



Ralph Campbell, Jr.  
State Auditor

STATE OF NORTH CAROLINA  
Office of the State Auditor

2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601  
Telephone: (919) 807-7500  
Fax: (919) 807-7647  
Internet <http://www.osa.state.nc.us>

May 15, 2002

Honorable Meg Scott Phipps, Commissioner  
North Carolina Department of Agriculture and Consumer Services  
Post Office Box 27647  
Raleigh, NC 27611

Dear Commissioner Phipps:

We received an anonymous complaint through the State Auditor's Hotline that you were not correctly computing your monthly commuting reimbursement to the North Carolina Department of Administration, Division of Motor Fleet Management. As a result of the complaint, we examined the travel logs for the 2000 Dodge Durango assigned to you, as well as all the reimbursements made by you for the commuting miles. Our examination revealed you were assigned the vehicle on January 8, 2001 and relinquished the vehicle on April 8, 2002. During this period, you commuted from your home in Haw River, NC, to Raleigh, NC, for 14 of the 15 months, a round-trip distance of 106 miles.

It is our understanding, based on conversations with you as well as documents you provided our office, that you relied on employees to determine the amount you should reimburse the State based on the actual miles you felt were commuting miles. Based on this method of computation, you reimbursed the Division of Motor Fleet Management \$1,203.02 during the 15-month period. However, according to the statutes and regulations governing commuting in a state vehicle by an elected official, the reimbursement amount was computed incorrectly. Under *G.S. §143-341(8)i.7a, Powers and Duties of the Department of Administration*,

*Every individual who uses a State-owned passenger motor vehicle, pickup, or van to drive between the individual's official work station and his or her home, shall reimburse the State for these trips at a rate computed by the Department (of Administration). This rate shall approximate the benefit derived from the use of the vehicle as prescribed by federal law. **Reimbursement shall be for 20 days per month regardless of how many days the individual uses the vehicle to commute during the month. Reimbursement shall be made by payroll deduction.** Funds derived from reimbursement on vehicles owned by the Motor Fleet Management Division shall be deposited to the credit of the Division; funds derived from reimbursements on vehicles initially purchased with appropriations from the Highway Fund and not owned by the*

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*Division shall be deposited in a Special Depository Account in the Department of Transportation, which shall revert to the Highway Fund; funds derived from reimbursement on all other vehicles shall be deposited in a Special Depository Account in the Department of Administration, which shall revert to the General Fund... (Emphasis added).*

The North Carolina Department of Administration, Division of Motor Fleet Management, requires elected officials to use the current Internal Revenue Service rate per mile for reimbursement (.345 in 2001 and .365 in 2002). Therefore, your monthly commuting reimbursement should have been the total round trip commuting miles (106 miles) times the rate per mile (either .345 or .365, depending on the year) times 20 days.

Based on this formula, you should have reimbursed the Department of Administration \$731.40 per month in 2001, and \$773.80 per month in 2002 through payroll deduction. A total of \$11,140.60 was due for the 14-month period (see attached schedule). Based on your prior payments of \$1,203.02, you owe the Department of Administration \$9,937.58.

Subsequent to our meeting on May 8, 2002, we received a memorandum from one of the Department's Assistant Commissioners, documenting the process used by you in determining the reimbursement amounts. In addition, the memorandum states,

*...As you know, Commissioner Phipps decided to turn in her state vehicle on Monday, April 8, 2002 due to the current budget situation. This decision was based primarily on her discovery that the Division of Motor Fleet Management was charging the N.C. Department of Agriculture and Consumer Service .38 cents per mile for every mile driven in this vehicle. Documents should show that Motor Fleet Management was charging NCDA&CS for every mile and then Commissioner Phipps was reimbursing Motor Fleet Management for duplicate commuting mileage.*

*As a result of this concern, Commissioner Phipps instructed our internal auditor Craig Glover to review in detail all the records associated with her use of this vehicle. Mr. Glover has completed this review and determined that because Mr. Daniels incorrectly figured some of the commuting mileage, that Commissioner Phipps owed the department \$4,193.13. Attached is a copy of her personal check made out to the department in this amount. She chose to make this payment to the department instead of Motor Fleet Management until the question of duplicate payments can be answered satisfactorily. Please let me know if this payment should be treated differently*

**Management letters and responses receive the same distribution as audit reports.**

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We do not concur with the Internal Auditor's recommendation that you owe \$4,193.13. As stated before, based on G.S. §143-341(8)i.7a, you incurred a total \$11,140.60 in commuting fees for the 15-month period. You have paid \$1,203.00 to the Department of Administration, therefore, we recommend you pay the outstanding balance of \$9,937.58. Also, we recommend you reimburse the North Carolina Department of Administration, Division of Motor Fleet Management, the \$9,937.58, instead of the Department of the Agriculture and Consumer Services. In addition, if you commute in a state vehicle in the future, the monthly reimbursement should be made by payroll deduction.

General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with this mandate, and our standard operating practice, we will provide copies of this management letter to the Governor, the Attorney General, the Director of the State Bureau of Investigation, and other appropriate officials.

We are presenting these findings for your review and written response. The purpose of the response is to allow you the opportunity to outline any corrective actions taken or planned. We request the delivery of your written response by May 29, 2002. If you have any questions or wish to discuss this matter further, please contact us. We appreciate your and your staff's cooperation during our review.

Sincerely,



Ralph Campbell, Jr., CFE  
State Auditor

RCjr/mfd

cc: Gwynn T. Swinson, Secretary of NC Department of Administration  
John T. Massey, Director of the Division of Motor Fleet Management

*Auditor's Note to Commissioner's Response*

Commuting by an elected official is governed by G.S. 143-341(8)i.7a. The statute clearly provides that an elected official must reimburse the State by payroll deduction at the specified rate for 20 days per month, no matter how many times the vehicle is actually used in commuting. The findings and recommendations in this management letter are a function of the policy prescribed by the statute.

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Schedule

Commuting Reimbursement  
 For Meg Scott Phipps  
 January 01, 2001 – April 30, 2002

| <u>Month</u> | <u>Year</u> | <u>Commuting</u> | <u>Round<br/>Trip<br/>Miles<br/>Per Day</u> | <u>Days</u> |    |   | <u>Rate</u>   | <u>Amount<br/>Owed</u> | <u>Amount<br/>Paid</u> | <u>Date<br/>Paid</u> | <u>Difference<br/>Owed/<br/>(Overpaid)</u> |
|--------------|-------------|------------------|---|-------------|----|---|---------------|------------------------|------------------------|----------------------|--|
| January      | 2001        | No               |   |             |    |   |               |                        |                        |                      |  |
| February     | 2001        | Yes              | 106   | X           | 20 | X | \$ 0.345 = \$ | 731.40                 | \$ 111.09              | 4/24/01              | \$ 620.31                                  |
| March        | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 | 66.93                  | 5/1/01               | 664.47                                     |
| April        | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| May          | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| June         | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| July         | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| August       | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| September    | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| October      | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 | 189.75                 | 1/25/02              | 541.65                                     |
| November     | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| December     | 2001        | Yes              | 106   | X           | 20 | X | 0.345 =       | 731.40                 |                        |                      | 731.40                                     |
| January      | 2002        | Yes              | 106   | X           | 20 | X | 0.365 =       | 773.80                 | 135.58                 | 2/14/02              | 638.22                                     |
| February     | 2002        | Yes              | 106   | X           | 20 | X | 0.365 =       | 773.80                 | 306.02                 | 4/7/01               | 467.78                                     |
| March        | 2002        | Yes              | 106   | X           | 20 | X | 0.365 =       | 773.80                 | 260.48                 | 4/10/02              | 513.32                                     |
| April        | 2002        | Yes              | 106   | X           | 20 | X | 0.365 =       | 773.80                 | 133.17                 | 4/10/02              | 640.63                                     |
|              |             |                  |   |             |    |   |               | <u>\$ 11,140.60</u>    | <u>\$ 1,203.02</u>     |                      | <u>\$ 9,937.58</u>                         |

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**Meg Scott Phipps**  
Commissioner

**North Carolina**  
**Department of Agriculture**  
**and Consumer Services**

May 28, 2002

The Honorable Ralph Campbell, Jr. CFE  
State Auditor  
2 South Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601

Dear Auditor Campbell:

I am writing in response to your letter dated May 15, 2002 concerning the special review conducted by your office on the use of my state vehicle.

As discussed with Audit Manager Dale Place, I relied on a former staff member, Mr. Harry Daniel, to track the mileage on my state vehicle. Prior to receiving this vehicle it is my understanding that Mr. Daniel had a discussion with officials at Motor Fleet Management, regarding the procedures that needed to be followed. Mr. Daniel had performed this same function for former Commissioner James A. Graham for many years prior to my election. In fact, Mr. Daniel made arrangements for this vehicle prior to my taking office.

Following is the procedure used by Mr. Daniel in figuring commuting mileage on this vehicle. Mr. Daniel would check and record the monthly beginning and ending odometer readings on my assigned vehicle. He would then meet with Linda Sears, my Executive Secretary, to review the master calendar at month end. As I mentioned to Mr. Place, my calendar is subject to daily changes so this review with Ms. Sears was the most accurate accounting of my travel and time.

Based on his review of the calendar, Mr. Daniel would then analyze and compute working mileage versus commuting mileage and provide the figures to Ms. Sears. Mr. Daniel then drafted a memorandum to Motor Fleet Management to which was attached my personal check for commuting mileage. As indicated in your audit findings, I paid \$1,203.02 for commuting mileage during the 14-month period this vehicle was assigned to me.

It is important to note that it was our understanding that we had an option of how to handle the commuting mileage; either sign-up for payroll deduction and pay the



appropriate Federal mileage rate (.345 in 2001 and .365 in 2002) for 20 days per month, or track the mileage and reimburse the state for actual commuting miles. Mr. Daniel chose to track the mileage and reimburse accordingly because he knew I would not be driving to the office in Raleigh 20 days each month. In fact, during my first year in this position, I was frequently out of the office due to my meeting and speaking schedules throughout the state.

As you know, I turned in this vehicle on Monday, April 8, 2002 due to the current budget situation. This decision was based primarily on our discovery that the Division of Motor Fleet Management was charging the N.C. Department of Agriculture and Consumer Services .38 cents per mile for every mile driven. It should be noted here that concerns have arisen within our department about the appearance of Motor Fleet Management being paid twice for the use of this vehicle. Documents will show that Motor Fleet Management was charging N.C. Department of Agriculture and Consumer Services for every mile while I was also reimbursing Motor Fleet Management for duplicate commuting mileage.

As a result of this concern, I asked our internal auditor, Craig Glover, to review in detail all the records associated with use of the vehicle during my first year in office. Mr. Glover has completed this review and determined that Mr. Daniel incorrectly figured the commuting mileage and that I owed the department \$4,193.13. I chose to make this payment to the department instead of Motor Fleet Management until the question of duplicate payments could be answered satisfactorily.

As a result of this audit and after discussions with officials at Motor Fleet Management, we now know that it is allowable under state statute for Motor Fleet to "double dip".

Based on the results of your audit and to follow the letter of the law, I have paid an additional \$5,744.45 to the N.C. Department of Agriculture & Consumer Services to cover what is actually legitimate work-related mileage. This amount, combined with the previous payments of \$1,203.02 and \$4,193.13 should put to an end any questions concerning this issue. We have transferred electronically to the N.C. Department of Administration my personal funds totaling \$9,937.58 to resolve this matter.

I do, however, feel it is paramount that I point out several concerns I have with this whole situation.

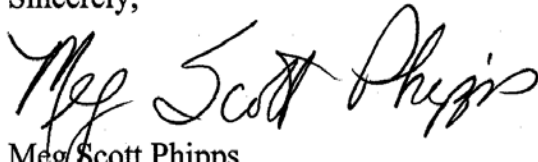
- 1) It should be very clear to anyone reviewing this issue that I have paid for legitimate business mileage that was actually incurred doing work the citizens of this state elected me to do.
- 2) The most accurate accounting of actual commuting miles for which I was responsible is the review that was done by our internal auditor, not an automatic assumption that I used this vehicle to commute between Haw River and Raleigh 20 days per month.
- 3) The N.C. Department of Agriculture & Consumer Services has been charged .38 cents per mile by Motor Fleet Management for the 45,107

miles put on this vehicle (\$16,534.94) and in addition, I have personally paid Motor Fleet Management a total of \$11,140.60.

- 4) It also troubles me greatly that I, nor anyone on my staff, was ever contacted by the Division of Motor Fleet Management and informed that we were not following the proper procedures for this vehicle as outlined by law. I can assure you that if I had been properly notified of my responsibility to pay the full 20-day per month commuting charges for this vehicle that I would have turned the vehicle in immediately. It should also be noted that following our discussions with officials at Motor Fleet Management, we understand that it is common practice for only actual commuting mileage to be paid instead of a mandatory 20-day payroll deduction. **I also understand from my staff who recently met with officials at Motor Fleet Management that my original reimbursement of \$1,203.02 was and continues to be acceptable to them.**
- 5) I must point out that had I known this vehicle was going to cost me \$731.40 a month during 2001 and \$773.80 per month during 2002, I can assure you I would never have accepted a state vehicle to begin with. One could make two car payments for the amount this vehicle has cost me during my first 14 months in office. We could have purchased this vehicle for the charges our department and I have already paid for its use. **According to our figures, the total cost for using this vehicle for 14 months is \$27,675.54.**

In conclusion, I would strongly recommend that your office and the N.C. Department of Administration thoroughly review the antiquated policies currently in place concerning the use of state vehicles, especially for elected officials. I'm confident that such review should result in changes in the current laws to prevent this unfair situation from happening to others in the future. After all, all roads do not lead to Raleigh, nor are all of my responsibilities limited to duties inside the beltline.

Sincerely,



Meg Scott Phipps  
Commissioner of Agriculture

MSP:meb