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HOUSE BILL 686

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

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO PER DIEM AND MILEAGE; INCREASING THE MILEAGE REIMBURSEMENT FOR PUBLIC OFFICERS AND EMPLOYEES; LIMITING ELIMINATION OR REDUCTION OF MILEAGE OR PER DIEM REIMBURSEMENT; AMENDING SECTIONS 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 ninety-five dollars (\$95.00) per diem

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1 expenses:

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

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

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

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

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

24 (2) up to eighty-five dollars (\$85.00) per
25 diem expenses for each day spent in the discharge of [~~his~~]

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

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

12 (1) for public officers or employees of a
13 state agency or local public body, up to one hundred fifteen
14 dollars (\$115) per diem expenses for each day of travel outside
15 the state on official business. If the secretary finds that a
16 per diem allowance of one hundred fifteen dollars (\$115) is
17 inadequate for out-of-state travel to a geographical area, the
18 secretary may authorize per diem not to exceed two hundred
19 fifteen dollars (\$215) for out-of-state travel to that
20 geographical area; provided that the secretary may authorize
21 per diem for travel to a locality inside or outside the
22 continental United States for a public officer or employee who
23 is reimbursed solely from federal funds in accordance with the
24 rate allowed by the federal government for travel to that
25 locality. In lieu of per diem, a person trained in the field

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1 of accountancy and performing duties in that field of training
2 as an employee while assigned for periods exceeding three weeks
3 per assignment to travel out of state on official business may
4 receive either reimbursement pursuant to the provisions of
5 Subsection K of this section or actual expenses not to exceed
6 two hundred fifteen dollars (\$215) per day. Expenses shall be
7 substantiated in accordance with rules promulgated by the
8 department of finance and administration. The secretary may
9 promulgate rules defining what constitutes out-of-state travel
10 for purposes of the Per Diem and Mileage Act; or

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

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1 The governing board may promulgate rules defining what
2 constitutes out-of-state travel for purposes of the Per Diem
3 and Mileage Act.

4 D. Every public officer or employee shall receive
5 [~~thirty-two cents (\$.32)~~] forty-four and one-half cents (\$.445)
6 a mile for each mile traveled in a privately owned vehicle or
7 eighty-eight cents (\$.88) a mile for each mile traveled in a
8 privately owned airplane if the travel is necessary to the
9 discharge of [~~his~~] the officer's or employee's official duties
10 and if the private conveyance is not a common carrier;
11 provided, however, that only one person shall receive mileage
12 for each mile traveled in a single privately owned vehicle or
13 airplane, except in the case of common carriers, in which case
14 the person shall receive the cost of the ticket in lieu of the
15 mileage allowance.

16 E. The per diem and mileage or per diem and cost of
17 tickets for common carriers paid to salaried public officers or
18 employees is in lieu of actual expenses for transportation,
19 lodging and subsistence.

20 F. In addition to the in-state per diem set forth
21 in this section, the department of finance and administration,
22 by rule, may authorize a flat subsistence rate in the amount
23 set by the legislature in the general appropriation act for
24 commissioned officers of the New Mexico state police in
25 accordance with rules promulgated by the department of finance

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1 and administration.

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

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

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

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

25 K. With prior written approval of the secretary or

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1 the secretary's designee or the local public body, a
2 nonsalaried public officer of a state agency or local public
3 body, a salaried public officer of a state agency or local
4 public body or a salaried employee of a state agency or local
5 public body is entitled to per diem expenses under this
6 subsection and shall receive:

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

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

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

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

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

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1 Section 2. Section 10-8-5 NMSA 1978 (being Laws 1978,
2 Chapter 184, Section 4, as amended) is amended to read:

3 "10-8-5. RESTRICTIONS--REGULATIONS.--

4 A. The secretary may promulgate rules and
5 regulations for state agencies and local public bodies for the
6 purpose of carrying out the provisions of the Per Diem and
7 Mileage Act. Public officials of public post-secondary
8 educational institutions and employees of public post-secondary
9 educational institutions shall be subject to the rules and
10 regulations of their governing boards.

11 B. Public funds may be advanced to any public
12 officer or employee before the travel occurs only with prior
13 written approval of the secretary, the secretary's designee,
14 the local public body or the governing board or its designee.
15 This restriction shall not prohibit the use of authorized
16 credit cards in connection with purchases necessary to the use
17 of vehicles owned by the state, a local public body or a public
18 post-secondary educational institution or for food, lodging or
19 transportation as permitted by the department of finance and
20 administration or the governing board. Public funds shall be
21 paid out under the Per Diem and Mileage Act only upon vouchers
22 duly presented with any required receipts attached thereto.
23 For employees authorized to receive public funds in advance of
24 travel, payment shall be received only upon vouchers submitted
25 with attached authorization for each travel period. For public

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1 officers or employees using authorized credit cards, vouchers
2 with required receipts for each month's travel expenses shall
3 be submitted as a condition to receiving authorization to use
4 the credit card for the next month's travel. Travel expenses
5 may also be advanced if the travel is to be performed under
6 provisions of federal or private contracts and the funds used
7 are not derived from taxes or revenues paid to the state or any
8 of its political subdivisions.

9 C. Money expended by the governor from the
10 appropriations made for [~~his~~] the office and contingent and
11 other expenses are not subject to any of the foregoing
12 provisions of this section and are not subject to audit;
13 provided that the governor shall only use contingent and other
14 expenses for purposes connected with obligations of the office.
15 An expenditure report on the use of the governor's contingent
16 and other expenses shall be submitted annually to the
17 department of finance and administration.

18 D. The secretary may reduce the rates set for the
19 per diem and mileage for any class of public officials and for
20 employees of state agencies, except public officials of public
21 post-secondary educational institutions, at any time [~~he~~] the
22 secretary deems it to be in the public interest, and such
23 reduction shall not be construed to permit payment of any other
24 compensation, perquisite or allowance. The secretary shall
25 exercise this power of reduction in a reasonable manner and

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1 shall attempt to achieve a standard rate for all public
2 officers and employees of the same classification. The
3 secretary may, at the request of any state agency and for good
4 cause shown, reduce the rates of per diem and mileage for that
5 state agency. ~~[The governing body of any local public body may
6 eliminate or may reduce the rates set for the per diem and
7 mileage for all or any class of public officials and employees
8 of the local public body at any time the local public body
9 deems it to be in the public interest, and such reduction shall
10 not be construed to permit payment of any other compensation,
11 perquisite or allowance. The local public body shall exercise
12 this power of reduction in a reasonable manner and shall
13 attempt to achieve a standard rate for all public officers and
14 employees of the same classification.]~~ The secretary may, in
15 extraordinary circumstances and with the prior approval of the
16 state board of finance in public meeting, allow actual expenses
17 rather than the per diem rates set in the Per Diem and Mileage
18 Act.

19 E. The governing board or its designee may reduce
20 the rates set for the per diem and mileage for public officials
21 of public post-secondary educational institutions and for
22 employees of public post-secondary educational institutions at
23 any time the governing board deems it to be in the public
24 interest, and such reduction shall not be construed to permit
25 payment of any other compensation, perquisite or allowance.

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1 The governing board shall exercise this power of reduction in a
2 reasonable manner and shall attempt to achieve a standard rate
3 for public officers and employees of public post-secondary
4 educational institutions. The governing board may reduce the
5 rates of per diem and mileage for its public post-secondary
6 educational institution and may, in extraordinary circumstances
7 and in public meeting, allow actual expenses rather than the
8 per diem rates set in the Per Diem and Mileage Act.

9 F. No reimbursement for out-of-state travel shall
10 be paid to any elected public officer, including any member of
11 the legislature, if after the last day to do so that officer
12 has not filed a declaration of candidacy for reelection to
13 [~~his~~] the officer's currently held office or has been defeated
14 for reelection to [~~his~~] the officer's currently held office in
15 a primary election or any general election.

16 G. Subsection F of this section does not apply to
17 any elected public officer who is ineligible to succeed himself
18 after serving his term in office.

19 H. Subsection F of this section does not apply to
20 legislators whose travel has been approved by a three-fourths'
21 vote of the New Mexico legislative council at a regularly
22 called meeting.

23 I. Any person who is not an employee, appointee or
24 elected official of a county or municipality and who is
25 reimbursed under the provisions of the Per Diem and Mileage Act

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1 in an amount that singly or in the aggregate exceeds one
2 thousand five hundred dollars (\$1,500) in any one year shall
3 not be entitled to further reimbursement under the provisions
4 of that act until the person furnishes in writing to [~~his~~] the
5 person's department head or, in the case of a department head
6 or board or commission member, to the governor or, in the case
7 of a member of the legislature, to the New Mexico legislative
8 council an itemized statement on each separate instance of
9 travel covered within the reimbursement, the place to which
10 traveled and the executive, judicial or legislative purpose
11 served by the travel."

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