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HOUSE BILL 112

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Jose A. Campos

AN ACT

RELATING TO PUBLIC OFFICIALS; PROVIDING THAT PER DIEM AND MILEAGE RATES FOR NONSALARIED ELECTED OR APPOINTED STATE OFFICIALS BE EQUIVALENT TO RATES RECEIVED BY MEMBERS OF THE LEGISLATURE.

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

Section 1. A new section of the Per Diem and Mileage Act is enacted to read:

"[NEW MATERIAL] NONSALARIED STATE PUBLIC OFFICERS--PER DIEM AND MILEAGE.--The per diem, mileage and travel provisions applicable to members of the legislature in Subsections B and C of Section 2-1-9 NMSA 1978 shall apply to all nonsalaried public officers of a state agency."

Section 2. Section 10-8-4 NMSA 1978 (being Laws 1963, Chapter 31, Section 3, as amended) is amended to read:

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1 "10-8-4. PER DIEM AND MILEAGE RATES--IN LIEU OF
2 PAYMENT.--

3 A. Notwithstanding any other specific law to the
4 contrary and except as otherwise provided in [~~Subsection I of~~
5 ~~this section~~] the Per Diem and Mileage Act, every nonsalaried
6 public officer shall receive either reimbursement pursuant to
7 the provisions of Subsection K or L of this section or up to
8 ninety-five dollars (\$95.00) per diem expenses:

9 (1) for each board or committee meeting
10 attended; or

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

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

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

22 (1) up to eighty-five dollars (\$85.00) per
23 diem expenses for each day spent in the discharge of [~~his~~]
24 official duties for a salaried public officer or employee of a
25 local public body or state agency. If the secretary finds that

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1 a per diem allowance of eighty-five dollars (\$85.00) is
2 inadequate for reimbursement of expenses in any municipality of
3 this state, the secretary may authorize the reimbursement of
4 per diem for travel to the municipality not to exceed one
5 hundred thirty-five dollars (\$135); or

6 (2) up to eighty-five dollars (\$85.00) per
7 diem expenses for each day spent in the discharge of [~~his~~]
8 official duties for a salaried public officer or employee of a
9 public post-secondary educational institution. If the
10 governing board finds that a per diem allowance of eighty-five
11 dollars (\$85.00) is inadequate for reimbursement of expenses in
12 any municipality of this state, the governing board may
13 authorize the reimbursement of per diem for travel to the
14 municipality not to exceed one hundred thirty-five dollars
15 (\$135).

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

19 (1) for public officers or employees of a
20 state agency or local public body, up to one hundred fifteen
21 dollars (\$115) per diem expenses for each day of travel outside
22 the state on official business. If the secretary finds that a
23 per diem allowance of one hundred fifteen dollars (\$115) is
24 inadequate for out-of-state travel to a geographical area, the
25 secretary may authorize per diem not to exceed two hundred

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1 fifteen dollars (\$215) for out-of-state travel to that
2 geographical area; provided that the secretary may authorize
3 per diem for travel to a locality inside or outside the
4 continental United States for a public officer or employee who
5 is reimbursed solely from federal funds in accordance with the
6 rate allowed by the federal government for travel to that
7 locality. In lieu of per diem, a person trained in the field
8 of accountancy and performing duties in that field of training
9 as an employee while assigned for periods exceeding three weeks
10 per assignment to travel out of state on official business may
11 receive either reimbursement pursuant to the provisions of
12 Subsection K of this section or actual expenses not to exceed
13 two hundred fifteen dollars (\$215) per day. Expenses shall be
14 substantiated in accordance with rules promulgated by the
15 department of finance and administration. The secretary may
16 promulgate rules defining what constitutes out-of-state travel
17 for purposes of the Per Diem and Mileage Act; or

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

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1 state travel to that geographical area; provided that the
2 governing board 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 funds
5 in accordance with the rate allowed by the federal government
6 for travel to that locality. Expenses shall be substantiated
7 in accordance with rules promulgated by the governing board.
8 The governing board may promulgate rules defining what
9 constitutes out-of-state travel for purposes of the Per Diem
10 and Mileage Act.

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

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

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1 F. In addition to the in-state per diem set forth
2 in this section, the department of finance and administration,
3 by rule, may authorize a flat subsistence rate in the amount
4 set by the legislature in the general appropriation act for
5 commissioned officers of the New Mexico state police in
6 accordance with rules promulgated by the department of finance
7 and 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 rule, authorize a flat monthly
11 subsistence rate for certain employees of the [~~state highway~~
12 ~~and transportation~~] department of transportation, provided that
13 the 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 officers
17 for travel on official business or in the discharge of their
18 official duties, other than attending a board or committee
19 meeting, and per diem received by public officers and employees
20 for travel on official business shall be prorated in accordance
21 with rules of the department of finance and administration or
22 the governing board.

23 I. The provisions of Subsection A of this section
24 do not apply to payment of per diem expense to a nonsalaried
25 public official of a municipality for attendance at board or

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1 committee meetings held within the boundaries of the
2 municipality.

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

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

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

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

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

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(1) reimbursement for actual expenses for lodging; and

(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.

M. The provisions of this section shall not apply to nonsalaried public officers of a state agency."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.