

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 11-0369.01 Ed DeCecco

SENATE BILL 11-023

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A BILL FOR AN ACT

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

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:

- ! Requires the need for an employee to commute with a state-owned motor vehicle to be set forth in the position description questionnaire for the employee's position;

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.

- ! Beginning October 1, 2011, prohibits an employee from using a state-owned motor vehicle for commuting unless the division of central services in the department of personnel (division) determines that, based on a completed application, the use meets the criteria for commuting authorization and approves such use;
- ! Requires an employee to reimburse the state for commuting with a state-owned motor vehicle at a rate that is established annually based on the greater of the federal commuting valuation rule or a lease-value methodology established by the division;
- ! Creates an exception to the reimbursement requirement for an employee driving a qualified nonpersonal use vehicle, as such terms are defined in federal law, whose use for commuting is less than 50% of the total miles traveled in the vehicle;
- ! If applicable, requires an employee to allow reimbursement to be deducted from his or her salary;
- ! Requires reimbursement payments to be credited to the newly created state-owned motor vehicle commuter cash fund;
- ! Requires moneys in the fund to offset the appropriation to a state agency or other funding for operating expenses for a state-owned motor vehicle; and
- ! Requires the division to annually provide the joint budget committee with a report regarding the use of state-owned motor vehicles for commuting.

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

1 use;

2 (c) Unreimbursed fringe benefits may be subject to federal and
3 state taxation; and

4 (d) Actual vehicle operating costs and reimbursements for
5 commuting must be reported accurately to ensure appropriate oversight
6 of state assets, preparation of the state budget, and compliance with
7 federal and state laws.

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

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

14 **24-30-1113. Commuting - reimbursement by state officers and**
15 **employees - state-owned motor vehicle commuter cash fund -**
16 **creation - definitions.** (1) Except as provided in this section, ~~the~~ A state
17 agency shall not assign any state-owned motor vehicle to an ~~officer or~~
18 employee of a state agency for any reason other than as necessitated by
19 the conduct of official state business.

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

27 (a) ~~Promotion of~~ COMMUTING WITH THE STATE-OWNED MOTOR

1 VEHICLE PROMOTES a legitimate nonpartisan state interest;

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

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

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

10 (3) (a) A STATE AGENCY SHALL SUBMIT A WRITTEN APPLICATION
11 TO THE DIVISION FOR EACH EMPLOYEE WHO THE EXECUTIVE DIRECTOR OF
12 THE STATE AGENCY AUTHORIZES TO COMMUTE WITH A STATE-OWNED
13 MOTOR VEHICLE. BEGINNING OCTOBER 1, 2011, NO EMPLOYEE SHALL USE
14 A STATE-OWNED MOTOR VEHICLE FOR COMMUTING UNLESS THE DIVISION
15 APPROVES THE USE AS CONSISTENT WITH THE CRITERIA FOR COMMUTING
16 AUTHORIZATION. A determination by the ~~director~~ DIVISION that
17 ~~commuting purposes meet~~ AN EMPLOYEE MEETS the criteria for
18 commuting authorization shall be based on review and verification of
19 written application forms and supporting documentation submitted in the
20 manner provided in rules ~~and regulations~~ adopted by the division. THE
21 DIVISION SHALL NOT GRANT APPROVAL FOR AN EMPLOYEE TO USE A
22 STATE-OWNED MOTOR VEHICLE FOR COMMUTING IF THE APPLICATION
23 FORM FOR THE EMPLOYEE IS INCOMPLETE.

24 (b) BEGINNING OCTOBER 1, 2011, AN EMPLOYEE WHO IS NOT
25 EXEMPT FROM REIMBURSEMENT PURSUANT TO PARAGRAPH (b) OF
26 SUBSECTION (4) OF THIS SECTION SHALL NOT BE ASSIGNED A MOTOR
27 VEHICLE FOR COMMUTING UNLESS THE EMPLOYEE AGREES IN WRITING

1 THAT THE REIMBURSEMENT FOR COMMUTING MAY BE DEDUCTED FROM HIS
2 OR HER SALARY.

3 (c) IF AN EMPLOYEE AUTHORIZED TO USE A STATE-OWNED MOTOR
4 VEHICLE FOR COMMUTING HAS THE ASSIGNMENT OF THAT MOTOR VEHICLE
5 REVOKED PURSUANT TO SECTION 24-30-1112 (3) (a), THE DIVISION SHALL
6 COLLECT REIMBURSEMENT FROM THE EMPLOYEE FOR THE USE FOR OTHER
7 THAN OFFICIAL BUSINESS THAT LED TO THE REVOCATION, WHICH AMOUNT
8 SHALL BE IN ADDITION TO ANY OTHER REIMBURSEMENT REQUIRED
9 PURSUANT TO THIS SECTION.

10 (4) (a) ~~Any individual~~ EXCEPT AS SET FORTH IN PARAGRAPH (b) OF
11 THIS SUBSECTION (4), AN EMPLOYEE who has received the state agency
12 executive director's authorization to use a state-owned motor vehicle for
13 commuting ~~purposes~~ shall reimburse the state for such use at a rate
14 ~~computed by the division. This rate shall approximate the benefit derived~~
15 ~~from the use of the vehicle. Reimbursement shall be for twenty days per~~
16 ~~month regardless of how many days the individual uses the vehicle to~~
17 ~~commute during the month. Reimbursement shall be made as provided~~
18 ~~by rule~~ THAT IS ESTABLISHED ANNUALLY BASED ON THE GREATER OF
19 EITHER THE COMMUTING VALUATION RULE ESTABLISHED BY THE INTERNAL
20 REVENUE SERVICE PURSUANT TO 26 CFR 1.61-21 OR ANY SUCCESSOR
21 PROVISION OR A LEASE-VALUE METHODOLOGY ESTABLISHED BY THE
22 DIVISION. SUCH REIMBURSEMENT SHALL BE DEDUCTED FROM THE
23 EMPLOYEE'S SALARY BY THE STATE AGENCY, BUT SHALL NOT BE
24 CONSIDERED TO BE STATE AGENCY MONEYS OR APPROPRIATED TO THE
25 STATE AGENCY. THE STATE AGENCY SHALL CAUSE THE REIMBURSEMENT
26 TO BE PAID TO THE DIVISION AND THE REIMBURSEMENT SHALL BE
27 CREDITED TO THE STATE-OWNED MOTOR VEHICLE COMMUTER CASH FUND,

1 WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE
2 FUND SHALL BE APPROPRIATED TO THE DIVISION TO PAY THE OPERATING
3 EXPENSES FOR THE STATE-OWNED MOTOR VEHICLE USED BY THE
4 EMPLOYEE FOR COMMUTING, AND THE APPROPRIATION TO THE STATE
5 AGENCY OR OTHER FUNDING FOR OPERATING EXPENSES FOR THE
6 STATE-OWNED MOTOR VEHICLE SHALL BE REDUCED BY THE AMOUNT OF
7 SUCH APPROPRIATION FROM THE FUND. ALL INTEREST AND INCOME
8 DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND
9 SHALL BE CREDITED TO THE FUND. ANY MONEYS NOT APPROPRIATED BY
10 THE GENERAL ASSEMBLY SHALL REMAIN IN THE FUND AND SHALL NOT BE
11 TRANSFERRED OR REVERT TO THE GENERAL FUND AT THE END OF ANY
12 FISCAL YEAR.

13 (b) (I) ~~Unless provided by rule, no exceptions shall be made to the~~
14 ~~reimbursement provisions of this subsection (4)~~ REIMBURSEMENT SHALL
15 NOT BE REQUIRED IF THE DIVISION DETERMINES THAT THE EMPLOYEE IS
16 DRIVING A QUALIFIED NONPERSONAL USE VEHICLE.

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

23 (c) THE STATE AGENCY SHALL CALCULATE AND REPORT THE
24 TAXABLE BENEFIT ASSOCIATED WITH USING THE STATE-OWNED MOTOR
25 VEHICLE FOR COMMUTING IF THE AMOUNT OF REIMBURSEMENT REQUIRED
26 BY THIS SECTION FOR COMMUTING IS LESS THAN THE VALUE OF THE
27 BENEFIT AS DETERMINED BY THE REGULATIONS ESTABLISHED BY THE

1 INTERNAL REVENUE SERVICE.

2 (5) ON OR BEFORE OCTOBER 1, 2012, AND ON OR BEFORE OCTOBER
3 1 OF EACH YEAR THEREAFTER, THE DIVISION SHALL PROVIDE A REPORT TO
4 THE JOINT BUDGET COMMITTEE THAT INCLUDES THE FOLLOWING
5 INFORMATION:

6 (a) AN ESTIMATE OF THE REIMBURSEMENT RATE THAT WILL BE
7 USED FOR THE NEXT STATE FISCAL YEAR PURSUANT TO THIS SECTION;

8 (b) THE NAME OF EACH EMPLOYEE AUTHORIZED TO USE A
9 STATE-OWNED MOTOR VEHICLE FOR COMMUTING AND THE ESTIMATED
10 REIMBURSEMENT TO BE PAID BY THE EMPLOYEE FOR THE NEXT STATE
11 FISCAL YEAR, WHICH INFORMATION SHALL BE ORGANIZED BY
12 DEPARTMENT, DIVISION, AND PROGRAM;

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

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

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

25 (f) THE TOTAL OPERATING EXPENSES FOR EACH DEPARTMENT FOR
26 THE PRIOR STATE FISCAL YEAR FOR STATE-OWNED MOTOR VEHICLES USED
27 FOR COMMUTING.

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

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

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

10 (a) (I) "COMMUTING" MEANS DRIVING BETWEEN AN EMPLOYEE'S
11 RESIDENCE AND:

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

13 (B) TEMPORARY WORK LOCATIONS, IF SUB-SUBPARAGRAPH (B) OF
14 SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) DOES NOT APPLY.

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

17 (A) A LOCATION OTHER THAN THE EMPLOYEE'S PRINCIPAL PLACE
18 OF BUSINESS THAT IS IN RESPONSE TO AN EMERGENCY SITUATION; OR

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

22 (b) "DIVISION" MEANS THE DIVISION OF CENTRAL SERVICES IN THE
23 DEPARTMENT OF PERSONNEL.

24 (c) "EMPLOYEE" MEANS AN EMPLOYEE OF A STATE AGENCY AND
25 INCLUDES AN OFFICER.

26 (d) "QUALIFIED NONPERSONAL USE VEHICLE" SHALL HAVE THE
27 SAME MEANING AS SET FORTH IN 26 CFR 1.274-5 (k) (2) OR ANY

1 SUCCESSOR PROVISION.

2 **SECTION 3.** 24-30-1115 (1), Colorado Revised Statutes, is
3 amended to read:

4 **24-30-1115. Motor fleet management fund - creation.**

5 (1) There is hereby created a fund to be known as the motor fleet
6 management fund, which shall be administered by the department of
7 personnel and which shall consist of all moneys which may be transferred
8 thereto in accordance with section 24-30-1104 (2) (k). ~~or 24-30-1113 (4).~~

9 **SECTION 4. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.