F I S C A L   I M P A C T   R E P O R T

SPONSOR Miera **ORIGINAL DATE** 2-9-09 **LAST UPDATED** 3-1-09 **HB** 336/aHHGAC

SHORT TITLE Increase Public Employee Per Diem & Mileage **SB**

ANALYST Aubel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)*

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	Minimal	$0-$526.0	$0-$526.0	$0-$1,267.0	Recurring	General Fund
	Minimal	$0-$2,308.0	$0-$2,308.0	$0-$5,556.0	Recurring	Other

(Parenthesis ( ) Indicate Expenditure Decreases)

*Fiscal impact based on DFA analysis using executive FY10 recommendation for in-state mileage. .

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Finance and Administration (DFA)
New Mexico Environment Department (NMED)
New Mexico Department of Transportation (DOT)
Administrative Office of the Courts (AOC)
Public Employees Retirement Association (PERA)
Higher Education Department (HED)
State Personnel Office (SPO)
Educational Retirement Board (ERB)
Public Education Department (PED)
Corrections Department (CD)
State Personnel Office (SPO)

SUMMARY

Synopsis of HHGAC Amendment

The House Health and Government Affairs Committee Amendment to House Bill 336 allows reimbursement *up to* the IRS rate rather than specifying the state must use the exact IRS rate, which would provide more flexibility to establish a rate within budgetary constraints.

FISCAL IMPACT

The amendment creates a fiscal impact range from $0 (no fiscal impact) to the maximum noted for rates set at the IRS standard. If the state chooses not to change the standard mileage rate for FY10 or FY11, there would be no fiscal impact. The exact impact, based on what rate the state uses (up to the IRS standard), is unknown.

Synopsis of Original Bill

House Bill 336 amends the Per Diem and Mileage Act to adjust reimbursement for mileage to conform to the mileage standard set by the Internal Revenue Service (IRS). The result would be a rate increase from the current state $0.32 per mile to $0.55 per mile for reimbursing public officers or employees for using private vehicles on state business. The bill does not amend current per diem reimbursement rates nor does it provide an appropriation to cover the additional cost to state agencies.

FISCAL IMPLICATIONS

Because the bill would most likely take effect 90 days after the session if enacted, the fiscal impact discussion focuses on FY10 and beyond. The bill makes the state's mileage rate adjust according to the prevailing IRS standard rate for mileage, which is currently set at $0.55 per mile for 2009. The increase of $0.23 per mile initiated by HB 336, assuming consistent driving patterns, would translate into an additional cost of almost $3 million for state agencies in FY10 according to DFA. DFA projects the general fund transfers would account for $526 thousand and other revenue sources account for $2.3 million based on the current ratio of general fund for the other category expenditures of 22.8 percent. The fiscal impact is recurring.

Several agencies submitted individual fiscal impacts of the 72 percent increase in the mileage rate, as shown in the table below.

Estimated Incremental Fiscal Impact of Increasing Mileage Rate
(in thousands)

Agency	Recurring Fiscal Impact	Fund Affected
PED*	$69.3	$37.2 GF; $32.1 Other
NMED**	$60.0	GF, FF, OSF
AOC – jurors and interpreters***	$631	Witness Fee Fund
AOC – other programs***	$123.7	GF
AOC – other judicial units***	$95.1	GF
CD***	$20.5	GF
DOT**	$64.6	Road Fund
ERB*	$3.5	ERB Fund

*Based on current rate of $0.32, IRS rate of $0.55 and FY08 in-state mileage expenditures
**Based on current rate of $0.32, IRS rate of $0.55 and in-state mileage in FY10 budget request
***Based on current rate of $0.32, IRS rate of $0.585 and actual mileage paid for FY08

The bill does not make an appropriation to cover the increased costs in FY10, which are not incorporated in either the LFC or executive recommendations. According to the December 2008 revenue estimate, FY10 recurring revenue will only support a base expenditure level that is $293 million, or 2.6 percent, less than the FY09 appropriation. All appropriations outside of the general appropriation act will be viewed in this declining revenue context. In effect, the bill may create an unfunded mandate.

SIGNIFICANT ISSUES

HB 336 looks to address the concern that the current mileage reimbursement rate of $0.32 per mile is too low. With increased fuel and transportation costs, employees and public officers using private vehicles in the course of performing their state duties may be subsidizing the state for these costs. Basing the rates on the IRS standards would incorporate the analysis performed at the federal level to determine what the current costs are of operating an automobile for business, charitable, medical or moving purposes. Presumably, these costs assessed at the federal level for those purposes would be similar to those in New Mexico while an employee or public officer is on the job.

The amendment to match the prevailing IRS rate would cause the New Mexico reimbursement rate to change automatically, increasing or decreasing based on mileage rate changes implemented by IRS administrative action. The IRS adjusts the standard mileage rate either annually or semi-annually. For example, the IRS increased the rate for the second half of 2008 to $.585 following the spike in gas prices but then reduced it for the first half of 2009 to $0.55 when gas prices declined. HED suggests that a variable rate may be a way to address fuel and transportation costs that continue to see a large fluctuation in price. However, DFA suggests that such a substantial increase in rates may serve as an incentive to employees to use private transportation to collect the additional reimbursement.

HB 336 increases the mileage reimbursement rate for public officers or employees from the current rate of $0.32 per mile to the IRS standard mileage rate, which is currently $0.55 per mile (a 72 percent increase). HB3 336 does not provide any additional funding to agencies to support the increase. Because agencies are currently absorbing budget reductions for the current and next fiscal year due to declining state revenues, this increase will further impact an agency's ability to maintain operations with existing resources. DFA notes that this could particularly affect agencies with field offices located throughout the state and agencies whose functions require extensive travel. In addition, all responding agencies point out that this variability would hamper an agency's ability to project its budget requirements for upcoming fiscal year or stay within budgets if the cost impact was significantly higher.

PERFORMANCE IMPLICATIONS

DFA maintains that “compensation for travel expenses should adequately reimburse employees for expenses they sustain in performing state business, but such a substantial increase in rates without a corresponding budget increase, and in the current economic climate of budget reductions, may force agencies to alter their travel policies which could affect the services they provides to the citizens of New Mexico.” As an alternative, agencies may need to reduce other expenditures to pay for this increase, which could affect performance of meeting agency objectives.

Responding agencies provided specific repercussions of HB 336 without additional funding to cover the increased expense. For example, AOC states that payments to jurors may be delayed because of lack of funds. Additionally, the AOC and the courts may be unable to meet the target set for the timeliness of juror payments.

ADMINISTRATIVE IMPLICATIONS

DFA would have to monitor the rates established by the IRS and adjust the reimbursement to agencies accordingly.

TECHNICAL ISSUES

The Local Government Division of DFA notes that the current per diem and mileage law defines employees and public officials, but does not include fire and emergency volunteers. Thus, any financial reimbursement to the volunteer becomes taxable income. DFA suggests that revising the current definition of "Public Official" to include fire and safety volunteers would benefit the state in two ways. First, volunteers will avoid additional financial hardship—which could encourage more volunteering. Second, public bodies would be relieved of additional IRS reporting requirements.

ALTERNATIVES

DFA suggests one alternative would be to increase the rate by a smaller increment.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The reimbursement rate for in-state travel would remain at $0.32.

MA/mc:mt