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# Final Fiscal Note

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**Drafting Number:** LLS 23-0240 **Date:** July 7, 2023  
**Prime Sponsors:** Sen. Zenzinger; Van Winkle **Bill Status:** Signed into Law  
Rep. Snyder; Bockenfeld **Fiscal Analyst:** Erin Reynolds | 303-866-4146  
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**Bill Topic:** **SPECIAL MOBILE MACHINERY REGISTRATION EXEMPTION**

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**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input 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 qualification criteria for the special mobile machinery registration exempt program to allow owners of 250 pieces of machinery or more to participate. Beginning in FY 2023-24, the bill may minimally reduce state and local revenue, as well as local workload, and increases state expenditures on an ongoing basis.

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**Appropriation Summary:** For FY 2023-24, the bill requires and includes an appropriation of \$113,476 to the Department of Revenue.

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**Fiscal Note Status:** The fiscal note reflects the enacted bill.

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**Table 1**  
**State Fiscal Impacts Under SB 23-049**

	<b>Budget Year FY 2023-24</b>	<b>Out Year FY 2024-25</b>
<b>Revenue</b>	-	-
<b>Expenditures</b>		
Cash Funds	\$113,476	\$63,417
Centrally Appropriated	\$13,258	\$15,251
<b>Total Expenditures</b>	<b>\$126,734</b>	<b>\$78,668</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>0.9 FTE</b>
<b>Transfers</b>	-	-
<b>Other Budget Impacts</b>	-	-

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## **Summary of Legislation**

Under current law, owners of special mobile machinery are required to register the machinery unless the owner qualifies and applies for the registration exempt certificate program in 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 allows owners of 250 or more items of special mobile machinery to qualify for the registration exempt certificate program and outlines the application and renewal process for the registration exempt certificate program.

## **Background and Data**

**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.

**Qualifying owners.** There are currently 45 registered special mobile machinery owners with 250 pieces or more of equipment in the state.

## **State Revenue**

Beginning in FY 2023-24 and each year thereafter, the bill will minimally decrease state revenue, as outlined below.

**Registration exemption program.** The bill will minimally decrease General Fund revenue from special mobile machinery owners shifting 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.

**Year tab and decals.** The bill will minimally decrease revenue to Colorado Correctional Industries in the Department of Corrections from fewer tab, plate, and decal products ordered.

**Enforcement penalties.** 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**

The bill increases state expenditures in the DOR by \$127,000 in FY 2023-24 and \$79,000 each year thereafter, 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
<b>Department of Revenue</b>		
Personal Services	\$47,492	\$56,990
Operating Expenses	\$1,080	\$1,215
Capital Outlay Costs	\$6,670	-
Computer Programming	\$53,022	-
Audit Travel	\$582	\$582
Fleet Vehicles	\$4,630	\$4,630
Centrally Appropriated Costs <sup>1</sup>	\$13,258	\$15,251
<b>Total Cost</b>	<b>\$126,734</b>	<b>\$78,668</b>
<b>Total FTE</b>	<b>0.8 FTE</b>	<b>0.9 FTE</b>

<sup>1</sup> 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.** Assuming 45 new participants in the registration exempt certificate program, the DOR requires 0.9 FTE to process applications and renewals; handle monthly special ownership tax, fee, and surcharge remittance to 64 counties; provide account maintenance; and manage other vehicle support services for the newly eligible population. This workload assumes initial applications take 1.5 hours to process, monthly collection activities take 0.5 hours, and monthly maintenance activities take 1.25 hours. It is assumed that the DOR will perform auditing and enforcement activities at 25 percent of sites per year (about 11 sites), with an estimated 4 hours per site. Standard operating and capital outlay costs for this new staff are included, and first-year costs are prorated for the bill's effective date.
- **Computer programming.** In FY 2023-24 only, one-time programming costs of \$50,526 are required to update the DRIVES system. DRIVES programming costs are calculated at 192 hours at a rate of \$238 per hour, plus an additional 74 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 about 11 sites per year. Assuming 25 percent of sites require an overnight stay, lodging and per diem at \$194 per overnight stay are included, as is one fleet vehicle at \$4,630 per year. 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 minimally 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.

## **Local Government**

Similar to the state, beginning in FY 2022-23, the bill will minimally 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.** Owners with the registration exemption certificate are not required to pay the \$4.00 clerk hire fee, nor are they 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 was signed into law by the Governor on June 2, 2023, and takes effect August 7, 2023, assuming no referendum petition is filed.

## **State Appropriations**

For FY 2023-24, the bill requires and includes an appropriation to the Department of Revenue of \$113,476 from the DRIVES Cash Fund, and 0.8 FTE.

## **State and Local Government Contacts**

Counties  
Revenue

County Clerks  
Transportation

Information Technology  
Corrections