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SENATE BILL 27

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2008**

INTRODUCED BY

Cynthia Nava

AN ACT

RELATING TO GOVERNMENTAL AFFAIRS; INCREASING THE MILEAGE RATE  
FOR PUBLIC OFFICERS AND EMPLOYEES.

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."