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SENATE BILL 5

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2005

INTRODUCED BY

Timothy Z. Jennings

AN ACT

REGARDING PUBLIC FINANCES; REVISING MILEAGE REIMBURSEMENT  
RATES; AMENDING THE PER DIEM AND MILEAGE ACT; DECLARING AN  
EMERGENCY.

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

Section 1. Section 10-8-1 NMSA 1978 (being Laws 1963,  
Chapter 31, Section 1, as amended) is amended to read:

"10-8-1. SHORT TITLE. -- [~~Sections 10-8-1 through 10-8-8~~]  
Chapter 10, Article 8 NMSA 1978 may be cited as the "Per Diem  
and Mileage Act". "

Section 2. 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

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1 contrary and except as provided in Subsection I of this  
2 section, every nonsalaried public officer shall receive either  
3 reimbursement pursuant to the provisions of Subsection K or L  
4 of this section or up to ninety-five dollars (\$95.00) per diem  
5 expenses:

6 (1) for each board or committee meeting  
7 attended; or

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

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

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

19 (1) up to eighty-five dollars (\$85.00) per  
20 diem expenses for each day spent in the discharge of [~~his~~]  
21 official duties for a salaried public officer or employee of a  
22 local public body or state agency. If the secretary finds that  
23 a per diem allowance of eighty-five dollars (\$85.00) is  
24 inadequate for reimbursement of expenses in any municipality of  
25 this state, the secretary may authorize the reimbursement of

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1 per diem for travel to the municipality not to exceed one  
2 hundred thirty-five dollars (\$135); or

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

13 C. Every public officer or employee shall receive  
14 either reimbursement pursuant to the provisions of Subsection K  
15 or L of this section or:

16 (1) for public officers or employees of a  
17 state agency or local public body, up to one hundred fifteen  
18 dollars (\$115) per diem expenses for each day of travel outside  
19 the state on official business. If the secretary finds that a  
20 per diem allowance of one hundred fifteen dollars (\$115) is  
21 inadequate for out-of-state travel to a geographical area, the  
22 secretary may authorize per diem not to exceed two hundred  
23 fifteen dollars (\$215) for out-of-state travel to that  
24 geographical area; provided that the secretary may authorize  
25 per diem for travel to a locality inside or outside the

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

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

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1 officer or employee who is reimbursed solely from federal funds  
2 in accordance with the rate allowed by the federal government  
3 for travel to that locality. Expenses shall be substantiated  
4 in accordance with rules promulgated by the governing board.  
5 The governing board may promulgate rules defining what  
6 constitutes out-of-state travel for purposes of the Per Diem  
7 and Mileage Act.

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

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

25 F. In addition to the in-state per diem set forth

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1 in this section, the department of finance and administration,  
2 by rule, may authorize a flat subsistence rate in the amount  
3 set by the legislature in the general appropriation act for  
4 commissioned officers of the New Mexico state police in  
5 accordance with rules promulgated by the department of finance  
6 and administration.

7 G. In lieu of the in-state per diem set in  
8 Subsection B of this section, the department of finance and  
9 administration may, by rule, authorize a flat monthly  
10 subsistence rate for certain employees of the [~~state highway~~  
11 ~~and transportation~~] department of transportation, provided that  
12 the payments made under this subsection shall not exceed the  
13 maximum amount that would be paid under Subsection B of this  
14 section.

15 H. Per diem received by nonsalaried public officers  
16 for travel on official business or in the discharge of their  
17 official duties, other than attending a board or committee  
18 meeting, and per diem received by public officers and employees  
19 for travel on official business shall be prorated in accordance  
20 with rules of the department of finance and administration or  
21 the governing board.

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

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1     municipality.

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

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

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

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

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

25                             (1) reimbursement for actual expenses for

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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."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2006.

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.