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HOUSE BILL 336

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Rick Miera

AN ACT

RELATING TO PUBLIC EMPLOYEES; INCREASING THE MILEAGE RATE UNDER
THE PER DIEM AND MILEAGE ACT.

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

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

22 (2) 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 public post-secondary educational institution. If the

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1 governing board finds that a per diem allowance of eighty-five
2 dollars (\$85.00) is inadequate for reimbursement of expenses in
3 any municipality of this state, the governing board may
4 authorize the reimbursement of per diem for travel to the
5 municipality not to exceed one hundred thirty-five dollars
6 (\$135).

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

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

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

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

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1 and Mileage Act.

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

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

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

25 G. In lieu of the in-state per diem set in

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

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

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

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

23 K. With prior written approval of the secretary or
24 the secretary's designee or the local public body, a
25 nonsalaried public officer of a state agency or local public

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1 body, a salaried public officer of a state agency or local
2 public body or a salaried employee of a state agency or local
3 public body is entitled to per diem expenses under this
4 subsection and shall receive:

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

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

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

18 (1) reimbursement for actual expenses for
19 lodging; and

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