

# COLORADO OFFICE OF THE STATE AUDITOR



DEPARTMENT OF PERSONNEL & ADMINISTRATION

## COMMUTING USE OF STATE- OWNED VEHICLES



NOVEMBER 2016

PERFORMANCE AUDIT

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# OFFICE OF THE STATE AUDITOR



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November 21, 2016

DIANNE E. RAY, CPA

STATE AUDITOR

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Department of Personnel & Administration's design of the State's commuting processes. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 2-7-204(5), C.R.S., which requires the State Auditor to annually conduct performance audits of one or more specific programs or services in at least two departments for purposes of the SMART Government Act. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Personnel & Administration.

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# REPORT HIGHLIGHTS



COMMUTING USE OF STATE-OWNED VEHICLES  
PERFORMANCE AUDIT, NOVEMBER 2016

DEPARTMENT OF PERSONNEL &  
ADMINISTRATION

## CONCERN

The audit identified fundamental concerns with how the State manages the use of take-home vehicles:

- The statutory criteria to authorize use of a take-home vehicle for commuting are unclear and some criteria may not align with the State's business needs.
- The Department of Personnel & Administration's (Department) policies and rules do not appear to align with Internal Revenue Service (IRS) regulations for determining whether and how much vehicle fringe benefit income should be added to an employee's pay.
- The Department does not carry out all the functions specified in statute for the use of take-home vehicles or serve as a central oversight or support entity with respect to the use of take-home vehicles across state government.

## KEY FINDINGS

- For only one of the commuters in our sample of 30 did the state agency demonstrate that the commuting arrangement met all statutory requirements. We estimate that \$1.38 million of the total \$1.54 million spent on commuting in Calendar Year 2015 was for commuting arrangements that did not meet all the statutory criteria.
- The Department does not review commuting authorizations for compliance with criteria or provide clear guidance to agencies related to the use of take-home vehicles.
- The State's commuting requirements and agency internal controls do not clearly ensure compliance with IRS requirements for reporting vehicle fringe benefits. As a result, the State may not have properly reported vehicle fringe benefits for the more than 1,000 employees with take-home vehicles in Calendar Year 2015. This includes 327 employees for whom we identified specific concerns. For example, the State may have underreported vehicle fringe benefits for two state employees by more than \$5,000 each in Calendar Year 2015. Both the employees and the State may be liable for taxes on the amounts underreported and the State could be charged monetary penalties by the IRS.
- Of the 17 commuters required to reimburse the State in Calendar Year 2015, we found 65 percent were not reimbursing the amounts that they should have according to Department rules. Overall, the State only collected about \$15,400 in reimbursements out of the \$40,800 it was owed in Calendar Year 2015.

## BACKGROUND

- Take-home vehicles are state-owned vehicles that employees drive home instead of leaving at a state facility when not being used for business purposes.
- State employees may use state-owned take-home vehicles for travel between the employee's residence and place of business when approved by the agency executive director [Section 24-30-1113(2), C.R.S.].
- The Department is responsible for promulgating rules related to the use of take-home vehicles and determining that commuting authorizations meet the criteria for commuting [Sections 24-30-1113(3), C.R.S.].
- The use of a take-home vehicle is a taxable fringe benefit according to the IRS [26 C.F.R., 1.61-21(a)(1)].
- In Calendar Year 2015, a total of eight state agencies authorized 782 employees to commute (based on data available as of June 2016). An additional 327 employees had take-home vehicles in Calendar Year 2015 (based on data available as of October 2016).
- We estimate that commuting cost the State about \$1.54 million in Calendar Year 2015, of which employees reimbursed the State about \$15,400.

## KEY RECOMMENDATIONS

- Work with stakeholders to recommend key factors to determine eligibility for commuting that would promote efficient and effective state business and work with the General Assembly on statutory changes, as needed.
- Work with the Office of the Attorney General, and tax specialists as appropriate, to assess the State's compliance with IRS requirements for reporting employees' vehicle fringe benefits, revise rules and guidance based on the assessment, and report any corrections to employees' Calendar Year 2015 W-2s.
- Assess whether reimbursement should be set at the value of the commuting fringe benefit according to IRS regulations and take steps to ensure employees correctly reimburse the State.

The Department agreed with all 10 recommendations.





# CHAPTER 1

## OVERVIEW OF COMMUTING IN STATE- OWNED VEHICLES

Under certain circumstances, state employees may use state-owned vehicles for commuting between the employee's residence and place of business. Specifically, statute allows agency executive directors to authorize employees to use a state-owned vehicle for commuting when such use of the vehicle would (1) promote a legitimate nonpartisan state interest, (2) promote the

efficient operation of the state motor vehicle fleet system, and (3) be cost effective to the state agency [Section 24-30-1113(2), C.R.S.]. Statute exempts the institutions of higher education and the State Board of Stock Inspection Commissioners from these requirements [Section 24-30-1102(5), C.R.S.].

## ADMINISTRATION OF COMMUTING IN STATE-OWNED VEHICLES

Whereas agency executive directors are responsible for authorizing commuting, statute provides for the Department of Personnel & Administration (Department) to play two key roles in the administration of commuting using state-owned vehicles: (1) promulgate rules related to commuting, and (2) make a determination based on review and verification of written application forms and supporting documentation that commuting purposes meet the criteria for commuting [Sections 24-30-1113(2), (3) and (4), C.R.S.].

The Department's State Fleet Management group within the Division of Central Services carries out these responsibilities. The Department has created rules governing commuting in state-owned vehicles and has established processes for collecting and reviewing authorization forms and maintaining data about commuters. The Department has less than one full-time-equivalent staff dedicated to the commuting function.

The Department's rules contain several provisions to establish the requirements for commuting and how commuting benefits should be administered, including:

- Commuting can only be authorized when the employee is *required* to commute [1 C.C.R., 103-1, Sections 3.1.02, 3.1.04 and 3.2.01].
- Using a state-owned vehicle for personal purposes, other than authorized commuting, is strictly prohibited [1 C.C.R., 103-1, Sections 3.4.01]. Prohibited personal uses of a state-owned vehicle include: (1) transporting any person unrelated to official state business, including family members or relatives; (2) any recreational

use; (3) transporting or storing personal property of any kind; and (4) any unlawful use.

- The process by which agencies submit commuting authorization forms to the Department [1 C.C.R., 103-1, Section 3.2].
- Requirements for determining whether a commuter will reimburse the State for commuting and in what amount [1 C.C.R., 103-1, Sections 3.3 and 3.5]. The Department establishes the reimbursement rate on an annual basis.
- Requirements for determining the value of the commuting fringe benefit for taxation purposes, with reference to Internal Revenue Service (IRS) regulations [1 C.C.R., 103-1, Section 3.5.02 and 3.5.03].
- Agencies' responsibilities for the enforcement and monitoring of vehicle use for commuting purposes [1 C.C.R., 103-1, Section 3.6].

The Department has developed a commuting authorization form for agencies to use for the purpose of reporting any employees that have been authorized to commute. According to the Department, the agency's executive director must determine if the necessity of the commute meets the standards in statute and attest to this on the form. Department rules [1 C.C.R., 103-1, Section 3.2.03] require the executive director to complete and sign the form for each employee required to commute, attesting that the form is complete and accurate and that the commuting requirement is a benefit to the State. If the commuting is taxable or reimbursable (as described later), the form must also be signed by the agency's payroll officer. Any changes to the employee's commuter status must be reported immediately to the Department [1 C.C.R., 103-1, Section 3.2.04].

The Department uses the Colorado Automotive Reporting System (CARS) database to maintain information on employees who are authorized to commute in state-owned vehicles. The database includes detailed information on each fleet vehicle such as the vehicle identification number and the agency to which it is assigned. The database does not track which state-owned vehicles are used for commuting or by which employees. The Department sends an annual list of active commuting approvals to each agency for the executive

director to review and approve [1 C.C.R., 103-1, Section 3.2.05], and updates CARS with the names of commuters and the timeframe of the authorized commuting accordingly.

At times, agencies are not timely in reporting, or can fail to report to the Department when an employee starts or terminates commuting in a state-owned vehicle. Similarly, the Department does not always properly update its CARS database with the names of commuters or the months that they were authorized to commute. Therefore, the number of commuters recorded in CARS during a set period, such as a calendar year may not be accurate. We worked with the Department and agencies to ensure that we had the most accurate information possible on employees who commuted in Calendar Year 2015. For example, we verified with agencies the names of commuters and the months of authorized commuting arrangements for Calendar Year 2015. The information we provide in this report on the number of commuters in the State in Calendar Year 2015 is based on the best available information provided by the Department and agencies as of June 2016. As described in CHAPTER 2, we later identified additional employees that appear to have been commuters in Calendar Year 2015 and also learned of numerous employees with take-home vehicles who were not considered commuters.

Based on information we had as of June 2016, a total of eight state agencies authorized 782 employees to commute in Calendar Year 2015. EXHIBIT 1.1 outlines the number of authorized commuters by agency and the total number of estimated commuting miles as a percentage of the agency's total fleet miles in Calendar Year 2015.

**EXHIBIT 1.1. COMMUTING USE OF STATE-OWNED  
VEHICLES BY AGENCY  
CALENDAR YEAR 2015**

AGENCY	NUMBER OF COMMUTERS	ESTIMATED COMMUTING MILES <sup>1</sup>	AVERAGE MILES PER COMMUTER	TOTAL FLEET MILES	COMMUTING AS % OF TOTAL FLEET MILES
Corrections	346	2,485,800	7,200	10,435,200	24%
Transportation	243	1,691,900	6,900	10,309,000	16%
Public Safety	87	785,300	9,000	18,160,200	4%
Revenue	66	703,900	10,700	2,922,500	24%
Natural Resources	25	104,800	4,200	14,005,700	1%
Local Affairs	10	140,300	14,000	429,500	33%
Public Health and Environment	4	10,700	2,700	1,472,200	1%
Military Affairs	1	7,100	7,100	273,100	3%
<b>TOTAL</b>	<b>782</b>	<b>5,929,800</b>	<b>7,580</b>	<b>58,007,400</b>	<b>10%</b>

SOURCE: Office of the State Auditor analysis of commuting information provided by the Department of Personnel & Administration and agencies as of June 2016 and fleet data provided by the Department of Personnel & Administration.

<sup>1</sup> Estimation is based on the daily roundtrip commute miles from the employee's commuting authorization form multiplied by 20 days each month for each of the months the employee commuted in Calendar Year 2015.

## COST OF COMMUTING IN STATE-OWNED VEHICLES

The costs of using state-owned vehicles for commuting are incurred by agencies that authorize this use. Agencies reimburse the Department for the use of state-owned vehicles, including commuting. Specifically, agencies pay for both the fixed and variable operating costs for each permanently assigned vehicle. Permanently assigned vehicles are those that are assigned to a specific agency for use by employees of that agency. These are unlike vehicles in the state motor pool, which are available to be checked out from the Department on a short term basis. Fixed costs include vehicle lease payments and a management fee, which funds State Fleet Management's administrative overhead including personal services, administrative expenses, leased space, and indirect costs. Agencies pay the fixed costs associated with a vehicle whether it is used for commuting or not. Variable costs include fuel and maintenance costs for permanently assigned vehicles at state agencies. In addition, agencies also pay a cents per mile insurance rate for each vehicle they are permanently assigned that is determined by

the Department. Commuting use of a vehicle increases the variable costs agencies must pay. Agencies are appropriated funds for the fixed cost of vehicles, but are not appropriated specific funds for variable costs. Instead, the agencies pay for variable costs from their operating budgets. Each year, the Department calculates a variable rate for each class of vehicle and for each agency by projecting fuel costs and averaging past actual variable costs, which acts as a fixed per mile rate. The amount agencies pay the Department in variable costs is based on this per-mile rate and the actual miles from monthly odometer reports. The use of the vehicle for commuting is included as part of agencies' variable costs.

The Department does not calculate an annual total cost to the State of commuting. To estimate this cost for Calendar Year 2015 for the purposes of the audit, we collected Department data on the per-mile variable and insurance cost it charged agencies by vehicle type, asked agencies what vehicle each commuter typically drove, and reviewed the authorized commuting miles reported on the commuting authorization forms. In Calendar Year 2015 there were a total of 782 commuters, which we estimate cost the State approximately \$1.5 million, as shown in EXHIBIT 1.2.

**EXHIBIT 1.2. ESTIMATED COST TO THE STATE OF COMMUTING FOR CALENDAR YEAR 2015**

AGENCY	NUMBER OF COMMUTERS	ESTIMATED COST TO THE STATE <sup>1</sup>	AVERAGE COST PER COMMUTER	TOTAL VARIABLE FLEET COSTS	COMMUTING AS % OF TOTAL VARIABLE FLEET COSTS
Corrections	346	\$590,200	\$1,700	\$3,439,400	17%
Transportation	243	\$468,200	\$1,900	\$2,415,200	19%
Public Safety	87	\$223,300	\$2,600	\$4,810,300	5%
Revenue	66	\$175,600	\$2,700	\$569,400	31%
Natural Resources	25	\$41,300	\$1,700	\$4,895,300	1%
Local Affairs	10	\$36,300	\$3,600	\$85,100	43%
Public Health and Environment	4	\$2,900	\$700	\$262,200	1%
Military Affairs	1	\$1,400	\$1,400	\$67,200	2%
<b>TOTAL</b>	<b>782</b>	<b>\$1,539,200</b>	<b>\$2,000</b>	<b>\$16,544,100</b>	<b>9%</b>

SOURCE: Office of the State Auditor analysis of commuting information provided by agencies as of June 2016 and variable rate data provided by the Department of Personnel & Administration.

<sup>1</sup>Estimation of cost is based on daily roundtrip commute miles from the employee's commuting authorization form multiplied by 20 days each month for each of the months the employee commuted in Calendar Year 2015, multiplied by the variable rate per mile (including insurance) by vehicle class and agency.

In Calendar Year 2015, a total of 17 of the 782 commuters were required to reimburse the State for their commute. Approximately \$15,400 in total was credited back to the agencies employing these reimbursing commuters to help offset the expenses to the State associated with using state-owned vehicles to commute. We discuss the reimbursement requirements in CHAPTER 2.

## AUDIT PURPOSE, SCOPE, AND METHODOLOGY

We conducted this performance audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government, and Section 2-7-204(5), C.R.S., the State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act. Audit work was performed from December 2015 to October 2016. We appreciate the assistance provided by management and staff at the Department of Personnel & Administration and agencies with employees who commute.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The key objective of this audit was to evaluate the design of the State's commuting processes, including the role of the Department, the valuation of taxable fringe benefits of commuting, and the controls for collecting reimbursement from commuting employees.

To accomplish our audit objective, we performed the following audit work:

- Reviewed the relevant requirements in statutes, rules, IRS regulations, and guidance related to authorization and taxation of the use of state-owned vehicles for commuting purposes.
- Interviewed Division of Central Services staff, Office of the State Controller staff, and staff at agencies with commuters from our sample of 30 employees.
- Reviewed data from the Department's CARS database on employees who were authorized to commute in state-owned vehicles from Calendar Years 2013 through 2015 and verified the Calendar Year 2015 data with agencies.
- Reviewed Position Descriptions and additional information provided by agencies for a statistically-valid sample of 30 of the 782 employees, which represented six of the eight agencies with commuters.
- Contacted all 19 agencies with permanently assigned fleet vehicles in Calendar Year 2015 to inquire about the assignment of take-home vehicles, which includes all vehicles state employees take home with them at night instead of parking at a state facility when not being used for business purposes.
- Reviewed Colorado Personnel Payroll System (CPPS) data on the vehicle fringe benefits added to employees' gross income for Calendar Year 2015.
- Reviewed the amount each of the 17 reimbursing commuters reimbursed the State in Calendar Year 2015.
- Reviewed fiscal note documentation and discussed with the Department methods to best estimate the cost of commuting to the State.
- Reviewed other states' and public employers' policies for authorizing commuting and valuing commuting fringe benefits.

We relied on sampling techniques to support our audit work. We selected a random, statistically-valid sample of 30 Calendar Year 2015 commuters to review. We designed our sample based on our audit objective to assess the design of processes for authorizing commuting and to allow us to project the results of our audit work to the total population of Calendar Year 2015 commuters.



We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objective. Our conclusions on the effectiveness of those controls, as well as specific details about the audit work supporting our findings, conclusions, and recommendations, are described in CHAPTER 2 of this report.



# CHAPTER 2

## AUTHORIZING AND VALUING COMMUTING

When an agency authorizes an employee to use a state-owned vehicle for commuting, there are three main considerations to ensure that the commuting arrangement is properly handled. First, the commute must comply with statutory requirements for being efficient for the state fleet system and cost effective to the agency. Second, the commute must be valued appropriately for reporting fringe benefits to the Internal Revenue Service (IRS). Third, the agency has to determine whether the employee is required to reimburse the State for the commute, and if so,

collect the reimbursement. We assessed these three areas and found that the Department of Personnel & Administration (Department) needs to improve its processes and guidance. In addition, we identified opportunities for policymakers to consider legislative change. We discuss these issues and provide recommendations for improvement in this chapter.

## COMMUTING AUTHORIZATIONS

State employees and officers are eligible for commuting between work and home in state-owned vehicles when the executive director of the agency determines that the commuting arrangement meets authorization requirements in statute and in rules promulgated by the Department.

Statute [Section 24-30-1113, C.R.S.] establishes the requirements for authorizing the use of state-owned vehicles for commuting and the Department's role in the authorization process. Specifically, statute [Section 24-30-1113(3), C.R.S.] provides for the Department to create rules for authorizing commuting and reviewing the commuting purpose to ensure authorizations meet the requirements in statute and rules. Executive directors have authority to approve commuting.

### WHAT AUDIT WORK WAS PERFORMED, WHAT WAS THE PURPOSE, AND HOW WERE THE RESULTS MEASURED?

In Calendar Year 2015, there were 782 commuting employees at eight agencies, according to available data as of June 2016. We collected and reviewed the authorization forms for all 782 commuters. We reviewed Position Descriptions and additional information provided by agencies for a statistically-valid sample of 30 of the 782 employees, which represented six of the eight agencies with commuters. The

purpose of this work was to determine if the commuting arrangements were authorized in accordance with the requirements in statute and rules discussed below.

**COMMUTING MUST PROMOTE EFFICIENT, EFFECTIVE STATE BUSINESS.** Statute [Section 24-30-1113(1) and (2), C.R.S.] and Department rules [1 C.C.R., 103-1, Sections 3.1.04 and 3.2.01] allow agency executive directors to authorize commuting when it is necessitated by state business and the executive director determines that the commute:

- Promotes a legitimate nonpartisan state interest.
- Promotes the efficient operation of the state motor vehicle fleet system.
- Is cost effective to the state agency.

**COMMUTING MUST BE REQUIRED FOR THE EMPLOYEE.** Department rules [1 C.C.R., 103-1, Sections 3.1.04 and 3.2.01] specify that the agency executive director has to determine that commuting in a state-owned vehicle is *required*. The authorization form includes a section for agencies to attest that the commuting is required and explain why.

**FORMS AUTHORIZING COMMUTING SHOULD BE SIGNED BY EXECUTIVE DIRECTORS.** Statute [Section 24-30-1113(2), C.R.S.] and Department rules [1 C.C.R., 103-1, Sections 3.2.01 and 3.2.03] specify that agency executive directors are responsible for determining whether or not to authorize commuting. The Department reports that it expects the executive director, and not a designee, to sign the form for each commuter. One agency's policy is for the Governor to authorize the commute of the agency's executive director.

**COMMUTING SHOULD BE VERIFIED BY THE DEPARTMENT.** Department rules [1 C.C.R., 103-1, Section 3.2.03] require an agency to submit an authorization form to the Department for each commuter, and statute [Section 24-30-1113(3), C.R.S.] requires the Department to determine whether the commute meets requirements.

**THE DEPARTMENT SHOULD KNOW ABOUT EMPLOYEES WITH TAKE-HOME VEHICLES.** Department rules require agencies to submit commuting authorization forms for all employees who are assigned take-home vehicles, which are those that employees drive home instead of parking at a state facility when not being used for business purposes. Specifically, Department rules [1 C.C.R., 103-1, Sections 3.1.02 and 3.2.06] make a distinction between commuters who are employees required to use a state-owned vehicle to drive between their homes and principal or regular workplaces, and “non-commuters” who are employees with take-home state-owned vehicles, but because they work out of their homes or the vehicles, they are considered by the Department to be non-commuters. Department rules [1 C.C.R., 103-1, Sections 3.2.03 and 3.2.06] require agencies to submit commuting authorization forms to the Department for each commuter as well as each non-commuter. The commuting authorization form has a box for agencies to indicate if the employee is a non-commuter.

## WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

Overall, our review of 30 sampled commuting arrangements found no evidence that the commute had been authorized for any reason other than to promote a legitimate state interest. However, we found inconsistencies across agencies with respect to how they determined that the commuting arrangements met other requirements. In addition we found that the Department does not have complete and accurate information about employees with take-home vehicles. We discuss these issues below.

**AGENCIES DID NOT DETERMINE THAT THE COMMUTE PROMOTES THE EFFICIENT OPERATION OF THE STATE FLEET SYSTEM.** For 29 of the 30 commuters in our sample, representing all six agencies in the sample, the agency did not provide us with information to explain how the commute promoted the efficiency of the state fleet system. Instead, the

agency described other reasons for authorizing their commuting arrangements, as follows:

- For 11 of the 30 commuters, the agency employing the commuters reported that its authorization was not based on a consideration of how the commute promoted the efficiency of the fleet system, but instead solely on promoting public safety. The agency reported that fast response times are critical to ensuring public safety and that the commuter could be called to respond to emergency situations at any time.
- For the other 18 commuters, the agency provided information about how the commute improved agency operational efficiency and made the agency better able to accomplish its business needs, but not how the commute improved the efficiency of the fleet system. For example, one agency explained that it was more efficient for the agency to have the employee drive directly from his home to different locations instead of driving to a central location first to retrieve the state vehicle, but did not demonstrate the impact on any state fleet vehicles or the fleet system.

For one of the 30 commuters in our sample, the agency provided information showing that requiring the employee to commute promoted efficient use of the fleet system. Specifically, the agency reported that authorizing a commuting arrangement as opposed to requiring the employee to use a motor pool vehicle resulted in reduced mileage on fleet vehicles and provided information showing its calculation. However, it was not clear that this analysis had been done as part of the basis for deciding that commuting should be authorized for this commuter, or whether the analysis was done in response to our questions.

**AGENCIES DID NOT DETERMINE, OR COULD NOT SUBSTANTIATE HOW THEY DETERMINED, THAT THE COMMUTE WAS COST EFFECTIVE TO THE AGENCY** for 27 of the 30 commuters in our sample, representing five agencies. Specifically:

- For 11 commuters, the agency indicated that it did not evaluate cost effectiveness because public safety was the sole consideration when authorizing the commute.
- For 16 commuters in our sample, the agency reported that the commute was more cost effective than an alternative option, such as reimbursing the employee for mileage, but did not provide enough detail to determine how it reached that conclusion. For 14 of these commuters, the agency described how commuting was less costly than alternative options (e.g., reimbursing the employee for using his or her own car) but did not calculate the actual savings. For the other two, the agency reported it would not be able to calculate the cost savings of the commute.

For three of the 30 commuters in our sample, the agency provided information with specific amounts it estimated were saved through the commute. However, the agencies that authorized these three commutes were not consistent in how they reached this conclusion and may not have always made correct assumptions about the cost to the State of the alternative to which using a state-owned vehicle for commuting was being compared. For example, in two cases, the cost of the alternative included reimbursing the employee for using a personal vehicle for at least some mileage that is not reimbursable under State Fiscal Rules because it is considered the person's commute rather than work-related miles. In addition, in two of the three cases it was not clear that these analyses had been done as part of the basis for deciding that commuting should be authorized for this commuter, or whether the analysis was done in response to our questions.

For only one of the commuters in our sample of 30 did the agency provide information about both how the commute promoted the efficient use of the state fleet system and how the commute was cost effective to the agency.

**AGENCIES DID NOT CLEARLY SHOW THAT THE COMMUTE WAS REQUIRED** for nine of the 30 commuters in our sample, representing five agencies.



Four of the commuters had problems in more than one area. Specifically:

- For four of the 30 commuters in our sample, the commuting authorization form did not clearly indicate that commuting was required. Specifically, in all four cases the “required” box on the authorization form was not checked to indicate that the commute was required for the employee. In three cases, the authorization form or attached statement indicated that the employee responds to emergencies as part of his or her duties, but because the “required” box was not checked, it is not clear that the agency was clearly *requiring* the employee to commute, as opposed to allowing the employee to commute if he or she chose to do so. For the fourth case, the lines available to indicate why the commute was required were blank on the form. For these four commuters we reviewed the employee’s Position Description as another source that might indicate that commuting was a requirement for the employee. The Position Description outlines key requirements of a position. For three of these commuters, there was no mention of commuting in the Position Description and for the fourth commuter, the agency had no Position Description for the employee.
- For one of the 30 commuters in our sample, the employee’s Position Description specifically stated that it was a job requirement that the employee, “Must own a vehicle capable of winter travel.” The commuting authorization form indicated that commuting was required because “...immediate and efficient response to events or accidents necessitates commuting.” However, since owning a specific type of vehicle was already a job requirement for this position, it was unclear why commuting in a state-owned vehicle was also required for this employee.
- For eight of the 30 commuters in our sample, the proper authority (typically the executive director) did not sign the authorization form. In one case the commuting authorization form was not signed at all and in seven cases the commuting authorization form was signed by someone other than the executive director or other proper

authority. This includes one case where the executive director signed his own commuting authorization form when the policy at that agency states that the Governor must authorize the commute for the executive director. Four of these commuters also did not have the “required” box checked on their authorization forms. When forms have not been signed by the proper authority, it is unclear that commuting has been appropriately required by the agency.

THE DEPARTMENT DID NOT HAVE ACCURATE AND COMPLETE INFORMATION ABOUT EMPLOYEES WITH TAKE-HOME VEHICLES IN CALENDAR YEAR 2015. The Department could not report to us a complete list of employees with take-home vehicles in Calendar Year 2015. Specifically, the Department could not report to us the number of non-commuters and did not have a complete list of commuters.

- **NON-COMMUTERS.** During the course of the audit, we identified approximately 50 non-commuter forms that had been provided to the Department. However, the Department reported that it did not maintain information on the number of non-commuters and could not provide us with a complete or accurate number of non-commuters. To determine the number of non-commuters, in September and October 2016, we contacted agencies that had permanently assigned state fleet vehicles to ask about the assignment of take-home vehicles in Calendar Year 2015. Ten of the 19 agencies with permanently assigned state fleet vehicles reported a total 322 non-commuters with take-home vehicles in Calendar Year 2015.
- **COMMUTERS.** Four agencies responded to our inquiry about take-home vehicles with information suggesting that additional employees that the agency had previously not reported to the Department as commuters may have actually been commuters in Calendar Year 2015. This included five employees from three agencies with take-home vehicles in Calendar Year 2015 who appeared to report to an office, as opposed to working out of the vehicle or the employee’s home. As such, these employees should

have been reported to the Department as commuters and the agencies should have determined that the employees met the requirements for commuting. The fourth agency may have had additional commuters, but did not count them as such because of its internal policy to allow employees to take home state-owned vehicles for up to 7 days each month for 3 consecutive months without being considered a commuter.

## WHY DID THESE PROBLEMS OCCUR?

**MISALIGNMENT OF PRACTICE AND STATUTE IN DETERMINING COMMUTING ELIGIBILITY.** The results of our audit work indicate a misalignment between current practice and some of the provisions in statute as discussed in this section. To the extent actual practice reflects the business needs of state agencies, this may mean that some statutory provisions do not effectively support those needs.

- **PROMOTION OF THE EFFICIENT OPERATION OF THE STATE MOTOR VEHICLE FLEET SYSTEM.** The fact that virtually none of the agencies in our sample considered the effect of commuting on the efficiency of the state fleet system may indicate, at a minimum, that it is an ambiguous criterion for agencies to apply. Expecting agencies to evaluate this criterion may not be feasible because it is unclear how the decision to authorize a single commuter could significantly impact the efficiency of the entire state fleet and each agency likely has little information about the fleet as a whole. Department staff thought the concept of efficiency to the fleet was not well defined and subject to individual interpretation. The Department could not provide an example of how an agency would demonstrate that the commute promotes state fleet efficiency because it does not think that it is possible to do so. One agency reported that it believes the Department is in a better position to evaluate this criterion because it has broader knowledge of state fleet operations than individual agencies. Thus, if the impact of commuting arrangements on the efficiency of the entire fleet system continues to be a factor that the General Assembly wants evaluated, it may be more practical to require this of the Department.

- **COST EFFECTIVE TO THE STATE AGENCY.** The fact that nearly all of the agencies in our sample either did not determine the cost effectiveness of commuting arrangements, and instead considered only the ability to promote public safety, or could not substantiate how they determined the commute was cost effective may indicate the need to reconsider cost effectiveness as a mandatory criterion. Changes to statute may be beneficial to allow agencies to forego evaluation of cost effectiveness if a commute promotes public safety.

In contrast, our work shows that helping an agency meet its business needs, accomplish its mission, and promote efficient operations are key factors agencies consider important in authorizing commuting. For example, agencies reported the following as primary reasons that they authorized commuting:

- **TO ENSURE PUBLIC SAFETY,** including (1) allowing highway construction workers to commute so that they can respond to incidents on state highways within 30 minutes to reduce threats to public safety, as well as to minimize traffic delays and limit costs associated with problems at construction projects; (2) allowing avalanche forecasters to commute so that they can quickly assess the risk of avalanches in all weather conditions and at all times, and respond to avalanche risks regardless of the location; and (3) allowing law enforcement officers to commute so that they can respond to incidents as quickly as possible.
- **TO PROMOTE EFFICIENCY,** including (1) allowing an employee who picks up and delivers evidence in criminal cases to various locations throughout the state to commute rather than requiring her to drive to the office each morning to pick up the vehicle and then drive to a pick-up or drop off location; and (2) allowing an employee who has frequent meetings outside the office to commute so he can drive directly between home and the meetings rather than having meetings scheduled around picking up and dropping off a vehicle at a state office.

Statute does not provide guidance or direction for agencies in interpreting what would demonstrate that a commute promotes the efficient operation of the state motor vehicle fleet system or is cost effective to the state agency. Changes to clarify the criteria in statute and ensure that they reflect both the intent of the General Assembly and the business needs of state agencies may be warranted. We found that several government employers provide for agencies to authorize commuting based on the type of job without an analysis of the effect on the employer's overall fleet system or cost effectiveness. We identified 10 other states and local governments that had clear criteria for authorizing commuting and found that seven of the 10 allowed either emergency responders or law enforcement to commute without conducting a cost effectiveness analysis. The other three governments require a cost effectiveness analysis for all commuters. For example, one state requires a cost analysis for long-term assignment of a vehicle to home. Specifically, its administrative rules state, "For long-term assignment of a vehicle to home, the agency must do a cost-benefit analysis. The analysis must consider the costs and risks of daily travel to the home, the frequency of call-outs, parking risks, any salary savings, and other factors. The analysis should weigh reasonable alternatives such as the cost of reimbursing private vehicle mileage."

**LACK OF CENTRAL OVERSIGHT.** Currently, no single state agency, including the Department, takes responsibility for verifying that all commuting arrangements meet all the criteria in statute and rules. This lack of central oversight appears to contribute to the inconsistencies and lack of compliance we found. The Department told us it does not believe its role is to determine that commuting arrangements authorized by agencies meet the established criteria and that making such a determination would inappropriately put its judgment in place of that of agency executive directors. However, statute and rules give the Department authority to render determinations on whether commuting meets requirements and provide for agencies to appeal the Department's determinations and actions in the event of disagreement. Specifically, Section 24-30-1113(3), C.R.S., states, "A determination by the director [of Central Services] that commuting purposes meet the criteria for commuting authorization *shall* [emphasis added] be based

on review and verification of written application forms and supporting documentation submitted in the manner provided in rules and regulations adopted by the division.” Further, Section 24-30-1106, C.R.S., provides for agencies to voice disagreement with “any decision...or other act of the department...” and requires the Department executive director to render decisions on such disagreements. Similarly, Department rules provide for the Department to revoke commuting authorizations or impose restrictions and for an agency appeal process [1 C.C.R., 103-1, Section 3.6.03].

Prior to 2006 the Department’s rules provided for a clearer oversight role, specifying that state-owned vehicles could not be used for commuting without “the [director of Central Services’] favorable determination, based on review and verification of the application and support documents...” The Department was not able to provide information about why it eliminated this determination role from the rules.

Overall, we found that the Department does not conduct any type of substantive review of commuting authorization forms submitted by agencies, has not consistently collected and maintained information about employees with take-home vehicles, and has not clearly defined what constitutes commuting and when commuting authorization forms need to be submitted to the Department. We discuss these issues below.

- **THE DEPARTMENT DOES NOT ENSURE THAT COMMUTING AUTHORIZATIONS ARE COMPLETE.** The Department reports that its main function with regard to reviewing authorization forms is to ensure that they are complete. However, the Department did not ensure that it had complete authorization forms for 149 of the 775 Calendar Year 2015 commuters in its Colorado Automotive Reporting System (CARS) database. Specifically:
  - For 79 commuters, the authorization form included no explanation about why the commute was required.

- ▶ For 51 commuters, the form did not have any authorization signature.
- ▶ For 24 commuters, the form included no daily round trip mileage.
- ▶ For 5 commuters, the Department did not have the completed form on file.

For nine of these commuters, the authorization form had problems in more than one area. In addition, when the audit started, the Department was unaware of seven additional Calendar Year 2015 commuters that agencies reported to us as of June 2016. As discussed above, we became aware of five additional employees in September and October 2016 that may have been commuters in Calendar Year 2015.

These pieces of information are important to ensuring that the commuters meet the basic criteria and help demonstrate that agencies have considered the criteria in authorizing the commute. In our January 2005 performance audit of the *Maintenance and Use of State Fleet Vehicles*, we recommended that the Department review authorization forms for completeness and signatures and follow up with agencies about incomplete forms; the Department agreed with our recommendation and had planned to implement it by June 2005.

- **THE DEPARTMENT DOES NOT ASK FOR SUPPORTING DOCUMENTATION.** Department rules [1 C.C.R., 103-1, Section 3.2.03] require the agency to submit the authorization form to the Department for each commuter, but there is no mention in the rules about supporting documentation. One method agencies could use to document the need for commuting would be to notate in Position Descriptions that commuting is required for the position. Currently, there is no explicit Department rules or guidance requiring such notation.
- **THE DEPARTMENT HAS NOT CONSISTENTLY COLLECTED AND MAINTAINED INFORMATION FROM AGENCIES ABOUT NON-**

COMMUTERS. Although Department rules require agencies to submit a commuting authorization form for their non-commuters, the Department has not clearly enforced this requirement. For example, when the Department sent out an annual verification, it provided agencies with its current list of commuters and asked that agencies make it aware of any commuters not on the list. However, it did not ask for verification of non-commuters or provide any additional information to agencies on non-commuters. In addition, when the Department received authorization forms clearly indicating an employee was a non-commuter, the Department reported to maintain a copy of the form, but not enter the employee into its CARS database or have any system for tracking these employees. It appears that one of the four agencies that did not report all of its Calendar Year 2015 commuters to the Department was unclear about when an employee should be considered a commuter or a non-commuter. Consistently collecting and maintaining information about non-commuters could help ensure that agencies are correctly classifying employees as commuters and non-commuters. In October 2016, Department staff reported to have changed the verification process to include the collection of non-commuter information and record information about non-commuters in the CARS database.

- **THE DEPARTMENT HAS NOT CLEARLY DEFINED COMMUTING OR WHEN AUTHORIZATION FORMS NEED TO BE SUBMITTED.** Department rules [1 C.C.R., 103-1, Sections 3.1.02(c) and 3.2.03] require agencies to submit authorization forms to “document the authorization of commuting” and define commuting in the following way: “It is commuting if an employee is *required* [emphasis added] to use a state vehicle to drive *each day* [emphasis added] to a state business location...” The definition of commuting in Department rule creates ambiguity in two ways.

First, if an agency has not clearly *required* the employee to commute, but has instead just *allowed* the employee to use a state-owned vehicle for commuting, an agency might consider the employee exempt from having to meet the commuting requirements



in statute and not submit a commuting authorization form to the Department. In October 2016, we learned about one agency head whose agency reported that this employee regularly used a state-owned vehicle to commute throughout Calendar Year 2015. However, the agency did not submit a commuting authorization form to the Department because, “The employee was not formally required by the [agency] to commute (“an authorized commuter”) at any point in [Calendar Year] 2015, so [the employee] does not meet the definition of a commuter in DPA rules.” Because the agency did not require the commute, it did not assess whether the employee met the commuting requirements in statute and rules.

Second, if an employee does not use a state-owned vehicle to commute *each day*, an agency might consider the employee exempt from having to meet the commuting requirements in statute and not submit a commuting authorization form to the Department. The agency that developed its own policy of allowing employees to take home state-owned vehicles for up to 7 days each month for 3 consecutive months without being considered commuters reported to us that it believed these employees did not fit the definition in Department rules of a commuter. However, statute does not appear to exempt employees who commute less frequently than each day from commuting requirements. For example, in outlining the requirement for commuters to reimburse, statute [Section 24-30-1113(4)(a), C.R.S.] specifies that commuters shall reimburse for 20 days per month *regardless of the actual number of days the employee used the vehicle to commute*. It is therefore unclear that the Department has appropriately defined commuting in line with statutory intent.

Changes to statute could help clarify the breadth and limits of the Department’s responsibilities, such as whether the General Assembly intends the Department to carry out a statewide oversight role, define key terms that influence who is covered by commuting requirements, serve only as a record keeper, or have no responsibilities for the commuting arrangements of other agencies. If statute is changed to

modify the Department’s responsibilities, the Department should then implement rules and procedures to fulfill that role.

**LACK OF CLARITY ABOUT APPLICABILITY OF COMMUTING REQUIREMENTS FOR THE JUDICIAL BRANCH.** Two of the employees who appeared to be commuters in Calendar Year 2015 for whom the agency did not submit a commuting authorization form were from the Judicial Branch. The Department reports that it has traditionally considered the Judicial Branch to be subject to fleet-related requirements and related rules promulgated by the Department. In Calendar Year 2015, the Department provided a total of 51 vehicles to the Judicial Branch for its use, which the Department reports must be managed according to its rules. However, staff at both the Judicial Branch and the Department report that it is not clear whether commuting requirements apply to the Judicial Branch.

The lack of clarity stems from the fact that statute specifies that the Department implement a centralized fleet system, the provisions of which “shall apply to the executive branch of the state of Colorado...” [Section 24-30-1104(2), C.R.S.]. Statute also provides for the Department to develop necessary rules and regulations “in relation to departments, institutions, and agencies of the executive branch...” [Section 24-30-1105(1), C.R.S.]. It appears that the General Assembly may have intended to exempt the Judicial and Legislative Branches from the Department’s regulation with regard to fleet vehicles. However, it is not entirely clear whether the General Assembly intended for this exemption to also apply to the commuting requirements in Section 24-30-1113, C.R.S. The commuting statute requires the “state agency” executive director to authorize commuting and determine that the commuting meets requirements. The definition of “state agency” in Section 24-30-1102(5), C.R.S., does not explicitly include or exclude the Judicial and Legislative Branches. The Department reports that it has not sought legal advice on whether the Judicial and Legislative Branches are subject to the commuting requirements outlined in statute and Department rules. The Legislative Branch had no permanently assigned vehicles in Calendar Year 2015

and we have come across no evidence to suggest that the Legislative Branch has approved the use of state-owned vehicles for commuting.

The confusion around the applicability of commuting requirements to the Judicial and Legislative Branches may also illustrate a policy issue. Specifically, if the General Assembly intended for the Judicial and Legislative Branches to be subject to, or excluded from, the requirements outlined in statute for commuting, policymakers may wish to consider amending the statute to make this intention clear.

## WHY DO THESE PROBLEMS MATTER?

The results of our work indicate that many commuting arrangements may be costing the State resources without meeting two of the three statutory criteria: that commuting only occur when it promotes efficient operation of the state fleet, and is cost effective to the agency. Specifically, for only one commuter in our sample of 30 did the agency demonstrate how the commute met all three requirements. Based on the results of our audit work, we estimate with 95 percent confidence that the State spent \$1.38 million on commuting in Calendar Year 2015 that did not meet current statutory requirements. For more information on the assumptions used in estimating costs, see EXHIBIT 1.2.

On the other hand, if the criteria currently in statute do not accurately reflect the needs of the State or the goals of the General Assembly, and the intent of the program is that commuting is a resource for agencies to meet their business objectives, then the results we found may not reflect an improper use of state resources. Instead, our results may indicate that strict adherence to the requirements that commuting only be authorized when it promotes the efficient operation of the fleet and is cost effective to the agency might negatively impact agencies' ability to effectively carry out their mission. Agencies reported that each of the commutes in our sample of 30 was tied to accomplishing a business objective. If most of the current commuting arrangements in the State were discontinued due to failure to comply with all of the

existing criteria, agencies might have difficulty meeting their business objectives in an efficient manner.

Clarifying the General Assembly's intent for the program may also help agencies that have not authorized commuting. In Calendar Year 2015, there were 11 agencies with permanently assigned fleet vehicles that had not reported any commuters to the Department. These agencies may have no commuters because they have been strictly adhering to the requirements of needing to demonstrate the efficient operation of the state fleet system and the cost effectiveness to the agency, even if such commuting would have helped them carry out their mission more effectively.

Whether the criteria for commuting remain as currently written in statute or are revised, it is important that agencies only authorize commuting when they *require* the employee to commute. When agencies have not clearly required commuting of the employee, there is a risk that the commute has been authorized not because it is critical for state business, but because it is a perk for the employee.

When there is not a clear understanding of what constitutes commuting, there is a risk that agencies do not consistently identify commuters and ensure that they meet the requirements for commuting.

Further, if the General Assembly intended there to be some central oversight of commuting, that intent is not being achieved. Because of the way in which the Department has interpreted its role as limited to collecting information from agencies about their commuting arrangements, and because the Department does not always have accurate information about commuting arrangements that have been authorized or about non-commuters, there is no place to get complete, consolidated, and accurate information about commuters and non-commuters for the State as a whole.

# RECOMMENDATION 1

The Department of Personnel & Administration should work with stakeholders to recommend key factors to determine eligibility for commuting that would promote efficient and effective state business and work with the General Assembly on statutory changes, as needed.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

AGREE. IMPLEMENTATION DATE: MAY 1, 2017.

The Department will work with agencies to identify eligibility criteria for commuting that promotes efficient and effective state business as well as complies with IRS regulations and state statutes. The Department will also work with the General Assembly to revise state statutes to reflect the eligibility criteria, as needed.

## RECOMMENDATION 2

The Department of Personnel & Administration (Department) should work with the General Assembly, and stakeholders as appropriate, to clarify the role the General Assembly intends the Department to have with respect to commuters and non-commuters throughout the State. The Department should work with the General Assembly on legislative changes so that statute accurately and clearly reflects its role.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

AGREE. IMPLEMENTATION DATE: MAY 1, 2017.

The Department will work with the General Assembly to clarify the role of the Department and agencies regarding commuters and non-commuters throughout the State. The clarification will include the General Assembly's intended roles and responsibilities for the Department and agencies for administration of the State fleet program. The Department will work with the General Assembly to revise State statutes to reflect clarification of the Department's role, as needed.

## RECOMMENDATION 3

As long as current statutory requirements remain in effect, the Department of Personnel & Administration should improve its oversight of commuters and non-commuters and management of data related to them by:

- A Developing guidance for how agencies should demonstrate compliance with the commuting authorization requirements.
- B Collecting sufficient information to review agency commuting authorizations.
- C Implementing a review and verification process that fulfills its statutory responsibilities.
- D Collecting and maintaining information about employees with take-home vehicles.
- E Revising the definition of commuting in rules to eliminate ambiguity about whether use of a state-owned vehicle for commuting is allowed if it has not been formally required and whether the employee has to use the state-owned vehicle each day in order to be a commuter.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

- A AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

If current statutory requirements remain in effect, the Department will develop guidance for how agencies will meet statutory requirements. The Department currently has less than one FTE to monitor the commuting process. With clarification from the General Assembly on

the role of the Department and these requirements, the Department may need additional FTE to fulfill its role and meet its statutory requirement.

B AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

If current statutory requirements remain in effect, the Department will collect sufficient information to review agency determinations. With clarification from the General Assembly on the role of the Department and these requirements, the Department may need additional FTE to fulfill its role and meet its statutory requirement.

C AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

If current statutory requirements remain in effect, the Department will implement a review and verification process that fulfills its statutory requirements. With clarification from the General Assembly on the role of the Department and these requirements, the Department may need additional FTE to fulfill its role and meet its statutory requirement.

D AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

If current statutory requirements remain in effect, the Department will collect and maintain information about employees' take home vehicles. With clarification from the General Assembly on the role of the Department and these requirements, the Department may need additional FTE to fulfill its role and meet its statutory requirement.

E AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

If current statutory requirements remain in effect, the Department will revise the definition of commuting in rule to eliminate ambiguity about whether use of a state-owned vehicle for commuting is allowed if it has not been formally required and whether the employee has to use the state-owned vehicle each day in order to be a commuter.



## RECOMMENDATION 4

The Department of Personnel & Administration should work with the Office of the Attorney General to seek legal advice about the applicability of commuting requirements outlined in Section 24-30-1113, C.R.S., to the Judicial Branch, communicate the results of this to the Judicial Branch, and modify its policies and procedures as needed.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will work with the Office of the Attorney General to clarify the applicability of commuting requirements of Section 24-30-1113, C.R.S., to the Judicial Branch. The Department will modify its policies and develop guidance as needed to address commuting in the Judicial Branch.

## COMMUTING FRINGE BENEFIT REPORTING

Employees who use an employer-provided vehicle for commuting receive a vehicle fringe benefit according to the IRS. Depending on the circumstances, the employer may need to add the value of this vehicle fringe benefit to the employee's gross income and be taxed accordingly. The IRS requirements for identifying the fringe benefit value of using employer-provided vehicles are complex. To comply with IRS regulations employers generally need to:

- Determine whether the vehicle is excluded from taxation. IRS regulations [26 C.F.R., 1.132-5(h)] exclude from taxation all use, including commuting use, of “qualified nonpersonal use” vehicles, which are specially equipped vehicles, such as marked patrol cars or utility vans without passenger seats. Out of the 782 employees that commuted in Calendar Year 2015, agencies classified 487 commuters (62 percent) as exempt from taxation because they commuted in these types of vehicles.
- Determine the taxable value of any personal use of the employer-provided vehicle, if the vehicle is not excluded from taxation. Commuting is considered personal use of the vehicle and the value is considered taxable income by the IRS [26 C.F.R., 1.61-21(a)(1)]. Commuting means use of the vehicle by the employee to get from home to primary places of business. For 295 of the 782 commuters (38 percent) that were not exempt from taxation in Calendar Year 2015, the commuting use of the state-owned vehicle was a fringe benefit that needs to be valued. Depending on how much, if anything, the employee reimbursed the employer for the benefit, the value also needs to be added to the employee's gross income. We will refer to these employees as taxable commuters.

One of the methods the IRS allows employers to use for valuing a commuting fringe benefit is each one-way commute at \$1.50 [26

C.F.R., 1.61-21(f)(3)(i)]. This method, called the **COMMUTING VALUATION RULE**, can be used when (1) the employer requires the employee to commute in the employer-provided vehicle, (2) the employer has a policy disallowing any personal use of the vehicle aside from commuting, and (3) the employee is not a control employee [26 C.F.R., 1.61-21(f)(1)]. Department rules [1 C.C.R., 103-1, Sections 3.1.02, 3.1.04 and 3.4] specify that employees authorized to commute must be *required* to commute and may not use the vehicles for personal use other than commuting. Department rules [1 C.C.R., 103-1, Section 3.1.03] define a control employee as an elected official or employee whose annual compensation is equal to or greater than the federal executive level V, which was \$148,700 in Calendar Year 2015, and only two taxable commuters in Calendar Year 2015 were control employees based on information we received as of June 2016. Thus, the vast majority of taxable commuters met the requirements for having the commute be valued at \$1.50 each way and agencies generally valued the commuting fringe benefit at \$60 per month, which assumes the employee commuted 20 days each month. EXHIBIT 2.1 provides an example of how this valuation method works.

#### EXHIBIT 2.1. EXAMPLE OF INCOME CALCULATION USING COMMUTING VALUATION RULE

Each one-way commute is valued at \$1.50 each.	
If the employee commuted 20 days, roundtrip, each month, the total vehicle fringe benefit value for Calendar Year 2015 would be \$720 (\$1.50 each way x 2 times per day x 20 days per month x 12 months).	+\$720
Amount employee paid for the benefit, if anything (assumes the employee reimbursed).	
If the employee reimbursed the State \$500 for the year's commuting, the reimbursement amount would not be included in the employee's gross income.	-\$500
Amount added to employee's gross income.	
The amount the State needs to include in the employee's gross income for Calendar Year 2015 is \$220 (\$720 commuting fair market value - \$500 reimbursed by the employee).	=\$220

SOURCE: Office of the State Auditor analysis of IRS regulations [26 C.F.R., 1.61-21(f)].

The IRS' commuting valuation rule, which is the simplest valuation method, allowing employers to value an employee's commute at \$1.50 each way without substantiation of business use of the vehicle, cannot be used for control employees [26 C.F.R., 1.61-21(f)(1)(v)]. Instead,

the IRS provides for two other special valuation rules that can be used for control employees. One of these methods, the CENTS-PER-MILE VALUATION RULE [26 C.F.R., 1.61-21(e)], counts each mile driven for personal use, including commuting, at the IRS' standard mileage rate (57.5 cents in Calendar Year 2015). The other method, the LEASE VALUE RULE [26 C.F.R., 1.61-21(d)], generally involves identifying the lease value of the vehicle based on IRS tables, and adding the lease value plus the value of any employer-provided fuel to the employee's gross income. The employer has the option to include the entire lease value in the employee's gross income, leaving the employee to claim any relevant exemptions for business use of the vehicle on his or her taxes, or the employer can exclude business use from the reported gross income if the employer has an adequate accounting of the business use [26 C.F.R., 1.132-5(b)(1)(iv)].

## WHAT AUDIT WORK WAS PERFORMED, WHAT WAS THE PURPOSE, AND HOW WERE THE RESULTS MEASURED?

We reviewed Department rules, State Fiscal Rules, and other state guidance to assess whether the Department has established policies and processes to comply with IRS requirements for reporting vehicle fringe benefits.

The Internal Revenue Code and IRS regulations require that fringe benefits, including the use of an employer-provided vehicle, be added to gross income, unless an exclusion is specifically provided for in the Internal Revenue Code [26 U.S.C., 61(a)(1) and 26 C.F.R., 1.61-21(a)(1)]. In general, the employer is required to report any vehicle fringe benefit on the employee's W-2 and deduct, withhold, and deposit taxes on vehicle fringe benefit income [26 U.S.C., 6051(a)(3) and 26 U.S.C., 3402(s)].

Under IRS regulations [26 C.F.R., 1.274-5(k)] employers do not need to account for the business use of the vehicle in valuing an employee's vehicle fringe benefit when the employee is assigned a qualified

nonpersonal use vehicle. For an unmarked law enforcement vehicle to qualify as qualified nonpersonal use, the employee assigned to the vehicle needs to regularly carry firearms and any commuting “must be incident to law-enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation” [26 C.F.R., 1.274-5(k)(6)(i)].

Statute [Section 24-30-201(1)(f), C.R.S.] charges the State Controller with coordinating all procedures for financial administration and control at state agencies, so as to integrate them into an adequate and unified system. One of the State Controller’s responsibilities is to report and deposit federal taxes withheld from state employees’ paychecks in accordance with IRS requirements. Statute [Section 24-17-102, C.R.S.] also charges agencies with having adequate systems of internal control, including adequate authorization and record-keeping procedures to provide effective accounting control over state assets, liabilities, revenues, and expenditures. Together these statutory requirements put responsibility on the State Controller to develop systems, and agencies to implement those systems, that allow for the State to correctly value and report vehicle fringe benefits of state employees.

## WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY AND WHY DID THESE PROBLEMS OCCUR?

Overall, we found that the State’s commuting requirements and agency internal controls do not clearly ensure compliance with IRS requirements for reporting vehicle fringe benefits, as outlined below.

**THE DEPARTMENT DOES NOT REQUIRE TRACKING OF ACTUAL DAYS COMMUTED.** Department rules [1 C.C.R., 103-1, Section 3.5.02] and guidance promulgated by the State Controller’s Office (*2015 Year-End Information & 2016 Tax Information*) require agencies to impute commuting income using a standard 20 days per calendar month regardless of the actual number of commuting days per month. The

Department's approach in assuming 20 days of commuting each month, without collecting information from employees about the actual number of days commuted, may conflict with IRS requirements.

The IRS generally requires employers to have one of the following related to an employee's commuting:

- An adequate accounting of the use of a vehicle, such as an employee maintained account book, log, trip sheet, or similar record in which the information is recorded at or near the time of the commute along with supporting documentary evidence [26 C.F.R., 1.274-5(f)(4)], or
- An employee provided statement of some kind about how many days the employee actually used the employer-provided vehicle for commuting [26 U.S.C., 274(d)].

The Department reported that it applies the 20 days per month standard for valuing commuting fringe benefits to mirror the 20 days per month reimbursement requirement in statute [Section 24-30-1113(4)(a), C.R.S.], which we discuss in the next finding. However, the 20 day per month requirement in statute does not necessarily apply to valuing the fringe benefit of the commute for reporting to the IRS. Agencies reported to us that they do not track the number of days employees *actually* commuted for tax reporting purposes. As a result, agencies are determining the value of commuting fringe benefits based on 20 days. It is not clear that this approach is consistent with the IRS regulations cited above.

Agencies reported they do not currently have systems in place to determine how many days their commuting employees actually commute when they are assessing the value of commuting fringe benefits, but they may be able to compile the information. One agency reported that it began keeping vehicle logs in November 2015 and other agencies reported that they may be able to determine how many days employees commuted by other means, such as by compiling information from employees' calendars.

**THE DEPARTMENT DOES NOT APPEAR TO FOLLOW IRS REQUIREMENTS FOR VALUING THE COMMUTES OF CONTROL EMPLOYEES.** For valuation and taxation of commuting by control employees, Department staff report that agencies are supposed to value the commute by taking the number of roundtrip daily miles on the commuter's authorization form, multiplied by 20 days each month, multiplied by a per-mile rate established by the Department, which was \$.38 for January through April 2015, and \$.35 for May through December 2015. For example, a control employee authorized to commute 50 miles round trip would be valued at \$350 for a commute in December 2015 (50 miles x 20 days x 35 cents per mile).

This method of valuing the fringe benefit for control employees does not appear to align with IRS requirements because:

- The Department has not used the IRS' standard per-mile rate (57.5 cents in Calendar Year 2015). Instead, the Department created its own rate based on fleet-average purchase price and fuel, maintenance, and insurance costs. IRS regulations do not appear to allow employers to develop their own system for valuing the vehicle use.
- The Department has not collected information from employees about the actual miles driven for commuting versus business use of the vehicle. IRS regulations generally require employers to have an accounting of travel, which includes time, place, and business purpose of miles, recorded through diaries, logs, or other records. Without substantiation of business use, IRS regulations require the entire lease value of the vehicle, plus the value of the fuel, be used to value the vehicle fringe benefit that should be recorded as gross income.

**THE DEPARTMENT DOES NOT HAVE PROCESSES IN PLACE TO DOCUMENT THE BUSINESS USE OF VEHICLES BY NON-COMMUTERS.** One reason why the gaps in the Department's approach to vehicle fringe benefit valuation methods is particularly problematic is because the IRS's

valuation requirements apply not only to commuters, which are the focus of this audit, but also to non-commuters. As previously mentioned, non-commuters are employees with take-home state-owned vehicles, but because they work out of their homes or the vehicles, they are considered by the Department to be non-commuters. From the perspective of the IRS, vehicle fringe benefits apply to all employees with employer-provided vehicles, unless specifically exempted. The IRS requires employers to substantiate the business use of employer owned vehicles or include the value in taxable income [26 C.F.R., 1.274-5T(b)].

We contacted the agencies that have permanently assigned state fleet vehicles to ask how many non-commuters they had in Calendar Year 2015 and whether they collect information from them to substantiate the business use of the vehicles. Out of the 19 agencies with permanently assigned state fleet vehicles, 10 agencies reported a total 322 non-commuters for Calendar Year 2015. Agencies reported that 47 of these non-commuters used qualified nonpersonal use vehicles, such as cargo vans or marked emergency vehicles, which means that there would be no taxable fringe benefit for the employees. However, for the remaining non-commuters, agencies would need to have substantiation demonstrating that all the use of the vehicle was for business in order to conclude that the employee received no taxable fringe benefit. Without such substantiation, the agency cannot exclude the employee's use of the vehicle as business use and determine that there was no personal use of the vehicle that would need to be taxed.

Overall, the 10 agencies with non-commuters in Calendar Year 2015 did not have processes to substantiate the business use of vehicles used by non-commuters and therefore may not have had a basis for assessing the value of vehicle fringe benefits. Specifically, one of the 10 agencies reported that in November 2015 it started documenting details on the business use of the vehicle. Five agencies reported that they do not maintain documentation of business use. For example, one agency reported that it does not document the business use of the vehicle because it follows the Department's guidance that these employees are not commuters and does not have to account for the



use of the vehicle for taxation. The other four agencies reported that they may have information to determine the vehicle's use (e.g., by compiling information from employees' calendars), but they do not currently have processes to collect substantiation from employees to allow the agency to account for business and personal use business use.

From our review of Calendar Year 2015 payroll data, we identified eight non-commuters from four agencies in which the agency added vehicle fringe benefits to the employee's gross income. In all eight cases, the agency did not have records to substantiate the business use of the vehicle, but added \$720 to the employee's gross income for Calendar Year 2015. This would be the appropriate amount if the employee were a commuter qualifying for the IRS commuter valuation rule and commuted 20 days each month. However, as a non-commuter without substantiation to show the business use of the vehicle, the value of the vehicle fringe benefit is the entire lease value of the vehicle plus fuel. For the remaining 314 non-commuters in Calendar Year 2015, we did not identify any evidence that agencies added any vehicle fringe benefits to Calendar Year 2015 gross incomes of non-commuters. As mentioned above, agencies reported that 47 of the 322 non-commuters used qualified nonpersonal use vehicles in Calendar Year 2015, and as such could conclude that the employee received no taxable vehicle fringe benefit without having to substantiate business use of the vehicle. However, for the other 267 non-commuters with no vehicle fringe benefits added to gross income, the agency could only conclude that the employee received no taxable vehicle fringe benefit if it has substantiation of business use of the vehicle.

THE DEPARTMENT'S DEFINITION OF "DE MINIMIS" USE IS NOT CONSISTENT WITH THE IRS. Department rules state that "de minimis" use of a state-owned vehicle is personal use "that is of so small a value that accounting for it would be unreasonable or administratively impractical", and includes "occasionally taking a State-owned motor vehicle to the employee's residence the evening prior to a planned business trip..." [1 C.C.R., 103-1, Section 3.1.05]. One agency

developed its own policy of allowing employees to take home vehicles for up to 7 days each month for 3 consecutive months without being considered commuters. However, IRS regulations [26 C.F.R., 1.132-6(e)(2)] specify that “de minimis” use is limited to 1 day per month. Therefore, employee use of a state-owned vehicle for commuting more than once per month does not qualify as “de minimis” use. In addition, Department rules do not specify that any personal use of a state-owned vehicle more than “de minimis” use would be considered a taxable fringe benefit.

COMMUTING FRINGE BENEFIT AMOUNTS WERE NOT ALWAYS DETERMINED AND ADDED TO EMPLOYEES’ GROSS INCOME ACCORDING TO DEPARTMENT POLICY. We found evidence that seven agencies did not report commuting fringe benefits according to current Department policy for 43 commuters in Calendar Year 2015, as outlined below.

- For 21 employees at two agencies, the agency imputed more income than it should have based on the number of months the employee appeared to have commuted. For example, an employee that commuted for 4 months should have been imputed \$240 (4 months x \$60 each month). However, we found that the agency imputed a total of \$720 for Calendar Year 2015. In another example, an employee stopped commuting in Calendar Year 2013, but the agency continued to impute income through Calendar Year 2015. In total the two agencies imputed approximately \$5,340 more than the value of the employees’ commute in Calendar Year 2015, according to information we received indicating the months of the employees’ commuting. The State appears to have over-reported these 21 employees’ gross income by amounts ranging from \$60 to \$720 in Calendar Year 2015.
- For 17 commuters at three agencies, the agency imputed less income than it should of have based on the number of months the employee appeared to have commuted. In total the three agencies did not impute approximately \$5,300 in Calendar Year 2015, according to information we received indicating the months of employees’ commuting. This included two commuters for whom

the agency imputed no income in Calendar Year 2015 and did not provide authorization forms to the Department. In one case, the employee had been commuting since February 2015 and the other employee commuted all of 2015. For seven commuters the agency did not impute any income even though the agency had provided commuting authorization forms to the Department, and for the remaining eight cases, the agency imputed some income, but not for all the months the employee appears to have commuted. The State appears to have under-reported the 17 employees' gross income by amounts ranging from \$60 to \$720 in Calendar Year 2015.

- For three reimbursing commuters at one agency, the agency failed to impute income for employees who reimbursed less than the Department's current policy of reimbursing \$60 per month. Under IRS regulations [26 C.F.R., 1.61-21(b)(1)], if the employee pays for the benefit, but less than the benefit's full value, the remainder is taxable. We estimate that these three employees each received unreported taxable fringe benefits ranging from \$100 to \$520 in Calendar Year 2015, given the Department's current policy of assuming 20 days of commuting each month. The agency collected less than the \$60 minimum because agencies applied the Department's reimbursement rate for non-control employees of 22 cents for January through April 2015 and 20 cents for May through December 2015, but because these commuters had relatively short commutes of 4, 7, and 12 roundtrip miles respectively, the monthly reimbursement rate was less than what it would be had the agency valued the commute at \$1.50 each way.
- For two control employees at two agencies, the agency failed to value the employee's commute according to current Department policy. As previously described, current Department policy values the commute of control employees by taking the number of roundtrip daily miles on the commuter's authorization form, multiplied by 20 days each month, multiplied by a per mile rate established by the Department, which was \$.38 for January through April 2015, and \$.35 for May through December 2015. One agency imputed \$60 per month from January through April 2015 instead

of \$220 per month; in May 2015 it started correctly imputing the higher control employee amount. Another agency required the employee to reimburse \$60 per month instead of \$208 per month because it was not aware of the different rate for control employees.

In addition, in September and October 2016, we became aware of five employees from three agencies who had take-home vehicles in Calendar Year 2015, and appear to have been commuters, but the agency had not submitted commuting authorization forms to the Department for these employees. Two of these employees were control employees. We found no evidence that agencies added vehicle fringe benefits to these five employees' gross income in Calendar Year 2015 or that these employees reimbursed for commuting. As a result, these employees may have received taxable vehicle fringe benefits that were not reported. For a fifth agency, there may be additional employees who took vehicles home in Calendar Year 2015, but for whom the agency did not track and report this personal use as fringe benefits.

We have provided the Department with a list of employees for whom we have identified potential discrepancies in Calendar Year 2015 vehicle fringe benefits for the Office of the State Controller to review and determine whether any corrections to employees' Calendar Year 2015 W-2s are warranted.

The Office of the State Controller reports that it plans to take a more active role in monitoring compliance with reporting vehicle fringe benefits. In order for the State Controller to monitor compliance, the Department will need to have accurate information on which employees are authorized to commute and which employees are non-commuters, the months they used the vehicle, whether they are taxable or exempt from taxation, and whether they are control employees or not. As we describe in the first finding, we found problems with the Department's collection and maintenance of commuter and non-commuter information and recommend the Department improve its data on commuters and non-commuters. Reliable and accurate data will be necessary for the State Controller's reconciliation with payroll data.

THE DEPARTMENT’S POLICIES REGARDING EXEMPT EMPLOYEES ARE NOT INCLUSIVE OF ALL THE REQUIREMENTS. Department rules [1 C.C.R., 103-1, Section 3.3.02] state that “A commuter may be exempt from reimbursement or taxation if qualified under the provisions of the IRS definition of ‘non-qualified personal use’.” The rules go on to provide examples including vehicles that are not likely to be used other than minimally for personal use because of the unique size or unusual configuration, law enforcement vehicles that are outfitted and clearly marked as law enforcement, and unmarked vehicles used by state law enforcement officers qualified as peace officers under statute.

Department rules do not align with the IRS tax exclusion definition for qualified nonpersonal use vehicles. For example, for unmarked law enforcement vehicles, the IRS only allows them to be considered qualified nonpersonal use vehicles if (1) the employee assigned the vehicle is authorized to execute search warrants and to make arrests, and needs to regularly carry firearms; and (2) any commuting is “incident to law-enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation” [26 C.F.R., 1.274-5(k)(6)]. However, Department rules do not mention any of these requirements. In addition, Department rules do not provide the citation for where the specific requirements can be found and incorrectly names exclusions as “non-qualified personal use” instead of “qualified nonpersonal use,” so it may be difficult for agencies to identify the IRS requirements.

Our sample of 30 commuters included 15 exempt commuters from three agencies and an additional commuter that the agency reported to us should have been classified as exempt. We asked the three agencies to provide us with information about how the commuters met the IRS definition for using qualified nonpersonal use vehicles. From the information provided, it was not clear that four of these 16 commuters from our sample met the requirements for driving qualified nonpersonal use vehicles. For three commuters, the agency reported that, as peace officers, these commuters were “authorized” to carry

firearms on a full time basis subject to the agency's policies, but not that these commuters actually regularly carried firearms. For the fourth commuter, the agency reported that the commuter did not regularly carry firearms and could not execute search warrants or make arrests.

In addition, in March 2016, the Department approved a waiver for all peace officers at one agency to be considered tax exempt commuters. Specifically, the waiver stated "All active peace officers (as defined in CRS 16-2.5-101) within [the agency] are approved for tax exempt commuter status whenever required to commute by the duties of their assignment. When peace officers are required to commute, it is understood that it is for official state business purposes, and it is required for the benefit of [the agency] and the State and not for the benefit of individual officers." The waiver makes no mention of IRS requirements for qualified nonpersonal use vehicles. In Calendar Year 2015, this agency had 58 commuters that it had classified as exempt, one of whom was a control employee.

**LACK OF GUIDANCE AND CLEAR INTENT.** Overall, the problems we found in this area are due to a lack of clarity on the interpretation and application of federal requirements and statute. The Department reports that it has not sought IRS or legal guidance related to any of the problems we described above - whether it is allowable to value the fringe benefits based on a standard number of days per month instead of the actual number of commute trips, whether it has the ability to apply its own per mile rate in valuing the personal use for control employees, or whether it can consider all State-defined peace officers to be exempt from taxation.

Agencies that are not required to follow the Department's fleet rules or State Fiscal Rules may still rely on the Department's guidance to help them ensure compliance with vehicle fringe benefits. For example, the Judicial and Legislative Branches are not subject to State Fiscal Rules and may not be subject to the Department's fleet rules, and the State's institutions of higher education are exempt from following the Department's fleet rules [Section 24-30-1102(5)]. However, they are

responsible for complying with IRS requirements. To the extent that these agencies model their policies and requirements on those of the Department, there is a risk that the agencies may not have had procedures to ensure compliance with IRS requirements. During the course of the audit, we became aware of two commuters in the Judicial Branch, one of whom was a control employee, and another commuter at an institution of higher education in Calendar Year 2015.

## WHY DO THESE PROBLEMS MATTER?

When the State has not properly valued and reported employees' gross income, there are many implications for the employees and the State. As outlined throughout this finding, our audit work identified specific concerns with a total of 327 employees that had take-home vehicles for whom the State may not have properly reported vehicle fringe benefits for Calendar Year 2015. This included the two taxable control employees we were aware of as of June 2016 who were authorized to commute in Calendar Year 2015. We estimate, using the lease value rule with no business use deduction, that the State may have under-reported these two control employees' gross income by \$5,200 and \$5,800 each for Calendar Year 2015.

- In one case, the employee drove a 4x4 SUV for the entire year. Based on information provided by the Department, we estimate the taxable lease value of the vehicle for Calendar Year 2015 was \$6,850 and the taxable fuel value was \$880. The agency did not report to have records needed to substantiate the business use of the vehicle, which is required by IRS regulations [26 C.F.R., 1.274-5T(b)(1)] to deduct the business use of the vehicle. The agency added a total of about \$1,900 to the employee's gross income for Calendar Year 2015, leaving an estimated amount of about \$5,800 that the agency appears to have not reported as taxable income and for which it appears the agency did not withhold taxes.
- In the other case, the employee drove a 4x4 SUV for 8 months in Calendar Year 2015. Based on information provided by the

Department, we estimate the prorated taxable lease value of the vehicle was \$4,600 and the taxable fuel value was \$1,100. The agency reported that it had some information needed to exclude the business use of the vehicle in Calendar Year 2015. However, the agency had not collected all the information required by the IRS to substantiate the business use of the vehicle during the year, which means that the agency may not have had a basis for deducting the business use of the vehicle in Calendar Year 2015. The employee reimbursed a total of \$480 for commuting and the agency added no additional income for vehicle fringe benefits, leaving an estimated amount of \$5,200 that the agency did not report as taxable income and for which the agency did not withhold taxes.

For the estimated 275 non-commuters that did not drive qualified non-personal use vehicles in Calendar Year 2015, there is potentially high risk of under-reporting vehicle fringe benefits in cases where the employee has not substantiated the business use of the vehicle. If any of these 275 non-commuters did not keep records to substantiate the business use of the vehicle, the taxable vehicle fringe benefit should have been reported in gross income in Calendar Year 2015. We estimate that a typical state sedan driven 10,000 miles in Calendar Year 2015 had a taxable vehicle fringe benefit value of \$5,900, which would need to be added to the employee's gross income for Calendar Year 2015 if there was no substantiation of business use.

For the five additional employees we identified in September and October 2016 as having been possible commuters in Calendar Year 2015, the State may have underreported gross income. Two of these employees were control employees, so the amount of underreported gross income for Calendar Year 2015 could be significant if the agency does not have documentation to substantiate the business use of the vehicle. In addition, employees at the agency that allowed employees to take home vehicles for up to 7 days each month for 3 consecutive months may also have had under-reported gross income since the IRS considers any commuting more than 1 day per month to be taxable.



In addition, there may be a risk that the State improperly valued and reported vehicle fringe benefits for virtually all of the other approximately 780 employees that had take-home vehicles in Calendar Year 2015. For example, for agencies that followed the Department's guidance to value the commute of taxable commuters using a standard of \$60 per month instead of \$1.50 per each commute trip the State may have over or under-reported employees' gross income.

Finally, if agencies have not appropriately applied the IRS definition of qualified nonpersonal use vehicles in exempting commuters from taxation, the State may have underreported vehicle fringe benefits for these employees. In Calendar Year 2015, there were 487 commuters classified by their agencies as exempt commuters, 462 of whom were law enforcement, and 47 non-commuters identified by their agencies as having driven qualified nonpersonal use vehicles. If any of these employees did not qualify for the exemption, as we appear to have found with four cases from our review of 30 files, the State may have underreported gross income. Assuming the employee commuted 20 days per month for 12 months, the amount underreported would be \$720 per employee. In the case of the control employee, the State may have underreported approximately \$9,300 using the lease value rule with no substantiation of business use.

The potential impact of misstated gross income may be wide spread.

- Employees may owe additional federal, state, and Medicare taxes.
- The State may owe additional Medicare taxes, which are paid based on the employee's gross income.

Income used to determine employer and employee contributions to PERA does not include automobile use [Section 24-51-101(42)(b), C.R.S.], so any adjustments to employees' Calendar Year 2015 gross income to include vehicle fringe benefits should not impact PERA contributions.

In addition, the IRS could impose penalties and restrictions. In cases where the State did not make required deposits on time or made deposits for less than the required amount, such as in cases where the State has not correctly valued, reported, and withheld taxes for vehicle fringe benefits, the State may be at risk of IRS penalties [26 C.F.R., 301.6721-1]. In the case of control employees, there is a risk that the State would need to report gross income retrospectively at much higher rates than it otherwise would have been able to report had the gross income been recorded in a timely manner. If the IRS determines that (1) the employer has not treated the value of the vehicle fringe benefit as wages for reporting purposes within the time for filing the returns for the taxable year, (2) the employer has not demonstrated a good faith effort to treat the benefit correctly for reporting, and (3) the employee has not treated the value of the vehicle fringe benefit as wages for reporting purposes within the time for filing the returns for the taxable year [26 C.F.R., 1.61-21(c)(3)(ii)], then the employer and the employee have to value the benefit using a fair market value based on the amount an individual would have had to pay in an arm's-length transaction to lease the same or comparable vehicle [26 C.F.R., 1.61-21(b)(4)]. In other words, the State and the employee would not be able to use either of the IRS' special valuation rules outlined earlier.

Department staff responsible for drafting the Department's commuting rules identified the risk to the State of not properly valuing and reporting vehicle fringe benefits. An undated internal analysis that Department staff reported was drafted in 2009 stated:

“The concern with exempting someone for reasons that are not allowed by the IRS is not so much a problem for the State, but for the individual...This could become a major problem if years later the State commuting program is audited by the IRS (as California is currently undergoing) and the IRS finds that many positions have been exempted when they should not have been. The individuals involved would then owe back taxes to the IRS for multiple years, and they would then likely sue the state for causing them to break the law.”

## RECOMMENDATION 5

The Department of Personnel & Administration (Department) should work with the Office of the Attorney General, or tax specialists as appropriate, to assess the State's compliance with Internal Revenue Service (IRS) requirements for reporting employees' vehicle fringe benefits. At a minimum, this should include:

- A Assessing whether the policy for valuing commuting fringe benefits based on a standard number of days (i.e., 20 days per month), regardless of the actual number of days commuted, can substitute for information from the employee about the actual number of days commuted, and if not, revising Department rules and State Fiscal Rules to require agencies to collect information from employees on the number of days commuted and use the information for valuing the employee's commuting fringe benefit.
- B Determining a method for valuing commuting fringe benefits for control employees that is in compliance with the IRS (e.g., using the lease value rule or cents-per-mile rule) and updating Department rules, State Fiscal Rules, and other guidance accordingly.
- C Assessing whether the State collects sufficient information from non-commuters to substantiate their business use of state-owned vehicles for valuing vehicle fringe benefits and making any necessary changes to Department rules, State Fiscal Rules, and other guidance accordingly.
- D Revising Department rules to ensure the definition of "de minimis" use of a state-owned vehicle is consistent with IRS requirements and specify that any personal use of a state-owned vehicle that is more than "de minimis" use is valued as a taxable fringe benefit.
- E Ensuring that the State's requirements for qualified nonpersonal use vehicle exemptions are in line with those of the IRS, such as

specifying that law enforcement using unmarked vehicles need to regularly carry firearms, and be authorized to execute search warrants and to make arrests, and the commuting use needs to be incident to law enforcement functions, and providing a citation in Department rules and/or State Fiscal Rules for the IRS definitions related to qualified nonpersonal use vehicles.

- F Sharing any revised rules or guidance with the Judicial and Legislative Branches and the State's institutions of higher education so that they can revise their requirements and processes as each determines is necessary.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

- A AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will work with the Office of the Attorney General or tax specialists to assess whether the policy of valuing commuting fringe benefits based on a standard number of days can substitute for the actual number of days commuted. If not, then the Department will revise its rules and policies.

- B AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will work with the Office of the Attorney General or tax specialists to review the State's compliance with IRS regulations for reporting of employees' fringe benefits, including the method of valuing fringe benefits for control employees. Based on this review, the Department would determine whether to revise the Division of Central Services Rules and Fiscal Rules to include the appropriate method for valuing fringe benefits for control employees.

C AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will work with the Office of the Attorney General or tax specialists to review the State's compliance with IRS regulations for reporting of employees' fringe benefits, including the information collected for non-commuters to substantiate their business use of state-owned vehicles for valuing fringe benefits. Based on this review, the Department will determine whether to revise Division of Central Services Rules and Fiscal Rules to include the appropriate method for valuing fringe benefits for non-commuters.

D AGREE. IMPLEMENTATION DATE: SEPTEMBER 2017.

The Department will review the State's compliance with IRS regulations for reporting of employees' fringe benefits, including the definition of "de minimis" use of a state-owned vehicle. Based on this review, the Department will determine whether to revise Division of Central Services Rules and Fiscal Rules to ensure the definition of "de minimis" is consistent with IRS requirements and that any personal use of a state-owned vehicles that is more than "de minimis" use is valued as a taxable fringe benefit.

E AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will review the State's compliance with IRS regulations for requirements for qualified nonpersonal use vehicle exemptions. Based on this review, the Department will determine whether to revise Division of Central Services Rules and Fiscal Rules to ensure the requirements for qualified nonpersonal use vehicle exemptions comply with IRS regulations.

F AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will work with the Office of the Attorney General, or other tax specialists as appropriate, to assess the State's compliance with Internal Revenue Service (IRS) requirements for reporting employees' vehicle fringe benefits. The Department will share any revised rules or guidance with the Judicial and

Legislative Branches and the State's institutions of higher education.

## RECOMMENDATION 6

The Department of Personnel & Administration (Department) should assess whether its waiver approved in March 2016 allowing all peace officers at one agency to be exempt commuters is compliant with Internal Revenue Service (IRS) requirements. If the Department determines the waiver is not compliant with IRS requires, the Department should amend or rescind the waiver.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will review its waiver approved in March 2016 that allows all peace officers at one agency to be exempt commuters. If the Department determines the waiver is not compliant with IRS requirements, the Department will amend or rescind the waiver.

## RECOMMENDATION 7

The Department of Personnel & Administration should work with agencies to review the vehicles fringe benefits of employees with take-home vehicles in Calendar Year 2015 and report any necessary corrections to W-2s to employees and the Internal Revenue Service.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will work with agencies to review the commuting fringe benefits of employees with take-home vehicles in Calendar Year 2015, communicate any changes in compensation to employees, and report any necessary corrections to W-2s to employees and the IRS.



# COMMUTING REIMBURSEMENTS

Statute [Section 24-30-1113(4)(a) and (b), C.R.S.] requires commuters to reimburse the State at a rate computed by the Department, unless exempted by Department rules. Department rules [1 C.C.R., 103-1, Section 3.3] exempt from reimbursement (1) commuters who drive a qualified non-personal use vehicle, as defined by the IRS; and (2) commuters for whom the convenience to the State is greater than the benefit to the employee. According to information from the Department, 17 of the 782 commuters (2 percent) were not classified under either of these exemptions and therefore were required to reimburse the State in Calendar Year 2015. These 17 reimbursing commuters were spread across three separate agencies and reimbursed the State via payroll deductions a total of approximately \$15,400 in Calendar Year 2015. The amounts collected for reimbursement are credited back to the respective employing agencies in order to help offset operating expenses.

## WHAT AUDIT WORK WAS PERFORMED, WHAT WAS THE PURPOSE, AND HOW WERE THE RESULTS MEASURED?

We reviewed the amount each of the 17 reimbursing commuters reimbursed the State in Calendar Year 2015 to evaluate whether agencies required them to reimburse the correct amount based on the following requirements in statute and rules:

**REIMBURSEMENT SHOULD BE FOR 20 DAYS EACH MONTH AT A FIXED RATE.** Statute [Section 24-30-1113(4)(a), C.R.S.] states that, “Reimbursement shall be for 20 days per month regardless of how many days the individual uses the vehicle to commute during the month.” Department rules [1 C.C.R., 103-1, Section 3.5.03] establish the standard daily rate for reimbursing commuters based on:

- A The employee's daily roundtrip commute miles, as authorized by the agency executive director, multiplied by:
- B A standard per-mile rate determined annually by the Department based on the actual operating cost of a typical state transportation vehicle and a portion of ownership costs. The standard per-mile rate established by the Department in Calendar Year 2015 was \$.22 per mile for January through April and \$.20 per mile for May through December. All employees, aside from control employees as discussed below, use the standard rate.

Using this calculation, a commuter who was authorized to commute 20 roundtrip miles per day for the entire year would have reimbursed the State at a rate of \$88 per month from January through April (20 miles per day x \$.22 x 20 days per month) and \$80 per month from May through December.

In addition, Department rules [1 C.C.R., 103-1, Section 3.5.03] establish a minimum reimbursement amount based on the IRS regulations [26 C.F.R., 1.61-21(f)(3)] related to valuing required commuting as a taxable fringe benefit. This minimum reimbursement amount is \$1.50 per each one-way commute, or \$3.00 per day. The Department reports that it considers the minimum to be \$60 per month using the 20 days per month cited in statute (\$3 per day x 20 days). Therefore, a commuter should reimburse based on the formula above, but no less than \$60 per month.

**REIMBURSEMENT BY CONTROL EMPLOYEES SHOULD BE AT A HIGHER RATE.** The Department requires control employees to reimburse at a higher rate than the standard rate. As previously mentioned, Department rules [1 C.C.R., 103-1, Section 3.1.03] define control employees as elected officials or those having compensation that is at least as much as that paid to a federal government employee holding a position at Executive Level V, which was \$148,700 in Calendar Year 2015. Department rules [1 C.C.R., 103-1, Section 3.5.04] instruct control employees to "contact State Fleet Management, Division of Central Services for specific instructions." For control employees, the

per-mile reimbursement rate established by the Department in Calendar Year 2015 was \$.38 for January through April and \$.35 for May through December. In Calendar Year 2015, there was one reimbursing control employee in the State.

## WHAT PROBLEMS DID THE AUDIT WORK IDENTIFY?

When we compared the amount reimbursed by commuters to the requirements in rules, we found discrepancies in the reimbursement amounts for 11 of the 17 reimbursing commuters in Calendar Year 2015 (65 percent), representing two of the three agencies that had reimbursing commuters. Overall, the State only collected about \$15,400 in reimbursements out of the \$40,800 it was owed in Calendar Year 2015. In addition, the State over collected about \$120 from two commuters and may owe these employees refunds. We identified more than one discrepancy for five of these 11 employees.

- **REIMBURSED FOR FEWER THAN 20 DAYS EACH MONTH.** Five commuters reimbursed fewer than the required 20 days per month. Instead, these commuters reimbursed for between 2 and 4 days each month. As a result, the State received between \$1,100 and \$8,200 less than it should have from each of these five commuters in Calendar Year 2015, or about \$17,700 less in total. This means these commuters, combined, only paid about 19 percent of what they should have.
- **REIMBURSED LESS THAN THE MINIMUM AMOUNT.** Three commuters did not reimburse at the \$60 per month minimum reimbursement rate. These commuters reimbursed between \$8 and \$44 less than they should have each month, or a total of about \$1,000 less than they should have in Calendar Year 2015. In all three cases, the employees had relatively short commutes of 4, 7 and 12 roundtrip miles, which made the monthly amount less than \$60. Combined, this means that these commuters only paid about 50 percent of what they should have.

- **DID NOT REIMBURSE AT THE CONTROL EMPLOYEE RATE.** The one reimbursing commuter who was a control employee did not reimburse at the control employee rate. This commuter reimbursed a total of \$60 per month for their 130 mile round trip commute, or a total of approximately \$6,800 less than they should have for their active commuting months of May through December 2015. This means that this commuter only paid about 6.5 percent of what they should have.
- **REIMBURSED AT A HIGHER RATE.** Seven commuters reimbursed at the incorrect per-mile rate for 8 months in Calendar Year 2015 because the agency did not reduce the per-mile rate when the Department changed it from \$.22 to \$.20. This resulted in two of these commuters reimbursing \$50 and \$70 more than they should have in Calendar Year 2015. The reimbursement amounts for the other five commuters were still below what they should have been because they were reimbursing for less than 20 days per month as well.

## WHY DID THESE PROBLEMS OCCUR AND WHY DO THEY MATTER?

We identified two elements that appear to contribute to the problems we found with commuting reimbursements, as well as an inefficient system that is potentially not aligned with the statutory intent for commuting, as described below.

### LACK OF CLEAR RULES AND GUIDANCE

The two agencies with commuters who reimbursed incorrect amounts told us the main reason for the errors we found was that they were not aware of one or more of the reimbursement requirements: the \$60 minimum, the different rate for control employees and how to identify control employees, or the change in the per mile rate in May 2015. We found that the Department's rules and forms related to commuting could be clarified to help better inform agencies of the requirements. Specifically:

- Department rules [1 C.C.R., 103-1, Section 3.5.03(c)] require agencies to ensure that employees reimburse at least the minimum amount by referencing IRS regulations, but Department rules do not specify the State's actual minimum reimbursement of \$60 per month. In addition, neither the commuting authorization form nor either of the Department's two memos about reimbursement rate changes sent to agencies in May 2015 and March 2016, the first such memos to agencies since 2011 when Department rules reinstated reimbursement for some commuters, states that there is a minimum reimbursement amount or specifies the amount.
- Department rules [1 C.C.R., 103-1, Sections 3.1.03 and 3.5.04] provide the definition of a control employee, but only directs agencies to contact the Department for specific instructions on valuation and taxation. The rules do not state that control employees will be required to reimburse at a different rate than the standard rate. In addition, neither the authorization form nor the Department's rate change memos to state agencies in May 2015 and March 2016 state the current control employee reimbursement rate or the current compensation amount that results in the commuter being classified as a control employee.
- The Department also does not post current rate information or the compensation level that classifies an employee as a control employee on its website. Adding this information to the site could serve as an efficient means of providing information that agencies need to help them ensure they are collecting the correct amounts of reimbursement from reimbursing commuters. The Department could then reference in its rules and other commuting documents (e.g., the authorization form) the location on its website where this information resides.
- State Fiscal Rules related to miscellaneous compensation and perquisites [1 C.C.R., 101-1, Rule 2-8] provide information about the commuting benefit, but state only that commuters are imputed income. Specifically, the rules state, "Where state-owned motor vehicles are used for taxable commuting,...the employee shall be

imputed income for the use of the state vehicle at a rate that approximates the benefit derived from the use of the vehicle and that complies with Internal Revenue Service publications and regulations.” There is no mention that some commuters reimburse for commuting rather than being imputed income. In contrast, other benefits mentioned in this fiscal rule specify that employees may be required to reimburse for the benefit. For example, the section relating to the clean air transit benefit for state employees states that agencies shall maintain records showing, among other things, “the actual cost, if any, paid by the employee...”

- Guidance issued by the State Controller’s Office, *2015 Year-End Information & 2016 Tax Information*, instructs payroll staff to add \$60 per month to the employee’s income. Specifically, the guidance states “Employees with personal use of state vehicles must have the value of the benefit added to their taxable income. State Fleet’s commuting rate is \$60 per month.” The guidance does not specify that some employees reimburse the State the value of the commute rather than having income imputed or that control employees must reimburse or impute income at a different rate than non-control employees.

Ensuring that the Department is issuing clear guidance related to commuting benefits is important for eliminating any confusion among state agencies. State Fiscal Rules set forth the policies concerning internal controls, accounting policies, and financial reporting for the Executive Branch and are therefore the go-to guidance for agency payroll and accounting staff. As such, State Fiscal Rules and other related guidance issued by the Office of the State Controller should, at a minimum, not conflict with commuting program requirements.

## WAIVER GRANTED INAPPROPRIATELY

For the four commuters we found who reimbursed the State for between 2 and 4 days per month, the Department reported that it granted a waiver from the statutory requirement to reimburse for 20 days per month to one agency for all of its commuters with a specific

job position. The waiver, dating back to May 2011, allows these commuters to reimburse the State based on the average number of days per month the employee estimated the vehicle was *actually* driven to the office. However, the Department does not have the authority to waive the 20-day requirement, which is in both statute and Department rules. Statute specifically states “reimbursement shall be for twenty days per month regardless of how many days the individual uses the vehicle to commute during the month” [Section 24-30-1113 (4)(a), C.R.S.]. The Department reports that it had not obtained legal advice on its authority to waive this requirement, and it believed it had the authority to waive the reimbursement requirement at the time. However, after recently reviewing the waiver and statutory requirements, the Department determined that it in fact does not have the authority to waive the 20 day requirement in statute. Therefore the May 2011 waiver should be rescinded.

## THE DEPARTMENT’S REIMBURSEMENT POLICY IS INEFFICIENT

Statute [Section 24-30-1113(4)(a), C.R.S.] requires reimbursement to “approximate the benefit derived from use of the vehicle” and charges the Department with establishing a reimbursement rate. We found that the Department has created a system to determine reimbursement amounts that may be inefficient.

First, instead of basing reimbursement on the IRS’ valuation of the vehicle fringe benefit, the Department created its own separate methodology. Specifically, the Department requires commuters to reimburse at a per-mile rate that Department staff feel best approximates the cost to the State of a basic transportation vehicle that would typically be used by a commuter (such as sedans and mid-size SUVs). For example, for May through December 2015, the rate was 20 cents based on the average cost of fuel, maintenance, and collision and liability coverage for these vehicles. The Department stated that it creates its own reimbursement rate instead of using the IRS standard mileage reimbursement rate, which was 57.5 cents per

mile in Calendar Year 2015, because the IRS rate is significantly higher than the cost to the State of owning and operating a state vehicle. However, it is unclear why the Department feels that it needs to require employees to reimburse the State for commuting based on a per-mile rate. The statutory provision requiring reimbursement does not specify that reimbursement has to be done on a per-mile basis. Instead, the Department could require employees to reimburse the State based on the IRS commuting valuation rule or lease value rule, depending on how the agency has determined the commuting fringe benefit for the employee's W-2.

If the 17 employees who were required to reimburse the State for commuting in Calendar Year 2015 had reimbursed based on the applicable IRS valuation rule, instead of the Department's current method, the amounts reimbursed would have been as follows:

- 16 employees whose commutes qualified for the commuter valuation rule would have reimbursed between \$240 and \$720 each in Calendar Year 2015, assuming that the employees commuted 20 days per month. Collectively, these 16 employees would have reimbursed \$10,740. Instead, they were required to reimburse amounts ranging from \$500 to \$9,100 in Calendar Year 2015, or collectively \$33,500. However, these employees actually reimbursed between \$200 and \$2,100 in Calendar Year 2015, for a collective total of \$15,000.
- One control employee, whose commute could not be valued using the commuting valuation rule, would have reimbursed an estimated \$5,700 in Calendar Year 2015, based on the lease value rule. Instead, they were required to reimburse a total of \$7,300 and actually reimbursed \$480.

It may be appropriate for the Department to assess whether using the applicable IRS valuation method to determine reimbursement amounts would be simpler and still effective in helping the State recoup at least some of the costs associated with requiring employees to commute.



Second, if the Department learns that it can no longer determine commuting fringe benefits based on 20 days per month as part of implementing recommendations from the previous finding, agencies could be put in a position of having to use two different methodologies for assessing commuting fringe benefits. Specifically, agencies would have to (1) determine how much employees are required to reimburse the State based on 20 days of commuting per month, as required by statute [Section 24-30-1113(4)(a), C.R.S.]; and (2) determine whether the agency needs to add any vehicle fringe benefits to employees' gross income based on *actual* days commuted. Agencies would need to calculate both amounts to ensure that employees have reimbursed at least as much as the IRS considers the value of the vehicle fringe benefit to be. In the event that the reimbursement amount is less than the vehicle fringe benefit value according to the IRS, the agency would need to add the difference to the employee's gross income. It may be simpler and more efficient for employees to reimburse based on the IRS valuation, rather than for 20 days of commuting each month, thereby allowing agencies to determine only one value.

## THE DEPARTMENT'S POLICY ON EXEMPTIONS MAY NOT BE ALIGNED WITH THE INTENT OF STATUTE

Statute [Section 24-30-1113(4)(b), C.R.S.] provides the Department with authority to provide exemptions from reimbursement in rule. The Department's rules [1 C.C.R., 103-1, Section 3.3] exempt (1) commuters who drive a qualified non-personal use vehicle, as defined by the IRS (487 in Calendar Year 2015); and (2) commuters for whom "the convenience to the State is greater than the benefit to the individual" (278 in Calendar Year 2015). From our review of 30 sampled commuters, we found no instances of agencies inappropriately exempting employees from reimbursement based on current Department rules. However, these rules have resulted in only 2 percent of all commuters reimbursing the State. Policymakers may wish to consider whether the State should simplify its approach to

either exempt all employees from reimbursement, which would require statutory change, or to align its exemptions only with those established by the IRS. For example:

- The State could exempt all commuters from reimbursement. In Calendar Year 2015, the State should have collected \$40,800 from all reimbursing commuters. The cost to the State of exempting all of these commuters from reimbursement would therefore be \$40,800.
- The State could allow only those employees who commute in qualified nonpersonal use vehicles to be exempt from reimbursement, in line with IRS exemptions. In Calendar Year 2015, 487 employees were categorized by their agencies as exempt. If all of the remaining 295 commuters reimbursed the State based on the value of the vehicle fringe benefit according to the IRS valuation for commuting 20 days each month, we estimate that the State would have collected about \$178,000 in reimbursements in Calendar Year 2015. However, if the State collected reimbursement from these 295 employees based on its current reimbursement calculations, we estimate that the State would have collected about \$442,000.

It may be appropriate for policymakers to assess the State's policies for reimbursement. Exempting all commuters from reimbursement would require statutory change. Exempting only those commuters who use qualified nonpersonal use vehicles would require a change to the Department's rules, but not necessarily a change in statute.

## RECOMMENDATION 8

The Department of Personnel & Administration should assess (1) whether reimbursement should be set at the value of the commuting fringe benefit according to Internal Revenue Service (IRS) regulations and (2) which employees should be exempt from reimbursement, and work with the General Assembly as needed on any statutory change.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

The Department will work with the General Assembly to clarify the approach to be used for reporting fringe benefits to the IRS for commuting, including reimbursements vs. imputed income. The Department will work with the General Assembly to clarify which employees should be exempt from reimbursement. The Department will work with the General Assembly on statutory changes for the approach for reporting fringe benefits and the exemption from reimbursement, as needed.

## RECOMMENDATION 9

As long as the State's reimbursement policies continue in their current form, the Department of Personnel & Administration (Department) should improve its communication with agencies to help ensure that the State collects reimbursements in accordance with applicable requirements by:

- A Revising its website, the commuting authorization form, and/or Department rules to clearly communicate (1) the minimum reimbursement amount, (2) the standard reimbursement rate, (3) the control employee reimbursement rate, and (4) the compensation level for determining whether a commuter is a control employee.
- B Revising State Fiscal Rules to reflect requirements of commuting in state-owned vehicles, eliminate the reference to imputing income for authorized commuters in Rule 2-8, or specify where current commuting requirements can be found.
- C Revising Central Payroll year end guidance to reflect current requirements of commuting in state-owned vehicles or specify where current information can be found.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

- A AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.

If the State's current reimbursement rules and statutory requirements remain unchanged, the Department will improve its communication with agencies to help ensure the State collects reimbursements in accordance with applicable requirements by

revising its website, the commuting authorization form, and/or Department rules to clearly communicate (1) the minimum reimbursement amount, (2) the standard reimbursement rate, (3) the control employee reimbursement rate, and (4) the compensation level for determining whether a commuter is a control employee. If the Department revises its rules and statutory requirements, the Department will communicate the new process to State agencies.

**B AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.**

If the State's current reimbursement policies remain unchanged, the Department will revise State Fiscal Rules to be consistent with those policies and will communicate this to State agencies. If the Department revises its current reimbursement policies, the Department will communicate the new process to State agencies.

**C AGREE. IMPLEMENTATION DATE: SEPTEMBER 1, 2017.**

The Department will revise Central Payroll year end guidance to reflect current requirements of commuting in state-owned vehicles and will specify where current information can be found.

## RECOMMENDATION 10

The Department of Personnel & Administration should rescind its approval of a May 2011 waiver for one agency to allow its commuters to reimburse for less than 20 days per month.

## RESPONSE

### DEPARTMENT OF PERSONNEL & ADMINISTRATION

AGREE. IMPLEMENTATION DATE: JANUARY 1, 2017.

The Department will rescind its approval of a May 2011 waiver for one agency to allow its commuters to reimburse for less than 20 days per month.



