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HOUSE BILL 35

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2011

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO STATE EXPENDITURES; RESTRICTING PER DIEM AND
MILEAGE PAYMENTS BY THE STATE IF THE PAYMENTS ARE SUPPLEMENTED
BY NONSTATE FUNDS; DECLARING AN EMERGENCY.

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 and pursuant to the provisions of Subsection M
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 the
6 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 the officer's or
12 employee's home and designated post of duty on official
13 business shall receive either reimbursement pursuant to the
14 provisions of Subsection K or L of this section and pursuant to
15 the provisions of Subsection M of this section or:

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

25 (2) up to eighty-five dollars (\$85.00) per

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1 diem expenses for each day spent in the discharge of official
2 duties for a salaried public officer or employee of a public
3 post-secondary educational institution. If the governing board
4 finds that a per diem allowance of eighty-five dollars (\$85.00)
5 is inadequate for reimbursement of expenses in any municipality
6 of this state, the governing board may authorize the
7 reimbursement of per diem for travel to the municipality not to
8 exceed one hundred thirty-five dollars (\$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 up to the internal revenue service standard mileage rate set
6 January 1 of the previous year for each mile traveled in a
7 privately owned vehicle or eighty-eight cents (\$.88) a mile for
8 each mile traveled in a privately owned airplane if the travel
9 is necessary to the discharge of the officer's or employee's
10 official duties and if the private conveyance is not a common
11 carrier; provided, however, that only one person shall receive
12 mileage for each mile traveled in a single privately owned
13 vehicle or airplane, except in the case of common carriers, in
14 which case the person shall receive the cost of the ticket in
15 lieu of the 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 department of
6 transportation, provided that the payments made under this
7 subsection shall not exceed the maximum amount that would be
8 paid under Subsection B of this section.

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

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

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

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

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

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

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

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

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

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

25 M. Nonstate funds:

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1 (1) in regard to a nonsalaried public officer
2 of a state agency or local public body, a salaried public
3 officer of a state agency or local public body or a salaried
4 employee of a state agency or local public body, shall:

5 (a) not be used to supplement or
6 increase the per diem to an amount that exceeds the limits set
7 forth in this section; and

8 (b) be used only to entirely supplant
9 state funds in payment of per diem; and

10 (2) in regard to a nonsalaried public officer
11 of a public post-secondary educational institution, a salaried
12 public officer of a public post-secondary institution or a
13 salaried employee of a public post-secondary educational
14 institution shall:

15 (a) not be used to supplement or
16 increase the per diem to an amount that exceeds the limits set
17 forth in this section; and

18 (b) be used only to entirely supplant
19 state funds in payment of per diem."

20 SECTION 2. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.