Fiscal Note

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SB 26-140: EXEMPT DRUGS FROM RX DRUG AFFORDABILITY BD REVIEWS

Prime Sponsors:
Sen. Frizell; Marchman
Rep. Gilchrist; Johnson

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Published for: Senate Health & Human Services
Drafting number: LLS 26-0737

Version: First Revised Note
Date: April 1, 2026

Fiscal note status: This revised fiscal note reflects the introduced bill. It has been revised to include new information and further analysis of the bill.

Summary Information

Overview. The bill prohibits the Prescription Drug Affordability Review Board from conducting affordability reviews or setting upper payment limits for certain drugs.

Types of impacts. The bill is projected to affect the following areas in FY 2026-27 only:

- Minimal State Workload

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
Diverted 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, the Prescription Drug Affordability Review Board (PDAB) in the Department of Regulatory Agencies (DORA) is prohibited from performing affordability reviews of, or establishing upper payment limits for, certain prescription drugs. The bill adds the following drugs to these restrictions:

- drugs that are designated by the federal government for rare diseases or conditions; and
- licensed biological products that are derived from human whole blood or plasma as indicated on product labeling approved by the federal government.

State Expenditures

The bill minimally increases workload for the PDAB in DORA to review drugs for orphan drug status and human whole blood or plasma derivations. The timing of these impacts in unknown as drug affordability reviews are not conducted on set cycles. For reference, this process has only been completed once since the board's enactment in 2022. The department may require legal counsel, provided by the Department of Law, related to implementation and ongoing administration of the program. Any increase in workload and costs can be accomplished within existing appropriations.

Effective Date

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

Departmental Difference

DORA estimates that the bill increases state expenditures by approximately $80,000 and 0.7 FTE in FY 2026-27 only. This estimate assumes that the PDAB will conduct a review of all identified prescription drugs for orphan drug status and human whole blood or plasma derivation when determining drug eligibility for an affordability review at a rate of two hours per drug.

The fiscal note does not include these costs for two reasons. First, current law already requires the PDAB to consider whether a prescription drug has an approved orphan drug designation prior to conducting an affordability review (Section 10-16-1406 (2)(e), C.R.S.). As a result, the department's estimate includes costs associated with work that is already required and ongoing.

Second, the bill prohibits the PDAB from conducting affordability reviews for certain drugs, but does not require exclusion criteria to be applied across the full universe of identified drugs during the eligibility phase. Instead, the fiscal note assumes that the board will adopt a least-cost approach by confirming whether drugs meet exclusion criteria, including human whole blood or plasma derivation, for a limited subset of drugs advanced for an affordability review. Based on prior board activity, in which 604 eligible drugs were identified and five were advanced for an affordability review, the number of drugs requiring detailed analysis is expected to be small and absorbable within existing appropriations.

State and Local Government Contacts

Law

Regulatory Agencies

Public Health and Environment