



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 26-099: GOV TEMP CLASSIFY CONTROLLED SUBSTANCE ANALOG

Prime Sponsors:

Sen. Kirkmeyer

Fiscal Analyst:

Aaron Carpenter, 303-866-4918

aaron.carpenter@coleg.gov

Published for: Senate Health & Human Services

Drafting number: LLS 26-0445

Version: Initial Fiscal Note

Date: February 16, 2026

Fiscal note status: The fiscal note reflects the introduced bill.

Summary Information

Overview. The bill allows the Governor to temporarily designate a substance an analog of a schedule II drug.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- Minimal State Workload
- Local Government

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

| Type of Impact | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|-------------------------|---------------------------|------------------------|
| State Revenue | \$0 | \$0 |
| State Expenditures | \$0 | \$0 |
| Transferred Funds | \$0 | \$0 |
| Change in TABOR Refunds | \$0 | \$0 |
| Change in State FTE | 0.0 FTE | 0.0 FTE |

Summary of Legislation

Under current law, any material, compound, mixture, or preparation which is an analog, or has a similar chemical structure to and is designed to produce a similar or greater effect, of a schedule II drug is treated the same as a schedule II drug for the purposes of the Colorado Uniform Controlled Substances Act. This determination is made by the courts as needed in particular criminal cases.

This bill gives the Governor the authority to declare a material, compound, mixture, or preparation an analog of a schedule II drug if certain conditions are met including:

- the substance is substantially similar to the chemical structure of a schedule II drug or was designed to produce similar or greater effects; and
- the Governor issues an executive order that provides reasonable notice to the public and the General Assembly, and provides a designation date for when the analog is a schedule II drug.

The designation is only effective for two years and may be repealed earlier; however, it cannot be extended or renewed. The bill does not prohibit the courts from finding a substance an analog of a schedule II drug and the General Assembly may terminate the designation through a Joint Resolution.

Background

There are a number of drug-related felonies and misdemeanors depending on the activity related to the drug. Offenders convicted of a felony drug offense may receive a sentence to the CDOC and assessed a fine. Offenders convicted of a misdemeanor drug offense may be sentenced to a term of incarceration in county jail, to pay a fine, or both.

State Revenue and State Expenditures

The minimally impacts state revenue and expenditures of state criminal justice agencies and increases workload to the Governor's Office as described below.

State Criminal Justice Agencies

The bill minimally impacts state criminal justice agencies in two ways. First, to the extent the Governor declares a substance a schedule II drug that under current law would not be deemed an analog of a schedule II drug by the courts, individuals may be charged and sentenced for a higher classification of a crime, increasing costs to the courts, offices that represent indigent offenders, probation, and the Department of Corrections. In addition, state revenue would

increase from higher criminal fines and fees due to the increase in classification. However, to the extent the designation reduces time spent in the courts to determine whether a substance is a schedule II analog, workload to the courts and offices that represent indigent offenders may decrease. Because the courts already can determine substances an analog of a schedule II drug, and because the fiscal note assumes this will only apply in a very narrow subset of cases, any increase or decrease in revenue, workload, and costs is expected to be minimal.

Governor's Office

The bill will increase costs to the Governor's Office to conduct research on new substances to determine if the Governor should make a determination on if a substance is an analog of a schedule II drug. Exact costs will depend on how a Governor chooses to conduct their research, which may involve the use of state agencies or contractors with relevant expertise.

Local Government

Similar to the state, costs and workload to district attorney offices and county jails may increase to the extent there are additional substances considered an analog of a schedule II drug. Conversely, to the extent there is less time spent in court due to the designation, workload will decrease. District attorney offices and county jails are funded by counties.

Effective Date

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

State and Local Government Contacts

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|--------------------|----------|
| Corrections | Governor |
| District Attorneys | Judicial |