

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0712.02 Nicole Myers x4326

HOUSE BILL 17-1296

HOUSE SPONSORSHIP

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Smallwood and Jahn, Donovan, Neville T.

House Committees
Transportation & Energy

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ASSIGNMENT OF STATE-OWNED MOTOR VEHICLES.**

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://leg.colorado.gov/>.)

Legislative Audit Committee. The bill clarifies the criteria and requirements in connection with the assignment of a state-owned motor vehicle (vehicle) to a state agency or to an officer or employee of a state agency.

Assignment of vehicles to a state agency. Current law permits the division of central services in the department of personnel (division) to permanently assign a vehicle to a state agency. The bill clarifies that the assignment of a vehicle to a state agency is authorized only when the state

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.

agency's use of the vehicle is likely to meet the minimum required mileage for the vehicle's intended work function or if the state agency can justify the need for permanent assignment of the vehicle because of its unique use. The bill also clarifies the conditions under which the division must revoke the assignment of the vehicle to a state agency.

Assignment of vehicles to an officer or employee of a state agency. Current law also permits a state agency to assign a vehicle to an officer or employee of the state agency under certain circumstances. The bill specifies that for purposes of the assignment of a vehicle to an officer or employee of a state agency, "state agency" does not include the judicial and legislative branches of state government, any state institution of higher education, or the Auraria higher education center, and that "state agency" does include the state board of stock inspection commissioners.

Pursuant to current law, a state agency may assign a vehicle to an officer or employee when the executive director of the state agency determines that it would promote a legitimate nonpartisan state interest, promote the efficient operation of the state motor vehicle fleet, and is cost-effective to the state agency. The bill eliminates the current criteria and specifies that a state agency may assign a vehicle to an officer or employee of the state agency for business and commuting only if:

- ! Assignment of the vehicle is necessary to conduct official and legitimate state business;
- ! The vehicle meets the federal internal revenue service (IRS) definition of qualified nonpersonal use, or assignment of the vehicle is the most cost-efficient means of transportation to the state agency; and
- ! Assignment of the vehicle complies with any additional criteria established in rules adopted by the department of personnel.

The bill requires the executive director of a state agency or their designee to authorize the assignment of a vehicle in writing and submit the authorization and any supporting documentation to the director of the division for review.

The bill requires the director of the division or the state controller, as applicable, to review any assignment of a vehicle to an officer or employee of the state agency. The director of the division or the state controller is required to verify that the state agency's assignment of a vehicle complies with state and federal law. If the review establishes that the assignment of a vehicle does not comply with state and federal law, the division is required to revoke the assignment of the vehicle.

Currently, any state officer or employee who has an assigned vehicle is required to reimburse the state for the use of the vehicle at a rate computed by the division. The bill eliminates the reimbursement provision and specifies that when an officer or employee is assigned a vehicle because it is the most cost-efficient means of transportation to the

state agency, the officer or employee is required to pay income tax on the value of the fringe benefit of the vehicle. The bill requires the state controller to calculate and report as income the value of the vehicle's fringe benefit in accordance with IRS regulations.

The division is required to establish a program and adopt rules providing for annual verification by the director of the division or the state controller that the assignment of each state-owned motor vehicle to an officer or employee of a state agency still complies with the requirements of state and federal law. The review is required for all assigned vehicles, regardless of when they were assigned. If the verification process establishes that the assignment of a vehicle does not comply with state and federal law, the division is required to revoke the assignment of the vehicle.

On or before September 1, 2019, the department of personnel is required to report to the legislative audit committee regarding the implementation and enforcement of the bill. The department may make recommendations regarding further modifications to the criteria and requirements for the assignment of vehicles to officers and employees of state agencies for business and commuting purposes.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-30-1112
3 as follows:

4 **24-30-1112. Permanent assignment of vehicles - state agency**
5 **- verification of minimum mileage - revocation.** (1) A STATE-OWNED
6 MOTOR VEHICLE THAT IS PART OF THE STATE MOTOR VEHICLE FLEET
7 ESTABLISHED PURSUANT TO SECTION 24-30-1104 (2) MAY BE ASSIGNED BY
8 THE DIVISION TO A STATE AGENCY PURSUANT TO THIS SECTION. IN
9 ADDITION, ANY STATE-OWNED MOTOR VEHICLE THAT IS ASSIGNED TO A
10 STATE AGENCY MAY BE FURTHER ASSIGNED BY THE EXECUTIVE DIRECTOR
11 OF THE STATE AGENCY OR BY THE EXECUTIVE DIRECTOR'S DESIGNEE TO AN
12 OFFICER OR EMPLOYEE OF THE STATE AGENCY PURSUANT TO SECTION
13 24-30-1113.

14 (†) (2) Unless ~~an~~ A STATE agency can justify to the division the

1 need for permanent assignment OF A VEHICLE because of ~~the~~ ITS unique
2 use, ~~of a vehicle~~; THE DIVISION MAY PERMANENTLY ASSIGN a state-owned
3 ~~passenger~~ motor vehicle ~~shall not be permanently assigned~~ to A STATE
4 AGENCY ONLY IF THE USE OF THE VEHICLE BY THE STATE AGENCY IS
5 LIKELY TO MEET THE MINIMUM REQUIRED MILEAGE ESTABLISHED BY THE
6 DEPARTMENT OF PERSONNEL FOR THE UTILIZATION CLASSIFICATION
7 ASSOCIATED WITH THE VEHICLE'S INTENDED WORK FUNCTION AND THE USE
8 OF SUCH VEHICLE BY THE STATE AGENCY COMPLIES WITH ANY ADDITIONAL
9 CRITERIA ESTABLISHED BY THE DIVISION IN RULES. A VEHICLE THAT IS
10 ASSIGNED TO A STATE AGENCY MUST BE PARKED AT A STATE FACILITY, AS
11 DEFINED BY RULE, WHEN THE VEHICLE IS NOT IN USE UNLESS THE VEHICLE
12 HAS BEEN ASSIGNED TO AN OFFICER OR EMPLOYEE OF THE STATE AGENCY
13 PURSUANT TO SECTION 24-30-1113.

14 ~~(a) Any agency, state officer, or state employee, if the use of such~~
15 ~~vehicle is not likely to meet the minimum required mileage established by~~
16 ~~the department of personnel for the utilization classification associated~~
17 ~~with the vehicle's intended work function unless:~~

18 ~~(I) The state officer's or employee's duties are routinely related to~~
19 ~~public safety; and~~

20 ~~(II) The state officer's or employee's duties are likely to expose~~
21 ~~such officer or employee routinely to life-threatening situations.~~

22 ~~(2)~~ (3) The division shall establish a program and adopt rules ~~and~~
23 ~~regulations~~ providing for annual verification that each ~~permanently~~
24 ~~assigned~~ STATE-OWNED motor vehicle PERMANENTLY ASSIGNED TO A
25 STATE AGENCY has met the minimum required mileage based on the
26 appropriate utilization classification. If verification establishes that a
27 vehicle has not met the minimum annual mileage rate AND OTHER

1 CRITERIA ESTABLISHED IN RULES and if the responsible state agency
2 cannot justify such lower mileage OR FAILURE TO MEET OTHER CRITERIA,
3 THE DIVISION SHALL REVOKE THE permanent assignment ~~shall be revoked~~
4 OF THE VEHICLE immediately.

5 ~~(3)~~ (4) The division shall adopt rules ~~and regulations~~ governing
6 the procedure for revocation of assignment of state-owned motor vehicles
7 THAT HAVE BEEN PERMANENTLY ASSIGNED TO A STATE AGENCY.
8 Revocation of assignment shall occur when ~~it has been determined~~ THE
9 DIVISION DETERMINES that:

10 (a) The vehicle has been used for other than official business or
11 HAS BEEN USED FOR COMMUTING without ~~the state agency executive~~
12 ~~director's approval as provided in~~ BEING ASSIGNED TO AN OFFICER OR
13 EMPLOYEE OF THE STATE AGENCY PURSUANT TO section 24-30-1113;

14 (b) (I) ~~Required reports have not been filed or reports which have~~
15 ~~been filed~~ THE STATE AGENCY HAS NOT SUBMITTED REPORTS OR OTHER
16 DOCUMENTATION TO THE DIVISION THAT IT IS REQUIRED TO SUBMIT
17 PURSUANT TO RULES ADOPTED BY THE DIVISION; OR

18 (II) ANY REPORTS OR OTHER DOCUMENTATION THAT THE STATE
19 AGENCY HAS SUBMITTED fail to meet the standards established in rules
20 ~~and regulations~~ adopted by the division for the ~~filing~~ SUBMISSION of such
21 reports AND DOCUMENTATION and ~~such deficiencies are not cured~~ THE
22 STATE AGENCY HAS NOT CURED THE DEFICIENCIES within thirty days after
23 receiving notification from the division of such deficiency;

24 (c) THE STATE AGENCY HAS KNOWINGLY AND WILLFULLY SUPPLIED
25 false information ~~has knowingly and willfully been supplied on an~~
26 ~~application for permanent assignment, commuting reimbursement form,~~
27 ~~or other required report or form~~ TO THE DIVISION REGARDING THE

1 PERMANENT ASSIGNMENT OF THE MOTOR VEHICLE TO THE STATE AGENCY;

2 ~~(d) An individual required to do so fails to sign all reports or~~
3 ~~forms submitted for vehicles permanently assigned and fails to cure the~~
4 ~~deficiency within thirty days after receiving notification from the division~~
5 ~~of such deficiency;~~

6 ~~(e)~~ (d) That a state-owned motor vehicle has been abused; or

7 ~~(f)~~ (e) That a violation of other rules ~~or regulations~~ promulgated
8 by the division has occurred which warrants revocation of assignment TO
9 THE STATE AGENCY as specified in the rules ~~and regulations~~ adopted by
10 the division.

11 ~~(4)~~ (5) THE DIVISION SHALL NOT HONOR new requisitions for
12 assignment of vehicle following the revocation of assignment ~~shall not be~~
13 ~~honored~~ until the division is assured that the violation for which a vehicle
14 was previously revoked will not recur.

15 **SECTION 2.** In Colorado Revised Statutes, **repeal and reenact,**
16 **with amendments,** 24-30-1113 as follows:

17 **24-30-1113. Assignment of vehicles to state agency officers or**
18 **employees - report to legislative audit committee - definition - repeal.**

19 (1) NOTWITHSTANDING SECTION 24-30-1102 (5), AS USED IN THIS
20 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "STATE AGENCY"
21 MEANS THE STATE OR ANY DEPARTMENT, BOARD, BUREAU, COMMISSION,
22 INSTITUTION, OR OTHER AGENCY OF THE STATE; EXCEPT THAT "STATE
23 AGENCY" DOES NOT INCLUDE ANY STATE INSTITUTION OF HIGHER
24 EDUCATION, THE AURARIA HIGHER EDUCATION CENTER, OR THE
25 LEGISLATIVE AND JUDICIAL BRANCHES OF STATE GOVERNMENT. AS USED
26 IN THIS SECTION, "STATE AGENCY" DOES INCLUDE THE STATE BOARD OF
27 STOCK INSPECTION COMMISSIONERS, CREATED IN SECTION 35-41-101.

1 (2) (a) THE EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE
2 EXECUTIVE DIRECTOR'S DESIGNEE MAY ASSIGN A STATE-OWNED MOTOR
3 VEHICLE THAT HAS BEEN ASSIGNED TO THE STATE AGENCY PURSUANT TO
4 SECTION 24-30-1112 TO AN OFFICER OR EMPLOYEE OF THE STATE AGENCY
5 FOR CONDUCTING STATE BUSINESS AND COMMUTING. COMMUTING
6 INCLUDES TRAVELING FROM AN OFFICER'S OR EMPLOYEE'S PERSONAL
7 RESIDENCE TO ONE OR MORE REGULAR PLACES OF BUSINESS. A
8 STATE-OWNED MOTOR VEHICLE MAY BE PARKED AT THE PERSONAL
9 RESIDENCE OF AN OFFICER OR EMPLOYEE OF A STATE AGENCY FOR MORE
10 THAN ONE DAY PER MONTH ONLY IF THE STATE AGENCY HAS ASSIGNED
11 THE VEHICLE TO THE OFFICER OR EMPLOYEE PURSUANT TO THIS SECTION.
12 THE ASSIGNMENT OF A STATE-OWNED MOTOR VEHICLE PURSUANT TO THIS
13 SECTION MUST COMPLY WITH THE REQUIREMENTS OF SECTION 24-30-1112.

14 (b) THE EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE
15 EXECUTIVE DIRECTOR'S DESIGNEE MUST AUTHORIZE THE ASSIGNMENT OF
16 A VEHICLE IN WRITING AND SUBMIT THE AUTHORIZATION AND ANY
17 SUPPORTING DOCUMENTATION TO THE DIRECTOR OF THE DIVISION FOR
18 FINAL APPROVAL. THE EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE
19 EXECUTIVE DIRECTOR'S DESIGNEE SHALL AUTHORIZE THE ASSIGNMENT OF
20 A VEHICLE ONLY IF:

21 (I) ASSIGNMENT OF THE VEHICLE IS NECESSARY TO CONDUCT
22 OFFICIAL AND LEGITIMATE STATE BUSINESS;

23 (II) ASSIGNMENT OF THE VEHICLE SATISFIES AT LEAST ONE OF THE
24 FOLLOWING REQUIREMENTS:

25 (A) THE VEHICLE MEETS THE FEDERAL INTERNAL REVENUE
26 SERVICE DEFINITION OF QUALIFIED NONPERSONAL USE, AS SPECIFIED IN 26
27 CFR 1.274-5 (k); OR

1 (B) THE ASSIGNMENT OF THE VEHICLE IS THE MOST
2 COST-EFFICIENT MEANS OF TRANSPORTATION, AS DEFINED IN RULES
3 ADOPTED BY THE DEPARTMENT OF PERSONNEL, TO THE STATE AGENCY;
4 AND

5 (III) ASSIGNMENT OF THE VEHICLE COMPLIES WITH ANY
6 ADDITIONAL CRITERIA ESTABLISHED IN RULES ADOPTED BY THE
7 DEPARTMENT OF PERSONNEL.

8 (c) AN EXECUTIVE DIRECTOR OF A STATE AGENCY OR THE
9 EXECUTIVE DIRECTOR'S DESIGNEE WHO AUTHORIZES THE ASSIGNMENT OF
10 A STATE-OWNED MOTOR VEHICLE TO AN OFFICER OR EMPLOYEE OF THE
11 STATE AGENCY SHALL MAINTAIN DOCUMENTATION OF THE ASSIGNMENT,
12 INCLUDING THE EXECUTIVE DIRECTOR'S JUSTIFICATION FOR AUTHORIZING
13 THE ASSIGNMENT OF THE VEHICLE. AT LEAST ANNUALLY, THE EXECUTIVE
14 DIRECTOR OF A STATE AGENCY OR THE EXECUTIVE DIRECTOR'S DESIGNEE
15 SHALL REVIEW EACH ASSIGNMENT OF A VEHICLE TO ENSURE THAT THE
16 ASSIGNMENT COMPLIES WITH THE REQUIREMENTS OF THIS SECTION.

17 (3) THE DIRECTOR OF THE DIVISION OR THE STATE CONTROLLER,
18 OR THE DESIGNEE OF EITHER OFFICIAL, AS APPLICABLE, SHALL REVIEW ANY
19 ASSIGNMENT OF A STATE-OWNED MOTOR VEHICLE TO AN OFFICER OR
20 EMPLOYEE OF A STATE AGENCY. THE DIRECTOR OF THE DIVISION OR THE
21 STATE CONTROLLER, OR THE DESIGNEE OF EITHER OFFICIAL, AS
22 APPLICABLE, SHALL VERIFY THAT THE ASSIGNMENT OF THE VEHICLE
23 COMPLIES WITH THE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS
24 SECTION AND THE REGULATIONS OF THE FEDERAL INTERNAL REVENUE
25 SERVICE. IF THE REVIEW ESTABLISHES THAT THE ASSIGNMENT OF A
26 VEHICLE DOES NOT COMPLY WITH SUCH REQUIREMENTS, THE DIRECTOR OF
27 THE DIVISION SHALL REVOKE THE ASSIGNMENT OF THE VEHICLE.

1 (4) IN ADDITION TO THE INITIAL APPROVAL REQUIRED BY
2 SUBSECTION (3) OF THIS SECTION, THE DIVISION SHALL ESTABLISH A
3 PROGRAM AND ADOPT RULES PROVIDING FOR ANNUAL REVIEW AND
4 VERIFICATION BY THE DIRECTOR OF THE DIVISION OR THE STATE
5 CONTROLLER, OR THE DESIGNEE OF EITHER OFFICIAL, AS APPLICABLE, THAT
6 EACH STATE-OWNED MOTOR VEHICLE ASSIGNED TO AN OFFICER OR
7 EMPLOYEE OF A STATE AGENCY STILL COMPLIES WITH THE REQUIREMENTS
8 OF SUBSECTION (2) OF THIS SECTION AND THE REGULATIONS OF THE
9 FEDERAL INTERNAL REVENUE SERVICE. THE REQUIREMENTS OF THIS
10 SUBSECTION (4) APPLY TO ALL STATE-OWNED MOTOR VEHICLES, WHETHER
11 THEY WERE ASSIGNED BEFORE, ON, OR AFTER SEPTEMBER 1, 2017. IF THE
12 VERIFICATION PROCESS ESTABLISHES THAT THE ASSIGNMENT OF A VEHICLE
13 NO LONGER COMPLIES WITH SUBSECTION (2) OF THIS SECTION OR THE
14 REGULATIONS OF THE FEDERAL INTERNAL REVENUE SERVICE, THE DIVISION
15 SHALL REVOKE THE ASSIGNMENT OF THE VEHICLE.

16 (5) ANY OFFICER OR EMPLOYEE OF A STATE AGENCY WHO IS
17 ASSIGNED A STATE-OWNED MOTOR VEHICLE BECAUSE IT IS THE MOST
18 COST-EFFICIENT MEANS OF TRANSPORTATION AS SPECIFIED IN SUBSECTION
19 (2)(b)(II)(B) OF THIS SECTION IS REQUIRED TO PAY INCOME TAX ON THE
20 VALUE OF THE FRINGE BENEFIT OF THE VEHICLE. THE STATE CONTROLLER,
21 OR THE STATE CONTROLLER'S DESIGNEE, SHALL CALCULATE AND REPORT
22 AS INCOME THE VALUE OF THE FRINGE BENEFIT OF THE VEHICLE IN
23 ACCORDANCE WITH THE REGULATIONS OF THE FEDERAL INTERNAL
24 REVENUE SERVICE. THE STATE CONTROLLER SHALL PROMULGATE RULES
25 REGARDING HOW THE VALUE OF THE FRINGE BENEFIT WILL BE
26 CALCULATED AND REPORTED.

27 (6) THE DIRECTOR OF THE DIVISION, OR THE DIRECTOR'S DESIGNEE,

1 AND THE STATE CONTROLLER, OR STATE CONTROLLER'S DESIGNEE, SHALL
2 PROMULGATE RULES AS REQUIRED IN THIS SECTION AND MAY
3 PROMULGATE ADDITIONAL RULES DEEMED NECESSARY FOR THE
4 IMPLEMENTATION OF THIS SECTION. SUCH RULES SHALL BE PROMULGATED
5 IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24.

6 (7) (a) ON OR BEFORE SEPTEMBER 1, 2019, THE DEPARTMENT OF
7 PERSONNEL SHALL REPORT TO THE LEGISLATIVE AUDIT COMMITTEE
8 REGARDING THE IMPLEMENTATION AND ENFORCEMENT OF THIS SECTION.
9 THE DEPARTMENT MAY MAKE RECOMMENDATIONS REGARDING FURTHER
10 MODIFICATIONS TO THE CRITERIA AND REQUIREMENTS FOR THE
11 ASSIGNMENT OF A STATE-OWNED MOTOR VEHICLE TO AN OFFICER OR
12 EMPLOYEE OF A STATE AGENCY.

13 (b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 2020.

14 **SECTION 3.** In Colorado Revised Statutes, 24-30-1115, **amend**
15 (1) as follows:

16 **24-30-1115. Motor fleet management fund - creation.**

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

21 **SECTION 4. Effective date.** This act takes effect September 1,
22 2017.

23 **SECTION 5. 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.