

LFC Requester:

Leger

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: Jan. 26, 2025

Check all that apply:

Bill Number: SB 135

Original Correction Amendment Substitute

Sponsor: Sen. Wirth

Short Title: Reimbursement for Certain Legislators

Agency Name

and Code

State Ethics Commission (410)

Number:

Person Writing: Jeremy Farris

Phone: 490-0951 Email: jeremy.farris@sec.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Section 10-8-5(E) of the Act provides that “[n]o reimbursement for out-of-state travel shall be paid to any elected public officer, including any member of the legislature, if after the last day to do so that officer has not filed a declaration of candidacy for reelection to the public officer’s currently held office or has been defeated for reelection to the public officer’s currently held office in a primary election or any general election.” Accordingly, Section 10-8-5(E) provides that legislators are ineligible for reimbursement for out-of-state travel if the legislator either has not declared their candidacy or has been defeated for reelection in a primary or general election (a status colloquially known as “lame duck”). But, in those circumstances, a “lame duck” legislator might still receive reimbursement for out-of-state travel if approved by the legislative council, following a three-fourths vote at a regularly scheduled meeting. See Section 10-8-5(G).

Senate Bill 135 deletes Section 10-8-5(E)’s restriction on reimbursement for out-of-state travel for “lame-duck” members of the Legislature. Accordingly, under the bill, a member of the Legislature, so long as they are a member, may submit for reimbursement of public funds for their out-of-state travel, even if that member does not declare their candidacy for reelection or is defeated in an election for their seat (i.e., are in “lame-duck” status).

FISCAL IMPLICATIONS

Senate Bill 135 presents no fiscal implications for the State Ethics Commission.

SIGNIFICANT ISSUES

While Senate Bill 135 deletes the restriction on submitting for reimbursement for out-of-state for Members of the Legislature, it retains the restriction for other elected officers of the state -- including the Governor, Lt. Governor, Attorney General, Treasurer, Auditor, Secretary of State, and Land Commissioner -- as well as for all elected positions in local government. It is unclear why the restriction should still apply to the seven executive-branch elected offices when in “lame-duck” status, yet not apply to the 112 members of the Legislature.

It is also worth observing that a “lame-duck” legislator (as well a “lame-duck” elected executive-branch officer) seeking reimbursement for their out-of-state travel related to the performance of their duties as a legislator has recourse to their campaign funds to cover the out-of-state travel. Under Section 1-19-29.1(A)(2) of the Campaign Reporting Act, elected state officers, including the 112 members of the Legislature, may use their campaign funds to cover the costs of out-of-state travel, so long as the travel is “reasonably related to performing the duties of the office held[.]” See 2024 Op. Ethics Comm’n No. 2024-02. Section 1-19-29.1(A)(2) therefore provides a kind of support for Section 10-8-5(E) of the Per Diem and Mileage Act as it currently stands. If a lame-duck legislator, who will not continue to hold their legislative office, has sufficient campaign funds to cover their own out-of-state travel during the final lame-duck period of their legislative office, it is not obvious why the public should pay for that out-of-state travel.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS