

BILL RICHARDSON
GOVERNOR

CONROY CHINO
SECRETARY



STATE OF NEW MEXICO
DEPARTMENT OF LABOR

401 Broadway, NE
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(505) 841-8491 FAX

1596 Pacheco Street
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May 23, 2003


Deborah Outten-Mills, Director
U.S. Department of Labor – OIG
National Audit and Evaluations Office
200 Constitution Avenue, N.W., Room N-5620
Washington, DC 20210

Dear Ms. Outten-Mills:

Attached is the New Mexico Department of Labor response to the OIG's draft evaluation report concerning findings related to the operation of the Las Cruces One-Stop Career Center. This response addresses the recommendations and indicates any corrective actions planned.

Thank you for your comments and assistance during the recent review of the Las Cruces One-Stop Career Center. If you need additional information, or if I can be of further assistance, please do not hesitate to contact my office at 505-841-8409.

Sincerely,


Conroy Chino
Secretary of Labor

cc: Dolores Waller
Alex Georgieff
Paula Forney
Richard Wagner

"AN EQUAL OPPORTUNITY EMPLOYER"

RESPONSES TO FINDINGS AND RECOMMENDATIONS

Finding 1: Procedures for Processing Applications for Family Members of Center Employees Need to be Followed

Recommendations and Responses:

1. Ensure that the Center employees receive information and training regarding State Policy Issuance No. 11, and State Issuance Title 11 regarding the requirements for entitlements under the Dislocated Worker's Program.
 - a. *Agency Response:* Policy Issuance No. 11 was revised effective January 13, 2003 outlining the procedures in processing applications form family members of employees for any benefits administered by the Department. All Area Directors were instructed to hold a special staff meeting to review the revised policy with all staff. In addition, a Conflict of Interest Disclosure form has been developed that is to be filled out by all applicants for services in the centers to identify those persons who may be related to a department employee to assure their application is processed according to Policy Issuance No. 11. (Attachment 1)
2. Ensure that the program participant that was incorrectly determined eligible for participation in the Dislocated Workers Program is properly transferred to the Adult Program.
 - a. *Agency Response:* After the OIG evaluation, all participant files were reviewed for eligibility. For all program participants that were found ineligible for participation in the dislocated worker program, a redetermination for eligibility was completed based on the original application date and new applications filled out. The NMDOL Financial Management Bureau has journal vouchered all costs associated with those participants from the dislocated worker funding stream to the adult funding stream. (Attachment 2)
3. Ensure that costs totaling \$2,210.47 incurred for the ineligible Dislocated Workers Program participant are transferred from the Dislocated Workers Program to the Adult Program.
 - a. *Agency Response:* Costs totaling \$2,210.47 were found to have been accurately charged to the Adult Funding Stream per letter certifying that Ms. [REDACTED] [REDACTED] has been tracked under the Adult Program and was not listed as a Dislocated Worker participant. (See Attachment 3)
4. Ensure that authorized officials at the Field Services Bureau are included as part of the eligibility determination process for relatives of Department employees.
 - a. *Agency Response:* In addition to the form that applicants must complete, another form was developed for a reviewer from the Field Services Bureau to use for review and approval of the conflict of interest issue relating to relatives of department employees applying for benefits administered by the department. (Attachment 4)

Finding 2: Controls Over the Use of State Vehicles Need to be Improved

Recommendations and Responses:

1. Develop written procedures to document circumstances that warrant employees to take vehicles to their residences.
 - a. *Agency Response:* DRAFT Policy Issuance 34 establishes uniform policy and outlines procedures for the use of State vehicles by employees of the NMDOL. The DRAFT policy is currently in review and should be implemented throughout DOL within 30 – 45 days. (Attachment 5)
2. Improve logbook documentation to account for the use of state vehicles. Documentation should include, at a minimum, the employee's name, purpose of each use, destinations (to and from), beginning and ending vehicle mileage, and total mileage.
 - a. *Agency Response:* Form ES100.25 NMDOL Vehicle Mileage Report was revised to include Driver's name and purpose of trip in addition to destinations, mileage and total mileage. (Attachment 6)
3. Reexamine the need for employees to maintain the state vehicle at their residence after work and on weekends.
 - a. *Agency Response:* DRAFT Policy Issuance 34 establishes the guidelines for maintaining state vehicles at employee residences after work or on weekends.

Finding 3: Government Time Used for Unauthorized Activities

In 2002, NMDOL conducted an investigation of a complaint against a Center employee, which alleged the conduct of religious activities while on the job. The NMDOL found that the employee improperly distributed a religious book, sanctioned reading of the book, and conducted other religious activities during working hours.

As a result the NMDOL issued the employee a five-day suspension from September 16, 2002 through September 20, 2002. However, in a letter dated October 8, 2002, the employee provided a Notice of Appeal to the New Mexico State Personnel Office. The appeal is currently pending. Therefore, since the NMDOL has already taken administrative action in this matter, the OIG did not provide a recommendation related to this allegation.

BILL RICHARDSON
GOVERNOR

CONROY CHINO
SECRETARY



STATE OF NEW MEXICO
DEPARTMENT OF LABOR

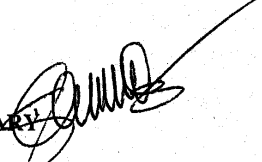
Attachment 1

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MEMORANDUM

DATE: JANUARY 13, 2003

TO: ALL NMDOL EMPLOYEES

FROM: CONROY CHINO, SECRETARY 

SUBJECT: REVISION OF POLICY ISSUANCE NO. 11, CODE OF CONDUCT

Attached is a copy of a revision of the Department's Policy Issuance No. 11, Code of Conduct. The revision contains changes in section H, which outlines the procedures in processing applications from family members of employees for any benefits administered by the Department.

I am confident that all employees who administer such benefits will ensure complete compliance with our policy.

Attachment

"AN EQUAL OPPORTUNITY EMPLOYER"

BILL RICHARDSON
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POLICY ISSUANCE NO. 11

DATE: JANUARY 13, 2003
TO: ALL NMDOL EMPLOYEES
FROM: CONROY CHINO, SECRETARY
SUBJECT: CODE OF CONDUCT

INTRODUCTION

This policy is divided into three sections: standards of behavior expected of all employees; requirements set forth in the Government Conduct Act, Sections 10-16-1 through 10-16-17 NMSA 1978; and procurement ethics.

I

STANDARDS OF BEHAVIOR

- A. As public servants, all employees are expected to maintain the highest standards of personal conduct at all times. On the job, nothing but the highest standards of honesty and integrity are acceptable. All employees are expected to devote their full working day to the business of the state.
- B. Employees must cooperate with their supervisors, follow instructions and perform their work in a professional and competent manner. Employees are expected to perform their work efficiently and to meet established Performance Appraisal and Development criteria.
- C. Employees will maintain an attitude of courtesy and service to other state employees, and individuals who contact the Department. Rude or unbecoming behavior towards clients, co-workers or supervisors will not be tolerated.

"AN EQUAL OPPORTUNITY EMPLOYER"

- D. Employees who consume alcohol while on duty or on Department premises or who sell, purchase, transfer, possess, use or manufacture any drugs or controlled substances without a valid prescription or as otherwise authorized by law, while on duty or on Department premises, shall be dismissed. Employees dismissed for illegal sale, purchase, possession, or transfer of drugs will be reported to a local law enforcement agency. Employees convicted of a drug violation in the workplace shall report such convictions to the Department within five (5) days in accordance with Federal Drug Free Work Place Act of 1978.
- E. All employees will treat state property with respect. Employees shall not use state property, equipment or supplies for personal purposes.
- F. Employees shall acquaint themselves with all Department policies, rules and regulations and are expected to comply with same. Failure to comply with Department policies and rules and regulations may result in disciplinary action, to include suspension, demotion or dismissal.
- G. State Personnel Board Rules 1 NMAC 7.6.11 and 7.6.12 for classified employees establish those political activities which are allowed and those which are prohibited to Department employees. These rules will be strictly enforced, and any employee found in violation of their provisions will be subject to disciplinary action which may include dismissal. Employees who are paid in part or in whole by federal revenues are reminded that the provisions of the Hatch Act are applicable to them.
- H. Family Members of Department Employees and Conflict of Interest.
 - 1. Family members of Department employees may apply for any benefits available to the public. A family member is defined as any person related, by blood or marriage within the third degree, to an employee.
 - 2. Because of rules regarding conflicts of interest and the need to maintain fiscal integrity, employees may not make any decisions regarding a family member's application for any benefit available through the Department's One Stop Career Centers.
 - 3. To prevent any impropriety or appearance of impropriety, any family member's application for any service under WIA or any other programs offered through the Department's One Stop Career Centers will be initially investigated by the One Stop Career Centers in the usual course of business as done with any other applicant.

4. a. Employment Security Division

When the initial application and investigation are completed, the file will be referred to the Assistant Bureau Chiefs within the Employment Security Division responsible for each program to determine the family member's entitlement to any benefit.

b. Human Rights Division and Labor & Industrial Division

Decisions regarding participation in and entitlement to benefits under any program administered by the Human Rights Division or the Labor and Industrial Division will first be investigated in the usual course of business as is done with any other applicant and will then be referred to the Division Director of those divisions for resolution.

c. In each case, the Assistant Bureau Chief or the Division Director will make the final decisions concerning participation and entitlement.

5. All further claims for benefits by the claimant/family member will be resolved and determined in the same manner.

II

GOVERNMENT CONDUCT ACT

- A. Employees shall treat their government positions as a public trust and shall use the powers and resources of public office only to advance the public interests and not to obtain personal benefits or pursue private interests incompatible with the public interest.
- B. Employees shall not accept any favor, gratuity, or any other thing of value from any person, firm, corporation, or other entity that is engaged in or attempting to engage in business transactions with the State of New Mexico if accepting anything of value might affect or appear to affect their judgment in the performance of their duties.
- C. Employees shall avoid undue influence or abuse of their office and shall neither request nor receive any money or thing of value in exchange for promising to perform an official act.

- D. Employees may not enter into any contracts with a state agency unless they disclose any substantial interest in the business involved and unless they receive the contract pursuant to the Procurement Code. A substantial interest means an ownership interest greater than twenty percent.
- E. Employees shall not use confidential information acquired by virtue of their state employment or office for their gain or another's private gain.
- F. Employees shall disclose any real or potential conflicts of interest and must disqualify themselves from engaging in any official act directly affecting their financial interests. Employees shall make disclosure in writing to the Secretary of State before entering the Department's employ, and during each January thereafter, of any financial interest which may to their knowledge, be affected by any Department action.
 - 1. As used in this section, a financial interest is defined as an interest held by an individual, his or her spouse or dependent minor children that is
 - a. an ownership interest in business; or
 - b. current employment; or
 - c. prospective employment for which negotiations have already begun.
 - 2. Every employee who has a financial interest that he believes, or has reason to believe, may be affected by his official act or by actions of the Department shall disclose the nature and extent of that interest.
 - 3. Employees who are required to submit financial disclosure information shall use the Financial Disclosure Statement form provided by the Secretary of State. A copy is attached as Appendix 1.
 - 4. The disclosure shall include the precise nature and value of an employee's interest. The disclosure shall be open to public inspection.
- G. Outside employment may be performed by an employee subject to the following conditions:
 - 1. It is performed during nonworking hours or is performed while the employee is on approved leave.
 - 2. It is performed off Department premises.

3. The employee does not solicit business from fellow employees under coercive or intimidating circumstances.
 4. A disclosure statement has been filed and approved by the Department for any outside employment services related or similar to the services performed by the employee for the Department.
 5. It does not impair the ability of the employee to perform the duties and responsibilities required by the employee's position in an acceptable manner.
 6. It is not performed for a person or contractor with whom the Department has a current contract.
 7. The employee is not being compensated by any person or business for any duties which the employee has an obligation to perform for the Department.
 8. It does not require the use of confidential or inside information to which the employee has access.
 9. No state property, equipment, supplies or labor of other state employees or funds are used, borrowed or employed.
- H. No employee may request or receive an honorarium for a speech or service rendered that relates to the performance of public duties. For the purposes of this section, "honorarium" means payment of money, or any other thing of value in excess of one hundred dollars (\$100), but does not include reasonable reimbursement for meals, lodging or actual travel expenses incurred in making the speech or rendering the service, payment or compensation for services rendered in the normal course of a private business pursuit.

III

PROCUREMENT ETHICS

- A. It is the policy of the Department to comply with the provisions of the State Procurement Code, applicable federal law and regulations, Commission on Information and Communication Management policy, the Governor's procurement standards and procurement provisions of the Workforce Investment Act. Department policy is to conduct procurement in a professional manner and without conflict of interest or appearance of improper business relationships.

B. General principles:

1. To ensure that all solicitations include a clear and accurate description of the technical requirements for the material, product or service to be procured.
2. To avoid overly restrictive specifications.
3. To observe strict truthfulness in all transactions.
4. To keep competition open and fair.
5. To identify all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.
6. To require or request samples only when necessary for testing or examining a product for which there is a bid. Free samples should never be obtained and retained for the personal use of Department employees.
7. Under no circumstances should an employee solicit or accept any gratuities, favors or anything of monetary value from contractors, potential contractors or parties to subagreements. All gifts shall be returned to the donors. In some instances this may be impossible. These gifts shall be transferred to the Internal Audit and Security Section for proper disposal. Awards and memorial plaques with nominal intrinsic value for distinguished services rendered is acceptable.
8. Under no circumstances is it permissible to allow a potential, present or past bidder/offeror to pay for the meals of Department employees who are involved directly or indirectly with the procurement process. (Having lunch during the bidding process with bidders/offerors can result in the unfavorable perception of wrongdoing).

Any violation of the provisions of this policy may constitute cause for suspension, demotion or dismissal.

EFFECTIVE DATE

This policy is effective this date and supersedes all previous issuances on Code of Conduct.

Attachment

**FINANCIAL
DISCLOSURE
STATEMENT**

State of New Mexico
Secretary of State
Rebecca Vigil-Giron
325 Don Gaspar, Suite 300
Santa Fe, New Mexico 87503

2003

- Annual Filing
- Filing with Declaration of Candidacy
- Within 30 days of Appointment/Hire

NOTE: Please complete, sign and date.

1. REPORTING INDIVIDUAL			
FULL NAME	Last Name	First Name	Middle
	Street Address or Description		
RESIDENT ADDRESS	City	State	Zip
	Phone #		
MAILING ADDRESS	P.O. Box or Street Address		
	City	State	Zip

Filing Status (please check the appropriate box and fill in the requested information)	
<input type="checkbox"/> Candidate for	office Office or Hired
<input type="checkbox"/> Incumbent in	office
<input type="checkbox"/> Appointed to	board or commission subject to Senate Confirmation
<input type="checkbox"/> Public officer with	agency
<input type="checkbox"/> Employee of	agency

Employer Information			
Full Name		Phone #	
P.O. Box or Street Address		City	State Zip
Title or Position Held		Nature of Business or Occupation	

APPENDIX 1

2. SPOUSE			
FULL NAME	Last Name	First Name	Middle
EMPLOYER	Name		
	P.O. Box or Street Address		
	City	State	Zip
	Spouse's Title or Position Held		Nature of Business or Occupation
3. SOURCES OF GROSS INCOME OVER \$5,000 (actual dollar amount not required)			
Category		Received by	
4. LOBBYIST'S CLIENTS (of spouse or firm, if applicable)			
Name		Address	
5. REAL ESTATE IN NEW MEXICO (other than personal residence)			
Owner	County	General Description	
6. OTHER BUSINESS INTERESTS IN NEW MEXICO OF \$10,000 OR MORE			
Name of Business	Position Held	By Whom	Purpose of Business

7. MEMBERSHIPS ON BOARD OF FOR-PROFIT BUSINESSES (if any)	
Name of Business	Member

8. PROFESSIONAL LICENSES IN NEW MEXICO (if any)	
Type	Licensee

9. BUSINESS WITH STATE AGENCIES OVER \$5,000 (if any)	
Agency	Seller

10. REPRESENTATION BEFORE STATE AGENCIES (other than a court)	
Agency	Representative

11. Additional Information

12. I hereby swear or affirm under penalty of perjury that the foregoing information is true, correct and complete to the best of my knowledge.

Signature: _____ Date: _____

Printed Name: _____

Attachment 2 of NMDOL's response to the draft report has been omitted from the final report because it contains personal identifying information protected by the Privacy Act.

Attachment 3 of NMDOL's response to the draft report has been omitted from the final report because it contains personal identifying information protected by the Privacy Act.

REVIEW AND APPROVAL OF CONFLICT OF INTEREST

As per policy issuance #11, this file (Name) _____

SS# _____ has been reviewed and determined eligible for the

Services that they have applied for.

Signature

Date

Eligibility:

Adult: Wages verified (if applicable)

Dislocated Worker: Letter of Lay Off

Incumbent worker: Self Sufficiency

Priority of service: (If applicable, as established by Local Board)

If Yes: (priority Group)



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EMPLOYMENT SECURITY DIVISION
(505) 841-8438
HUMAN RIGHTS DIVISION
(505) 827-6838
JOB TRAINING DIVISION
(505) 827-6827
LABOR AND INDUSTRIAL DIVISION
(505) 827-6808

POLICY ISSUANCE NO. 34

DATE: May 5, 2003
TO: ALL NMDOL EMPLOYEES
FROM: CONROY CHINO, SECRETARY
SUBJECT: USE OF STATE VEHICLES

PURPOSE:

To establish a uniform policy and outline procedures for the use of State vehicles by employees of the New Mexico Department of Labor (NMDOL).

POLICY:

1. General. The proper use and care of State vehicles is a very important function of the Department. Vehicles are leased from GSD and maintain, and their use is governed by State Law and GSD Rules and Regulations which have their basis in State Law.

NMAC 1.5.3, November 1, 2002, is the primary reference, and if conflicts arise between this Policy Issuance and NMAC 1.5.3, NMAC 1.5.3 will take precedence.

Because NMAC 1.5.3 contains specific regulatory procedures, it is included as Attachment 1 to this policy. Cost center managers will ensure the policy and its addendum are prominently displayed at all times for informational use by designated drivers.

2. Application. This policy is applicable to all units of the Department. Where ever possible, delineation is made between vehicles based at the TIWA Building and those based in other areas statewide.

APR 10 2003
DRUG FREE

Policy Issuance No. 34
May 5, 2003
Page 2

3. **Vehicle Administration.** The General Services Bureau (GSB) is responsible for managing the Tiwa Building motor pool and maintaining Tiwa-based vehicles. GSB also provides procurement and other appropriate support for NMDOL vehicles statewide.
4. **Driving Permits.** NMDOL employees must possess a valid driver's license and successful completion of the State defensive driving course is also a requirement before operating privileges are permanently granted. Surrender your old license and apply for a NM license within 30 days of arriving in New Mexico.

Cost center managers may grant written temporary operating privileges to new employees who possess a New Mexico driver's license not to exceed the first 90 days of employment, which should allow time to complete the defensive driving course. Evidence that temporary privileges have been granted, and later, that the defensive driving course has been successfully completed, should be furnished by the cost center to GSB.

5. **Personal Use.** It is unlawful for a State employee to use a State vehicle for pleasure or personal use. Violation is a misdemeanor punishable by fine, imprisonment, or both. Employees are cautioned that they are highly visible to the public when driving a State vehicle, and should avoid any circumstances where it could be perceived that the vehicle is being used for personal use, official business is prohibited. Children are never to be carried as passengers because of insurance liabilities, NMAC 1.5.3.
6. **Exclusive Use.** Employee shall have exclusive use of a state vehicle if the employee is on call 24 hours a day or the employee reports to a different work site daily. In either case, exclusive use of a State vehicle must have the Secretary's approval.

All other vehicles are to be returned and picked up from a designated site after official business ends. For Tiwa vehicles, this means return to the motor pool security cage, exchange to the employee's personal vehicle, and locking the cage when departing. Because the use of the security cage has proven successful, taking a car home the night before a trip or keeping it home the night after a trip is not authorized. An exception to the above is for drivers returning from a trip after 7 p. m. or leaving on a trip prior to 7 a. m. Other exceptions may be approved by the appropriate Division Director, if the exception is in the best interest of the Department. Written exceptions will be granted as the need arises, not on a recurring basis. Of keeping a vehicle overnight at home: All calls must be returned to the motor pool by 8:00 am the following morning.

Employees are authorized to receive the car folder and key the night before an early start, and return them the next morning after a late return, providing return of the folder to GSB is made in a timely manner.

7. **Intoxicating Drugs and Liquor.** An employee who is charged with driving a State vehicle under the influence of drugs or alcohol will have his or her State vehicle operating privileges suspended or revoked. Any State employee passengers in the vehicle at the time of the violation may also have their privileges suspended or revoked. If convicted of such charge, the employee driver may be terminated from State employment. State employee passengers in the vehicle at the time the charge is made may also be terminated if it can be proven they knew the driver was under the influence of drugs or alcohol and took no reasonable action to prevent the driver from driving the vehicle, NMAC 1.5.3.
8. **Moving Violations.** Any employee who commits a moving violation while driving a State vehicle for reckless driving, speeding, failure to wear seat belts, etc., may have his/her driving privileges suspended or revoked. In addition, the Secretary may discipline the employee as appropriate.
9. **Responsibility for Fines.** An employee who receives a traffic citation or parking ticket while driving a State vehicle shall be personally responsible for the citation or parking ticket.
10. **Accidents.** An employee who, while operating a State vehicle, is involved in an accident involving bodily injury or property damage shall report the circumstances without delay to GSB and Risk Management Division. Within 24 hours, a completed accident form (Attachment 2) will be submitted to Risk Management Division. Attachment 2 may be duplicated for this purpose. For assistance in completing this form, contact GSB, 841-8508 or 841-8507.

PROCEDURES:

1. **Locations Other Than Tiwa Building.** Division Directors and appropriate cost center managers will develop written procedures for the use and care of State vehicles, in consonance with NMAC 1.5.3 and this Policy Issuance.

ES-100.25 (Rev. 05/93) Vehicle Mileage Report (Attachment 3) is used throughout the Department. Submit these forms, with the back page fully completed, to GSB monthly.

2. **Tiwa Building Location.** The Department maintains a motor pool of leased vehicles which are assigned to drivers on a first come, first served basis. Reservations for a vehicle can be made up to one week in advance of travel. Once all vehicles are assigned, the next person requesting a reservation may be placed on a waiting list in the order the request is received. Priority may be established as appropriate.

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Page 4

It is the driver's responsibility to keep the vehicle clean and free of debris. **Smoking is not permitted in state vehicles.**

Vehicles must not be returned to the cage with less than a half tank of gas. A half-full tank is enough to take the next driver (who may be pressed to make an appointment) to Santa Fe, without having to stop for service until the return leg of the trip.

The driver must fill in all portions of the appropriate line on the Vehicle Mileage Report when returning the vehicle. Entries should be printed legibly.

Upon return from a trip, the vehicle must be returned to the cage and the folder and keys returned to GSB without delay. If after 7 p.m., use the gate key on the key ring to open the cage. The building guard will assist in opening and closing the cage upon request. Park the vehicle in the cage and lock the gates. The folder and keys should be returned to GSB the next morning immediately upon reporting to work.

EFFECTIVE DATE:

This policy becomes effective this date and supercedes all previous issuances on the subject on the Use of State Vehicles.

PGB:ABS:dt
Attachments

ES-100.25
(Rev. 02/03)

NEW MEXICO DEPARTMENT OF LABOR
VEHICLE MILEAGE REPORT

Month: _____
License No. _____

ALL PORTIONS OF THIS FORM MUST BE FILLED OUT COMPLETELY.

Dates	Drivers Name & Purpose of Trip	CC#	Destination		Time		Speedometer Reading	Total Miles	Vehicle Fueled		Amount	
									Yes	No	Gallons	Dollars
			From:	Out:	From:	Out:	From:					
			To:	In:	To:	In:	End:					
			From:	Out:	From:	Out:	From:					
			To:	In:	To:	In:	End:					
			From:	Out:	From:	Out:	From:					
			To:	In:	To:	In:	End:					
			From:	Out:	From:	Out:	From:					
			To:	In:	To:	In:	End:					
			From:	Out:	From:	Out:	From:					
			To:	In:	To:	In:	End:					

NO SMOKING PLEASE FILL GAS TANK IF VEHICLE IS DRIVEN OVER 100 MILES