

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 126

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

William P. Soules

AN ACT

RELATING TO PUBLIC OFFICERS; ADJUSTING THE REIMBURSEMENT RATES FOR TRAVEL BY PRIVATELY OWNED AUTOMOBILE AND PRIVATELY OWNED AIRPLANE.

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

SECTION 1. Section 2-1-9 NMSA 1978 (being Laws 1971, Chapter 1, Section 11, as amended) is amended to read:

"2-1-9. OUT-OF-STATE TRAVEL--IN-STATE TRAVEL.--

A. Out-of-state travel of members, officers and employees of the legislative branch of government shall be exempt from approval by any member of the executive branch.

B. Members of the legislature serving on official business for interim committees within the state shall receive:

(1) per diem at the internal revenue service per diem rate as provided in Section 2-1-8 NMSA 1978 for each

.227379.2

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
~~[bracketed material] = delete~~

1 day served, including travel time, and the cost of public  
2 transportation by the shortest, most direct route or mileage  
3 for each mile traveled by the shortest, most direct route by  
4 ~~[automobiles]~~ automobile or airplane at the ~~[internal revenue~~  
5 ~~service]~~ standard mileage rate ~~[or by privately owned aircraft~~  
6 ~~at the air mileage rate set out by the rules adopted by the~~  
7 ~~department of finance and administration pursuant to the Per~~  
8 ~~Diem and Mileage Act]~~ set by the United States general services  
9 administration for privately owned automobile and privately  
10 owned airplane; and

11 (2) per diem for one additional day at the  
12 internal revenue service per diem rate as provided in Section  
13 2-1-8 NMSA 1978 if, in order to serve on official business for  
14 an interim committee, a legislator travels to a location that  
15 is one hundred or more miles from the location of the  
16 legislator's point of departure; provided that, pursuant to  
17 policies adopted by the New Mexico legislative council, per  
18 diem under this paragraph shall be paid only if the legislator  
19 is not entitled to per diem for travel time as provided in  
20 Paragraph (1) of this subsection.

21 C. Reimbursement for out-of-state travel on  
22 committee business shall be as follows:

23 (1) the cost of the tickets on public  
24 transportation by the shortest, most direct route and the cost  
25 of airport parking; or

.227379.2

underscored material = new  
~~[bracketed material] = delete~~

1 (2) mileage at the same rates established for  
2 in-state travel if automobiles or private airplanes are used,  
3 based on official mileage by the shortest, most direct route;  
4 and

5 (3) per diem for the number of days spent in  
6 travel and on committee business at the in-state rate provided  
7 for in Section 2-1-8 NMSA 1978; and

8 (4) in no event, however, shall the  
9 reimbursement for out-of-state travel exceed the dollar amount  
10 that would be due if the member had used first class public air  
11 transportation by the shortest, most direct route."

12 SECTION 2. Section 10-8-4 NMSA 1978 (being Laws 1963,  
13 Chapter 31, Section 3, as amended) is amended to read:

14 "10-8-4. PER DIEM AND MILEAGE RATES--IN LIEU OF  
15 PAYMENT.--

16 A. Notwithstanding any other specific law to the  
17 contrary and except as provided in Subsection I of this  
18 section, every nonsalaried public officer shall receive either  
19 reimbursement pursuant to the provisions of Subsection K or L  
20 of this section or per diem expenses in the following amounts  
21 for a board or committee meeting attended; provided that the  
22 officer shall not receive per diem expenses for more than one  
23 board or committee meeting that occurs on the same day; or for  
24 each day spent in discharge of official duties for travel  
25 within the state but away from the officer's home:

.227379.2

underscoring material = new  
~~[bracketed material]~~ = delete

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

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

8                   B. Every salaried public officer or employee who is  
9 traveling within the state but away from the officer's or  
10 employee's home and designated post of duty on official  
11 business shall receive either reimbursement pursuant to the  
12 provisions of Subsection K or L of this section or for each day  
13 spent in the discharge of official duties, the amount  
14 established by the department of finance and administration for  
15 the fiscal year in which the travel occurs. The department of  
16 finance and administration shall establish the reimbursement  
17 rate to be used for the next fiscal year by May 1 of each  
18 fiscal year; provided that such rate shall take into  
19 consideration the rates available for lodging, meals and  
20 incidentals as determined by the United States general services  
21 administration for that period of time.

22                   C. Every public officer or employee who is  
23 traveling outside of the state on official business shall  
24 receive either reimbursement pursuant to the provisions of  
25 Subsection K or L of this section or for each day spent in the

.227379.2

underscoring material = new  
~~[bracketed material] = delete~~

1 discharge of official duties, the amount established by the  
2 department of finance and administration for the fiscal year in  
3 which the travel occurs. The department of finance and  
4 administration shall establish the reimbursement rate to be  
5 used for the next fiscal year by May 1 of each fiscal year;  
6 provided that such rate shall take into consideration the rates  
7 available for lodging, meals and incidentals as determined by  
8 the United States general services administration for that  
9 period of time. For a salaried public officer or employee of a  
10 local public body or state agency, expenses shall be  
11 substantiated in accordance with rules promulgated by the  
12 secretary of finance and administration, and the secretary may  
13 promulgate rules defining what constitutes out-of-state travel  
14 for the purposes of the Per Diem and Mileage Act. For a public  
15 officer or employee of a public post-secondary educational  
16 institution, expenses shall be substantiated in accordance with  
17 rules promulgated by the governing board of that public post-  
18 secondary educational institution, and the governing board may  
19 promulgate rules defining what constitutes out-of-state travel  
20 for the purposes of the Per Diem and Mileage Act.

21 D. Every public officer or employee shall receive  
22 ~~[up to the internal revenue service]~~ the standard mileage rate  
23 set by the United States general services administration as of  
24 January 1 of the previous year for each mile traveled in a  
25 privately owned ~~[vehicle]~~ automobile or ~~[eighty-eight cents~~

.227379.2

underscoring material = new  
[bracketed material] = delete

1 (~~\$.88) a mile for each mile traveled in~~] a privately owned  
2 airplane if the travel is necessary to the discharge of the  
3 officer's or employee's official duties and if the private  
4 conveyance is not a common carrier; provided, however, that  
5 only one person shall receive mileage for each mile traveled in  
6 a single privately owned [~~vehicle~~] automobile or airplane,  
7 except in the case of common carriers, in which case the person  
8 shall receive the cost of the ticket in lieu of the mileage  
9 allowance.

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

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

21 G. In lieu of the in-state per diem set in  
22 Subsection B of this section, the department of finance and  
23 administration may, by rule, authorize a flat monthly  
24 subsistence rate for certain employees of the department of  
25 transportation; provided that the payments made under this

.227379.2

underscored material = new  
~~[bracketed material] = delete~~

1 subsection shall not exceed the maximum amount that would be  
2 paid under Subsection B of this section.

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

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

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

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

25 (1) reimbursement for actual expenses for

.227379.2

underscored material = new  
~~[bracketed material] = delete~~

1 lodging; and

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

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

17 (1) reimbursement for actual expenses for  
18 lodging; and

19 (2) reimbursement for actual expenses for  
20 meals and incidentals not to exceed the maximum amounts for in-  
21 state and out-of-state travel established by the department of  
22 finance and administration for the fiscal year in which the  
23 travel occurs; provided that the department of finance and  
24 administration shall establish the maximum rates for the  
25 reimbursement of actual expenses for meals and incidentals as

.227379.2

underscoring material = new  
~~[bracketed material] = delete~~

1 described in Subsections B and C of this section."

2 SECTION 3. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2024.

4 - 9 -

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25