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FISCAL IMPACT REPORT

SPONSOR <u>Wirth</u>	LAST UPDATED _____
	ORIGINAL DATE <u>1/29/25</u>
SHORT TITLE <u>Reimbursement for Certain Legislators</u>	BILL NUMBER <u>Senate Bill 135</u>
	ANALYST <u>Hilla</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Legislature	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 52

Sources of Information

LFC Files

Agency Analysis Received From
 State Ethics Commission (SEC)
 New Mexico Attorney General (NMAG)
 Office of the State Auditor (OSA)

Agency Analysis was Solicited but Not Received From
 Department of Finance and Administration (DFA)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Senate Bill 135

Senate Bill 135 (SB135) amends Section 10-8-5 NMSA 1978 to allow members of the Legislature who have not filed a declaration of candidacy for reelection for their position to receive reimbursement for conducting out-of-state travel for legislative business.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025

FISCAL IMPLICATIONS

SB35 would increase costs to the legislative branch by allowing “lame duck” members of the Legislature to automatically submit and receive reimbursement for out-of-state travel. However, because out-of-state travel related to legislative business is not frequent, especially for members

not seeking candidacy again, this fiscal impact of this bill on the legislative branch is indeterminate but minimal. The fiscal impact of this bill will vary year over year depending on the amount of legislators not seeking candidacy.

SIGNIFICANT ISSUES

The Office of the State Auditor (OSA) recommends that SB135 provide guidelines for international travel and for the Legislature to update its policies regarding official travel both within and out of the continental United States.

OSA mentions recent concerns the agency has raised regarding agencies misusing taxpayer dollars for travel related to business. OSA notes that the change proposed by SB135 creates a disparity in how publicly elected officials in the executive branch, such as the governor, secretary of state, attorney general, state auditor, etc., are treated compared to elected officials in the Legislature. The office states it is unclear why the executive electees would not be allowed out-of-state travel after their terms of office end and are not seeking reelection while this would be applicable to legislators.

The State Ethics Commission (SEC) makes similar points to OSA regarding elected officers in the executive branch, additionally in local government. SEC mentions that any elected official not seeking candidacy for reelection who is also seeking reimbursement for out-of-state travel related to duties as a legislator has recourse to their campaign funds to cover the out-of-state travel. SEC states:

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.

SEC questions why tax dollars would go for a legislator not seeking candidacy as opposed to covering this cost from campaign funds.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to Senate Bill 52 which seeks to change the reimbursement mechanism for public officers from the current federal Internal Revenue Service’s model to the federal General Service Administration rates.

TECHNICAL ISSUES

The New Mexico Attorney General (NMAG) states that the removal of the phrase “out under the Per Diem and Mileage Act” on page 2, line 11 of SB135 could make it less clear that the Per Diem and Mileage Act provisions and any associated implementing rules are the required process to follow.

NMAG also points out that there is not a definition or description of what is legislative business for legislators in this category. NMAG asserts that definitions for legislative business allowable

for reimbursement under SB135 are needed.

ALTERNATIVES

OSA mentions a potential alternative is for legislators to receive a professional salary, which would create comparable reimbursement mechanisms for all publicly elected officials “instead of creating further disparities in reimbursement across the branches of government.”

EH/sgs/SL2/sgs