



STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF THE SECRETARY

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KATHERINE B. MILLER
CABINET SECRETARY

MEMORANDUM

TO: Chief Financial Officers and Governing Bodies of all local public bodies
FROM: Katherine B. Miller, Cabinet Secretary, DFA *Katherine B. Miller*
RE: Emergency Amendment to Section 11, **Mileage**, of the DFA Regulations
Governing the Per Diem and Mileage Act, 2.42.2 NMAC, effective June
19, 2009
DATE: June 19, 2009

This Memorandum attaches a copy of the emergency amendment to Section 11, Mileage, of the Department of Finance and Administration's Regulations Governing the Per Diem and Mileage Act, 2.42.2 NMAC, (the "Rule"), effective June 19, 2009. The emergency amendment shall become a final rule upon publication in the New Mexico Register on July 16, 2009 in accordance with Section 14-4-5 NMSA 1978 which states that emergency regulations may go into effect immediately upon filing with the records center, but shall be effective no more than thirty days unless they are published in the New Mexico Register. See, 1.24.20 NMAC. The emergency amendment was necessitated by Laws of 2009, HB 336, signed into law on April 7, 2009, and effective on June 19, 2009.

HB 336 amended Section 10-8-4 D. NMSA 1978 of the Per Diem and Mileage Act to increase the current statutory mileage reimbursement rate of \$.32 per mile up to a new maximum statutory mileage reimbursement rate – the Internal Revenue Service ("IRS") standard mileage rate "set January 1st of the previous year". The IRS rate on January 1, 2008 ("the previous year") was \$.50.5 per mile. Therefore, this emergency amendment to the Rule states your local government shall, effective immediately, reimburse your local public bodies' public officers and employees for mileage accrued in the use of a privately owned vehicle in the discharge of official duties at a rate of \$.50.5 per mile unless the rate has been reduced by the governing body of your local public body. On January 1, 2010, the statutory mileage reimbursement rate will increase to \$.55 per mile which is the IRS rate in effect as of January 1, 2009, the previous year.¹

¹ Rule 2.42.2.11 NMAC, currently and after the emergency amendment, provides that: "Public officers and employees of local public bodies may be reimbursed for mileage accrued in the use of a private conveyance in the discharge of official duties, at the statutory rates unless such rates have been reduced by the governing bodies of the local public body pursuant to Section 10-8-5 (D) NMSA 1978."

This is an emergency amendment to 2.42.2 NMAC, Section 11, effective June 19, 2009

2.42.2.11 MILEAGE-PRIVATE CONVEYANCE:

A. **Applicability:** Mileage accrued in the use of a private conveyance shall be paid only in accordance with the provisions of this Section.

B. **Rate:** Public officers and employees of state agencies shall be reimbursed for mileage accrued in the use of a private automobile or aircraft in the discharge of official duties as follows:

(1) ~~[privately owned automobile, thirty two cents (\$0.32) per mile;]~~ unless the secretary has reduced the rates set for mileage for any class of public officials and for employees of state agencies pursuant to Section 10-8-5 (D) NMSA 1978, 80% of the internal revenue service standard mileage rate set January 1 of the previous year for each mile traveled in a privately owned vehicle;

(2) privately owned airplane, eighty-eight cents (\$0.88) per nautical mile.

C. **Local public bodies:** Public officers and employees of local public bodies may be reimbursed for mileage accrued in the use of a private conveyance in the discharge of official duties, at the statutory rates unless such rates have been reduced by the governing bodies of the local public body pursuant to Section 10-8-5 (D) NMSA 1978.

D. **Privately owned automobile:** For conveyance in the discharge of official duties by privately owned automobile, mileage accrued shall be reimbursed at the rate set forth in this section as follows:

(1) pursuant to the mileage chart of the official state map published by the state highway and transportation department for distances in New Mexico and the most recent edition of the Rand-McNally road atlas for distances outside of New Mexico; or

(2) pursuant to actual mileage if the beginning and ending odometer reading is certified as true and correct by the traveler; and

(a) the destination is not included on the official state map or on the Rand McNally road atlas, or,

(b) at the destination(s) of the public officer or employee, the public officer or employee was required to use the private conveyance in performance of official duties.

E. **Privately owned airplane:** Mileage accrued in the use of a privately owned airplane shall be reimbursed at the rate set forth in this section as follows:

(1) pursuant to the New Mexico aeronautical chart published by the state highway and transportation department, aviation division, for distances in New Mexico and other states' air maps for distances outside of New Mexico; or

(2) pursuant to actual air mileage if certification is provided by the pilot, or a beginning and ending reading of actual mileage if the reading is certified as true and correct by the traveler, and the destination is not included on an air map.

F. **Reimbursement limit for out of state travel:** Total mileage reimbursement for out of state travel by privately owned automobile or privately owned airplane shall not exceed the total coach class commercial airfare that would have been reimbursed those traveling had they traveled by common carrier. This subsection shall not apply to a public school when transporting students.

G. **Additional mileage provision:** Mileage accrued while on official business shall be reimbursed for travel on official business. An agency head or designee may authorize by memorandum reimbursement for mileage from a point of origin farther from the destination than the designated post of duty in appropriate circumstances. The memorandum must accompany the payment voucher. If official business is transacted while commuting from home to post of duty or from post of duty to home, mileage shall not be paid for the number of miles between post of duty and home. Odometer readings showing additional miles accrued for official business must be provided to the agency for payment.

[2.42.2.11 NMAC - Rn, DFA Rule 95-1, Section 6 & A, 07/01/03; A/E, 06/19/09]