HB 18-1359

Legislative
Council Staff
Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

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Prime Sponsors:	Rep. Benavidez; Pabon	**Bill Status:**	House Finance
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Bill Topic: COLORADO CHARITABLE CONTRIBUTION INCOME TAX DEDUCTION

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

This bill broadens the state income tax deduction for charitable contributions to allow the first $500 contributed to a charity to be deducted for state income tax purposes. It decreases state revenue and increases state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 18-1359

		FY 2018-19	FY 2019-20
Revenue	General Fund	(\$6.5 million) to (\$10.4 million)	(\$13.0 million) to (\$21.0 million)
Expenditures	General Fund	-	\$30,673 to \$177,409
Transfers		-	-
TABOR Refund		(\$6.5 million) to (\$10.4 million)*	(\$13.0 million) to (\$21.0 million)

**This amount assumes that the bill does not eliminate the TABOR surplus for FY 2018-19.*

Summary of Legislation

Under current law, taxpayers who take the standard deduction on their federal tax return are able to claim a state income tax deduction for contributions to qualifying charities that exceed $500. Beginning in tax year 2019, this bill removes the $500 threshold, allowing all taxpayers who take the federal standard deduction to additionally deduct all of their qualifying charitable contributions.

The Colorado income tax is based on federal taxable income. Taxpayers who claim itemized deductions on their federal tax return are able to deduct contributions to qualifying charities. These deductions carry through to the state level under current law.

Background and Assumptions

Current law deduction. The state deduction for charitable contributions was claimed on 155,704 tax returns for tax year 2015, the most recent year for which data are available. In total, $243.2 million was deducted from taxable income, representing an average of $2,062 in charitable contributions per taxpayer taking the deduction, of which $1,562 was deductible. This population is assumed to grow consistent with the state's population and reach 164,600 taxpayers in 2019.

Tax Cuts and Jobs Act (TCJA). President Trump signed the TCJA into law in December 2017. The TCJA expands the federal standard deduction and makes changes to a number of the federal itemized deductions. It is expected to cause certain taxpayers who would otherwise have itemized deductions on their federal tax return to take the standard deduction instead.

Migration of taxpayers who had previously itemized deductions to the federal standard deduction will increase the revenue loss attributable to the state charitable contributions deduction. However, these impacts are assumed to occur as a result of the TCJA regardless of whether this bill is adopted. Therefore, they are not identified as impacts of this bill in this fiscal note.

Affected populations. This bill is expected to allow new or expanded state income tax deductions to four groups of taxpayers:

- taxpayers who previously took the federal standard deduction and claimed the current law charitable contributions deduction because they donated more than $500 to charity;
- taxpayers who previously itemized deductions of at least $500 for charitable contributions but who are expected to take the federal standard deduction and the state income tax deduction beginning in 2018 under current law as a result to changes in federal tax policy under the TCJA;
- taxpayers who previously itemized deductions of less than $500 for charitable contributions but who are expected to take the federal standard deduction beginning in 2018 under current law as a result of the TCJA; and
- taxpayers who previously took the federal standard deduction but who did not take the current law state charitable contributions deduction because they donated less than $500 to charity.

Range of impacts. Based on academic studies, 55 percent of households are assumed to donate money to charity each year. Households not captured in the first three population groups are assumed to fall under the fourth group. Actual data are not available regarding these households' charitable contributions, and this fiscal note assumes that these households each contribute $250 annually. It is unclear whether taxpayers with this volume of contributions will utilize the deduction in this bill, as the deduction allows them a relatively small tax benefit (up to $23.15). Accordingly, this fiscal note presents a range of possible revenue impacts. In the lower bound estimate, none of the taxpayers in the fourth group take the deduction. In the upper bound estimate, all of them do.

The four populations are summarized in Table 2. All population estimates were based on actual taxpayer data for tax year 2015 and are increased by actual and forecast Colorado population growth.

Table 2
2019 Taxpayer Impacts Under HB 18-1359*

	Number of Taxpayers	Average Deduction	Average Tax Impact	Total Tax Impact
Took standard deduction and claimed state charitable contribution deduction before TCJA	164,600	$500	$23.15	($3.8 million)
Had previously itemized; expected to take standard deduction and claim state charitable contribution deduction under TCJA	311,300	$500	$23.15	($7.2 million)
Had previously itemized; expected to take standard deduction under TCJA and state charitable contribution deduction under HB 18-1359	118,000	$345	$15.97	($1.9 million)
Total - Lower Bound Estimate	**594,000**	**$469**	**$21.73**	**($12.9 million)**
Took standard deduction but not state charitable contribution deduction; expected to take state charitable contribution under HB 18-1359	688,900	$250	$11.58	($8.0 million)
Total - Upper Bound Estimate	**1,282,800**	**$352**	**$16.28**	**($20.9 million)**

* *Totals may not sum due to rounding. Table captures only taxpayer impacts attributable to HB 18-1359; the full amount of deductions is not presented. Impacts presented on a tax year basis; Table 1 presents tax year impacts accrued to the appropriate fiscal years.*

Taxpayers induced to claim the deduction. As shown in Table 2, a portion of the taxpayer population affected in this bill is assumed to take the state charitable contributions deduction under current law and the TCJA. While the value of the deduction is increased for these taxpayers, administration of their tax deductions under the bill is not expected to increase workload relative to current law.

The remainder of the population is assumed to be induced to claim the deduction as a result of this bill. These taxpayers donate less than $500 in annual charitable contributions and are therefore unable to claim the state deduction under current law. Under the lower bound estimate, this population is limited to 118,000 taxpayers in tax year 2019. Under the upper bound estimate, this population is estimated at 806,800 taxpayers in tax year 2019. This discrepancy drives the range of possible expenditure impacts of this bill.

State Revenue

This bill is expected to reduce General Fund income tax revenue by between $6.5 million and $10.4 million in FY 2018-19, and by between $13.0 million and $21.0 million in FY 2019-20 and subsequent fiscal years. The amount for FY 2018-19 represents a half-year impact for tax year 2019. Upper bound estimates assume that all eligible taxpayers will take the deduction. Lower bound estimates assume that eligible taxpayers with less than $500 in annual charitable contributions who do not currently deduct their contributions at the federal or state level will not do so under the bill due to its relatively small tax benefit. Details regarding taxpayer populations and tax impacts are presented in the Background and Assumptions section of this fiscal note.

TABOR Refund

This bill reduces state revenue from income taxes, which will reduce the amount of money required to be refunded under TABOR by between $6.5 million and $10.4 million for FY 2018-19 and by between $13.0 million and $21.0 million in FY 2019-20. Since the bill reduces General Fund revenue and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money for the General Fund budget in the future during years when the state does not collect revenue above the TABOR limit. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

This fiscal note assumes that the bill does not eliminate the FY 2018-19 TABOR surplus anticipated in the March 2018 Legislative Council Staff forecast. Based on the forecast, if the bill reduces state revenue subject to TABOR by more than $8.4 million in FY 2018-19, the following impacts will occur:

- no TABOR refund obligation will be set aside in FY 2018-19 for refunds in FY 2019-20;
- $21.8 million currently set aside in the General Fund to pay future TABOR refunds will not be spent to offset the state's obligation for local government reimbursements for senior and disabled veteran property tax exemptions in FY 2020-21; and
- the conservation easement income tax credit will not become partially refundable in tax year 2019, offsetting the income tax revenue reduction in this bill by $2.5 million in each of FY 2018-19 and FY 2019-20.

State Expenditures

This bill is expected to increase General Fund expenditures by between $30,673 and $177,403 in FY 2019-20 and by similar amounts in subsequent fiscal years. State expenditures are summarized in Table 3 and described below.

Table 3
Expenditures Under HB 18-1359

	FY 2018-19	FY 2019-20
Department of Revenue		
Document Management and Postage	-	$26,333 to $173,069
Computer Programming and Testing	-	$4,340
Total Cost	**$0**	**$30,673 to $177,409**

Document management and postage. The bill's expenditures are primarily for document management and postage costs in the Department of Revenue (DOR) and the Department of Personnel and Administration (DPA). Because these costs are for managing paperwork filed by taxpayers, they will vary according to the number of taxpayers who claim the deduction under this bill and would not have done so under current law. These costs are presented as a range using the lower bound and upper bound fiscal impact assumptions presented in the Background and Assumptions section of this fiscal note.

A portion of document management workload is accomplished in the DPA using reappropriated DOR funds. DPA costs for document management are estimated to fall between $14,935 (lower bound estimate) and $95,127 (upper bound estimate) in FY 2019-20 to process deductions claimed by taxpayers who become eligible under the bill. These estimates assume that 15.5 percent of taxpayers will file paper returns.

The remaining document management and postage expenses are expected to occur in DOR and include printing and postage costs for correspondence with taxpayers. These costs are estimated to fall between $11,398 (lower bound estimate) and $77,942 (upper bound estimate).

Computer programming and testing. This bill requires one-time changes to DOR's GenTax software system. Changes are programmed by a contractor at a rate of $250 per hour. The changes in this bill are expected to increase General Fund expenditures by $500, representing two hours of programming. All GenTax programming changes are tested by department staff. Testing for this bill will require the expenditures for contract personnel totaling $3,840, representing 160 hours of testing at a rate of $24 per hour.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed. The expanded income tax deduction in this bill is effective beginning in tax year 2019.

State and Local Government Contacts

Information Technology Personnel Revenue