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HOUSE BILL 172

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Brian Egolf

AN ACT

RELATING TO PUBLIC MONEY; CREATING THE GOVERNOR'S CONTINGENCY
FUND IN THE STATE TREASURY; REQUIRING EXPENDITURES FROM THE
FUND TO COMPLY WITH STATE LAW; REQUIRING ANNUAL AUDITS OF THE
FUND; CLARIFYING USES OF THE FUND.

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

SECTION 1. ~~[NEW MATERIAL]~~ GOVERNOR'S CONTINGENCY FUND--
CREATED--PURPOSES--AUDITS.--The "governor's contingency fund"
is created in the state treasury. The governor's office shall
administer the fund, and money in the fund is appropriated to
the governor's office to pay for expenses directly connected
with obligations of the elected office of governor.
Expenditures from the fund shall be by warrant of the secretary
of finance and administration upon vouchers signed by the
governor or the governor's authorized representative. Money in

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1 the fund shall not be used to pay or supplement the salary of
2 the governor or any state employee or as perquisites or
3 allowances for state employees. The fund is subject to the
4 provisions of the Audit Act and the Procurement Code. The
5 governor shall provide monthly reports to the department of
6 finance and administration and the legislative finance
7 committee about expenditures from the fund, including an
8 itemized list of expenditures and the balance remaining in the
9 fund.

10 SECTION 2. Section 10-8-5 NMSA 1978 (being Laws 1978,
11 Chapter 184, Section 4, as amended) is amended to read:

12 "10-8-5. RESTRICTIONS--REGULATIONS.--

13 A. The secretary may promulgate rules [~~and~~
14 ~~regulations~~] for state agencies and local public bodies for the
15 purpose of carrying out the provisions of the Per Diem and
16 Mileage Act. Public officials of public post-secondary
17 educational institutions and employees of public post-secondary
18 educational institutions shall be subject to the rules [~~and~~
19 ~~regulations~~] of their governing boards.

20 B. Public funds may be advanced to any public
21 officer or employee before the travel occurs only with prior
22 written approval of the secretary, the secretary's designee,
23 the local public body or the governing board or its designee.
24 This restriction shall not prohibit the use of authorized
25 credit cards in connection with purchases necessary to the use

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1 of vehicles owned by the state, a local public body or a public
2 post-secondary educational institution or for food, lodging or
3 transportation as permitted by the department of finance and
4 administration or the governing board. Public funds shall be
5 paid out under the Per Diem and Mileage Act only upon vouchers
6 duly presented with any required receipts attached thereto.

7 For employees authorized to receive public funds in advance of
8 travel, payment shall be received only upon vouchers submitted
9 with attached authorization for each travel period. For public
10 officers or employees using authorized credit cards, vouchers
11 with required receipts for each month's travel expenses shall
12 be submitted as a condition to receiving authorization to use
13 the credit card for the next month's travel. Travel expenses
14 may also be advanced if the travel is to be performed under
15 provisions of federal or private contracts and the funds used
16 are not derived from taxes or revenues paid to the state or any
17 of its political subdivisions.

18 ~~[G. Money expended by the governor from the~~
19 ~~appropriations made for his office and contingent and other~~
20 ~~expenses are not subject to any of the foregoing provisions of~~
21 ~~this section and are not subject to audit; provided that the~~
22 ~~governor shall only use contingent and other expenses for~~
23 ~~purposes connected with obligations of the office. An~~
24 ~~expenditure report on the use of the governor's contingent and~~
25 ~~other expenses shall be submitted annually to the department of~~

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1 ~~finance and administration.~~

2 D.] C. The secretary may reduce the rates set for
3 the per diem and mileage for any class of public officials and
4 for employees of state agencies, except public officials of
5 public post-secondary educational institutions, at any time
6 [he] the secretary deems it to be in the public interest, and
7 such reduction shall not be construed to permit payment of any
8 other compensation, perquisite or allowance. The secretary
9 shall exercise this power of reduction in a reasonable manner
10 and shall attempt to achieve a standard rate for all public
11 officers and employees of the same classification. The
12 secretary may, at the request of any state agency and for good
13 cause shown, reduce the rates of per diem and mileage for that
14 state agency. The governing body of any local public body may
15 eliminate or may reduce the rates set for the per diem and
16 mileage for all or any class of public officials and employees
17 of the local public body at any time the local public body
18 deems it to be in the public interest, and such reduction shall
19 not be construed to permit payment of any other compensation,
20 perquisite or allowance. The local public body shall exercise
21 this power of reduction in a reasonable manner and shall
22 attempt to achieve a standard rate for all public officers and
23 employees of the same classification. The secretary may, in
24 extraordinary circumstances and with the prior approval of the
25 state board of finance in public meeting, allow actual expenses

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1 rather than the per diem rates set in the Per Diem and Mileage
2 Act.

3 ~~[E-]~~ D. The governing board or its designee may
4 reduce the rates set for the per diem and mileage for public
5 officials of public post-secondary educational institutions and
6 for employees of public post-secondary educational institutions
7 at any time the governing board deems it to be in the public
8 interest, and such reduction shall not be construed to permit
9 payment of any other compensation, perquisite or allowance.
10 The governing board shall exercise this power of reduction in a
11 reasonable manner and shall attempt to achieve a standard rate
12 for public officers and employees of public post-secondary
13 educational institutions. The governing board may reduce the
14 rates of per diem and mileage for its public post-secondary
15 educational institution and may, in extraordinary circumstances
16 and in public meeting, allow actual expenses rather than the
17 per diem rates set in the Per Diem and Mileage Act.

18 ~~[F-]~~ E. No reimbursement for out-of-state travel
19 shall be paid to any elected public officer, including any
20 member of the legislature, if after the last day to do so that
21 officer has not filed a declaration of candidacy for reelection
22 to ~~[his]~~ the public officer's currently held office or has been
23 defeated for reelection to ~~[his]~~ the public officer's currently
24 held office in a primary election or any general election.

25 ~~[G-]~~ F. Subsection ~~[F]~~ E of this section does not

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1 apply to any elected public officer who is ineligible to
2 [~~succeed himself~~] serve another term after serving [~~his~~] the
3 public officer's term in office.

4 [~~H.~~] G. Subsection [~~F~~] E of this section does not
5 apply to legislators whose travel has been approved by a
6 three-fourths' vote of the New Mexico legislative council at a
7 regularly called meeting.

8 [~~F.~~] H. Any person who is not an employee,
9 appointee or elected official of a county or municipality and
10 who is reimbursed under the provisions of the Per Diem and
11 Mileage Act in an amount that singly or in the aggregate
12 exceeds one thousand five hundred dollars (\$1,500) in any one
13 year shall not be entitled to further reimbursement under the
14 provisions of that act until the person furnishes in writing to
15 [~~his~~] the person's department head or, in the case of a
16 department head or board or commission member, to the governor
17 or, in the case of a member of the legislature, to the New
18 Mexico legislative council an itemized statement on each
19 separate instance of travel covered within the reimbursement,
20 the place to which traveled and the executive, judicial or
21 legislative purpose served by the travel."