F I S C A L   I M P A C T   R E P O R T

SPONSOR Lopez **DATE TYPED** 02/02/05 **HB**

SHORT TITLE State Employee Transportation Fringe Benefit **SB** 457

ANALYST Moser

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI		NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
NMDOT
Attorney General (AGO)
Dept of Public Safety (DPS)
Department of Corrections (CD)

SUMMARY

Synopsis of Bill

Senate Bill 457 would add a new section to Chapter 10, Article 7 of the NMSA 1978. This change would allow State agencies, state educational institutions, and political subdivisions of the state to offer their employees a “qualified transportation fringe benefit” or commuter incentive that follows guidelines set forth in Section 132(f) of the US Internal Revenue Code of 1986 as amended. This benefit is already available to private sector employees whose employers choose to offer the program.

The commuter incentive provides a federal tax deduction for commuting costs for those employees who commute to work by mass transit or vanpool. The deduction is the cost of a monthly transit pass or up to $100, whichever is lower.

The incentive may be offered in one of three methods:

1. A pre-tax employee payroll deduction,
2. An employer-paid benefit, or
3. A combination of 1 or 2.

The bill allows the Department of Financial Administration or the governing body of an institution or political subdivision of the state to determine which method to use.

Significant Issues

The incentive may increase the demand for transit and vanpools in areas where there are large concentrations of eligible State employees. This could lead to the need for expanded service.

PERFORMANCE IMPLICATIONS

Employee morale and productivity may improve as participating employees receive a 30% or greater reduction in commuting costs and are relieved of the stress of driving and finding parking.

FISCAL IMPLICATIONS

Fiscal impact on the State depends on which of the three implementation methods is used.

Option 1: Employee Payroll Deduction
If the incentive is implemented as a voluntary pre-tax employee payroll deduction, there would be no cost to the State. There would be a savings to the State in avoided contributions to FICA (6.2%) and Medicaid (1.45%) on the amount of the benefit. Annual savings to the State could be as high as $91.80 per employee eligible for the $100/month payroll deduction for 12 months.

Financial savings to a State employee who qualified for the $100 per month payroll deduction could be as high as $403.80 (depending on federal tax bracket and deductions). For employees who pay $30 per month for a city transit pass to commute to work, saving would amount to approximately $108 per year through avoided federal and state income tax, FICA, and Medicaid tax. The avoided state income tax is more than made up in the State's avoided payments to FICA and Medicaid. (These calculations assume 20% federal tax rate and 6% state tax rate.)

Option 2: Employer-Paid Benefit
The amount of the employer paid incentive would negatively impact state funds dollar-for-dollar. If, for example, the State gave each eligible employee a cash incentive of $30 per month ($360 per year) for commuting by transit or vanpool, the cost to the state would equal $360 per year per eligible employee.

Option 3: Combination of Options 1 and 2
The state could offer a combination of pre-tax payroll deduction and employer- paid incentive. For example, the State could offer a commuter incentive of $30 and a pre-tax deduction of up to $70 (maximizing the federal transportation benefit limit). This option creates two new accounting procedures and would negatively impact State funds dollar-

for-dollar for the cash incentive portion the employer provides. At a state cost of $360 per year the employee commuter would save from $360 to $612 per year, which matches or exceeds employee savings in options 1 and 2.

ADMINISTRATIVE IMPLICATIONS

The governing bodies of State agencies and institutions, such as the Division of Financial Administration, would determine which implementation option to use and develop the administrative rules, including when and how often an employee could change the selected vendor/carrier.

The Employee Benefits Office staff would need training on the incentive and payroll deduction authorization forms would need to be developed and adopted. The State Personnel Manual would need to be updated or amended to include the benefit.

TECHNICAL ISSUES

A new deduction code would need to be entered into the payroll process. Bi-weekly or monthly direct deposits would be made to approved vendors (for example, Public or Private Transit Systems, Park and Ride Service, and Vanpool Services). A bona fide reimbursement arrangement to ensure that employees have, in fact, incurred the expenses claimed in requesting cash reimbursements must be established. For example, employees may be required to present a receipt as to costs incurred incident to vanpool or public transit usage for commuting. The employee then may certify that they have availed themselves of the transportation.

OTHER SUBSTANTIVE ISSUES

All terms including eligible employees, transit passes, and commuter highway vehicle are defined in the Federal IRS Code.

If the incentive is provided and a substantial numbers of employees choose this incentive, there could be a reduction in the demand for parking near State buildings and work sites, a reduction in traffic congestion on corridors leading to these work sites, increase in the use of mass transit, and improved health of employees as they walk to and from transit and vanpool stops.

ALTERNATIVES

The State could offer the incentive through any of the three methods described in the bill summary. Methods 2 and 3 would have negative financial impacts on the State.

Suggested language if incentive is offered only through Method 1: State agencies, state educational institutions and political subdivisions of state may implement a qualified transportation fringe benefit program that offers state employees the option to exclude from taxable wages and compensation, consistent with section 132 of title 26, United States Code, employee commuting costs incurred through the use of mass transportation and vanpools, not to exceed the maximum level allowed by law (26 U.S.C. 132 (f) (2)). These programs shall comply with the requirements of Internal Revenue Service Regulations for qualified transportation fringe benefits under section 1.132-9 of title 26, Code of Federal Regulations, and other guidance.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

There will be no additional financial incentive for State employees to use transit or vanpool service to commute to work. Demand for parking and traffic congestion near State employment centers and will remain unchanged or worsen. State employers will not save money or save any additional funds by choosing to commute on transit or vanpool. Disparity of opportunity to access this federal tax incentive will continue between private sector and State employees.

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