



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0240	Date:	January 27, 2023
Prime Sponsors:	Sen. Zenzinger; Van Winkle Rep. Snyder; Bockenfeld	Bill Status:	Senate Finance
		Fiscal Analyst:	Emily Dohrman 303-866-3687 Erin Reynolds 303-866-4146

Bill Topic: **SPECIAL MOBILE MACHINERY REGISTRATION EXEMPTION**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill changes the criteria to qualify for the special mobile machinery registration exemption such that owners of any amount of special mobile machinery may qualify. Beginning in FY 2023-24, it reduces state and local revenue, as well as local workload, and increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires a net appropriation of \$1.1 million to the Department of Revenue.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 23-049

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	(\$40,490)	(\$40,490)
	Cash Funds	(\$3,748)	(\$3,748)
	Total Revenue	(\$44,238)	(\$44,238)
Expenditures	Cash Funds	\$1,102,549	\$961,838
	Centrally Appropriated	\$233,725	\$233,725
	Total Expenditures	\$1,336,274	\$1,195,563
	Total FTE	13.6 FTE	13.6 FTE
Transfers		-	-
Other Budget Impacts	TABOR Refund	(\$44,238)	(\$44,238)

Summary of Legislation

Under current law, owners of special mobile machinery are required to register the machinery unless the owner qualifies and applies for a registration exempt certificate from the Department of Revenue (DOR). In order to qualify for the certificate, the owner must have 1,000 or more items of special mobile machinery. The bill changes this requirement such that owners of any amount of special mobile machinery may qualify for a registration exempt certificate.

Background

Special mobile machinery. Special mobile machinery is machinery that is pulled, hauled, or driven over a highway and is either; a vehicle or equipment that is not designed primarily for the transportation of persons or cargo over the public highways; or a motor vehicle that may have been originally designed for the transportation of persons or cargo over the public highways, and has been redesigned or modified by the addition of mounted equipment or machinery, and is only incidentally operated or moved over the public highways. Special mobile machinery includes vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, and the digging of ditches.

Special mobile machinery registration. For most special mobile machinery, the Division of Motor Vehicles in the Department of Revenue (DOR) licenses the equipment through county clerks and recorders. At the time of registration, owners are required to pay a bridge safety surcharge, road safety surcharge, registration fee, clerk hire fee, specific ownership tax, and fees related to the license plate, decal, and validating tab. These fees and taxes are collected by the county and dispersed to the state, county, and other local governments. However, some mobile machinery is registered using a different process through the two programs described below.

Special mobile machinery 2% rental program. If the owner of special mobile machinery rents or leases the equipment for at least 30 days in a calendar year, the owner can apply to participate in the 2% rental program. As part of this program, the special ownership tax is not due at the time of registration. Rather, the owner remits two percent of the rental or lease payment to the county on a monthly basis. The payments are collected and processed by the county where the equipment is used. Participants in this program also pay an annual \$5.00 rental program fee, of which \$3.00 is remitted to the state General Fund and \$2.00 is retained by the county that registers the machinery.

Special mobile machinery registration exemption certificate program. The registration exempt certificate program exempts certain owners of special mobile machinery from registering their equipment. Special mobile machinery must be part of the 2% rental program to be eligible for the registration exemption certificate program. Under current law, an owner of special mobile machinery must meet the following criteria in order to qualify for a certificate:

- have 1,000 or more items of special mobile machinery in Colorado;
- clearly mark every piece of special mobile machinery with the identity of the owner;
- ensure that the machinery bears a visible and readily identifiable identification number; and
- visibly include the owner's toll-free telephone number on each piece of the machinery.

Owners that obtain a registration exempt certificate are not required to maintain license plates or validating tabs for special mobile machinery. The owners must pay all applicable fees, surcharges, and special ownership tax, except for fees imposed for the purpose of covering the costs of license plates, decals, or validating tabs. Under this program, all fees, surcharges, and special ownership tax are remitted to the DOR and distributed to the appropriate counties, rather than being remitted directly to the county.

Data and Assumptions

There are currently 49,310 registered special mobile machinery owners with about 103,000 pieces of equipment in the state. Of this number, 302 owners qualify for the existing 2% rental program, with 11 of these owners qualifying for participation in the registration exemption certificate program. The fiscal note assumes that the bill will incentivize participation in the registration exemption certificate program. Specifically, it assumes 80 percent (233) of existing 2% rental program members will seek participation in FY 2023-24. Further, it assumes that 5 percent (2,450) of other special mobile machinery owners will seek participation in the 2% rental program to gain access to the registration exemption in both FY 2023-24 and FY 2024-25.

State Revenue

Beginning in FY 2023-24 and each year thereafter, the bill will reduce state General Fund revenue by \$40,490 and will reduce cash fund revenue by \$3,748.

Special mobile machinery 2% rental program fee. The bill will decrease annual revenue to the General Fund by \$40,490 annually beginning in FY 2023-24 as more owners shift to the registration exemption certificate program. Owners that are part of the exemption certificate program are not required to pay the \$5.00 fee associated with the 2% rental program, of which \$3.00 is deposited into the General Fund.

License tabs and decal materials. The bill will decrease annual revenue to Colorado Correctional Industries in the Department of Corrections by \$3,748 per year beginning in FY 2023-24. Colorado Correctional Industries is the state's license plate manufacturer and will receive fewer orders for special mobile machinery materials from the DOR.

Fine revenue and enforcement. To the extent that special mobile machinery enrolled in the registration exemption certificate program is exempt from fines for registration violations, revenue from fines and court fees and surcharges may decrease. Revenue from registration fines is deposited into the Highway Users Tax Fund while revenue from court fees and surcharges is deposited into various cash funds in the Judicial Department. This decrease is expected to be minimal.

Because special mobile machinery in the registration exemption certificate program is not required to have a license plate or ownership decal, it may be more difficult to enforce whether each piece of special mobile machinery is registered or has obtained a registration exemption certificate. To the extent that enforcement is more difficult and leads to lower compliance, revenue from the bridge safety surcharge, road safety surcharge, and specific ownership tax could be reduced.

State Expenditures

On net, the bill increases state expenditures in the DOR by about \$1.3 million in FY 2023-24 and \$1.2 million in FY 2024-25, paid from the Driver License, Record, Identification and Vehicle Enterprise Solutions (DRIVES) Cash Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 23-049**

	FY 2023-24	FY 2024-25
Department of Revenue		
Personal Services	\$896,114	\$896,114
Operating Expenses	\$18,360	\$18,360
Capital Outlay Costs	\$93,380	-
Computer Programming	\$47,331	-
Audit Travel	\$32,592	\$32,592
Fleet Vehicles	\$18,520	\$18,520
Year Tabs and SMM Decals	(\$3,748)	(\$3,748)
Centrally Appropriated Costs ¹	\$233,725	\$233,725
Total Cost	\$1,336,274	\$1,195,563
Total FTE	13.6 FTE	13.6 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. The DOR will hire staff, perform computer programming, and audit the new population, as discussed below.

- Personal services.** The DOR requires 13.6 FTE to process annual registration exemption certificate applications and renewals; handle monthly special ownership tax, fee, and surcharge remittance to 64 counties; provide account maintenance to SMM owners; and manage other vehicle support services for the newly eligible population. Staff includes 12.6 FTE Program Assistant and 1.0 FTE Administrator to supervise the new staff. Per owner, it is assumed that initial applications take 1.5 hours to process, monthly collection activities take 0.5 hours, and monthly maintenance activities for large scale owners take 1.25 hours. It is assumed that the DOR will perform auditing and enforcement activities at 25 percent of sites per year (671 sites), with an estimated 4 hours per site. Standard operating and capital outlay costs for this new staff are included.
- Computer programming.** In FY 2023-24 only, one-time programming costs of \$47,331 are required to update the DRIVES system. DRIVES programming costs are calculated at 180 hours at a rate of \$225 per hour, plus an additional 69 hours at a rate of \$99 for support activities from the Office of Information Technology, which will be paid to the OIT through real-time billing.

- **Audit travel and fleet vehicles.** As discussed above, staff will perform audits at 671 sites. Assuming 25 percent of sites (168 sites) will require an overnight stay, lodging and per diem at \$194 per overnight stay are included. Four fleet vehicles at \$4,630 per vehicle are also included. Fleet vehicle payments will be made to the Department of Personnel and Administration through the budget process.
- **Year tabs and SMM decals.** Beginning in FY 2023-24, the bill will reduce expenditures from the License Plate Cash Fund for tab and decal production as individuals shift to the registration exempt certificate, which does not require these materials.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Decreased cash fund revenue will increase the amount of General Fund available to spend or save, while decreased General Fund revenue will lower the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

Local Government

Beginning in FY 2022-23, the bill will reduce local government revenue and expenditures. These impacts will vary based on how many owners of special mobile machinery are located in a county and whether or not they opt in to the exemption program.

Revenue. The bill will reduce overall local government revenue by an estimated \$90,782. Owners with the registration exemption certificate are not required to pay the \$4.00 clerk hire fee, resulting in a decrease of \$63,789 retained by counties. Owners that were originally part of the 2% rental program are also not required to pay the rental program fee, \$2.00 of which is retained by counties, resulting in a decrease of \$26,994 annually.

Expenditures. The bill will reduce workload for counties. As individuals shift to the registration exempt certificate which is administered by the DOR, workload for county clerks associated with registrations will decrease.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires an appropriation to the Department of Revenue of:

- \$1,106,297 from the DRIVES Cash Fund, and 13.6 FTE; and
- a reduction of \$3,748 from the License Plate Cash Fund.

State and Local Government Contacts

Counties
Revenue

County Clerks
Transportation

Information Technology
Corrections