

**OPINION  
59-161**

April 15, 1959 (OPINION)

MILEAGE RATES

RE: Public Health Nurses, Juvenile Commissioners, District Judges  
Welfare Employees, and County Agents

This is in reply to your letter of April 10, 1959, in which you ask if the county mileage or the state mileage statutes would pertain to the following personnel:

Public health nurses

Juvenile commissioners

District judges

Welfare employees

County agents

Public Health Nurses

Section 23-1410 of the North Dakota Revised Code of 1943 governs the mileage paid to public health nurses appointed by a health district organized under chapter 23-14 of the North Dakota Revised Code of 1943. This section provides as follows:

SALARY AND COMPENSATION. The salary of the district health officer shall be fixed by the district board of health. Such compensation shall not be reduced during the term for which he is appointed. The district board of health shall determine the compensation of such technical and clerical help as may be allowed by the district board of health to the district full time health officer, and the district board of health also shall determine the amount of mileage to be paid for the necessary travel of the district full time health officer and his assistants, not to exceed five cents a mile."

This provision was amended by House Bill No. 767 and on July 1, 1959, the allowable for mileage will be eight and one-half cents a mile.

A county nurse appointed by the county board has certain attributes of a county officer and would not fall within the provisions of the statute providing mileage for state officials.

Juvenile Commissioners

Section 27-1603 of the 1957 Supplement to the North Dakota Revised Code of 1943 controls the compensation and mileage to be paid to the juvenile commissioner. This section provides in part: "Mileage shall be at the rate fixed by law for county officials." As you

know, House Bill No. 631, an emergency measure, was passed by the Legislature and signed by the governor and increased the mileage allowed to county officials to ten cents per mile.

#### District Judges

Section 27-0503 of the 1957 Supplement to the North Dakota Revised code of 1943 controls the salary and expenses to be paid to district judges. This section reads as follows:

SALARIES AND EXPENSES OF DISTRICT JUDGES. Each district judge of this state shall receive an annual salary of eight thousand dollars and his actual traveling expenses, which shall include subsistence while holding court inside his own district but outside the county in which he resides. Such salary and expenses shall be payable monthly in the manner provided by law."

This section was amended by the Legislature and the amendment will take effect July 1, 1959. However, as concerns the mileage rate payable to the district judges, the effect remains the same. This statute as amended reads as follows:

Each district judge of this state shall receive an annual salary of twelve thousand dollars and his actual travel expenses, which shall include mileage and subsistence while engaged in the discharge of his official duties outside of the county in which his chambers are located. Such salary and expenses shall be payable monthly in the manner provided by law."

#### Welfare Employees

The mileage for members of the county welfare board is governed by section 50-0108 of the 1957 Supplement to the North Dakota Revised Code of 1943. The employees of the welfare board are not strictly speaking county officers and since there is no statute governing the mileage to be paid to them they would be paid in accordance with the scale adopted by the board of county commissioners. In most instances this scale is probably the same rate as that paid to county officers.

#### County Agents

Section 4-0810 of the 1957 Supplement to the North Dakota Revised Code of 1943 controls the mileage to be paid to the county agent. This section reads in part:

Where charges are made for transportation expenses they shall not exceed the amounts provided by section 54-0609 of the North Dakota Revised Code of 1943, . . . ."

Section 54-0609 of the 1957 Supplement to the North Dakota Revised Code of 1943 was amended by House Bill No. 767 which will allow mileage at the rate of eight and one-half cents per mile where travel is made by privately owned conveyance or actual expense where travel is by common carrier. The rate is now seven and one-half cents.

House Bill No. 767 was not an emergency measure and will not go into effect until July 1, 1959.

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