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Revised Fiscal Note

(replaces fiscal note dated April 26, 2023)

Drafting Number: LLS 23-0514 Date: May 6, 2023
Prime Sponsors: Sen. Simpson; Hansen Bill Status: House Second Reading
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Bill Topic: AGRICULTURAL PRODUCERS USE OF AGRIVOLTAICS

- Summary of Fiscal Impact:
State Revenue (checkbox)
State Expenditure (checkbox)
State Transfer (checkbox)
TABOR Refund (checkbox)
Local Government (checkbox)
Statutory Public Entity (checkbox)

The bill commissions grants and studies to evaluate the use of agrivoltaics and aquavoltaics. It requires transfers between funds, decreases state and local revenue, and increases state expenditures beginning in FY 2023-24.

Appropriation Summary: For FY 2023-24, the bill requires and includes an appropriation of \$611,870 to various state agencies. See State Appropriations section.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill, as amended by the House Appropriations Committee.

Table 1
State Fiscal Impacts Under SB 23-092

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers (CWCB Construction Fund, Feasibility Study Small Grant Fund, Net Transfer), and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill expands a grant program, commissions two studies, and creates two tax exemptions, as described below.

Grant program for agrivoltaics. The bill expands eligibility requirements for grant awards made by the Agricultural Drought and Climate Resilience Office in the Department of Agriculture (CDA) to include the use or study of agrivoltaics, which involves solar energy generation facilities that are integrated with agricultural activities.

Emissions mitigation study. CDA must also conduct a study examining greenhouse gas emissions mitigation and carbon sequestration in the agricultural section, including soil health management practices, the use of dry digesters, and the potential for creating a greenhouse gas offset program. Other state entities must consult with CDA, and any offset program may be incorporated into rules promulgated by the Air Quality Control Commission upon the study's completion. CDA must submit a progress report to the General Assembly by October 1, 2024, and a publish a final report by October 1, 2025.

Aquavoltaics study. The Colorado Water Conservation Board in the Department of Natural Resources (DNR) must conduct a feasibility study regarding aquavoltaics, which involves solar energy generation facilities placed over or floating on irrigation canals or reservoirs. The study is conducted in consultation with the state engineer, the Colorado Energy Office, and the Colorado Water Institute, and the board must submit its final report to the General Assembly by January 1, 2025.

Property tax measures. The bill exempts certain agrivoltaics infrastructure from personal property taxes for tax years 2024 through 2029.

The bill updates the statutory definition of "solar energy facility" for the purposes of property valuation to include certain agrivoltaics and aquavoltaics.

State Transfers

Current law requires an annual transfer from the Colorado Water Conservation Board Construction Fund to the Feasibility Study Small Grant Fund to restore the latter's fund balance to \$500,000. If the aquavoltaics study causes the Feasibility Study Small Grant Fund's balance to fall below this threshold, the bill may trigger a transfer of up to \$200,000 on July 1, 2024.

State Expenditures

The bill increases state expenditures in various state agencies by \$816,357 in FY 2023-24 and \$626,343 in FY 2024-25, paid from various funds. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 23-092**

	FY 2023-24	FY 2024-25
Department of Agriculture		
Personal Services	\$24,370	\$32,493
Agrivoltaics Grants	\$500,000	\$500,000
Emissions Mitigation Study	\$87,500	\$87,500
Centrally Appropriated Costs ¹	\$4,487	\$6,350
FTE – Personal Services	0.3 FTE	0.3 FTE
CDA Subtotal	\$616,870	\$626,343
Department of Natural Resources		
Aquavoltaics Study	\$200,000	-
DNR Subtotal	\$200,000	-
Total	\$816,357	\$626,343
Total FTE	0.3 FTE	0.3 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Agriculture. The bill increases workload and costs in CDA to administer the agrivoltaics grant program and the emissions mitigation and sequestration study. All staff costs have been prorated to reflect the bill's effective date and the General Fund pay date shift.

- **Agrivoltaics grant program.** Workload will increase to establish rules and administer the grant program. Grant awards support agrivoltaics project, which are expected to range from \$250,000 to \$800,000, depending on the size of the agrivoltaics project. The bill includes \$500,00 for grants in FY 2023-24. In future years, costs may vary depending on the amount of funding appropriated to the department.
- **Emissions mitigation study.** Contracting for the study requires 0.3 FTE beginning in FY 2023-24 until the submission of the study's final report. Based on the cost of another study of similar scope, the contract is estimated at \$175,000 over two years. These costs are paid from the General Fund.
- **Task Force.** The department will hire a consultant to manage the work of the task force, including facilitating meetings and producing the final report, in FY 2023-24 only at an estimated cost of \$54,500.

Department of Natural Resources. Based on previous feasibility studies conducted by the department, the aquavoltaics feasibility study is estimated to cost \$200,000, paid from the Feasibility Study Small Grant Fund, which is continuously appropriated to Colorado Water Conservation Board. The fiscal note assumes the study will take place in FY 2023-24; some of the costs may carry forward into FY 2024-25 depending on the timing of study activities.

The bill also increases workload in several divisions in DNR to consult on the studies. This workload can be accomplished within existing appropriations.

Department of Public Health and Environment. The department must consult with CDA on its study of greenhouse gas emissions mitigation and carbon sequestration. This workload can be accomplished within existing appropriations. If the study's final report includes recommendations for an offset program, workload and legal services costs will increase for the department in FY 2025-26, which will be addressed through the annual budget process as necessary. Legal services are provided by the Department of Law.

Other state agencies. The bill requires the Colorado Energy Office and an institute of higher education to consult with CDA on its study of greenhouse gas emissions mitigation and carbon sequestration. Likewise, the state engineer, the Colorado Energy Office, and the Colorado Water Institute must consult with DNR on the aquavoltaics study.

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.

Other Budget Impacts

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.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires and includes an appropriation of \$611,870 from the General Fund to the Department of Agriculture, and 0.3 FTE. The Feasibility Study Small Grant Fund is continuously appropriated to the Department of Natural Resources.

State and Local Government Contacts

Agriculture	Colorado Energy Office	Higher Education
Information Technology	Law	LCS
Natural Resources	Public Health and Environment	Revenue