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HOUSE BILL 786

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Daniel R. Foley

AN ACT

REGARDING PUBLIC FINANCES; REVISING MILEAGE REIMBURSEMENT
RATES; AMENDING THE PER DIEM AND MILEAGE ACT.

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

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

"10-8-1. SHORT TITLE.--~~[Sections 10-8-1 through 10-8-8]~~
Chapter 10, Article 8 NMSA 1978 may be cited as the "Per Diem
and Mileage Act"."

Section 2. 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

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1 section, every nonsalaried public officer shall receive either
2 reimbursement pursuant to the provisions of Subsection K or L
3 of this section or up to ninety-five dollars (\$95.00) per diem
4 expenses:

5 (1) for each board or committee meeting
6 attended; or

7 (2) for each day spent in discharge of
8 official duties for travel within the state but away from [~~his~~]
9 the officer's home.

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

13 B. Every salaried public officer or employee who is
14 traveling within the state but away from [~~his~~] the officer's or
15 employee's home and [~~away from his~~] designated post of duty on
16 official business shall receive either reimbursement pursuant
17 to the provisions of Subsection K or L of this section or:

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

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1 hundred thirty-five dollars (\$135); or

2 (2) up to eighty-five dollars (\$85.00) per
3 diem expenses for each day spent in the discharge of [~~his~~]
4 official duties for a salaried public officer or employee of a
5 public post-secondary educational institution. If the
6 governing board finds that a per diem allowance of eighty-five
7 dollars (\$85.00) is inadequate for reimbursement of expenses in
8 any municipality of this state, the governing board may
9 authorize the reimbursement of per diem for travel to the
10 municipality not to exceed one hundred thirty-five dollars
11 (\$135).

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

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

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1 is reimbursed solely from federal funds in accordance with the
2 rate allowed by the federal government for travel to that
3 locality. In lieu of per diem, a person trained in the field
4 of accountancy and performing duties in that field of training
5 as 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 K of this section or actual expenses not to exceed
9 two hundred fifteen dollars (\$215) per day. Expenses shall be
10 substantiated in accordance with rules promulgated by the
11 department of finance and administration. The secretary may
12 promulgate rules defining what constitutes out-of-state travel
13 for purposes of the Per Diem and Mileage Act; or

14 (2) for public officers or employees of a
15 public post-secondary educational institution, up to one
16 hundred fifteen dollars (\$115) per diem expenses for each day
17 of travel outside the state on official business. If the
18 governing board finds that a per diem allowance of one hundred
19 fifteen dollars (\$115) is inadequate for out-of-state travel to
20 a geographical area, the governing board may authorize per diem
21 not to exceed two hundred fifteen dollars (\$215) for out-of-
22 state travel to that geographical area; provided that the
23 governing board may authorize per diem for travel to a locality
24 inside or outside the continental United States for a public
25 officer or employee who is reimbursed solely from federal funds

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1 in accordance with the rate allowed by the federal government
2 for travel to that locality. Expenses shall be substantiated
3 in accordance with rules promulgated by the governing board.
4 The governing board may promulgate rules defining what
5 constitutes out-of-state travel for purposes of the Per Diem
6 and Mileage Act.

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

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

24 F. In addition to the in-state per diem set forth
25 in this section, the department of finance and administration,

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1 by rule, may authorize a flat subsistence rate in the amount
2 set by the legislature in the general appropriation act for
3 commissioned officers of the New Mexico state police in
4 accordance with rules promulgated by the department of finance
5 and administration.

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

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

21 I. The provisions of Subsection A of this section
22 do not apply to payment of per diem expense to a nonsalaried
23 public official of a municipality for attendance at board or
24 committee meetings held within the boundaries of the
25 municipality.

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

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

11 (1) reimbursement for actual expenses for
12 lodging; and

13 (2) reimbursement for actual expenses for
14 meals not to exceed thirty dollars (\$30.00) per day for
15 in-state travel and forty-five dollars (\$45.00) per day for
16 out-of-state travel.

17 L. With prior written approval of the governing
18 board or its designee, a nonsalaried public officer of a public
19 post-secondary educational institution, a salaried public
20 officer of a public post-secondary educational institution or a
21 salaried employee of a public post-secondary educational
22 institution is entitled to per diem expenses under this
23 subsection and shall receive:

24 (1) reimbursement for actual expenses for
25 lodging; and

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(2) reimbursement for actual expenses for meals not to exceed thirty dollars (\$30.00) per day for in-state travel and forty-five dollars (\$45.00) per day for out-of-state travel."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2006.