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Revised Fiscal Note

(replaces fiscal note dated January 24, 2024)

Drafting Number:	LLS 24-0244	Date:	February 21, 2024
Prime Sponsors:	Sen. Winter F.; Cutter Rep. Lindsay; Lindstedt	Bill Status:	Senate Finance
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Bill Topic: **VULNERABLE ROAD USER PROTECTION ENTERPRISE**

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

The bill creates the Vulnerable Road User Protection Enterprise and levies new registration fees on certain passenger vehicles and light trucks to fund infrastructure improvement projects. On an ongoing basis, it increases state and local revenue and expenditures, and allows for the transfer of money between funds.

Appropriation Summary: For FY 2024-25, the bill requires a reappropriation of \$36,919 from CDOT to the Department of Revenue. Other costs in CDOT are paid using continuously appropriated funds.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the Senate Transportation and Energy Committee.

Table 1
State Fiscal Impacts Under SB 24-036

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	Vulnerable Road Users Enterprise Fund	\$10.2 million	\$21.0 million
	Total Revenue	\$10.2 million	\$21.0 million
Expenditures	Vulnerable Road Users Enterprise Fund ¹	\$248,955	\$30.5 million
	Centrally Appropriated	\$56,903	\$49,140
	Total Expenditures	\$305,858	\$30.6 million
	Total FTE	3.0 FTE	2.6 FTE
Transfers	State Highway Fund	(\$305,858)	\$305,858
	Vulnerable Road Users Enterprise Fund	\$305,858	(\$305,858)
	Net Transfer	\$0	\$0

¹ Revenue estimates are based on the maximum fee levels allowed by the bill and assume only the vehicles in the 12 most populous counties. Second-year expenditures include spending of revenue collected over the first two fiscal years; the timing of this spending may vary. Ongoing spending is estimated to be approximately \$21 million per year, depending on fees set by the enterprise. See State Revenue section for additional detail on fee revenue assumptions.

Summary of Legislation

The bill creates the Vulnerable Road User Protection Enterprise and governing board in the Department of Transportation (CDOT). The enterprise will provide funding for transportation system infrastructure improvements that seek to prevent vehicular collisions with vulnerable road users, such as pedestrians or bicyclists. On or after July 1, 2025, the enterprise is authorized to provide grants for eligible projects, as outlined in the bill, within the following parameters:

- The enterprise must seek to award grants to each county in amounts that are reasonably proportional to the amount of fee revenue collected from each county.
- Grants must be at least \$250,000.
- The enterprise cannot require a recipient of a grant that is less than \$1 million to provide matching money for the grant.
- For grants that are at least \$1 million, the enterprise must require the grant recipient to provide matching money of 20 percent of the grant amount.
- Grants may be used as matching money for federal funds or in combination with other state sources of transportation infrastructure funding, in accordance with all applicable requirements.

The enterprise must also pay the compensation for 1.0 FTE to provide education to local and regional publicly employed engineers on new engineering standards for safety.

After January 1, 2025, but before July 1, 2025, the enterprise is required to implement a Vulnerable Road User Protection Fee in Colorado's 12 most populous counties on the registration of passenger cars and light trucks that are not commercial vehicles or owned or leased by the state. Additional counties may opt in to implement the fee and receive grants.

The fees are imposed in tiered amounts calculated based on motor vehicle weights and configurations. The bill specifies the maximum fee that may be charged for each tier, which is adjusted for inflation in subsequent fiscal years. The enterprise will notify the Department of Revenue (DOR) of the fee amounts before March 15 of each state fiscal year. Fee revenue is credited to the Vulnerable Road User Protection Enterprise Fund and continuously appropriated to the enterprise. The enterprise must set fees at a level to fund its operations but not to exceed \$100 million over first five fiscal years.

No later than June 1, 2025, the enterprise is instructed to publish and post on its website a five-year plan detailing its business purpose and funding estimates. The enterprise will also manage a public accountability dashboard providing summary information about the five-year plan and funding status and progress of each eligible project. The enterprise is required to present an annual report to the Transportation Commission and relevant legislative committees regarding the enterprise's activities and funding.

Finally, the bill outlines the membership of the governing board. The board consists of five members appointed by legislative leadership, CDOT, and the Governor.

Background

New enterprise creation. TABOR defines an enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under ten percent of annual revenue in grants from all Colorado state and local governments combined." Because the share of revenue that an enterprise may receive from government sources is capped, enterprises are largely financially independent of core government agencies. Additionally, enterprises cannot levy taxes. TABOR limits the amount of money that can be spent or saved by the state government and all local governments within the state. However, revenue collected by enterprises is not subject to these constraints.

Current law requires voter approval to create a state government enterprise that collects more than \$100 million over its first five years of operation. The enterprise created in this bill is restricted from collecting fee or surcharge revenue exceeding \$100 million over its first five fiscal years; therefore, the voter approval requirement does not apply.

DRIVES programming. The Division of Motor Vehicles (DMV) in the DOR uses its Driver License, Record, Identification and Vehicle Enterprise Solution (DRIVES) information technology system for all driver license and motor vehicle transactions. The DRIVES system requires an extensive 18-month upgrade which is scheduled to take place from July 1, 2024, through March 31, 2026. As a result, the DOR has requested that any new legislation requiring DRIVES programming have an effective date of April 1, 2026, with roll-forward spending authority through FY 2026-27, noting that each programming requirement during the system upgrade period may increase the overall project timeline. Based on the current effective date in the bill, the fiscal note includes costs for the DRIVES programming to take place twice—in the existing and new system.

Assumptions

To calculate the potential revenue from the new registration fees, the fiscal note estimates amount of revenue that will be collected at the maximum fee levels allowed by the bill in the 12 most populous counties. Actual revenue will be less if the fees are set at a lower level by the enterprise, and more if additional counties opt to implement the fee. The fee schedule for FY 2024-25 is detailed in Table 2. Vehicles owned or leased by the state are exempt from the fees (up to 6,400 vehicles statewide), but have not been accounted for in the estimates in Table 2 as their weights and county of registration are not readily available.

Table 2
FY 2024-25 Vulnerable Road User Fee Schedule Under SB 24-036

Weight Class	Maximum Fee	Covered Vehicles
Passenger Cars		
< 3,500 pounds	-	1,091,396
3,500 – 4,499 pounds	\$3.00	510,114
4,500 – 5,499 pounds	\$4.40	23,285
5,500 – 6,499 pounds	\$6.40	1,808
6,500 – 7,499 pounds	\$9.30	247
7,500 – 8,499 pounds	\$13.60	88
8,500 – 9,499 pounds	\$19.90	41
> 9,500 pounds	\$29.10	307
Light Trucks		
< 3,500 pounds	-	427,205
3,500 – 4,499 pounds	\$4.50	1,367,478
4,500 – 5,499 pounds	\$6.60	916,119
5,500 – 6,499 pounds	\$9.60	302,146
6,500 – 7,499 pounds	\$14.00	111,630
7,500 – 8,499 pounds	\$20.40	54,908
8,500 – 9,499 pounds	\$29.90	9,112
> 9,500 pounds	\$43.60	17,723

The bill defines “passenger car” as a motor vehicle that is not a commercial vehicle as defined in statute; has two axles and four wheels; is manufactured primarily for use in the transportation of not more than 10 individuals; and is not a pickup truck, sport utility vehicle, van, or a minivan. A “light truck” is defined as a motor vehicle that is not a commercial vehicle; has two axles and at least four wheels; and is a pickup truck, a sport utility vehicle, a van, or a minivan. Vehicles weighing less than 3,500 pounds are not subject to the fee.

The number of covered vehicles listed in Table 2 above is based on 2021 vehicle registration data from the DOR, and encompasses Colorado’s 12 most populous counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo, and Weld.

State Revenue

The bill is estimated to increase cash fund revenue from fees by an estimated \$10.2 million in FY 2024-25 and \$21.0 million in FY 2025-26 and ongoing. This revenue is deposited to the Vulnerable Road User Protection 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. Actual revenue may differ from these estimates based on the fee amounts set by the enterprise and the actual number of registered vehicles in the state.

Fee impact. 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 enterprise board based on cash fund balance and program costs. First-year fee revenue represents a half-year impact, as this fiscal note assumes the enterprise will begin collecting fees on January 1, 2025.

Table 3
Fee Impact Under SB 24-036

Fiscal Year	Type of Fee	Vehicles Affected	Total Fee Impact¹
FY 2024-25	Vulnerable Road User Fee – See Table 2	3.32 million	\$10,243,182
FY 2025-26	Vulnerable Road User Fee – See Table 2	3.32 million	\$21,039,495

¹ Fee revenue in the first year represents a half-year impact at the maximum fee amounts for vehicles in the 12 most populous counties. In the second year, the maximum fee amount has been adjusted for inflation from the amounts shown in Table 2.

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 2024-25. Through FY 2027-28, the enterprise is projected to collect less than \$100 million in fees and not require voter approval.

State Transfers

To support the enterprise prior to the start of fee collections, the bill allows CDOT to transfer money from one of its funds as a loan to the Vulnerable Road User Protection Enterprise Fund. It is assumed that such a transfer will be made from the State Highway Fund to the enterprise fund in FY 2024-25, and that a corresponding transfer from the enterprise fund to the State Highway Fund will be made in FY 2025-26 will be made to repay the loan. Based on the fiscal note’s expenditure estimates for administrative and start-up costs for the enterprise in FY 2024-25, it is assumed that \$305,858 will be transferred and repaid between the funds.

State Expenditures

The bill increases expenditures by about \$306,000 in FY 2024-25 and up to \$30.5 million in FY 2025-26 in the Vulnerable Road User Protection Enterprise in CDOT and the Department of Revenue (DOR). Ongoing expenditures in FY 2026-27 and future years will be up to \$21 million per year, depending on actual fee collections by the enterprise. These costs are paid from the Vulnerable Road User Protection Enterprise Fund. The bill’s costs are outlined in Table 4 and described below.

**Table 4
Expenditures Under SB 24-036**

	FY 2024-25	FY 2025-26
Vulnerable Road User Protection Enterprise (CDOT)		
Personal Services	\$194,856	\$167,001
Operating Expenses	\$3,840	\$3,328
Capital Outlay Costs	\$13,340	-
Grants to Eligible Projects (see State Revenue)	-	\$30.2 million ¹
Centrally Appropriated Costs ²	\$56,903	\$49,140
FTE – CDOT	3.0 FTE	2.6 FTE
CDOT Subtotal	\$268,939	\$30,419,469
Department of Revenue (DOR)		
DRIVES Programming	\$27,776	\$28,560
ISD Development & Testing	\$2,870	\$2,870
Business User Acceptance Testing	\$2,016	\$2,016
OIT Support	\$4,257	\$4,257
DOR Subtotal	\$36,919	\$37,703
Total Cost	\$305,858	\$30,457,172
Total FTE	3.0 FTE	2.6 FTE

¹ This amount assumes that available revenue collected in FY 2024-25 and FY 2025-26 will be issued as grants in FY 2025-26. Ongoing grant amounts are estimated at \$21 million per year.

² Centrally appropriated costs are not included in the bill's appropriation.

Vulnerable Road User Protection Enterprise (CDOT). The bill increases costs in the Vulnerable Road User Protection Enterprise in CDOT starting in FY 2024-25. These costs are for staff support and grants to local governments, as outlined below.

- **Staffing.** The CDOT requires 3.0 FTE in FY 2024-25 and 2.6 FTE in outgoing years to administer and support the enterprise, including a 1.0 FTE Program Coordinator position and the 1.0 FTE Training Specialist III required by the bill. The Program Coordinator position will provide administrative support to the board, support the development of annual reports and a five-year plan, maintain information on the website, and administer the grant program. The Training Specialist position will provide education to local and regional publicly employed

engineers on new engineering standards and safety, and to provide safety-related signage. The CDOT also requires 1.0 FTE in FY 2024-25 and 0.6 FTE in FY 2025-26 for budget, accounting, and procurement support for the enterprise. All positions are assumed to have a July 2024 start date.

- **Grants.** The enterprise is authorized to begin issuing grants to eligible entities on or after July 1, 2025. Beginning in FY 2025-26, the enterprise will have at least \$30.2 million to disburse as grants. This amount represents the revenue collected over the first two first years, after accounting for staffing and programming costs in the CDOT, CDPHE, and DOR, and repayment of the loan described in the State Transfers section above.

DRIVES Programming (DOR). The DOR requires \$36,919 in FY 2024-25 for the first round of DRIVES programming, which includes 112 hours at \$248 per hour for programming and \$4,886 for ISD development and user acceptance testing. The second round of programming in FY 2025-26 requires \$37,703 to account for an increase in DRIVES programming costs to \$255 per hour. In FY 2026-27 and beyond, the DOR requires \$6,312 to annually update the fees for inflation. Office of Information Technology (OIT) support requirements are estimated at 43 hours in FY 2024-25 and FY 2025-16 at a rate of \$99 per hour, which will be allocated to DOR and paid to OIT via real-time billing.

Governor's Office. Workload will minimally increase for the Governor's Office of Boards and Commissions to make the required appointment under the bill. This work can be accomplished within existing appropriations.

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 4.

Local Government

The bill will increase workload and costs for local governments that apply for and receive funding for infrastructure and qualifying projects. Local governments that receive grants of at least \$1 million will be required to provide matching funds in an amount equal to 20 percent of the grant amount.

Technical Note

The fiscal note currently includes a duplicative programming cost for the DOR's DRIVES system, as discussed in the Background section. The duplicate cost would be removed if the bill's effective date were amended to April 1, 2026, when the DRIVES upgrade is complete.

Effective Date

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

State Appropriations

For FY 2024-25, the bill requires a reappropriation of \$36,919 from the Vulnerable Road User Protection Enterprise in CDOT to the Department of Revenue.

State and Local Government Contacts-

Counties	Local Affairs	Public Health and Environment
Public Safety	Regulatory Agencies	Revenue
Transportation		

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.