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Fiscal Note

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Prime Sponsors: Rep. Froelich
Sen. Fields

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Bill Status: House State Affairs
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Bill Topic: **MOTOR VEHICLES TOWS & CRIME VICTIMS**

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill creates a program to pay the cost of having a car towed when the vehicle owner is a victim of a crime, funded by a fee charged by tow carriers voluntarily participating in the program. It increases state revenue, and state and local expenditures, on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$1.2 million to multiple state agencies.

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

Table 1
State Fiscal Impacts Under HB 23-1217

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	FAVOR Enterprise Fund	\$818,125	\$1,636,250
	Total Revenue	\$818,125	\$1,636,250
Expenditures	General Fund	\$406,401	-
	FAVOR Enterprise Fund	\$406,402	\$1,435,084
	Cash Funds	\$341,907	\$323,364
	Centrally Appropriated	\$151,950	\$184,095
	Total Expenditures	\$1,306,660	\$1,942,543
	Total FTE	6.4 FTE	8.0 FTE
Transfers		-	-
Other Budget Impacts	TABOR Refund	\$818,125	-
	General Fund Reserve	\$60,960	-

Summary of Legislation

The bill creates a new state-owned enterprise within the Public Utilities Commission (PUC) to collect fee revenue to cover the costs associated with vehicle towing and storage for persons who are victims of a crime. The Fund Automobile Victim Operator Release (FAVOR) Enterprise and its funding and operations are described in more detail below.

Assistance to victims of a crime. For persons who are victims of a crime and their vehicle is towed from public property at the request of or by a law enforcement agency, the bill requires a towing carrier to release the vehicle without demanding or accepting payment for any charge associated with the vehicle's towing or storage. Participating towing carriers will then be reimbursed by the FAVOR Enterprise for these costs.

Enterprise funding. To fund the reimbursement program, the FAVOR Enterprise will establish and collect a fee on each law enforcement tow performed by a participating carrier. Fee revenue is deposited into the newly created FAVOR Enterprise Fund.

Governance. The bill establishes a governing board to administer the FAVOR Enterprise. The chair is appointed by the PUC, and other members are appointed by leadership of the Colorado State Patrol (CSP), the Department of Revenue, and the Governor. The board is responsible for setting the program fee, establishing policies and procedures, and auditing towing carriers, among other duties. The public members of the board serve without compensation, but may be reimbursed for expenses associated with serving on the board. The board must be appointed by October 1, 2023, and the PUC must call the first meeting of the board to order by November 1, 2023. The board must meet at least annually.

Abandoned vehicle database. The bill instructs the Department of Revenue (DOR) to create a database of abandoned motor vehicles that have been towed on private or public property by July 1, 2024.

Stolen vehicle checks. Under current law, law enforcement or a towing carrier must check to see if a vehicle was stolen within 30 minutes of towing. The bill adds an additional check to determine whether a towed motor vehicle has been stolen 48 hours after the vehicle has been towed.

Disposition of abandoned motor vehicles. Lastly, the bill repeals the requirement that an abandoned motor vehicle be sold within 60 days. Under the bill, if a towing carrier is notified that the motor vehicle was towed because of a crime, the sale must be made no fewer than 60 days after the tow. The owner must be notified of the 60-day minimum time frame for holding the vehicle.

Data and Assumptions

Law enforcement tows. Exact data on the number of "law enforcement tows" statewide each year is not available. The Colorado State Patrol has ordered the towing of around 26,300 annually over the last three years. However, this figure does not account for all tows ordered in Colorado, such as tows ordered through county or municipal law enforcement. In addition, it is unclear how many of these tows meet the bill's definition of "law enforcement tow" (i.e., were requested by the CSP and performed without consent of the vehicle's owner, an authorized driver, lienholder, or auto insurer).

Assuming most CSP tows meet the definition, and that the CSP accounts for around 25 percent of all law enforcement tows statewide, there may be between 80,000 to 100,000 law enforcement tows conducted in Colorado per year. Calculations in this fiscal note are based on the upper end of this range.

Stolen vehicles and tows eligible for reimbursement. According to [data from the Colorado Auto Theft Prevention Authority in the Department of Public Safety \(DPS\)](#), Colorado has averaged around 36,500 reports of stolen vehicles per year over the last three years. Around 24,000 of these vehicles (66 percent) were recovered. This fiscal note assumes that 25 percent of these recovered vehicles (6,000 vehicles) required a tow ordered by law enforcement that would be eligible for reimbursement under this program, if performed by a participating tow carrier. The note assumes tows of stolen vehicles would result in most of the tows eligible for the reimbursement. Assuming other crimes result in the need for an additional 500 tows, there would be a total of 6,500 law enforcement tows statewide each year.

Towing carrier participation. Since the reimbursement program is voluntary, not every tow carrier would participate in the program (there are currently around 715 tow carriers statewide). This fiscal note assumes a 50 percent participation rate. This would mean a fee for the program would be levied on up to 50,000 law enforcement tows annually, assuming that participating carriers handle law enforcement tows evenly. However, the fee would not be charged for towed vehicles whose owners were victims of a crime (the 6,500 tows assumed above). Assuming that 50 percent of crime victim tows (3,250 tows) are handled by participating carriers and not charged a fee, then the FAVOR Enterprise Fee would be charged on around 46,750 law enforcement tows per year. Given the voluntary nature of the program, actual participation and number of tows may differ greatly from this estimate (see Technical Note below).

Towing costs. For law enforcement-ordered tows, the [PUC has set maximum rates/charges](#) for towing carriers of \$240.75 per hour for towing a normal-sized vehicle, \$89.24 to release a vehicle outside of normal business hours, and \$40.56 per day for storage. Based on these amounts, this fiscal note assumes the average cost of \$350 for towing and storage.

Implementation timeline. It is assumed that the board will begin meeting in October 2023, and that the program will begin assessing the fee on eligible tows and providing reimbursement to tow carriers on January 1, 2024.

State Revenue

To support the costs of the FAVOR Enterprise, cash fund revenue from fees is estimated to increase by about \$0.8 million in FY 2023-24 and \$1.6 million in FY 2024-25 and future years. This revenue is deposited to the FAVOR Enterprise Fund and is not subject to the state's revenue limit under TABOR in years when the program qualifies as a state enterprise under TABOR (see Technical Note below). Actual revenue may differ from these estimates based on program participation and the actual number of law enforcement tows and tows requiring reimbursement.

Fee impact on towing carriers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by the FAVOR Enterprise Board based on cash fund balance, program costs, participation by towing carriers, and the number of tows subject to the fee. Based on the assumptions above and the estimated costs to operate the program described in this fiscal note, the bill will increase fees on law enforcement-initiated tows performed by participating carriers by the amounts shown in Table 2 below. First-year costs represent a half-year impact.

Table 2
Fee Impact on Towing Carriers Under HB 23-1217

Fiscal Year	Type of Fee	Proposed Fee	Law Enforcement Tows Affected	Total Fee Impact
FY 2023-24	FAVOR Enterprise Fee	\$35	23,375	\$818,125
FY 2024-25	FAVOR Enterprise Fee	\$35	46,750	\$1,636,250

Voter approval of new state enterprises. Current law requires voter approval for a state enterprise with projected or actual revenue from fees and surcharges over \$100 million in its first five fiscal years. The new enterprise in this bill will begin operating in FY 2023-24. Through FY 2027-28, the enterprise is projected to collect less than \$100 million in fees and not require voter approval.

State Expenditures

The bill increases state expenditures by \$1.3 million in FY 2023-24 and \$1.9 million in FY 2024-25. Costs are paid from multiple cash funds and the General Fund in the first year, and cash funds only in the second and future years. These costs will be incurred in the new FAVOR Enterprise in the PUC, the Colorado State Patrol in the DPS, and in the Department of Revenue, as described below and summarized in Table 3.

**Table 3
 Expenditures Under HB 23-1217**

	FY 2023-24	FY 2024-25
FAVOR Enterprise (PUC)		
Personal Services	\$166,073	\$238,534
Operating Expenses	\$2,970	\$4,050
Capital Outlay Costs	\$20,010	-
Invoice and Tracking Software	\$50,000	\$50,000
Board Expenses	\$5,000	\$5,000
Towing Reimbursement	\$568,750	\$1,137,500
Centrally Appropriated Costs ¹	\$39,790	\$55,394
FTE – Personal Services	2.2 FTE	3.0 FTE
FAVOR Enterprise Subtotal	\$852,593	\$1,490,478
Colorado State Patrol (DPS)		
Personal Services	\$263,845	\$316,614
Operating Expenses	\$5,670	\$6,750
Capital Outlay Costs	\$33,350	-
Centrally Appropriated Costs ¹	\$112,160	\$128,701
FTE – Personal Services	4.2 FTE	5.0 FTE
DPS Subtotal	\$415,025	\$452,065
Department of Revenue		
Database Development	\$33,300	-
OIT Support and Services	\$5,742	-
DOR Subtotal	\$39,042	-
Total Costs	\$1,306,660	\$1,942,543
Total FTE	6.4 FTE	8.0 FTE

FAVOR Enterprise

The new FAVOR Enterprise within the PUC will have costs of about \$0.9 million in FY 2023-24 and \$1.5 million in FY 2024-25 and future years. Costs are paid from the FAVOR Enterprise Fund, except that half of the costs in the first year are assumed to be paid from the General Fund due to the lack of available fee revenue during program start-up (see Technical Note below).

Staffing and administration. The FAVOR Enterprise is expected to require 3.0 FTE, including a program manager to set policies, supervise staff, and oversee the program; a program assistant to support the board and process reimbursements; and a compliance investigator to audit carriers and related tasks. The program manager and assistant are assumed to start on October 1, 2023, immediately prior to the board beginning its work; the compliance investigator will begin December 1, 2023, prior to the start of towing reimbursements. The board is assumed to have costs of

around \$5,000 per year for expense reimbursement and other costs. The enterprise will require invoicing, payment processing, and other software, at an estimated cost of \$50,000 per year.

Towing reimbursement. The FAVOR Enterprise is required to reimburse participating carriers, through the FAVOR Enterprise Fund, for each law enforcement tow the carrier performs for victims of crime. Based on the assumption that participating carriers conduct an average of 3,250 qualifying tows each year, at an average cost of \$350, meaning the FAVOR Enterprise will be responsible for \$2 million worth of reimbursements will total about \$1.1 million per year. This amount is prorated in the first year to reflect a half-year impact. The actual reimbursement may vary depending on the number of participating carriers, tows ordered, and actual costs for towing and storage.

Colorado State Patrol (DPS)

The CSP within the Department of Public Safety requires 5.0 FTE for police communication technician staff to conduct the bill's required check of whether a vehicle was reported stolen 48 hours after a tow. Each of the five CSP communication centers would receive 1.0 FTE for determining vehicles are still impounded and clearing the vehicle a second time to determine if it has been reported stolen. This workload is based on the assumed number of tows (about 26,300 per year) described in the Data and Assumptions section above. Each check is estimated to take approximately 25 minutes for staff to locate the tow record, process the VIN number, and document the search result. This amounts to about 11,000 hours of work.

Department of Revenue

In FY 2023-24 only, the DOR is required to create a searchable, public-facing database in its Driver License, Record, Identification, and Vehicle Enterprise Solutions (DRIVES) system. Programming costs assume 148 hours at a rate of \$225, paid to the vendor, for a cost of \$33,300, paid from the DRIVES Cash Fund. Additional support and testing will require an additional \$5,742, which will be paid through real-time billing to the Office of Information Technology. Additional updates to forms, rules, training, or business processes concerning the new database can be accomplished within existing resources.

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.

Local Government

The bill will add workload to local law enforcement agencies by requiring them to perform the 48-hour stolen vehicle recheck outlined by the bill. Based on the costs incurred by the CSP, local costs and workload could be significant. In addition, to the extent carriers are unable to accept payment for a crime victim tow and a tow carrier is not receiving reimbursement from the FAVOR Enterprise, costs may increase if the tow carrier seeks payment from the law enforcement agency requesting the tow.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers for FY 2023-24 by the amounts shown in the State Revenue section above. This estimate assumes the December 2022 LCS revenue forecast. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save. In FY 2024-25 and future years, there will be no TABOR refund impact, assuming the program meets the qualifications for an enterprise.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Technical Note

Start-up costs and enterprise status. The bill creates the towing reimbursement program as an enterprise under TABOR. However, revenue will not be available to cover start-up costs until later in FY 2023-24 once program implementation and fee collection has started. The fiscal note assumes General Fund must be used for initial costs and tentatively estimates that 50 percent of costs will be paid in the first year from the General Fund. Because enterprises are limited to 10 percent of revenue from government sources, the program is assumed not to qualify for enterprise status in the first year, and fee revenue received in FY 2023-24 is assumed to be subject to the state TABOR limit.

Voluntary participation. The bill uses a voluntary fee to fund the programs operations. If there is not sufficient participation, the fee on those who do participate could be higher than anticipated, further reducing participation. At the same time, the bill prohibits a towing carrier from demanding or accepting payment from a crime victim, both for participating and non-participating towing carriers. This will result in non-participating towing carriers potentially performing tows, and then not receiving reimbursement from the owner or from the FAVOR Enterprise. It is unknown if this will then shift costs to the law enforcement agency ordering the tow, or if the services will not be reimbursed. The potential for not receiving reimbursement may incentivize participation in the new program to ensure that payment is received, or it could discourage tow carriers that do not wish to participate from providing services to law enforcement agencies. The fiscal note does not address this dynamic in detail, and instead assumes a 50 percent participation rate, due to a lack of information.

Implementation timeline. Because the prohibition on charging a crime victim for towing their car takes effect upon enactment of the bill, the fiscal note assumes that the FAVOR Enterprise Fee and reimbursement will begin as soon as possible (January 1, 2024) to ensure that payment is provided to these carriers. However, this leaves a gap of around 6 months, depending on when the bill becomes law, when a tow carrier cannot demand or accept reimbursement for crime victim tows and when the program begins providing reimbursement. The gap may be longer if the fiscal note's assumed implementation timeline is not feasible.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2023-24, the bill requires the following appropriations:

- \$812,803 to the FAVOR Enterprise within the PUC, of which half is from the General Fund and half from the new FAVOR Enterprise Fund, and 2.2 FTE
- \$302,865 to the Colorado State Patrol in the Department of Public Safety from the Highway Users Tax Fund, and 4.2 FTE; and
- \$39,042 to the Department of Revenue from the DRIVES Cash Fund.

State and Local Government Contacts

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Information Technology
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Regulatory Agencies
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