges. This training session, which may be held in conjunction with the Montana magistrates' association convention, shall be supervised by the supreme court. ~~Mitige-and-per-diem Travel~~ ACTUAL AND NECESSARY TRAVEL expenses, as DEFINED AND provided in 2-18-501 through 2-18-503, shall be paid the elected or appointed judge for attending the course and shall be a proper charge against the city wherein the judge holds court."

Section 14. Section 3-11-205, MCA, is amended to read:

"3-11-205. Justice of the peace acting as city judge. In towns, the council may designate a justice of the peace of the county in which the town is situated to act as city judge and may by ordinance fix his compensation for his services, and the justice of the peace so designated may act as a city judge in all cases arising out of a violation of ordinances where the town is a party. Where the justice of the peace must travel from his town of residence to hold court, he shall be paid ~~per-diem-and-mitige~~ his ACTUAL AND NECESSARY travel expenses, as DEFINED AND provided in 2-18-501 through 2-18-503, by the town in which court is held."

Section 15. Section 3-12-201, MCA, is amended to read:

"3-12-201. Appointment -- salary and expenses -- qualifications. (1) The judges of the judicial district in which a small claims court has been created shall appoint a judge of the small claims court who shall:

(a) take the oath required of judges;

(b) serve at the pleasure of the district court judges;

(c) be paid a salary set by the district court judges and ACTUAL AND NECESSARY travel expenses, as DEFINED AND provided in 2-18-501 through 2-18-503; and

(d) be an attorney licensed to practice law in Montana.

1           (2) The judges of the district court may appoint more  
2 than one small claims court judge for any small claims  
3 court. The salary shall be prorated among the judges  
4 appointed."

5           ~~Section 16. Transition. A judicial officer as~~  
6 ~~defined in 1-1-2021 who is occupying his judicial office on~~  
7 ~~the effective date of this act shall continue to be paid~~  
8 ~~expenses on the same basis as he is receiving them on the~~  
9 ~~effective date of this act until the expiration of his term~~  
10 ~~of office. All judicial officers who take office or begin a~~  
11 ~~new term of office after the effective date of this act~~  
12 ~~shall receive expenses as provided in this act.~~

13           Section 16. Severability. If a part of this act is  
14 invalid, all valid parts that are severable from the invalid  
15 part remain in effect. If a part of this act is invalid in  
16 one or more of its applications, the part remains in effect  
17 in all valid applications that are severable from the  
18 invalid applications.

-End-

## SENATE BILL NO. 481

INTRODUCED BY REGAN, FASBENDER, STEPHENS, KOLSTAD

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT JUDICIAL OFFICERS AND DISTRICT COURT REPORTERS SHALL RECEIVE THE SAME MILEAGE AND EXPENSES THAT STATE EMPLOYEES RECEIVE; EXEMPTING JUDICIAL OFFICERS DURING THEIR CURRENT TERMS OF OFFICE; AMENDING SECTIONS 3-2-104, 3-5-211, 3-5-213 THROUGH 3-5-216, 3-5-602, 3-6-203, 3-10-203, 3-10-209, 3-10-234, 3-11-202, 3-11-204, 3-11-205, AND 3-12-201, MCA."

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

Section 1. Section 3-2-104, MCA, is amended to read:

"3-2-104. Salaries -- affidavit required for payment ~~---EXPENSES~~. (1) The salaries of justices of the supreme court are provided for in 2-16-405.

(2) The state auditor shall not draw a warrant in payment of the services of any justice of the supreme court until such justice shall have filed with the auditor an affidavit that no cause, motion, or other proceeding in his court remains pending and undecided for a period of 90 days after the same shall have been submitted for decision unless casualty or sickness shall have intervened.

~~(3) Justices ACTUAL AND NECESSARY TRAVEL EXPENSES OF THE JUSTICES of the supreme court shall receive their~~ ~~BE THE~~

~~travel expenses, as DEFINED AND provided in 2-18-501 through 2-18-503, incurred in the performance of their official duties."~~

Section 2. Section 3-5-211, MCA, is amended to read:

"3-5-211. Salaries of district judges. The annual salary of each district judge is \$35,000. ~~Each ACTUAL AND NECESSARY EXPENSES FOR EACH~~ ~~district judge shall receive his~~ ~~BE THE~~ ~~travel expenses, as DEFINED AND provided in 2-18-501 through 2-18-503, incurred in the performance of his~~ ~~official duties."~~

Section 3. Section 3-5-213, MCA, is amended to read:

"3-5-213. Expenses when out of district. A judge who sits in the place of another judge in the trial or hearing of an action or proceeding in a district other than his own or in the supreme court or who attends a conference of judges in Helena called by the chief justice of the supreme court shall be paid his ~~actual--and--necessary~~ ~~ACTUAL AND NECESSARY~~ travel expenses, ~~as DEFINED AND provided in 2-18-501 through 2-18-503,~~ while engaged in that service as follows:

(1) his travel expenses in going from the county seat which he makes his place of residence to the place of trial or conference and return; and

(2) his board and lodging while engaged in the trial, hearing, or conference."

1 Section 4. Section 3-5-214, MCA, is amended to read:

2 "3-5-214. Certification and filing of expense claim.  
3 As soon as his services in connection with the trial or  
4 hearing are concluded, the judge shall certify in detail the  
5 ~~amount-of-money-necessarity-and-actuaity-expended-by-him-for~~  
6 ~~his~~ ACTUAL AND NECESSARY ~~traveting travel~~ expenses ~~and-board~~  
7 ~~and--lodging,~~ as specified in 3-5-213, and shall file the  
8 claim with the state to be processed as provided by law."

9 Section 5. Section 3-5-215, MCA, is amended to read:

10 "3-5-215. Expenses when not in county of residence. A  
11 district judge of a judicial district composed of more than  
12 one county who, for the purpose of holding court and  
13 disposing of judicial business, goes to a county of his  
14 judicial district other than the county in which he resides  
15 and therein holds court or transacts judicial business shall  
16 be paid ~~att-of his actual-and-necessary~~ ACTUAL AND NECESSARY  
17 travel expenses ~~of-transportation-and-living, as DEFINED AND~~  
18 ~~provided in 2-18-501 through 2-18-503,~~ incurred on account  
19 thereof from the time he leaves his place of residence until  
20 he returns thereto."

21 Section 6. Section 3-5-216, MCA, is amended to read:

22 "3-5-216. Itemized statements -- verification --  
23 filing. (1) On the first of each month or within 3 days  
24 thereafter, such district judge who may desire to avail  
25 himself of the provisions of 3-5-215 shall make out an

1 itemized claim against the state of Montana showing with  
2 dates and particulars ~~att-moneys-paid-out-and-expended-by~~  
3 ~~him-within his~~ ACTUAL AND NECESSARY ~~travel expenses for~~ the  
4 preceding month ~~for-and-on-account-of-such-expenses.~~

5 (2) He shall verify such claim by certifying that the  
6 items of the claim are true and correct and are wholly  
7 unpaid and that the expenditures therein enumerated were  
8 ~~actuaity-and-necessarity~~ made in the discharge of official  
9 business while away from home.

10 (3) He shall then file such claim with the state to be  
11 processed as provided by law."

12 Section 7. Section 3-5-602, MCA, is amended to read:

13 "3-5-602. Salary and expenses -- apportionment. (1)  
14 Each reporter is entitled to receive an annual salary of not  
15 less than \$12,500 or more than \$16,000 and no other  
16 compensation except as provided in 3-5-604. The salary shall  
17 be set by the judge in the district in which the reporter  
18 works. It is payable in monthly installments out of the  
19 general funds of the counties comprising the district for  
20 which the reporter is appointed, in proportion to the number  
21 of civil and criminal actions commenced in the district  
22 court in and for each county in the preceding year. The  
23 judge of the district shall, on January 1 of each year or as  
24 soon thereafter as possible, apportion the amount of the  
25 salary to be paid by each county in his district on the

1 basis prescribed in this subsection.

2 (2) In judicial districts comprising more than one  
3 county, the reporter is allowed, in addition to the salary  
4 and fees provided for in subsection (1), his ~~actual~~ and  
5 necessary ACTUAL AND NECESSARY travel expenses of  
6 transportation ~~and living~~, as DEFINED AND provided in  
7 2-18-501 through 2-18-503, when he goes on official business  
8 to a county of his judicial district other than the county  
9 in which he resides, from the time he leaves his place of  
10 residence until he returns thereto. The expenses shall be  
11 apportioned and payable in the same way as the salary."

12 Section 8. Section 3-6-203, MCA, is amended to read:

13 "3-6-203. Salary. The salary of the municipal court  
14 judge shall be set by city ordinance and shall be payable  
15 monthly by the city treasurer. ~~His ACTUAL AND NECESSARY~~  
16 EXPENSES FOR THE municipal court judge shall receive his BE  
17 THE travel expenses, as DEFINED AND provided in 2-18-501  
18 through 2-18-503, incurred in the performance of his  
19 official duties."

20 Section 9. Section 3-10-203, MCA, is amended to read:

21 "3-10-203. Orientation course -- annual training. (1)  
22 The university of Montana law school shall present a course  
23 of study as soon as is practical following each general  
24 election. ~~Mileage and per diem travel~~ ACTUAL AND NECESSARY  
25 TRAVEL expenses, as DEFINED AND provided in 2-18-501 through

1 2-18-503, shall be paid the elected or appointed justice of  
2 the peace for attending the course and shall be a proper  
3 charge against the county wherein the justice of the peace  
4 will hold court.

5 (2) There shall be an annual training session for all  
6 elected and appointed justices of the peace. This training  
7 session, which may be held in conjunction with the Montana  
8 magistrates' association convention, shall be supervised by  
9 the supreme court. ~~Mileage and per diem travel~~ ACTUAL AND  
10 NECESSARY TRAVEL expenses, as DEFINED AND provided in  
11 2-18-501 through 2-18-503, shall be paid the elected or  
12 appointed justice of the peace for attending the course and  
13 shall be a proper charge against the county wherein the  
14 justice holds court."

15 Section 10. Section 3-10-209, MCA, is amended to read:

16 "3-10-209. Expenses. All ~~actual~~ and necessary ACTUAL  
17 AND NECESSARY travel expenses, as DEFINED AND provided in  
18 2-18-501 through 2-18-503, incurred by the justice of the  
19 peace in the performance of his official duties are a legal  
20 charge against the county."

21 Section 11. Section 3-10-234, MCA, is amended to read:

22 "3-10-234. Necessary --- expenses Expenses of acting  
23 justice. Whenever a justice of the peace or another person  
24 is called in to preside over the court of a justice under  
25 3-10-231, the visiting justice or other person shall be paid



1 ~~all-necessary-and-actual~~ his ACTUAL AND NECESSARY travel  
 2 expenses, including ~~mileage~~ as DEFINED AND provided in  
 3 2-18-501 through 2-18-503. If the acting justice is not a  
 4 justice of the peace receiving a salary, he shall also  
 5 receive such compensation as is proper for the time  
 6 involved. The cost of implementing this section is a proper  
 7 charge against the county where the court is held."

8 Section 12. Section 3-11-202, MCA, is amended to read:

9 "3-11-202. Salary. The annual salary and compensation  
 10 of city judges must be fixed by ordinance. Each city judge  
 11 shall receive his ACTUAL AND NECESSARY travel expenses, as  
 12 DEFINED AND provided in 2-18-501 through 2-18-503, incurred  
 13 in the performance of his official duties."

14 Section 13. Section 3-11-204, MCA, is amended to read:

15 "3-11-204. Training session for judges. There shall be  
 16 an annual training session for all elected and appointed  
 17 judges. This training session, which may be held in  
 18 conjunction with the Montana magistrates' association  
 19 convention, shall be supervised by the supreme court.  
 20 ~~Mileage-and-per-diem travel~~ ACTUAL AND NECESSARY TRAVEL  
 21 expenses, as DEFINED AND provided in 2-18-501 through  
 22 2-18-503, shall be paid the elected or appointed judge for  
 23 attending the course and shall be a proper charge against  
 24 the city wherein the judge holds court."

25 Section 14. Section 3-11-205, MCA, is amended to read:

1 "3-11-205. Justice of the peace acting as city judge.  
 2 In towns, the council may designate a justice of the peace  
 3 of the county in which the town is situated to act as city  
 4 judge and may by ordinance fix his compensation for his  
 5 services, and the justice of the peace so designated may act  
 6 as a city judge in all cases arising out of a violation of  
 7 ordinances where the town is a party. Where the justice of  
 8 the peace must travel from his town of residence to hold  
 9 court, he shall be paid ~~per-diem-and-mileage~~ his ACTUAL AND  
 10 NECESSARY travel expenses, as DEFINED AND provided in  
 11 2-18-501 through 2-18-503, by the town in which court is  
 12 held."

13 Section 15. Section 3-12-201, MCA, is amended to read:

14 "3-12-201. Appointment -- salary and expenses --  
 15 qualifications. (1) The judges of the judicial district in  
 16 which a small claims court has been created shall appoint a  
 17 judge of the small claims court who shall:

- 18 (a) take the oath required of judges;
- 19 (b) serve at the pleasure of the district court
- 20 judges;
- 21 (c) be paid a salary set by the district court judges
- 22 and ACTUAL AND NECESSARY travel expenses, as DEFINED AND
- 23 provided in 2-18-501 through 2-18-503; and
- 24 (d) be an attorney licensed to practice law in
- 25 Montana.

1 (2) The judges of the district court may appoint more  
 2 than one small claims court judge for any small claims  
 3 court. The salary shall be prorated among the judges  
 4 appointed.\*

5 ~~Section 16--Transition--A--judicial--officer,--as~~  
 6 ~~defined--in--1-1-2021--who--is--occupying--his--judicial--office--on~~  
 7 ~~the--effective--date--of--this--act--shall--continue--to--be--paid~~  
 8 ~~expenses--on--the--same--basis--as--he--is--receiving--them--on--the~~  
 9 ~~effective--date--of--this--act--until--the--expiration--of--his--term~~  
 10 ~~of--office. All judicial officers who take office or begin a~~  
 11 ~~new term of office after the effective date of this act~~  
 12 ~~shall receive expenses as provided in this act.~~

13 SECTION 16. TRANSITION. A JUDICIAL OFFICER, AS  
 14 DEFINED IN 1-1-2021, WHO IS OCCUPYING HIS JUDICIAL OFFICE ON  
 15 THE EFFECTIVE DATE OF THIS ACT SHALL CONTINUE TO BE PAID  
 16 EXPENSES ON THE SAME BASIS AS HE IS RECEIVING THEM ON THE  
 17 EFFECTIVE DATE OF THIS ACT UNTIL THE EXPIRATION OF HIS TERM  
 18 OF OFFICE. ALL JUDICIAL OFFICERS WHO TAKE OFFICE OR BEGIN A  
 19 NEW TERM OF OFFICE AFTER THE EFFECTIVE DATE OF THIS ACT  
 20 SHALL RECEIVE EXPENSES AS PROVIDED IN THIS ACT.

21 Section 17. Severability. If a part of this act is  
 22 invalid, all valid parts that are severable from the invalid  
 23 part remain in effect. If a part of this act is invalid in  
 24 one or more of its applications, the part remains in effect  
 25 in all valid applications that are severable from the

1 invalid applications.

-End-

March 17, 1979

Judiciary Committee amendments to Senate Bill No. 481, 3rd reading copy,  
as follows:

1. Page 9.

Following: line 12

Insert: "Section 16. Transition. A judicial officer, as defined in 1-1-202,  
who is occupying his judicial office on the effective date of this act shall  
continue to be paid expenses on the same basis as he is receiving them on the  
effective date of this act until the expiration of his term of office. All  
judicial officers who take office or begin a new term of office after the effec-  
tive date of this act shall receive expenses as provided in this act."

Renumber: subsequent section

AND AS AMENDED  
BE CONCURRED IN

CORRECTED PRINTING

HOUSE OF REPRESENTATIVES

March 17, 1979

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Following: line 12

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Renumber: subsequent sections

AND AS AMENDED  
BE CONCURRED IN