



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

January 23, 2008

MEMORANDUM

To: Senator Taylor

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **2007 SB 354** (LRB-3480/2) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

December 20, 2007

TO: Marc Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on Senate Bill 354: Exempting From Taxation Certain Employer-Paid Fringe Benefits for Mass Transit Expenses

The Department has the following concerns related to the bill:

This bill exempts from taxation the value of a public transportation pass, token, or fare card provided by an employer to an employee, up to \$115 per month. The value of a public transportation pass is already excluded from gross income under sec. 132(f) of the Internal Revenue Code. Since the federal exclusion also applies for Wisconsin, the bill would provide a subtraction for the cost of transit passes that are already excluded. This results in a double benefit.

If the employer pays the employee directly for the purchase of the transportation pass, this bill does not require that the employee actually use the amount the employer paid to him/her for a transportation pass. An employer could give every employee a \$115 per month raise for the purchase of a transportation pass, but the employee could spend the money for items other than a transportation pass and still claim the subtraction. It appears an employer could even designate an amount of the employee's current salary as payment for a transportation pass, resulting in the employee being able to exclude \$1,380 a year (\$115 per month) from Wisconsin income, regardless of whether the employee purchases a transportation pass or even uses public transportation.

If you have any questions regarding this technical memorandum, please contact Brad Caruth at (608) 261-8984 or bradley.caruth@revenue.wi.gov.

cc: Senator Taylor