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AN ACT

RELATING TO PUBLIC OFFICERS; CLARIFYING ATTENDANCE PURSUANT TO THE PER DIEM AND MILEAGE ACT; CHANGING THE RATES OF PER DIEM REIMBURSEMENT FOR IN-STATE AND OUT-OF-STATE TRAVEL FOR CERTAIN PUBLIC OFFICERS AND EMPLOYEES; DECLARING AN EMERGENCY.

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

SECTION 1. Section 10-8-3 NMSA 1978 (being Laws 1971, Chapter 116, Section 2, as amended) is amended to read:

"10-8-3. DEFINITIONS.--As used in the Per Diem and Mileage Act:

A. "attend" means the act of being present, either physically or through a virtual platform that is approved by the entity responsible for determining attendance;

B. "secretary" means the secretary of finance and administration;

C. "employee" means any person who is in the employ of any state agency, local public body or public post-secondary educational institution and whose salary is paid either completely or in part from public money, but does not include jurors or jury commissioners;

D. "governing board" means the board of regents of any institution designated in Article 12, Section 11 of the constitution of New Mexico or designated in Chapter 21,

1 Article 14 NMSA 1978, or the board of any institution  
2 designated in Chapter 21, Articles 13, 16 and 17 NMSA 1978;

3 E. "local public body" means all political  
4 subdivisions of the state and their agencies,  
5 instrumentalities and institutions, except public  
6 post-secondary educational institutions;

7 F. "state agency" means the state or any of its  
8 branches, agencies, departments, boards, instrumentalities or  
9 institutions, except public post-secondary educational  
10 institutions;

11 G. "public post-secondary educational institution"  
12 means any institution designated in Article 12, Section 11 of  
13 the constitution of New Mexico and any institution designated  
14 in Chapter 21, Articles 13, 14, 16 and 17 NMSA 1978; and

15 H. "public officer" or "public official" means  
16 every elected or appointed officer of the state, local public  
17 body or any public post-secondary educational institution.  
18 "Public officer" or "public official" includes members of  
19 advisory boards appointed by any state agency, local public  
20 body or public post-secondary educational institution."

21 SECTION 2. Section 10-8-4 NMSA 1978 (being Laws 1963,  
22 Chapter 31, Section 3, as amended) is amended to read:

23 "10-8-4. PER DIEM AND MILEAGE RATES--IN LIEU OF  
24 PAYMENT.--

25 A. Notwithstanding any other specific law to the

1 contrary and except as provided in Subsection I of this  
2 section, every nonsalaried public officer shall receive  
3 either reimbursement pursuant to the provisions of  
4 Subsection K or L of this section or per diem expenses in the  
5 following amounts for a board or committee meeting attended;  
6 provided that the officer shall not receive per diem expenses  
7 for more than one board or committee meeting that occurs on  
8 the same day; or for each day spent in discharge of official  
9 duties for travel within the state but away from the  
10 officer's home:

11 (1) forty-five dollars (\$45.00) if the  
12 officer physically attends the board or committee meeting for  
13 less than four hours or the officer attends a virtual meeting  
14 of any duration during a single calendar day; or

15 (2) ninety-five dollars (\$95.00) if the  
16 officer physically attends the board or committee meeting for  
17 four hours or more during a single calendar day.

18 B. Every salaried public officer or employee who  
19 is traveling within the state but away from the officer's or  
20 employee's home and designated post of duty on official  
21 business shall receive either reimbursement pursuant to the  
22 provisions of Subsection K or L of this section or for each  
23 day spent in the discharge of official duties, the amount  
24 established by the department of finance and administration  
25 for the fiscal year in which the travel occurs. The

1 department of finance and administration shall establish the  
2 reimbursement rate to be used for the next fiscal year by  
3 May 1 of each fiscal year; provided that such rate shall take  
4 into consideration the rates available for lodging, meals and  
5 incidentals as determined by the United States general  
6 services administration for that period of time.

7 C. Every public officer or employee who is  
8 traveling outside of the state on official business shall  
9 receive either reimbursement pursuant to the provisions of  
10 Subsection K or L of this section or for each day spent in  
11 the discharge of official duties, the amount established by  
12 the department of finance and administration for the fiscal  
13 year in which the travel occurs. The department of finance  
14 and administration shall establish the reimbursement rate to  
15 be used for the next fiscal year by May 1 of each fiscal  
16 year; provided that such rate shall take into consideration  
17 the rates available for lodging, meals and incidentals as  
18 determined by the United States general services  
19 administration for that period of time. For a salaried  
20 public officer or employee of a local public body or state  
21 agency, expenses shall be substantiated in accordance with  
22 rules promulgated by the secretary of finance and  
23 administration, and the secretary may promulgate rules  
24 defining what constitutes out-of-state travel for the  
25 purposes of the Per Diem and Mileage Act. For a public

1 officer or employee of a public post-secondary educational  
2 institution, expenses shall be substantiated in accordance  
3 with rules promulgated by the governing board of that public  
4 post-secondary educational institution, and the governing  
5 board may promulgate rules defining what constitutes  
6 out-of-state travel for the purposes of the Per Diem and  
7 Mileage Act.

8           D. Every public officer or employee shall receive  
9 up to the internal revenue service standard mileage rate set  
10 January 1 of the previous year for each mile traveled in a  
11 privately owned vehicle or eighty-eight cents (\$.88) a mile  
12 for each mile traveled in a privately owned airplane if the  
13 travel is necessary to the discharge of the officer's or  
14 employee's official duties and if the private conveyance is  
15 not a common carrier; provided, however, that only one person  
16 shall receive mileage for each mile traveled in a single  
17 privately owned vehicle or airplane, except in the case of  
18 common carriers, in which case the person shall receive the  
19 cost of the ticket in lieu of the mileage allowance.

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

24           F. In addition to the in-state per diem set forth  
25 in this section, the department of finance and

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

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

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

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

25 J. In addition to any other penalties prescribed

1 by law for false swearing on an official voucher, it shall be  
2 cause for removal or dismissal from office.

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

10 (1) reimbursement for actual expenses for  
11 lodging; and

12 (2) reimbursement for actual expenses for  
13 meals and incidentals not to exceed the maximum amounts for  
14 in-state and out-of-state travel established by the  
15 department of finance and administration for the fiscal year  
16 in which the travel occurs; provided that the department of  
17 finance and administration shall establish the maximum rates  
18 for the reimbursement of actual expenses for meals and  
19 incidentals as described in Subsections B and C of this  
20 section.

21 L. With prior written approval of the governing  
22 board or its designee, a nonsalaried public officer of a  
23 public post-secondary educational institution, a salaried  
24 public officer of a public post-secondary educational  
25 institution or a salaried employee of a public post-secondary

1 educational institution is entitled to per diem expenses  
2 under this subsection and shall receive:

3 (1) reimbursement for actual expenses for  
4 lodging; and

5 (2) reimbursement for actual expenses for  
6 meals and incidentals not to exceed the maximum amounts for  
7 in-state and out-of-state travel established by the  
8 department of finance and administration for the fiscal year  
9 in which the travel occurs; provided that the department of  
10 finance and administration shall establish the maximum rates  
11 for the reimbursement of actual expenses for meals and  
12 incidentals as described in Subsections B and C of this  
13 section."

14 SECTION 3. EMERGENCY.--It is necessary for the public  
15 peace, health and safety that this act take effect  
16 immediately.

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