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SENATE BILL 315

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Leonard Tsosie

AN ACT

RELATING TO STATE EXPENSES; AMENDING THE PER DIEM AND MILEAGE
ACT TO FEDERAL PER DIEM AND MILEAGE LEVELS; AMENDING A
SECTION OF THE NMSA 1978.

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)~~] per diem expenses equal to the internal revenue
service per diem rate for the destination or the closest

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1 point of lodging to the destination point for the month and
2 year in which the travel or lodging occurs:

3 (1) for each board or committee meeting
4 attended; or

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

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

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

16 (1) ~~[up to sixty-five dollars (\$65.00)]~~ per
17 diem expenses equal to the internal revenue service per diem
18 rate for the destination or the closest point of lodging to
19 the destination point for the month and year in which the
20 travel or lodging occurs for each day spent in the discharge
21 of his official duties for a salaried public officer or
22 employee of a local public body or state agency ~~[if the~~
23 ~~secretary finds that a per diem allowance of sixty-five~~
24 ~~dollars (\$65.00) is inadequate for reimbursement of expenses~~
25 ~~in any municipality of this state, the secretary may~~
~~authorize the reimbursement of per diem for travel to such~~
~~municipality not to exceed seventy-five dollars (\$75.00)]; or~~

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1 (2) ~~[up to sixty-five dollars (\$65.00)]~~ per
2 diem expenses equal to the internal revenue service per diem
3 rate for the destination or the closest point of lodging to
4 the destination point for the month and year in which the
5 travel or lodging occurs for each day spent in the discharge
6 of his official duties for a salaried public officer or
7 employee of a public post-secondary educational institution.
8 ~~[If the governing board finds that a per diem allowance of~~
9 ~~sixty-five dollars (\$65.00) is inadequate for reimbursement~~
10 ~~of expenses in any municipality of this state, the governing~~
11 ~~board may authorize the reimbursement of per diem for travel~~
12 ~~to such municipality not to exceed seventy-five dollars~~
13 ~~(\$75.00).]~~

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

17 (1) for public officers or employees of a
18 state agency or local public body, ~~[up to seventy-five~~
19 ~~dollars (\$75.00)]~~ per diem expenses equal to the internal
20 revenue service per diem rate for the destination or the
21 closest point of lodging to the destination point for the
22 month and year in which the travel or lodging occurs for each
23 day of travel outside the state on official business. ~~[If the~~
24 ~~secretary finds that a per diem allowance of seventy-five~~
25 ~~dollars (\$75.00) is inadequate for out-of-state travel to a~~
~~geographical area, the secretary may authorize per diem not~~
~~to exceed ninety-five dollars (\$95.00) for out-of-state~~

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1 ~~travel to such geographical area; provided that~~ The
2 secretary may authorize per diem for travel to a locality
3 inside or outside the continental United States for a public
4 officer or employee who is reimbursed solely from federal
5 funds ~~[in accordance with the rate allowed by the federal~~
6 ~~government for travel to that locality]~~ equal to the internal
7 revenue service per diem rate for the destination or the
8 closest point of lodging to the destination point for the
9 month and year in which the travel or lodging occurs. In
10 lieu of per diem, persons trained in the field of accountancy
11 and performing duties in that field of training as an
12 employee while assigned for periods exceeding three weeks per
13 assignment to travel out of state on official business may
14 receive either reimbursement pursuant to the provisions of
15 Subsection L of this section or actual expenses not to exceed
16 ~~[ninety five dollars (\$95.00) per day]~~ a rate to be set by
17 the department of finance and administration that shall not
18 exceed the internal revenue service per diem rate plus ten
19 percent. Expenses shall be substantiated in accordance with
20 rules promulgated by the department of finance and
21 administration. The secretary may promulgate rules defining
22 what constitutes out-of-state travel for purposes of the Per
23 Diem and Mileage Act; or

24 (2) for public officers or employees of a
25 public post-secondary educational institution, ~~[up to~~
~~seventy five dollars (\$75.00)]~~ per diem expenses equal to the
internal revenue service per diem rate for the destination or

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1 the closest point of lodging to the destination point for the
2 month and year in which the travel or lodging occurs for each
3 day of travel outside the state on official business. [~~ff~~
4 ~~the governing board finds that a per diem allowance of~~
5 ~~seventy five dollars (\$75.00) is inadequate for out-of-state~~
6 ~~travel to a geographical area, the governing board may~~
7 ~~authorize per diem not to exceed ninety five dollars (\$95.00)~~
8 ~~for out-of-state travel to such geographical area; provided~~
9 ~~that]~~ The governing board may authorize per diem for travel
10 to a locality inside or outside the continental United States
11 for a public officer or employee who is reimbursed solely
12 from federal funds [~~in accordance with the rate allowed by~~
13 ~~the federal government for travel to that locality]~~ equal to
14 the internal revenue service per diem rate for the
15 destination or the closest point of lodging to the
16 destination point for the month and year in which the travel
17 or lodging occurs. Expenses shall be substantiated in
18 accordance with rules promulgated by the governing board.
19 The governing board may promulgate rules defining what
20 constitutes out-of-state travel for purposes of the Per Diem
21 and Mileage Act.

22 D. Every public officer or employee shall receive
23 [~~twenty five cents (\$.25) a mile]~~ the internal revenue
24 standard mileage rate for each mile traveled in a privately
25 owned vehicle or forty cents (\$.40) a mile for each mile
traveled in a privately owned airplane if the travel is
necessary to the discharge of his official duties and if the

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1 private conveyance is not a common carrier; provided,
2 however, that only one person shall receive mileage for each
3 mile traveled in a single privately owned vehicle or airplane
4 except in the case of common carriers, in which case the
5 person shall receive the cost of the ticket in lieu of the
6 mileage allowance.

7 E. The per diem and mileage or per diem and cost
8 of tickets for common carriers paid to salaried public
9 officers or employees is in lieu of actual expenses for
10 transportation, lodging and subsistence.

11 F. In addition to the in-state per diem set forth
12 in this section, the department of finance and
13 administration, by regulation, may authorize a flat
14 subsistence rate in the amount set by the legislature in the
15 general ~~[appropriations]~~ appropriation act for commissioned
16 officers of the New Mexico state police in accordance with
17 rules and regulations promulgated by the department of
18 finance and administration.

19 G. In lieu of the in-state per diem set in
20 Subsection B of this section, the department of finance and
21 administration may, by regulation, authorize a flat monthly
22 subsistence rate for certain employees of the state highway
23 and transportation department, provided that the payments
24 made under this subsection shall not exceed the maximum
25 amount that would be paid under Subsection B of this section.

H. Per diem received by nonsalaried public
officers for travel on official business or in the discharge

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1 of their official duties, other than attending a board or
2 committee meeting, and per diem received by public officers
3 and employees for travel on official business shall be
4 prorated in accordance with regulations of the department of
5 finance and administration or the governing board.

6 I. The provisions of Subsection A of this section
7 do not apply to payment of per diem expense to a nonsalaried
8 public official of a municipality for attendance at board or
9 committee meetings held within the boundaries of the
10 municipality.

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

14 K. With prior written approval of the secretary or
15 the secretary's designee or the local public body, a
16 nonsalaried public officer of a state agency or local public
17 body, salaried public officer of a state agency or local
18 public body or salaried employee of a state agency or local
19 public body is entitled to per diem expenses under this
20 subsection and shall receive:

21 (1) reimbursement for actual expenses for
22 lodging; and

23 (2) reimbursement for actual expenses for
24 meals not to exceed [~~twenty-two dollars fifty cents (\$22.50)~~]
25 forty dollars (\$40.00) per day.

L. With prior written approval of the governing
board or its designee, a nonsalaried public officer of a

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1 public post-secondary educational institution, a salaried
2 public officer of a public post-secondary educational
3 institution or a salaried employee of a public post-secondary
4 educational institution is entitled to per diem expenses
5 under this subsection and shall receive:

6 (1) reimbursement for actual expenses for
7 lodging; and

8 (2) reimbursement for actual expenses for
9 meals not to exceed [~~twenty-two dollars fifty cents (\$22.50)~~]
10 forty dollars (\$40.00) per day."

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