

SENATE BILL 345

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Roberto "Bobby" J. Gonzales

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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 HSEIC→; **DECLARING AN EMERGENCY**←HSEIC .

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

SECTION 1. Section 10-8-3 NMSA 1978 (being Laws 1971,

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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;

~~[A.]~~ B. "secretary" means the secretary of finance and administration;

~~[B.]~~ 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;

~~[C.]~~ 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, Article 14 NMSA 1978, or the board of any institution designated in Chapter 21, Articles 13, 16 and 17 NMSA 1978;

~~[D.]~~ E. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions, except public post-secondary educational institutions;

~~[E.]~~ F. "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, except public post-secondary educational

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institutions;

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

[G-] H. "public officer" or "public official" means every elected or appointed officer of the state, local public body or any public post-secondary educational institution. "Public officer" or "public official" includes members of advisory boards appointed by any state agency, local public body or public post-secondary educational institution."

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 [~~(+)~~] in the following amounts for [~~each~~] a board or committee meeting attended; provided that the officer shall not receive per diem expenses for more than one board or committee meeting that occurs on the same day; or [~~(+)~~] for

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each day spent in discharge of official duties for travel within the state but away from the officer's home:

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

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

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

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

~~[(1) up to eighty-five dollars (\$85.00) per diem expenses for each day spent in the discharge of official duties for a salaried public officer or employee of a local public body or state agency. If the secretary finds that a per diem allowance of eighty-five dollars (\$85.00) is inadequate for reimbursement of expenses in any municipality of this state, the secretary may authorize the reimbursement of per diem for travel to the municipality not to exceed one hundred~~

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~~thirty-five dollars (\$135); or~~

~~(2) up to eighty-five dollars (\$85.00) per diem expenses for each day spent in the discharge of official duties for a salaried public officer or employee of a public post-secondary educational institution. If the governing board finds that a per diem allowance of eighty-five dollars (\$85.00) is inadequate for reimbursement of expenses in any municipality of this state, the governing board may authorize the reimbursement of per diem for travel to the municipality not to exceed one hundred thirty-five dollars (\$135)]~~ for each day spent in the discharge of official duties, the amount established by the department of finance and administration for the fiscal year in which the travel occurs. The department of finance and administration shall establish the reimbursement rate HSEIC→~~by July~~←HSEIC HSEIC→to be used for the next fiscal year by May←HSEIC 1 of each fiscal year; provided that such rate shall take into consideration the rates available for lodging, meals and incidentals as determined by the United States general services administration for that period of time.

C. Every public officer or employee who is traveling outside of the state on official business shall receive either reimbursement pursuant to the provisions of Subsection K or L of this section or

~~[(1) for public officers or employees of a state agency or local public body, up to one hundred fifteen~~

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~~dollars (\$115) per diem expenses for each day of travel outside the state on official business. If the secretary finds that a per diem allowance of one hundred fifteen dollars (\$115) is inadequate for out-of-state travel to a geographical area, the secretary may authorize per diem not to exceed two hundred fifteen dollars (\$215) for out-of-state travel to that geographical area; provided that the secretary may authorize per diem for travel to a locality inside or outside the continental United States for a public officer or employee who is reimbursed solely from federal funds in accordance with the rate allowed by the federal government for travel to that locality. In lieu of per diem, a person trained in the field of accountancy and performing duties in that field of training as an employee while assigned for periods exceeding three weeks per assignment to travel out of state on official business may receive either reimbursement pursuant to the provisions of Subsection K of this section or actual expenses not to exceed two hundred fifteen dollars (\$215) per day. Expenses shall be substantiated in accordance with rules promulgated by the department of finance and administration. The secretary may promulgate rules defining what constitutes out-of-state travel for purposes of the Per Diem and Mileage Act; or~~

~~(2) for public officers or employees of a public post-secondary educational institution, up to one hundred fifteen dollars (\$115) per diem expenses for each day~~

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~~of travel outside the state on official business. If the governing board finds that a per diem allowance of one hundred fifteen dollars (\$115) is inadequate for out-of-state travel to a geographical area, the governing board may authorize per diem not to exceed two hundred fifteen dollars (\$215) for out-of-state travel to that geographical area; provided that the governing board may authorize per diem for travel to a locality inside or outside the continental United States for a public officer or employee who is reimbursed solely from federal funds in accordance with the rate allowed by the federal government for travel to that locality. Expenses shall be substantiated in accordance with rules promulgated by the governing board. The governing board may promulgate rules defining what constitutes out-of-state travel for purposes of the Per Diem and Mileage Act]~~ for each day spent in the discharge of official duties, the amount established by the department of finance and administration for the fiscal year in which the travel occurs. The department of finance and administration shall establish the reimbursement rate HSEIC→by July←HSEIC HSEIC→to be used for the next fiscal year by May←HSEIC 1 of each fiscal year; provided that such rate shall take into consideration the rates available for lodging, meals and incidentals as determined by the United States general services administration for that period of time. For a salaried public officer or employee of a local public body or state agency,

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expenses shall be substantiated in accordance with rules promulgated by the secretary of finance and administration, and the secretary may promulgate rules defining what constitutes out-of-state travel for the purposes of the Per Diem and Mileage Act. For a public officer or employee of a public post-secondary educational institution, expenses shall be substantiated in accordance with rules promulgated by the governing board of that public post- secondary educational institution, and the governing board may promulgate rules defining what constitutes out-of-state travel for the purposes of the Per Diem and Mileage Act.

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

E. The per diem and mileage or per diem and cost of tickets for common carriers paid to salaried public officers or

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employees is in lieu of actual expenses for transportation, lodging and subsistence.

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

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

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

I. The provisions of Subsection A of this section do not apply to payment of per diem expense to a nonsalaried

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public official of a municipality for attendance at board or committee meetings held within the boundaries of the municipality.

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

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

(1) reimbursement for actual expenses for lodging; and

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

SHPAC→(2) reimbursement for actual expenses for meals and incidentals not to exceed the maximum amounts for in-state and out-of-state travel established by the department of finance and administration for the fiscal year in which the travel occurs; provided that the department of finance and administration shall establish the maximum rates for the

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reimbursement of actual expenses for meals and incidentals as described in Subsections B and C of this section. ←SHPAC

L. With prior written approval of the governing board or its designee, a nonsalaried public officer of a public post-secondary educational institution, a salaried public officer of a public post-secondary educational institution or a salaried employee of a public post-secondary educational institution is entitled to per diem expenses under this subsection and shall receive:

(1) reimbursement for actual expenses for lodging; and

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

SHPAC → (2) reimbursement for actual expenses for meals and incidentals not to exceed the maximum amounts for in-state and out-of-state travel established by the department of finance and administration for the fiscal year in which the travel occurs; provided that the department of finance and administration shall establish the maximum rates for the reimbursement of actual expenses for meals and incidentals as described in Subsections B and C of this section. ←SHPAC

HSEIC → SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect

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immediately.←HSEIC

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