Core Services Category: Personnel

Study Area: Cost Savings

High Level Recommendation: Amend statute to reduce the per diem for non-salaried public officials from $95 to $85.

Problem Statement: Current statute provides a higher reimbursement rate for non-salaried public officials traveling for board or committee meetings or for each day spent in discharge of official duties within the state but away from the officer's home.

Background and Findings: The Per Diem and Mileage Act (Section 10-8-1 through 10-8-8) specifies how much employees, salaried public officials, and non-salaried public officials shall receive for travel within and outside the state. Per diem rates are established in law as are provisions for reimbursement of actual expenses.

Section 10-8-4 specifies the current per diem for non-salaried public officers is $95 for travel within the state. Current statute defines "public officer" to mean every elected or appointed officer of the state, local public body, or any public post-secondary educational institution, including those appointed to advisory boards. This does not include per diem rates for elected legislative members, which are covered under Section 2-1-8 NMSA 1978.

Subsection B of the same section dictates that every salaried public officer or employee traveling in the state shall receive $85 per diem, although the provision allows up to $135 per diem if secretary of the Department of Finance and Administration or governing board finds that the $85 allowance is inadequate for reimbursement.

In general, current statute treats non-salaried public officials differently than salaried public officials or employees; requires the per diem be made; and excludes a non-salaried public official of a municipality from the per diem and mileage rules for attending board or committee meetings within the municipality.

Options to Consider:

Option 1: The bill makes the law uniform for all categories of public officers (except legislative members) and employees; replaces the directive "shall" with a more permissive "is entitled to;" and expands the non-payment of per diem and mileage from non-salaried municipal officials attending meetings within the municipality to include all public officials (as redefined) for attending a board or committee meetings held within 35 miles of the official's home or other radius as provided by rule.

The bill eliminates the distinction made for non-salaried public officers by redefining "public officer" to mean all salaried or non-salaried public officials. At the same time, it eliminates the $95 per diem for non-salaried public officials. Presumably, this change would reduce the cost to state agencies, local governing bodies, and public higher education institutions by reducing the rate from $95 for non-salaried public officers to $85 for in-state travel.

Excluding payment for all public officers traveling to board or committee meetings within a 35 mile radius (or otherwise defined by rule) would also presumably save these governmental and educational entities money by reducing the potential claims for reimbursement.

The bill does not include a member of the legislature in the definition of "public officer," leaving the per diem and mileage rates for members of the legislature subject to Section 2-1-8 NMSA 1978.

Option 2: Retain the status quo, which gives $95 to non-salaried public officials and $85 per diem to everyone else.

Option 3: Keep the current wording that separates the non-salaried public officials but reduce the rate from $95 to $85, which would not provide the optional range of per diem rates from $85 to $135. Include the 35-mile radius exclusion as defined in this bill.

Fiscal Implications: The savings attributable to reducing the per diem for non-salaried public officials from $95 to $85 is indeterminate. Commission and board travel within state could be calculated for state agencies; however, any offset in increased costs from raising the single $95 per diem rate to the $85 to $135 rate range available under the proposed law is unknown. Furthermore, the number of board and committee meetings occurring within or outside the 35 mile radius of each salaried and non-salaried public official's home is also unknown.

To the extent the number of boards and commission are eliminated in statute, potential savings from this bill would also be reduced.

Estimated Savings, Option 1 and Option 3 (in thousands of dollars)

FY11	FY12	Recurring or Nonrecurring	Fund Affected
	Minimal	Recurring	Indeterminate