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AN ACT

REGARDING PUBLIC FINANCES; REVISING MILEAGE REIMBURSEMENT RATES; AMENDING THE PER DIEM AND MILEAGE ACT; REVISING THE HIGHEST THREE-YEAR AVERAGE METHOD FOR CALCULATING THE PENSION PAYABLE PURSUANT TO STATE LEGISLATOR COVERAGE PLAN 2.

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.-- 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 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 attended; or

(2) for each day spent in discharge of official duties for travel within the state but away from the

1 officer's home.

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

5 B. Every salaried public officer or employee who
6 is traveling within the state but away from the officer's or
7 employee's home and designated post of duty on official
8 business shall receive either reimbursement pursuant to the
9 provisions of Subsection K or L of this section or:

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

19 (2) up to eighty-five dollars (\$85.00) per
20 diem expenses for each day spent in the discharge of official
21 duties for a salaried public officer or employee of a public
22 post-secondary educational institution. If the governing
23 board finds that a per diem allowance of eighty-five dollars
24 (\$85.00) is inadequate for reimbursement of expenses in any
25 municipality of this state, the governing board may authorize

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

3 C. Every public officer or employee shall receive
4 either reimbursement pursuant to the provisions of Subsection
5 K or L of this section or:

6 (1) for public officers or employees of a
7 state agency or local public body, up to one hundred fifteen
8 dollars (\$115) per diem expenses for each day of travel
9 outside the state on official business. If the secretary
10 finds that a per diem allowance of one hundred fifteen
11 dollars (\$115) is inadequate for out-of-state travel to a
12 geographical area, the secretary may authorize per diem not
13 to exceed two hundred fifteen dollars (\$215) for out-of-state
14 travel to that geographical area; provided that the secretary
15 may authorize per diem for travel to a locality inside or
16 outside the continental United States for a public officer or
17 employee who is reimbursed solely from federal funds in
18 accordance with the rate allowed by the federal government
19 for travel to that locality. In lieu of per diem, a person
20 trained in the field of accountancy and performing duties in
21 that field of training as an employee while assigned for
22 periods exceeding three weeks per assignment to travel out of
23 state on official business may receive either reimbursement
24 pursuant to the provisions of Subsection K of this section or
25 actual expenses not to exceed two hundred fifteen dollars

1 (\$215) per day. Expenses shall be substantiated in
2 accordance with rules promulgated by the department of
3 finance and administration. The secretary may promulgate
4 rules defining what constitutes out-of-state travel for
5 purposes of the Per Diem and Mileage Act; or

6 (2) for public officers or employees of a
7 public post-secondary educational institution, up to one
8 hundred fifteen dollars (\$115) per diem expenses for each day
9 of travel outside the state on official business. If the
10 governing board finds that a per diem allowance of one
11 hundred fifteen dollars (\$115) is inadequate for out-of-state
12 travel to a geographical area, the governing board may
13 authorize per diem not to exceed two hundred fifteen dollars
14 (\$215) for out-of-state travel to that geographical area;
15 provided that the governing board may authorize per diem for
16 travel to a locality inside or outside the continental United
17 States for a public officer or employee who is reimbursed
18 solely from federal funds in accordance with the rate allowed
19 by the federal government for travel to that locality.
20 Expenses shall be substantiated in accordance with rules
21 promulgated by the governing board. The governing board may
22 promulgate rules defining what constitutes out-of-state
23 travel for purposes of the Per Diem and Mileage Act.

24 D. Every public officer or employee shall receive
25 the internal revenue service standard mileage rate, for

1 privately owned vehicles and airplanes, for each mile
2 traveled if the travel is necessary to the discharge of
3 official duties and if the private conveyance is not a common
4 carrier; provided, however, that only one person shall
5 receive mileage for each mile traveled in a single privately
6 owned vehicle or airplane, except in the case of common
7 carriers, in which case the person shall receive the cost of
8 the ticket in lieu of the mileage allowance.

9 E. The per diem and mileage or per diem and cost
10 of tickets for common carriers paid to salaried public
11 officers or employees is in lieu of actual expenses for
12 transportation, lodging and subsistence.

13 F. In addition to the in-state per diem set forth
14 in this section, the department of finance and
15 administration, by rule, may authorize a flat subsistence
16 rate in the amount set by the legislature in the general
17 appropriation act for commissioned officers of the New Mexico
18 state police in accordance with rules promulgated by the
19 department of finance and administration.

20 G. In lieu of the in-state per diem set in
21 Subsection B of this section, the department of finance and
22 administration may, by rule, authorize a flat monthly
23 subsistence rate for certain employees of the department of
24 transportation, provided that the payments made under this
25 subsection shall not exceed the maximum amount that would be

1 paid under Subsection B of this section.

2 H. Per diem received by nonsalaried public
3 officers for travel on official business or in the discharge
4 of their official duties, other than attending a board or
5 committee meeting, and per diem received by public officers
6 and employees for travel on official business shall be
7 prorated in accordance with rules of the department of
8 finance and administration or the governing board.

9 I. The provisions of Subsection A of this section
10 do not apply to payment of per diem expense to a nonsalaried
11 public official of a municipality for attendance at board or
12 committee meetings held within the boundaries of the
13 municipality.

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

17 K. With prior written approval of the secretary or
18 the secretary's designee or the local public body, a
19 nonsalaried public officer of a state agency or local public
20 body, a salaried public officer of a state agency or local
21 public body or a salaried employee of a state agency or local
22 public body is entitled to per diem expenses under this
23 subsection and shall receive:

24 (1) reimbursement for actual expenses for
25 lodging; and

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

5 L. With prior written approval of the governing
6 board or its designee, a nonsalaried public officer of a
7 public post-secondary educational institution, a salaried
8 public officer of a public post-secondary educational
9 institution or a salaried employee of a public post-secondary
10 educational institution is entitled to per diem expenses
11 under this 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 Section 3. Section 10-11-43.3 NMSA 1978 (being Laws
19 2003, Chapter 85, Section 9) is amended to read:

20 10-11-43.3. STATE LEGISLATOR MEMBER COVERAGE PLAN 2--
21 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state legislator
22 member coverage plan 2, the annual amount of pension under
23 form of payment A is equal in any calendar year to eleven
24 percent of the average of the three highest per diem rates in
25 effect, pursuant to Section 2-1-8 NMSA 1978, as determined on

1 July 1 of each year of service of the legislator or
2 lieutenant governor multiplied by sixty and further
3 multiplied by credited service as a legislator or lieutenant
4 governor. A pension paid under state legislator member
5 coverage plan 2 shall be adjusted pursuant to Section
6 10-11-118 NMSA 1978 for a legislator or lieutenant governor
7 who has been retired for at least two full calendar years
8 from the effective date of the latest retirement prior to
9 July 1 of the year in which the pension is being adjusted."

10 Section 4. TEMPORARY PROVISION--APPLICABILITY.--The
11 adjustment in the pension for state legislator member
12 coverage plan 2 provided in Section 3 of this act is
13 applicable to state legislator members who retire on or after
14 July 1, 2006."

15 Section 5. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2006. _____

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