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Final Fiscal Note

Drafting Number: LLS 22-0235 Date: June 6, 2022
Prime Sponsors: Sen. Jaquez Lewis; Priola Bill Status: Postponed Indefinitely
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Bill Topic: PROTECT HEALTH OF POLLINATORS & PEOPLE

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [X] Local Government
[ ] State Transfer [ ] Statutory Public Entity

The bill would have restricted the use of pesticides on the grounds of schools, preschool programs, child care centers, and children's resident camps, and required notifications when pesticides are applied. It would have required the Department of Natural Resources to study pollinator decline in the state, and created a pilot grant program in the Department of Agriculture to test noncoated seed-applied systemic insecticides on crops. The Commissioner of Agriculture would have been required to adopt rules to classify certain neonicotinoid and sulfoximine pesticides as restricted-use pesticides by March 1, 2023. The bill would have increased state and local government expenditures and state revenue beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill would have required an appropriation of \$408,564 to multiple state agencies. See appropriations section.

Fiscal Note Status: The fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under SB 22-131

Table with 4 columns: Category, Sub-category, Budget Year FY 2022-23, and Out Year FY 2023-24. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditure, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

## **Summary of Legislation**

The bill restricts the use of pesticides on the grounds of schools, preschool programs, child care centers, and children's resident camp beginning January 1, 2026, and requires that parents and guardians be notified 48-hours before authorized pesticide use. The Department of Public Health and Environment (CDPHE) may adopt rules related to this provision.

The Department of Natural Resources (DNR) is directed to study and develop recommendations on how to address pollinator decline and increase pollinator health in the state. The bill specifies the parameters of the study, which must be submitted to the General Assembly and Governor by January 1, 2024.

The bill creates the Noncoated Seed-Applied Systemic Insecticide Pilot Grant Program in the Department of Agriculture. Agricultural producers may be awarded \$15 per acre of corn and \$10 per acre of wheat and must comply with the planting requirements and maintain records demonstrating compliance, subject to review by the Commissioner of Agriculture. The grant program repeals September 1, 2025.

The bill requires the Commissioner of Agriculture to adopt rules by March 1, 2023, designating certain pesticides as restricted-use pesticides. Specifically, this applies to pesticides that contain active ingredients belonging to the neonicotinoid or sulfoximine class of insecticides, except when used in pet care, personal care, wood preservatives, indoor pest-control products, and products used on golf courses. These rules will not affect the use of restricted-use pesticides for agricultural purposes.

Finally, the bill authorizes local governments to regulate pesticide use and removes certain preemptions regarding local governments to regulate pesticide use.

## **Background**

The Pesticide Registration Program in the Colorado Department of Agriculture (CDA) registers all 14,000 pesticides sold in the state, and licenses and inspects pesticide dealers for the sales of restricted-use pesticides. The program currently registers 1,222 pesticide products that include the active ingredients included in the bill and routinely inspects retail locations to ensure that the products on shelves are registered with the state, sold by allowable sellers, and are stored properly.

The CDA also maintains a state restricted-use pesticides list. To distribute restricted-use pesticides, businesses must have a pesticide dealer license and maintain records that verify sales of restricted-use pesticides are only made to licensed certified applicators. Businesses that sell only general use pesticides are not required to have a dealer license.

## State Revenue

The bill increases state revenue from fees by \$238,000 in FY 2022-23 and \$280,000 in FY 2023-24 to the Plant Health, Pest Control and Environmental Protection Fund in the CDA. This assumes that certain provisions in this bill, including CDA's costs associated with regulating additional pesticides as restricted-use pesticides and providing oversight to local governments to enact regulations, will be funded through fees. The bill may also result in an increase in penalties, but these potential revenue increases are not estimated in the fiscal note.

**Fee impact on pesticide product registrations.** 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 CDA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2  
Fee Impact Under SB 22-131**

| <b>Fiscal Year</b> | <b>Type of Fee</b>             | <b>Current Fee</b> | <b>Proposed Fee</b> | <b>Number Affected</b> | <b>Total Fee Impact</b> |
|--------------------|--------------------------------|--------------------|---------------------|------------------------|-------------------------|
| <b>FY 2022-23</b>  | Pesticide Product Registration | \$205              | \$222               | 14,000                 | \$238,000               |
| <b>FY 2023-24</b>  | Pesticide Product Registration | \$205              | \$225               | 14,000                 | \$280,000               |

## State Expenditures

Beginning in FY 2022-23, the bill increases state expenditures in multiple departments by \$480,145 in FY 2022-23 and \$316,898 in FY 2023-24. These costs are shown in Table 3 and discussed below.

**Table 3  
State Expenditures Under SB 22-131**

| <b>Cost Component</b>                     | <b>FY 2022-23</b> | <b>FY 2023-24</b> |
|---|-------------------|-------------------|
| <b>Department of Agriculture</b>          |                   |                   |
| Personal Services                         | \$132,859         | \$182,608         |
| Operating Expenses                        | \$2,160           | \$3,375           |
| Capital Outlay Costs                      | \$18,600          | -                 |
| Education and Outreach                    | \$5,750           | \$5,750           |
| Travel and Training                       | \$8,473           | \$9,287           |
| Centrally Appropriated Costs <sup>1</sup> | \$64,476          | \$82,776          |
| FTE – Personal Services                   | 1.8 FTE           | 2.5 FTE           |
| <b>CDA Subtotal</b>                       | <b>\$232,318</b>  | <b>\$283,796</b>  |

**Table 3**  
**State Expenditures Under SB 22-131 (Cont.)**

| <b>Cost Component</b>                     | <b>FY 2022-23</b> | <b>FY 2023-24</b> |
|---|-------------------|-------------------|
| <b>Department of Natural Resources</b>    |                   |                   |
| Personal Services                         | \$34,522          | \$27,618          |
| Operating Expenses                        | -                 | -                 |
| Capital Outlay Costs                      | \$6,200           | -                 |
| Study Contract                            | \$200,000         | -                 |
| Centrally Appropriated Costs <sup>1</sup> | \$7,105           | \$5,484           |
| FTE – Personal Services                   | 0.4 FTE           | 0.3 FTE           |
| <b>DNR Subtotal</b>                       | <b>\$247,827</b>  | <b>\$33,102</b>   |
| <b>Total</b>                              | <b>\$480,145</b>  | <b>\$316,898</b>  |
| <b>Total FTE</b>                          | <b>2.2 FTE</b>    | <b>2.8 FTE</b>    |

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Agriculture.** The CDA will incur expenses beginning in FY 2022-23 to establish and enforce additional pesticides as restricted-use pesticides, implement the grant program, and support local governments that chose to restrict pesticides.

**Restricted-use pesticides.** The Pesticide Registration Program will add an inspector and compliance specialist to support implementation of the bill. The program currently inspects 500 retail stores per year. These inspections are estimated to require an additional two hours to complete given that the products subject to the bill will not be labeled as restricted-use pesticides and that inspectors will be looking for eight active ingredients and determining whether the product qualifies for an exemption. The new inspector will have a leased state fleet vehicle provided through the Department of Personnel and Administration.

The compliance specialist will process violations identified by the inspectors, take complaints from the general public, and investigate and compile cases for enforcement actions. As new products are filed for review with the program, the compliance specialist will review registrations, check active ingredients, and determine whether products containing neonicotinoid and sulfoximine ingredients either fit under an exception or are identified as a restricted-use pesticide.

The fiscal note assumes that the new staff will come on board in September 2022 and require annual training. Costs for education and outreach to make retailers aware of the new requirements are included in each fiscal year.

**Grant Program.** The CDA will require staff support to implement the Noncoated Seed-Applied Systemic Insecticide Pilot Grant Program, including an administrator, compliance specialist, and accountant. The bill specifies a pay structure for corn (\$15 per acre) and wheat (\$10 per acre). The CDA estimates there are around 1,700 potentially eligible corn producers on an average of 822 acres per grower, and 2,400 wheat growers averaging 448 acres per grower in Colorado. Information on staff resource needs will be provided in a revised fiscal note once more information on the scope of the grant program is known.

**Local Government Support.** The CDA requires 0.5 FTE for an administrator to provide technical support to local governments that elect to regulate pesticides. The CDA will ensure local government regulations conform with both state and federal law, and will amend state certification plans filed with the U.S. Environmental Protection Agency as needed. Workload impacts are an estimate and depend on the number and complexity of local government regulations on pesticides. Additional resources may be requested through the annual budget process.

**Department of Natural Resources.** The DNR requires term-limited staff resources to consult with state agencies and experts in pollinator health, and funds to contract for the study. The estimate for the study is \$200,000 based on recent studies with similar complexity. The DNR will also require a part-time project manager to contract for and oversee the study, coordinate with other state agencies and experts, and report findings and recommendations to the General Assembly by January 1, 2024.

**Department of Public Health and Environment.** The bill restricts pesticides on the grounds of schools and facilities beginning January 1, 2026. This fiscal note therefore assumes the staffing costs for the CDPHE will begin in FY 2024-25. Specifically, CDPHE requires 0.5 FTE for a policy advisor in FY 2024-25 only to support rulemaking to regulate the use of pesticides on the grounds of schools, preschools, child care centers and children's resident camps. In addition, starting in FY 2024-25 and continuing into future years, the CDPHE will require 0.3 FTE for a marketing and communication specialist to conduct outreach and education to pesticide applicators, schools, and child care facilities that must comply with the rules.

**Department of Transportation.** The Department of Transportation will have workload impacts to consult on the pollinator health study, which can be accomplished with existing resources. Depending on local government regulations on the use of pesticides, costs to comply when treating lands in its Right of Ways may increase.

**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 3.

## **Other Budget Impacts**

**TABOR refunds.** The bill is expected to increase 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 2021 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. 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.

## **Local Government**

School districts will have increased costs to comply with the pesticide restrictions and notification requirements in the bill. Purchasing organic or other authorized pesticides and converting to other methods of weed and pest control will increase material and labor costs for schools and facilities.

In addition, local governments that elect to enact pesticide regulations will have workload impacts to enforce and comply with regulations.

## **Effective Date**

The bill was postponed indefinitely by the Senate Agriculture and Natural Resources Committee on March 3, 2022.

## **State Appropriations**

For FY 2022-23, the bill would have required the following appropriations:

- \$240,722 General Fund to the Department of Natural Resources and 0.4 FTE; and
- \$167,842 from the Plant Health, Pest Control and Environmental Protection Fund to the Department of Agriculture and 1.8 FTE, of which \$3,687 would have been reappropriated to the Department of Personnel and Administration for a state fleet vehicle.

## **State and Local Government Contacts**

Agriculture  
Information Technology  
Local Affairs  
Natural Resources  
Public Health and Environment  
Transportation

Counties  
Judicial  
Municipalities  
Personnel  
School Districts