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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/16/2017

SPONSOR Ortiz y Pino LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Stolen Vehicle Towing Costs Report and Notices SB 272

ANALYST Rogers

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0.0	Up to \$135.0	\$0.0	Up to \$135.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 272 requests the Department of Public Safety (DPS) report by July 1, 2018, on stolen vehicles, including the following details:

- for the previous five years, the number of vehicles that were stolen and the number of those vehicles that were recovered, in the state and in each county in the state
- in each county in the state, the average towing and daily storage fees imposed on vehicle owners to recover the owners' stolen vehicles, and information on if and how those fees vary according to time of day or calendar date
- for the previous five years, the number of recovered stolen vehicles that are not reclaimed by the vehicles' owners and are ultimately sold at an auction
- a review of the stolen vehicle towing and storage fee policies implemented in other states, including any states that allow the owner of a stolen vehicle a designated time period to recover the owner's vehicle and during which fees are not charged to the owner
- an examination of the public benefits and costs of requiring vehicles to be towed to a storage area or to a vehicle owner's residence

The bill requires a law enforcement agency to notify the owner of a recovered stolen vehicle before the vehicle is towed or stored.

## FISCAL IMPLICATIONS

DPS states the number of entities involved in the data collection process, both within the state as law enforcement agencies and private towing companies, as well as in all 50 states for the review of other state policies, is estimated to be 300 to 400 entities. To comply with the bill, the department estimates it will require 1.5 to 2 additional employees dedicated to the project from the date of enactment to the date the report is due. This will cost the department approximately \$70 thousand to \$105 thousand dollars for personnel salaries and benefits. In addition, a database to collect and analyze the data will be required, which can be accomplished internally, but will divert existing information technology resources or require external resources at a cost of \$20 thousand to \$30 thousand to create.

## SIGNIFICANT ISSUES

DPS submitted the following analysis:

DPS does not have access to companies' average towing and daily storage fees imposed on vehicle owners to recover stolen vehicles, and whether those fees vary by time of day or calendar date. The department also does not have access to the costs of vehicles towed to a storage area vs. to the owner's residence. To determine the average towing and daily storage fees in each county imposed on vehicle owners to recover stolen vehicles, and to determine whether those fees vary by time of day or calendar date, will require the voluntary cooperation of law enforcement agencies and private towing companies around the state. The report would be subject to the accuracy of the information that the various agencies or entities voluntarily provide.

Further, the bill requests information on the number of recovered stolen vehicles that are not reclaimed by their owners and have to be sold at auction. This appears to be assuming that in situations where an owner does not reclaim the vehicle from a private storage lot that the vehicle would be sold in auction. Most vehicles left unclaimed are left with private towing companies, who claim title through the courts and subsequently sell the vehicles at market value, not via auction.

A review of the public benefits and costs of requiring vehicles to be towed to a storage area or to the owner's residence will require additional data collection, depending on the criteria for measuring the public benefits. Factors such as to what extent certain insurance policies cover costs as an added benefit to purchasing insurance and to what extent restitution by a person convicted of stealing the vehicle can cover costs would have to be considered.

There does not appear to currently be a mechanism or law specifically for DPS to require other entities to provide the requested information.

The Public Regulation Commission (PRC) issues regulations pertaining to commercial storage facilities and tow services and will therefore have greater expertise with and likely greater access to the information sought. Additionally, under 65-2A-4(B)(1) NMSA 1978, the commission may designate inspectors who may inspect the records of a motor carrier subject to the Motor Carrier Act. The requirements to submit a report will be better suited with the PRC or another agency with similar expertise and access to records.

This bill requires a law enforcement agency to notify the owner of the vehicle, if the owner's identity is ascertainable, before the vehicle is towed or stored. Currently the law enforcement agency taking the report of the stolen vehicle notifies the owner when the vehicle is located. However, the requirement to notify "before the vehicle is towed or stored" is vague. The bill does not provide a process or timeframe for the notification. Further, the agency with the contact information may not be the same as the agency that located the vehicle. While it is implied that the owner would have the opportunity to avoid the towing of their vehicle with this process, from a practical standpoint the law enforcement agency would be focused on the investigative side of the stolen vehicle or on other law enforcement duties. The officer could not suspend those duties while waiting for the response of the owner for an unknown period of time.

### **PERFORMANCE IMPLICATIONS**

DPS states the lack of funding for this project will defer limited resources in the Law Enforcement Program to be dedicated to this project instead of normal duties directly in support of statewide law enforcement.

### **ADMINISTRATIVE IMPLICATIONS**

DPS explains the bill requires the development and administration of a fairly short term but substantial administrative project and associated resources to produce the required report.

The bill lacks clarity on how this information is to be used once it is collected and collated.

### **ALTERNATIVES**

DPS explains the Public Regulation Commission issues regulations pertaining to towing services and commercial storage facilities. Additionally, under NMSA 65-2A-4(B)(1), the commission may designate inspectors who may inspect the records of a motor carrier subject to the Motor Carrier Act. The Public Regulation Commission will have greater expertise and likely greater access to the information sought, and should serve as a more viable option for carrying out the review.

TR/jle/sb