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Revised Fiscal Note

(replaces fiscal note dated February 17, 2023)

Drafting Number: LLS 23-0496 Date: March 20, 2023
Prime Sponsors: Sen. Cutter Bill Status: Senate Finance
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Bill Topic: ILLEGAL DRUG LABORATORY PROPERTY & CERTIFICATION

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

The bill requires the Colorado Department of Public Health and Environment to inspect illegal drug laboratory properties to determine competency of certified individuals that decontaminate such properties and to create a public database of buildings used as illegal laboratories. Starting in FY 2023-24, state revenue and expenditures are increased on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$106,798 to the Colorado Department of Public Health and Environment.

Fiscal Note Status: This revised fiscal note reflects the introduced bill, as amended by the Senate Local Government committee.

Table 1
State Fiscal Impacts Under SB 23-148

Table with 5 columns: Category, Sub-category, Budget Year FY 2023-24, Out Year FY 2024-25, Out Year FY 2025-26. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve, TABOR Refund).

Summary of Legislation

The bill requires the Colorado Department of Public Health and Environment (CDPHE) to inspect decontaminated illegal drug laboratories for the purpose of determining the competency of certified persons performing assessments and decontaminations of properties. The department must perform at least one inspection of each certified entity at least once every three years, require remedial training, and decertify individuals whose lack of competent performance is willful and likely to be repeated. The CDPHE is required to establish a fee for such inspections. The department must also create a public online database of buildings used as illegal methamphetamine drug laboratories. After five years, a properly decontaminated building is removed from the database.

The bill also requires that:

- property owners submit remediation documentation to the CDPHE;
- law enforcement agencies and certified industrial hygienists report discovered illegal drug laboratories to the department; and
- residential properties without compliant remediation be deemed uninhabitable.

Background and Assumptions

Under current law, the CDPHE certifies individuals and business assessing and decontaminating properties used as illegal drug laboratories to produce methamphetamines, and monitors decontaminations through a reporting system. The most recent data from the CDPHE indicate a total of about 675 certifications, composed of about 500 individuals and 175 businesses.

The fiscal note assumes 675 is the total population of inspections required by the bill. With required inspections occurring once every three years, it is assumed that approximately 225 inspections must occur each year.

State Revenue

The bill increases state revenue by \$252,879 in FY 2024-25 and by \$232,869 in FY 2025-26 to the Illegal Drug Laboratory Cash Fund. The increase is to cover expenditures associated with the bill and will impact individuals and businesses certified to assess or decontaminate illegal drug laboratories.

Fee impact on certified drug laboratory decontaminators. 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 CDPHE based on cash fund balance, program costs, and the number of certifications subject to the fee. The fiscal note assumes fee collections will begin in FY 2024-25, after the rulemaking process is complete, but the actual timeline may vary from this estimate. Table 2 below identifies the fee impact of this bill.

Table 2
Fee Impact on Certified Drug Laboratory Decontaminators

Fiscal Year	Type of Fee	Certification Fee	Number Affected	Total Fee Impact
FY 2024-25	Inspection Fee	\$374.64	675	\$252,879
FY 2025-26	Inspection Fee	\$344.99	675	\$232,869

State Expenditures

The bill increases state expenditures in the CDPHE by \$130,781 in FY 2023-24, \$252,879 in FY 2024-25, and \$232,869 in FY 2025-26, paid from the General Fund the first year and the Illegal Drug Laboratory Cash Fund in future years, as detailed in Table 3 and described below.

Table 3
Expenditures Under SB 23-148

	FY 2023-24	FY 2024-25	FY 2025-26
Department of Public Health and Environment			
Personal Services	\$91,433	\$184,659	\$184,659
Operating Expenses	\$2,025	\$3,375	\$3,375
Capital Outlay Costs	\$13,340	\$20,010	-
Centrally Appropriated Costs ¹	\$23,983	\$44,835	\$44,835
Total	\$130,781	\$252,879	\$232,869
Total FTE	1.4 FTE	2.5 FTE	2.5 FTE

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

Department of Public Health and Environment. The CDPHE requires inspectors and support staff to perform the inspections and create the online database required by the bill.

- **Staffing.** The CDPHE requires 1.5 FTE Data Managers in FY 2023-24 only to design and implement the public database required by the bill, and to update an existing database to track inspections and certifications. Beginning in FY 2024-25, the department requires 2.0 FTE Environmental Protection Specialists to review documentation, perform site inspections, conduct sampling as necessary, document the findings, and perform compliance evaluations and potential enforcement, where applicable; and 0.5 FTE Program Assistant to assist with rulemaking, manage the database, and provide inspector support. First-year costs are prorated for the General Fund pay date shift. Standard operating and capital outlay costs are included.

- **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.

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 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. 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.

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 a General Fund appropriation of \$106,798 to the Colorado Department of Public Health and Environment, and 1.4 FTE.

State and Local Government Contacts

Judicial	Law	Local Affairs
Public Health and Environment	Regulatory Agencies	