



**Legislative Council Staff**

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**Fiscal Note**

<b>Drafting Number:</b>	LLS 24-0413	<b>Date:</b>	January 29, 2024
<b>Prime Sponsors:</b>	Sen. Kirkmeyer; Ginal Rep. Hartsook; Duran	<b>Bill Status:</b>	Senate State Affairs
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**Bill Topic:** **RX DRUG AFFORDABILITY BOARD EXEMPT ORPHAN DRUGS**

<b>Summary of Fiscal Impact:</b>	<input type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> State Diversion	<input type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill repeals the Colorado Prescription Drug Affordability Review Board's authority to perform affordability reviews and set upper payments for orphan drugs. It creates a General Fund diversion and increases state expenditures starting in FY 2024-25.

**Appropriation Summary:** For FY 2024-25, the bill requires an appropriation of \$23,098 to the Department of Regulatory Agencies.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under SB 24-060**

		<b>Budget Year FY 2024-25</b>	<b>Out Year FY 2025-26</b>
<b>Revenue</b>		-	-
<b>Expenditures</b>	Cash Funds	\$23,098	\$30,798
	Centrally Appropriated	\$5,762	\$7,681
	<b>Total Expenditures</b>	<b>\$28,860</b>	<b>\$38,479</b>
	<b>Total FTE</b>	<b>0.3 FTE</b>	<b>0.4 FTE</b>
<b>Diversions</b>	General Fund	(\$28,860)	(\$38,479)
	Cash Funds	\$28,860	\$38,479
	<b>Net Diversion</b>	<b>\$0</b>	<b>\$0</b>
<b>Other Budget Impacts</b>		-	-

## Summary of Legislation

The bill repeals the authority of the Colorado Prescription Drug Affordability Review Board (PDAB) to conduct an affordability review or to establish an upper payment limit for a prescription drug used to treat a rare disease or condition as designated by the U.S Food and Drug Administration.

## Background

The Colorado Prescription Drug Affordability Review Board is a Type 1 board in the Division of Insurance in the Department of Regulatory Agencies (DORA) with the authority to review prescription drug costs, evaluate their impact on Coloradans, and set an upper payment limit for prescription drugs that are deemed unaffordable.

The Department of Health Care Policy and Financing (HCPF) and federal Medicaid agencies enter into rebate agreements with drug manufacturers to ensure that the price Medicaid pays for a drug is consistent with the best price for which a manufacturer sells the drug. As such, HCPF does not currently cover the drugs impacted by the bill.

## State Diversion

The bill diverts General Fund to the Division of Insurance Cash Fund starting in FY 2024-25. This revenue diversion occurs because the bill increases costs in the Division of Insurance in the Department of Regulatory Agencies, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

## State Expenditures

The bill increases state expenditures in DORA by about \$29,000 in FY 2024-25 and \$38,000 in FY 2025-26, paid from the Division of Insurance Cash Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under SB 24-060**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$23,098	\$30,798
Centrally Appropriated Costs <sup>1</sup>	\$5,762	\$7,681
<b>Total Cost</b>	<b>\$28,860</b>	<b>\$38,479</b>
<b>Total FTE</b>	<b>0.3 FTE</b>	<b>0.4 FTE</b>

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

**Department of Regulatory Agencies.** Starting in FY 2024-25, expenditures in DORA will increase to examine drugs identified for an affordability review and determine their classification for affordability review exemption.

- **Staff.** DORA requires 0.4 FTE Data Management IV beginning in FY 2024-25 to research the status, eligibility, strength, dosage, and FDA approved indications of drugs identified for an affordability review. The fiscal note assumes that DORA will review 600 drugs annually, for a total of 900 hours. Staff costs and FTE are prorated in the first year based on the bill's effective date.
- **Legal services.** DORA may require legal counsel, provided by the Department of Law, related to implementation and ongoing administration of the program. This can be accomplished within existing legal services appropriations.

**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.

### **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 2024-25, the bill requires an appropriation of \$23,098 from the Division of Insurance Cash Fund to the Department of Regulatory Agencies, and 0.4 FTE.

### **State and Local Government Contacts**

Health Care Policy and Financing

Law

Regulatory Agencies

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).