



The Legislature
of the
State of New Mexico

49th Legislature, 1st Session

LAWS 2009

CHAPTER 170

HOUSE BILL 336, as amended

Introduced by

REPRESENTATIVE RICK MIERA AND
REPRESENTATIVE SHERYL WILLIAMS STAPLETON

REPRESENTATIVE GAIL CHASEY
REPRESENTATIVE MIMI STEWART
REPRESENTATIVE JIMMIE C. HALL
REPRESENTATIVE THOMAS A. GARCIA
REPRESENTATIVE LUCIANO "LUCKY" VARELA
REPRESENTATIVE ROBERTO "BOBBY" J. GONZALES
REPRESENTATIVE RHONDA S. KING
REPRESENTATIVE ANDREW J. BARRERAS
REPRESENTATIVE DANICE PICRAUX



Chapter 170

AN ACT

RELATING TO PUBLIC EMPLOYEES; INCREASING THE MILEAGE RATE
UNDER THE PER DIEM AND MILEAGE ACT.

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

Section 1. 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
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.

B. Every salaried public officer or employee who
is traveling within the state but away from the officer's or

1 employee's home and designated post of duty on official
2 business shall receive either reimbursement pursuant to the
3 provisions of Subsection K or L of this section or:

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

13 (2) up to eighty-five dollars (\$85.00) per
14 diem expenses for each day spent in the discharge of official
15 duties for a salaried public officer or employee of a public
16 post-secondary educational institution. If the governing
17 board finds that a per diem allowance of eighty-five dollars
18 (\$85.00) is inadequate for reimbursement of expenses in any
19 municipality of this state, the governing board may authorize
20 the reimbursement of per diem for travel to the municipality
21 not to exceed one hundred thirty-five dollars (\$135).

22 C. Every public officer or employee shall receive
23 either reimbursement pursuant to the provisions of Subsection
24 K or L of this section or:

25 (1) for public officers or employees of a

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

25 (2) for public officers or employees of a

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

18 D. Every public officer or employee shall receive
19 up to the internal revenue service standard mileage rate set
20 January 1 of the previous year for each mile traveled in a
21 privately owned vehicle or eighty-eight cents (\$.88) a mile
22 for each mile traveled in a privately owned airplane if the
23 travel is necessary to the discharge of the officer's or
24 employee's official duties and if the private conveyance is
25 not a common carrier; provided, however, that only one person

1 shall receive mileage for each mile traveled in a single
2 privately owned vehicle or airplane, except in the case of
3 common carriers, in which case the person shall receive the
4 cost of the ticket in lieu of the mileage allowance.

5 E. The per diem and mileage or per diem and cost
6 of tickets for common carriers paid to salaried public
7 officers or employees is in lieu of actual expenses for
8 transportation, lodging and subsistence.

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

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

23 H. Per diem received by nonsalaried public
24 officers for travel on official business or in the discharge
25 of their official duties, other than attending a board or

1 committee meeting, and per diem received by public officers
2 and employees for travel on official business shall be
3 prorated in accordance with rules of the department of finance
4 and administration or the governing board.

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

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

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

20 (1) reimbursement for actual expenses for
21 lodging; and

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

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

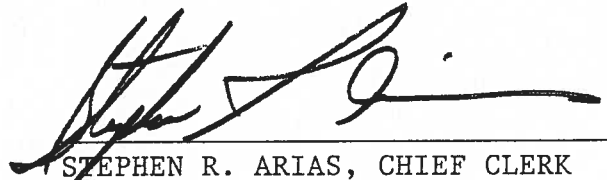
8 (1) reimbursement for actual expenses for
9 lodging; and

10 (2) reimbursement for actual expenses for
11 meals not to exceed thirty dollars (\$30.00) per day for in-
12 state travel and forty-five dollars (\$45.00) per day for out-
13 of-state travel."

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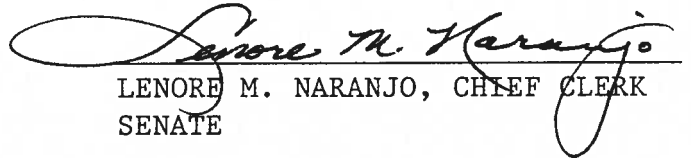
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES



STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES



DIANE D. DENISH, PRESIDENT
SENATE



LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 7th day of April, 2009



BILL RICHARDSON, GOVERNOR
STATE OF NEW MEXICO