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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/11

SPONSOR Eichenberg LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Uniform Per Diem & Mileage SB 107

ANALYST Graeser

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		<(\$10.0)	<(\$10.0)	<(\$20.0)	Recurring	General Fund
		<(\$50.0)	<(\$50.0)	<(\$100.0)	Recurring	Other State Funds
		<(\$100.0)	<(\$100.0)	<(\$200.0)	Recurring	Local Governments
		<(\$10.0)	<(\$10.0)	<(\$20.0)	Recurring	Higher Education

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to appropriations in the General Appropriation Act, primarily for boards and commissions and, in particular, for Regulation and Licensing Department (which is funded primarily from other state funds).

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Employees Retirement Association (PERA)  
 Secretary of State (SOS)  
 State Treasurer (STO)  
 Regulation and Licensing Department (RLD)  
 Public Regulation Commission (PRC)  
 Public Education Department (PED)  
 Higher Education Department (HED)  
 Municipal League

### SUMMARY

#### Synopsis of Bill

Senate Bill 107, introduced on behalf of the Government Restructuring Task Force, amends the Per Diem and Mileage Act. The bill defines “public officer” and “public official” to mean “salaried or nonsalaried” and to treat those officers the same and the same as “employees” for per diem and mileage purposes under the Act. The bill also provides that “public officer” or “public official” does not include members of the legislature unless specifically included.

Officials of the state, a local public body or a post-secondary institution may not receive per diem and mileage for attendance at meetings within a thirty-five mile radius of the official's home or other radius as provided by rule of the DFA secretary. The net effect of this bill is to reduce the section 10-8-4 NMSA 1978 per diem for nonsalaried public offices from the current \$95 for travel within the state to \$85 per day.

### **FISCAL IMPLICATIONS**

The judiciary reports savings of approximately \$(2.6). PERA estimates fiscal impact at \$(.7) ERB reports decreased costs of \$(7.0), while PED anticipates savings of \$(5.0) annually. RLD simply reports, "RLD will save money due to this proposal," but does not quantify the savings.

### **SIGNIFICANT ISSUES**

GRTF staff describe the background of this bill as follows: current statute provides a higher reimbursement rate for nonsalaried 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. Section 10-8-4 specifies the current per diem for nonsalaried public offices 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. 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. Statute currently indicates that the payments or reimbursements shall be made. Current statute also specifies that the per diem rates do not apply for nonsalaried public officials of a municipality for attending board or committee meetings within the boundaries of the municipality. In general, current statute treats nonsalaried public officials differently than salaried public officials or employees; requires the per diem be made; and excludes a nonsalaried public official of a municipality from the per diem and mileage rules for attending board or committee meetings within the municipality. Per diem for elected legislative members are covered under Section 2-1-8 NMSA 1978.

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 nonsalaried 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 nonsalaried public officers by redefining "public officer" to mean all salaried or nonsalaried public officials. At the same time, it eliminates the \$95 per diem for nonsalaried 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 nonsalaried 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.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Per diem rates for nonsalaried public officials will remain at \$95 per day and per diem will be disallowed if travel is less than 35 miles one-way from duty station to meeting location.

LG/bym