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HOUSE BILL 44  
45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002  
INTRODUCED BY  
Luciano "Lucky" Varela

AN ACT  
RELATING TO REIMBURSEMENT FOR PER DIEM AND MILEAGE EXPENSES;  
INCREASING RATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-8-4 NMSA 1978 (being Laws 1963,  
Chapter 31, Section 3, as amended) is amended to read:

"10-8-4. PER DIEM AND MILEAGE RATES--IN LIEU OF  
PAYMENT. --

A. Notwithstanding any other specific law to the  
contrary and except as provided in Subsection I of this  
section, every nonsalaried public officer shall receive either  
reimbursement pursuant to the provisions of Subsection K or L  
of this section or up to [~~seventy-five dollars (\$75.00)~~]  
ninety-five dollars (\$95.00) per diem expenses:

- (1) for each board or committee meeting

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1 attended; or

2 (2) for each day spent in discharge of  
3 official duties for travel within the state but away from his  
4 home.

5 Nonsalaried public officers who travel to attend a board  
6 or committee meeting may elect to be reimbursed per diem under  
7 either Paragraph (1) or (2) of this subsection.

8 B. Every salaried public officer or employee who  
9 is traveling within the state but away from his home and away  
10 from his designated post of duty on official business shall  
11 receive either reimbursement pursuant to the provisions of  
12 Subsection K or L of this section or:

13 (1) up to [~~sixty-five dollars (\$65.00)~~]  
14 eighty-five dollars (\$85.00) per diem expenses for each day  
15 spent in the discharge of his official duties for a salaried  
16 public officer or employee of a local public body or state  
17 agency. If the secretary finds that a per diem allowance of  
18 [~~sixty-five dollars (\$65.00)~~] eighty-five dollars (\$85.00) is  
19 inadequate for reimbursement of expenses in any municipality  
20 of this state, the secretary may authorize the reimbursement  
21 of per diem for travel to [~~such~~] the municipality not to  
22 exceed [~~seventy-five dollars (\$75.00)~~] one hundred thirty-five  
23 dollars (\$135); or

24 (2) up to [~~sixty-five dollars (\$65.00)~~]  
25 eighty-five dollars (\$85.00) per diem expenses for each day

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1 spent in the discharge of his official duties for a salaried  
2 public officer or employee of a public post-secondary  
3 educational institution. If the governing board finds that a  
4 per diem allowance of [~~sixty-five dollars (\$65.00)~~] eighty-  
5 five dollars (\$85.00) is inadequate for reimbursement of  
6 expenses in any municipality of this state, the governing  
7 board may authorize the reimbursement of per diem for travel  
8 to [~~such~~] the municipality not to exceed [~~seventy-five dollars~~  
9 [~~(\$75.00)~~] one hundred thirty-five dollars (\$135).

10 C. Every public officer or employee shall receive  
11 either reimbursement pursuant to the provisions of Subsection  
12 K or L of this section or:

13 (1) for public officers or employees of a  
14 state agency or local public body, up to [~~seventy-five dollars~~  
15 [~~(\$75.00)~~] one hundred fifteen dollars (\$115) per diem expenses  
16 for each day of travel outside the state on official business.  
17 If the secretary finds that a per diem allowance of [~~seventy-~~  
18 [~~five dollars (\$75.00)~~] one hundred fifteen dollars (\$115) is  
19 inadequate for out-of-state travel to a geographical area, the  
20 secretary may authorize per diem not to exceed [~~ninety-five~~  
21 [~~dollars (\$95.00)~~] two hundred fifteen dollars (\$215) for out-  
22 of-state travel to [~~such~~] that geographical area; provided  
23 that the secretary may authorize per diem for travel to a  
24 locality inside or outside the continental United States for a  
25 public officer or employee who is reimbursed solely from

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1 federal funds in accordance with the rate allowed by the  
2 federal government for travel to that locality. In lieu of  
3 per diem, ~~[persons]~~ a person trained in the field of  
4 accountancy and performing duties in that field of training as  
5 an employee while assigned for periods exceeding three weeks  
6 per assignment to travel out of state on official business may  
7 receive either reimbursement pursuant to the provisions of  
8 Subsection ~~[E]~~ K of this section or actual expenses not to  
9 exceed ~~[ninety-five dollars (\$95.00)]~~ two hundred fifteen  
10 dollars (\$215) per day. Expenses shall be substantiated in  
11 accordance with rules promulgated by the department of finance  
12 and administration. The secretary may promulgate rules  
13 defining what constitutes out-of-state travel for purposes of  
14 the Per Diem and Mileage Act; or

15 (2) for public officers or employees of a  
16 public post-secondary educational institution, up to ~~[seventy-~~  
17 ~~five dollars (\$75.00)]~~ one hundred fifteen dollars (\$115) per  
18 diem expenses for each day of travel outside the state on  
19 official business. If the governing board finds that a per  
20 diem allowance of ~~[seventy-five dollars (\$75.00)]~~ one hundred  
21 fifteen dollars (\$115) is inadequate for out-of-state travel  
22 to a geographical area, the governing board may authorize per  
23 diem not to exceed ~~[ninety-five dollars (\$95.00)]~~ two hundred  
24 fifteen dollars (\$215) for out-of-state travel to ~~[such]~~ that  
25 geographical area; provided that the governing board may

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1 authorize per diem for travel to a locality inside or outside  
2 the continental United States for a public officer or employee  
3 who is reimbursed solely from federal funds in accordance with  
4 the rate allowed by the federal government for travel to that  
5 locality. Expenses shall be substantiated in accordance with  
6 rules promulgated by the governing board. The governing board  
7 may promulgate rules defining what constitutes out-of-state  
8 travel for purposes of the Per Diem and Mileage Act.

9 D. Every public officer or employee shall receive  
10 [~~twenty-five cents (\$.25)~~] thirty-two cents (\$.32) a mile for  
11 each mile traveled in a privately owned vehicle or [~~forty~~  
12 ~~cents (\$.40)~~] up to eighty-eight cents (\$.88) a mile for each  
13 mile traveled in a privately owned airplane if the travel is  
14 necessary to the discharge of his official duties and if the  
15 private conveyance is not a common carrier; provided, however,  
16 that only one person shall receive mileage for each mile  
17 traveled in a single privately owned vehicle or airplane  
18 except in the case of common carriers, in which case the  
19 person shall receive the cost of the ticket in lieu of the  
20 mileage allowance.

21 E. The per diem and mileage or per diem and cost  
22 of tickets for common carriers paid to salaried public  
23 officers or employees is in lieu of actual expenses for  
24 transportation, lodging and subsistence.

25 F. In addition to the in-state per diem set forth

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1 in this section, the department of finance and administration,  
2 by [~~regulation~~] rule, may authorize a flat subsistence rate in  
3 the amount set by the legislature in the general  
4 [~~appropriations~~] appropriation act for commissioned officers  
5 of the New Mexico state police in accordance with rules [~~and~~  
6 ~~regulations~~] promulgated by the department of finance and  
7 administration.

8 G. In lieu of the in-state per diem set in  
9 Subsection B of this section, the department of finance and  
10 administration may, by [~~regulation~~] rule, authorize a flat  
11 monthly subsistence rate for certain employees of the state  
12 highway and transportation department, provided that the  
13 payments made under this subsection shall not exceed the  
14 maximum amount that would be paid under Subsection B of this  
15 section.

16 H. Per diem received by nonsalaried public  
17 officers for travel on official business or in the discharge  
18 of their official duties, other than attending a board or  
19 committee meeting, and per diem received by public officers  
20 and employees for travel on official business shall be  
21 prorated in accordance with [~~regulations~~] rules of the  
22 department of finance and administration or the governing  
23 board.

24 I. The provisions of Subsection A of this section  
25 do not apply to payment of per diem expense to a nonsalaried

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1 public official of a municipality for attendance at board or  
2 committee meetings held within the boundaries of the  
3 municipality.

4 J. In addition to any other penalties prescribed  
5 by law for false swearing on an official voucher, it shall be  
6 cause for removal or dismissal from office.

7 K. With prior written approval of the secretary or  
8 the secretary's designee or the local public body, a  
9 nonsalaried public officer of a state agency or local public  
10 body, salaried public officer of a state agency or local  
11 public body or salaried employee of a state agency or local  
12 public body is entitled to per diem expenses under this  
13 subsection and shall receive:

14 (1) reimbursement for actual expenses for  
15 lodging; and

16 (2) reimbursement for actual expenses for  
17 meals not to exceed [~~twenty-two dollars fifty cents (\$22.50)~~]  
18 thirty dollars (\$30.00) per day for in-state travel and forty-  
19 five dollars (\$45.00) per day for out-of-state travel.

20 L. With prior written approval of the governing  
21 board or its designee, a nonsalaried public officer of a  
22 public post-secondary educational institution, a salaried  
23 public officer of a public post-secondary educational  
24 institution or a salaried employee of a public post-secondary  
25 educational institution is entitled to per diem expenses under

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1 this subsection and shall receive:

2 (1) reimbursement for actual expenses for  
3 lodging; and

4 (2) reimbursement for actual expenses for  
5 meals not to exceed [~~twenty-two dollars fifty cents (\$22.50)~~]  
6 thirty dollars (\$30.00) per day for in-state travel and forty-  
7 five dollars (\$45.00) per day for out-of-state travel."

8 Section 2. EFFECTIVE DATE. -- The effective date of the  
9 provisions of this act is July 1, 2002.

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