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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/06
 LAST UPDATED 2/14/06 HB _____

SPONSOR Jennings

SHORT TITLE Revise Per Diem & Mileage Reimbursement SB 20/aHCPAC/aHF1

ANALYST Hadwiger

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY06	FY07	FY08	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$1,300.0	\$1,300.0		Recurring	Various

(Parenthesis () Indicate Expenditure Decreases)

Original bill duplicates HB786 except for effective date, relates to HB686.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Administrative Office of the Courts (AOC)
 Public Education Department (PED)
 Department of Corrections (DOC)
 New Mexico Department of Agriculture (NMDA)
 Public Employee Retirement Association (PERA)

SUMMARY

Synopsis of the House Floor Amendment #1

The House Floor amendment to Senate Bill 20 strikes the HCPAC amendment and substantively reinserts the same amendment with critical technical corrections (particularly references to pages and line numbers in the original bill for locations of changes).

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment adds a new Section 3 to revise the method for calculating the pension payable pursuant to the State Legislator Coverage Plan 2 as follows:

. . . annual amount of pension under form of payment A
 is equal in any calendar year to eleven percent of the
average of the three highest per diem [rate] rates in effect,

pursuant to Section 2-1-8 NMSA 1978, [~~on December 31 of the calendar year that~~] as determined on July 1 of each year of service of the legislator or lieutenant governor . . .

PERA indicates that this would probably result in a higher per diem by averaging the three high years because the per diem rate fluctuates from year to year. The Legislative Retirement Fund receives distributions of withholdings from certain oil and gas proceeds. Since this statutory appropriation, in addition to member contributions, exists, PERA believes the cost associated with this amendment is funded.

Over the past ten years, the per diem rate has fluctuated between \$125.00 and \$181.00. This amendment assures that legislators' retirements won't be dictated by the IRS per diem rate in the particular year they retire but would be the average of the three highest rates. If a legislator retired in December 2005 after ten years of service and this language were already in place, the legislator's annual retirement would have been \$1,870.00 higher than under the present laws.

Synopsis of Original Bill

Senate Bill 20 would tie reimbursement for public officer and employee use of private vehicles and private airplanes to IRS standard mileage rates (currently \$0.445) instead of \$0.32 per mile in present New Mexico statute. The rate for privately owned airplanes would go from 88 cents per mile to \$1.07 per mile, a 21.5 percent increase. The bill does not revise the current per-diem reimbursements. The effective date of this legislation is July 1, 2006.

FISCAL IMPLICATIONS

SB20 would provide a 39 percent increase in mileage rate paid for use of a private vehicle. According to the Department of Finance and Administration (DFA), object code 421 is used to record costs associated with mileage and fares and is used to pay for mileage reimbursement. FY06 operating budgets for all agencies have \$3.4 million budgeted for this item. With the reimbursement increasing 39 percent, the increased costs are estimated at \$1.3 million which would be absorbed by agencies in FY07 and, presumably, would be requested as in subsequent years. Because the DFA financial system does not account for local expenditures, there is no way to estimate the costs to local governing bodies that were allowed to modify the reimbursement but will not be able to in the future.

The Administrative Office of the Courts (AOC) offered an example of how the bill might affect court budgets in lieu of additional appropriations. AOC spent a total of \$1.2 million on mileage alone in FY05, including about \$1 million for the jury and witness fee fund and the \$126,927 for all other AOC programs. AOC estimated the increase for the jury and witness fee fund to pay jurors and interpreters for in-state mileage for privately owned vehicles is \$412,309; the estimated increase for the remaining AOC programs would be \$49,628, for a total of \$461,937. AOC indicated that, if this percent increase is not funded for FY07, it may have a considerable impact to the AOC budget. The jury and witness fee fund, the AOC, and the entire judiciary may need to request supplemental funding because of this increase.

PED anticipated recurring costs of about \$150 thousand from this bill. Of the increased costs, \$55 thousand would come from the general fund. The remainder would be federal and other funds. This legislation would also have an impact on school district operating budgets as they

are under the current 32 cents per mile rules.

SIGNIFICANT ISSUES

If enacted, the bill would cause New Mexico reimbursement for the use of private vehicles on state business to be automatically increased or decreased annually based upon federal IRS administrative action.

DFA indicated that this bill would raise the mileage reimbursement rate to the current federal rate. Transportation costs have increase—particularly for fuel—and employees have complained the current reimbursement rate is too low.

NMDA noted that many state agencies reimburse mileage to members of boards, commissions, task forces, and committees. Fair compensation for travel expenses is necessary to ensure people are willing to serve the public in these capacities, but a sharp increase in the rate without a corresponding increase in agency budgets will force some hard choices and could render boards and commissions ineffective and non-functional if they are not able to travel to meetings.

DOC noted that Corrections Department employees from Las Cruces who are required to travel to Santa Fe currently have an incentive to avoid car-pooling in order to collect over \$300 in per diem reimbursements. This bill would contribute to that disincentive to car-pool.

PERFORMANCE IMPLICATIONS

AOC was concerned that shortfalls in appropriations for travel reimbursement might hamper court performance on key strategic measures.

PED indicated the bill would directly affect the agency's core performance measures and benchmarks if the increase is not adequately funded. Agency travel would be reduced.

ADMINISTRATIVE IMPLICATIONS

DFA noted that, in the short run, agencies would have to adjust planned travel to absorb for the increased costs. AOC was concerned that shortfalls in appropriations for travel reimbursements might hinder court operations.

PED added that, without adequate funding, field functions would be limited, impacting school districts. The PED would be unable to absorb these additional travel costs. School districts would be negatively impacted as well.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB20 duplicates HB786 except for the effective date, and conflicts with HB 686 which would increase mileage paid for use of a personal vehicle from 32 cents per mile to 44.5 cents per mile but not tie future increases to the IRS rate or affect use of a private plane.

ALTERNATIVES

Alternatives include delaying implementation of the law to allow agency budgets to be adjusted

for the added expense; making a one-time adjustment in the mileage rate; and authorizing a New Mexico agency, rather than a federal agency, to adjust the reimbursement by regulation. Among the agencies commenting on the bill, there was consensus that it would be beneficial to appropriate funds to agencies to cover the additional costs from this bill.

DH/mt:yr:nt