

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0823.01 Ed DeCecco

**HOUSE BILL 10-1287**

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**A BILL FOR AN ACT**

101 **CONCERNING THE USE OF A STATE-OWNED MOTOR VEHICLE FOR**  
102 **COMMUTING PURPOSES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

The bill makes the following changes related to the use of a state-owned motor vehicle for commuting purposes:

- ! Prohibits commuting unless the job description of an officer or employee of a state agency includes the provision of a public health, safety, or emergency response service

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

HOUSE  
3rd Reading Unamended  
April 22, 2010

HOUSE  
Amended 2nd Reading  
April 21, 2010

- outside of business hours;
- ! Eliminates the ability of a state agency to waive reimbursement to the state for commuting;
- ! Requires a state agency to provide a report about commuting to the division of central services in the department of personnel; and
- ! Establishes a civil penalty for any individual who fails to reimburse the state for commuting.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds, determines, and declares that:

4 (a) The state of Colorado should generally limit the use of  
5 state-owned motor vehicles to official state business, but incidental  
6 personal use is sometimes unavoidable, reasonable, and for the benefit of  
7 the state;

8 (b) Regular personal use of state-owned motor vehicles for  
9 commuting is considered to be a fringe benefit, and in most instances  
10 employees should fairly and fully reimburse the state for this personal  
11 use;

12 (c) Unreimbursed fringe benefits may be subject to federal and  
13 state taxation; and

14 (d) Actual vehicle operating costs and reimbursements for  
15 commuting must be reported accurately to ensure appropriate oversight  
16 of state assets, preparation of the state budget, and compliance with  
17 federal and state laws.

18 (2) Now, therefore, the general assembly intends to increase  
19 transparency and oversight of the use of state-owned motor vehicles and  
20 to ensure that such vehicles used for commuting are managed in a fair,  
21 responsible, and economical manner.

1           **SECTION 2.** 24-30-1113, Colorado Revised Statutes, is amended  
2 to read:

3           **24-30-1113. Commuting - reimbursement by state officers and**  
4 **employees - state-owned motor vehicle commuter cash fund -**  
5 **creation - definitions.** (1) Except as provided in this section, ~~the~~ A state  
6 agency shall not assign any state-owned motor vehicle to an ~~officer or~~  
7 employee of a state agency for any reason other than as necessitated by  
8 the conduct of official state business.

9           (2) The use of state-owned motor vehicles for commuting  
10 purposes by ~~officers and~~ employees of state agencies ~~between official~~  
11 ~~work stations and residences~~ may be authorized by the state agency's  
12 executive director where the state agency's executive director determines  
13 that such use is based on rules ~~and regulations~~ promulgated by the  
14 division. ~~and which includes~~ SUCH RULES SHALL INCLUDE THE FOLLOWING  
15 REQUIREMENTS:

16           (a) ~~Promotion of~~ COMMUTING WITH THE STATE-OWNED MOTOR  
17 VEHICLE PROMOTES a legitimate nonpartisan state interest;

18           (b) ~~Promotion of~~ COMMUTING WITH THE STATE-OWNED MOTOR  
19 VEHICLE PROMOTES the efficient operation of the state motor vehicle fleet  
20 system; ~~and~~

21           (c) COMMUTING WITH THE STATE-OWNED MOTOR VEHICLE is  
22 cost-effective to the state agency; AND

23           (d) THE NEED FOR AN EMPLOYEE TO COMMUTE WITH A  
24 STATE-OWNED MOTOR VEHICLE IS SET FORTH IN THE POSITION  
25 DESCRIPTION QUESTIONNAIRE FOR THE EMPLOYEE'S POSITION.

26           (3) (a) A STATE AGENCY SHALL SUBMIT A WRITTEN APPLICATION  
27 FOR EACH EMPLOYEE WHO THE EXECUTIVE DIRECTOR OF THE STATE

1 AGENCY AUTHORIZES FOR COMMUTING WITH A STATE-OWNED MOTOR  
2 VEHICLE. BEGINNING OCTOBER 1, 2010, NO EMPLOYEE SHALL USE A  
3 STATE-OWNED MOTOR VEHICLE FOR COMMUTING, UNLESS THE DIVISION  
4 APPROVES THE USE AS CONSISTENT WITH THE CRITERIA FOR COMMUTING  
5 AUTHORIZATION. A determination by the ~~director~~ DIVISION that  
6 ~~commuting purposes meet~~ AN EMPLOYEE MEETS the criteria for  
7 commuting authorization shall be based on review and verification of  
8 written application forms and supporting documentation submitted in the  
9 manner provided in rules ~~and regulations~~ adopted by the division. THE  
10 DIVISION SHALL NOT GRANT APPROVAL FOR AN EMPLOYEE TO USE A  
11 STATE-OWNED MOTOR VEHICLE FOR COMMUTING IF THE APPLICATION  
12 FORM FOR THE EMPLOYEE IS INCOMPLETE.

13 (b) BEGINNING OCTOBER 1, 2010, AN EMPLOYEE WHO IS NOT  
14 EXEMPT FROM REIMBURSEMENT PURSUANT TO PARAGRAPH (b) OF  
15 SUBSECTION (4) OF THIS SECTION SHALL NOT BE ASSIGNED A MOTOR  
16 VEHICLE FOR COMMUTING UNLESS THE EMPLOYEE AGREES IN WRITING  
17 THAT THE REIMBURSEMENT FOR COMMUTING MAY BE DEDUCTED FROM HIS  
18 OR HER SALARY.

19 (c) IF AN EMPLOYEE AUTHORIZED TO USE A STATE-OWNED MOTOR  
20 VEHICLE FOR COMMUTING HAS THE ASSIGNMENT OF THAT MOTOR VEHICLE  
21 REVOKED PURSUANT TO SECTION 24-30-1112 (3) (a), THE DIVISION SHALL  
22 COLLECT REIMBURSEMENT FROM THE EMPLOYEE FOR THE OTHER THAN  
23 OFFICIAL BUSINESS USE THAT LEAD TO THE REVOCATION, WHICH AMOUNT  
24 SHALL BE IN ADDITION TO ANY OTHER REIMBURSEMENT REQUIRED  
25 PURSUANT TO THIS SECTION.

26 (4) (a) Any individual EXCEPT AS SET FORTH IN PARAGRAPH (b) OF  
27 THIS SUBSECTION (4), AN EMPLOYEE who has received the state agency

1 executive director's authorization to use a state-owned motor vehicle for  
2 commuting purposes shall reimburse the state for such use at a rate  
3 computed by the division. This rate shall approximate the benefit derived  
4 from the use of the vehicle. Reimbursement shall be for twenty days per  
5 month regardless of how many days the individual uses the vehicle to  
6 commute during the month. Reimbursement shall be made as provided  
7 by rule THAT IS ESTABLISHED ANNUALLY BASED ON THE GREATER OF  
8 EITHER THE COMMUTING VALUATION RULE ESTABLISHED BY THE INTERNAL  
9 REVENUE SERVICE PURSUANT TO 26 CFR 1.61-21 OR ANY SUCCESSOR  
10 PROVISION OR A LEASE-VALUE METHODOLOGY ESTABLISHED BY THE  
11 DIVISION. SUCH REIMBURSEMENT SHALL BE DEDUCTED FROM THE  
12 EMPLOYEE'S SALARY BY THE STATE AGENCY, BUT SHALL NOT BE  
13 CONSIDERED TO BE STATE AGENCY MONEYS OR APPROPRIATED TO THE  
14 STATE AGENCY. THE STATE AGENCY SHALL CAUSE THE REIMBURSEMENT  
15 TO BE PAID TO THE DIVISION AND THE REIMBURSEMENT SHALL BE  
16 CREDITED TO THE STATE-OWNED MOTOR VEHICLE COMMUTER CASH FUND,  
17 WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE  
18 FUND SHALL BE APPROPRIATED TO THE DIVISION TO PAY THE OPERATING  
19 EXPENSES FOR THE STATE-OWNED MOTOR VEHICLE USED BY THE  
20 EMPLOYEE FOR COMMUTING, AND THE APPROPRIATION TO THE STATE  
21 AGENCY OR OTHER FUNDING FOR OPERATING EXPENSES FOR THE  
22 STATE-OWNED MOTOR VEHICLE SHALL BE REDUCED BY THE AMOUNT OF  
23 SUCH APPROPRIATION FROM THE FUND. ALL INTEREST AND INCOME  
24 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND  
25 SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT APPROPRIATED BY  
26 THE GENERAL ASSEMBLY SHALL REMAIN IN THE FUND AND SHALL NOT BE  
27 TRANSFERRED OR REVERT TO THE GENERAL FUND AT THE END OF ANY

1 FISCAL YEAR.

2 (b) (I) Unless provided by rule, no exceptions shall be made to the  
3 reimbursement provisions of this subsection (4) REIMBURSEMENT SHALL  
4 NOT BE REQUIRED IF THE DIVISION DETERMINES THAT THE EMPLOYEE IS  
5 DRIVING A CLEARLY MARKED POLICE OR FIRE VEHICLE OR OTHER  
6 QUALIFIED NONPERSONAL USE VEHICLE.

7 (II) THE EXCEPTION TO REIMBURSEMENT SET FORTH IN  
8 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL NOT APPLY TO AN  
9 EMPLOYEE WHO IS NOT A COLORADO STATE PATROL OFFICER IF THE  
10 DIVISION DETERMINES THAT THE EMPLOYEE'S PRIOR USE OF A  
11 STATE-OWNED MOTOR VEHICLE FOR COMMUTING WAS FIFTY PERCENT OR  
12 MORE OF THE TOTAL MILES TRAVELED IN THE VEHICLE.

13 (c) THE STATE AGENCY SHALL CALCULATE AND REPORT THE  
14 TAXABLE BENEFIT ASSOCIATED WITH USING THE STATE-OWNED MOTOR  
15 VEHICLE FOR COMMUTING IF THE AMOUNT OF REIMBURSEMENT REQUIRED  
16 BY THIS SECTION FOR COMMUTING IS LESS THAN THE VALUE OF THE  
17 BENEFIT AS DETERMINED BY THE REGULATIONS ESTABLISHED BY THE  
18 INTERNAL REVENUE SERVICE.

19 (5) ON OR BEFORE OCTOBER 1, 2011, AND ON OR BEFORE OCTOBER  
20 1 OF EACH YEAR THEREAFTER, THE DIVISION SHALL PROVIDE A REPORT TO  
21 THE JOINT BUDGET COMMITTEE THAT INCLUDES THE FOLLOWING  
22 INFORMATION:

23 (a) AN ESTIMATE OF THE AUTOMOBILE LEASE-VALUE RULE THAT  
24 WILL BE USED FOR THE NEXT STATE FISCAL YEAR TO DETERMINE THE  
25 REIMBURSEMENT OWED BY EACH EMPLOYEE PURSUANT TO THIS SECTION;

26 (b) THE NAME OF EACH EMPLOYEE AUTHORIZED TO USE A  
27 STATE-OWNED MOTOR VEHICLE FOR COMMUTING AND THE ESTIMATED

1 REIMBURSEMENT TO BE PAID BY THE EMPLOYEE FOR THE NEXT STATE  
2 FISCAL YEAR, WHICH INFORMATION SHALL BE ORGANIZED BY  
3 DEPARTMENT, DIVISION, AND PROGRAM;

4 (c) FOR EACH EMPLOYEE IDENTIFIED IN PARAGRAPH (b) OF THIS  
5 SUBSECTION (5), THE ANTICIPATED APPROPRIATION LINE ITEM IN THE  
6 ANNUAL GENERAL APPROPRIATION ACT AND FUNDING SOURCE THAT WILL  
7 BE USED TO PAY EXPENSES FOR THE STATE-OWNED MOTOR VEHICLE USED  
8 FOR COMMUTING;

9 (d) THE TOTAL PERCENTAGE OF MILES TRAVELED AND OPERATING  
10 COSTS FOR STATE-OWNED MOTOR VEHICLES ATTRIBUTED TO COMMUTING  
11 FOR EACH DEPARTMENT FOR THE PRIOR STATE FISCAL YEAR;

12 (e) THE TOTAL NUMBER OF EMPLOYEES FROM EACH DEPARTMENT  
13 WHO USED A STATE-OWNED MOTOR VEHICLE FOR COMMUTING DURING THE  
14 PRIOR STATE FISCAL YEAR WHO WERE NOT REQUIRED TO REIMBURSE THE  
15 STATE FOR SUCH USE; AND

16 (f) THE TOTAL OPERATING EXPENSES FOR EACH DEPARTMENT FOR  
17 THE PRIOR STATE FISCAL YEAR FOR STATE-OWNED MOTOR VEHICLES USED  
18 FOR COMMUTING.

19 (6) SUBSECTION (5) OF THIS SECTION IS EXEMPT FROM THE  
20 PROVISIONS OF SECTION 24-1-136 (11), AND THE PERIODIC REPORTING  
21 REQUIREMENT SHALL REMAIN IN EFFECT UNTIL CHANGED BY THE GENERAL  
22 ASSEMBLY ACTING BY BILL.

23 (7) THE DIVISION SHALL PROMULGATE, IN ACCORDANCE WITH  
24 ARTICLE 4 OF THIS TITLE, ANY RULES NECESSARY FOR THE  
25 ADMINISTRATION OF THIS SECTION.

26 (8) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
27 REQUIRES:

1 (a) "CLEARLY MARKED POLICE OR FIRE VEHICLE" SHALL HAVE THE  
2 SAME MEANING AS SET FORTH IN 26 CFR 1.274-5T (k) (3) OR ANY  
3 SUCCESSOR PROVISION.

4 (b) (I) "COMMUTING" MEANS DRIVING BETWEEN AN EMPLOYEE'S  
5 RESIDENCE AND:

6 (A) THE EMPLOYEE'S PRINCIPAL PLACE OF BUSINESS; OR

7 (B) TEMPORARY WORK LOCATIONS, IF SUB-SUBPARAGRAPH (B) OF  
8 SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) DOES NOT APPLY.

9 (II) "COMMUTING" DOES NOT INCLUDE DRIVING BETWEEN AN  
10 EMPLOYEE'S RESIDENCE AND:

11 (A) A LOCATION OTHER THAN THE EMPLOYEE'S PRINCIPAL  
12 WORKPLACE THAT IS IN RESPONSE TO AN EMERGENCY SITUATION; OR

13 (B) TEMPORARY WORK LOCATIONS, IF THE EMPLOYEE HAS AN  
14 OFFICE IN HIS OR HER RESIDENCE, WHICH OFFICE QUALIFIES AS A PRINCIPAL  
15 PLACE OF BUSINESS.

16 (c) "DIVISION" MEANS THE DIVISION OF CENTRAL SERVICES IN THE  
17 DEPARTMENT OF PERSONNEL.

18 (d) "EMPLOYEE" MEANS AN EMPLOYEE OF A STATE AGENCY AND  
19 INCLUDES AN OFFICER.

20 (e) "QUALIFIED NONPERSONAL USE VEHICLE" SHALL HAVE THE  
21 SAME MEANING AS SET FORTH IN 26 CFR 1.274-5T (k) (2) OR ANY  
22 SUCCESSOR PROVISION.

23 **SECTION 3. Safety clause.** The general assembly hereby finds,  
24 determines, and declares that this act is necessary for the immediate  
25 preservation of the public peace, health, and safety.