SB11-023

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 11-0369	**Date:**	January 18, 2011
Prime Sponsor(s):	Sen. Lambert Rep. Priola	**Bill Status:**	Senate Transportation
		Fiscal Analyst:	Kerry White (303-866-3469)

TITLE: CONCERNING THE USE OF A STATE-OWNED MOTOR VEHICLE FOR COMMUTING.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue Cash Funds State-Owned Motor Vehicle Commuter Cash Fund	$899,580	$899,580
State Expenditures Multiple Funds		($899,580)
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill defines commuting as driving a state-owned vehicle between an employee's residence and his or her principal or temporary work location, except when the employee's residence is his or her principal work location or the employee is responding to an emergency. A state-owned vehicle may be used by an employee for commuting only if current legal requirements are met and the employee's job description requires it. Beginning on October 1, 2011, the Division of Central Services (DCS) in the Department of Personnel & Administration (DPA) must approve such use and employees are required to allow the state to deduct reimbursement for commuting from his or her salary. Reimbursement is required of all employees except Colorado State Patrol Officers or employees who drive a qualified non-personal use vehicle where commuting accounts for less than 50 percent of the total vehicle miles driven. Other provisions of the bill:

- require state agencies to submit written applications to the DCS for each employee that the executive director authorizes for commuting;
- direct the DCS to establish rules for commuting, to verify and approve each employee's commuting authorization, and provide an annual report to the Joint Budget Committee (JBC) on the use of state-owned vehicles for commuting;

- specify that the reimbursement rate is the greater of the Internal Revenue Service (IRS) commuting valuation rule or lease-value rule; and
- require the state to withhold federal taxes for the employee if the amount reimbursed for commuting use of the vehicle is less than the IRS value of the commuting benefit.

Reimbursement moneys are credited to the State-Owned Motor Vehicle Cash Fund created under the bill and appropriated to the DCS to pay operating expenses for commuter vehicles. Appropriations made to state agencies for these costs will be reduced by a corresponding amount. All interest and income is credited to and shall remain in the cash fund.

Background

There are 1,079 employees using a state-owned vehicle to commute. Participation and costs are shown in Table 1.

Table 1. Current Commuter Program Vehicle Distribution and Costs

Agency	Total Commuters	Qualified Nonpersonal Use Vehicles	Regular State Vehicles	Estimated Annual Miles*	Cost Per Mile Driven	Current Cost
Corrections	335	316	19	2,361,750	$0.37	$873,848
Local Affairs	20	0	20	141,000	$0.37	52,170
Military and Veterans Affairs	1	0	1	7,050	$0.37	2,609
Natural Resources	18	18	0	126,900	$0.44	55,836
Public Health and Environment	3	3	0	21,150	$0.37	7,826
Public Safety	357	303	54	2,516,850	$0.38	956,403
Regulatory Agencies	44	0	44	310,200	$0.37	114,774
Revenue	124	44	80	874,200	$0.32	279,744
Transportation	177	8	169	1,247,850	$0.34	424,269
TOTAL	**1,079**	**692**	**387**	**7,606,950**		**$2,767,479**

** Estimated as 30 miles round trip for 20 days per month.*

Under current practice, employees who commute to work using any state vehicle must pay income taxes based on the value of the vehicle to the employee. Most employees pay taxes on $60 per month of imputed income. This amount represents the taxable value of the commuting benefit and is not a reimbursement to the state.

State Revenue

State revenue from employee reimbursements is estimated to increase by $899,580 per year, beginning in FY 2011-12. While a small amount of state income tax from the imputed income will be lost, this amount is likely to be more than offset by reimbursements received from employees. Table 2 shows the anticipated changes in the commuting program as a result of this bill, including the total number of commuters expected to provide reimbursement. This figure is based on the assumption that 50 percent of employees who drive qualified non-personal use vehicles will be exempted from reimbursement and the average reimbursement will be equivalent to $0.22 per commuting mile driven.

Table 2. Commuters Under SB11-023

Department	**Number of Commuters**	**Exempt Commuters**	**Commuters that will reimburse**	**Estimated Reimbursement**
Corrections	335	158	177	$274,527
Local Affairs	20	0	20	31,020
Military and Veterans Affairs	1	0	1	1,551
Natural Resources	18	9	9	13,959
Public Health & Environment	3	3	0	0
Public Safety	357	303	54	83,754
Regulatory Agencies	44	0	44	68,244
Revenue*	124	22	102	158,202
Transportation	177	4	173	268,323
TOTAL	**1,079**	**499**	**580**	**$899,580**

* *The Department of Revenue has 42 Lottery Sales Representatives who work exclusively in the field. These individuals do not fully meet the qualification of designating their home as their principal place of business, but also do not work from a Department of Revenue office. Based on the language of the bill as it is currently written, the fiscal note shows these individuals as commuters that will provide reimbursement.*

State Expenditures

Beginning in FY 2012-13, state expenditures will decrease by an estimated $899,580 per year. This analysis assumes that the DCS will provide its first report to the JBC in October 2012, and state appropriations will be adjusted for FY 2012-13 based on the actual amount of employee reimbursement received. As discussed in the State Revenue section, a total of 580 vehicles will have at least a portion of their associated operating costs offset by employee reimbursements.

DPA. The bill requires staff of the DCS to promulgate rules, approve commuter program applications, track program participation, and make annual reports to the JBC. While these activities increase the workload of the DCS, no new appropriation is required. The DCS will need to modify its CARS database in order to produce the required reports, however it already has funds appropriated for this purpose.

State agencies. If employees opt to cease commuting, some agencies may experience increased costs for overnight parking of state vehicles and other impacts. As these impacts are based on future actions of individual commuters, they have not been estimated or included. Each department will have a small increase in workload in order to process payroll deductions and revise job descriptions. This increase is not anticipated to rise to the level of requiring a new appropriation.

Departmental Differences

It is the position of the Department of Revenue (DOR) that this bill will reduce state revenue by at least $8.5 million per fiscal year beginning in FY 2011-12, and increase state expenditures by an indeterminate amount. This includes an estimated $5 million from lost productivity among Lottery sales representatives and $3.5 million from lost productivity among tax and compliance staff. By opting out of the commuter program and beginning work from a DOR office, Lottery sales will decline by $5 million per year. For staff that work in the Taxation and Compliance Division, employees will increase on-the-job travel time and reduce productivity by up to 30 percent, decreasing revenue by $3.5 million per year. Staff in the Drivers License section are anticipated to use their personal vehicles, increasing net costs by $21,832 per year. Overnight parking costs will increase by an indeterminate amount, based on the affected office locations.

The fiscal note assumes that at least some portion of the DOR employees will choose to remain in the commuter program and provide reimbursement the state. Employees may value the convenience of beginning and ending their day at their home rather than having to add commute time to their workdays or find it more cost effective than using their personal vehicle. As the majority of employees enrolled in the commuter program are classified as Fair Labor Standards Act (FLSA)-exempt, they are not bound to strict time limits to complete their work, and are instead judged by meeting their position's performance goals. FLSA-exempt employees that opt out would make adjustments to complete workload expectations and therefore not experience a loss of productivity. For those employees that choose to receive reimbursement for personal vehicle use, the DOR could reduce its overall costs by returning assigned vehicles that are no longer being used by commuters. As it is unknown how many, if any, commuters would opt out of the program and where these employees might be located, it is not possible to calculate any increase in parking costs.

Departments Contacted

All departments