



Legislative  
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# REVISED FISCAL NOTE

(replaces fiscal note dated February 16, 2018)

**Drafting Number:** LLS 18-0793  
**Prime Sponsors:** Sen. Court  
Rep. Wilson

**Date:** March 29, 2018  
**Bill Status:** House Finance  
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**Bill Topic:** INCOME TAX CHECK-OFF NONPROFIT DONATION FUND

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue ( <i>conditional</i> )	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure ( <i>conditional</i> )	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill creates the Donate to a Colorado Nonprofit Fund and creates a voluntary contribution designation line (income tax check-off) benefitting eligible Colorado nonprofit charitable organizations. Conditional upon the receipt of gifts, grants, or donations, state revenue and expenditures will increase when the tax check-off becomes available. These impacts will continue into future years.

If gifts, grants, or donations are insufficient to cover startup costs by September 30, 2020, the program is repealed.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This revised fiscal note reflects the reengrossed bill.

**Table 1**  
**Conditional State Fiscal Impacts Under SB 18-141**

		FY 2018-19	FY 2019-20	FY 2020-21
<b>Revenue</b>	Cash Funds	Not estimated	Not estimated	Not estimated
<b>Expenditures</b>	Cash Funds	-	\$239,510	\$127,132
	Centrally Appropriated	-	\$8,564	\$10,276
	<b>Total</b>	-	<b>\$248,074</b>	<b>\$137,408</b>
	<b>Total FTE</b>	-	<b>1.8 FTE</b>	<b>2.2 FTE</b>
<b>Transfers</b>		-	-	-

## **Summary of Legislation**

This bill creates the Donate to a Colorado Nonprofit Fund (fund) and creates a voluntary contribution designation line (income tax check-off) benefitting eligible Colorado nonprofit charitable organizations (charities). Under the bill, charities that are registered and in good standing with the Colorado Secretary of State (SOS) may be included on the list to receive contributions from the fund. Each charity must also be exempt from federal income tax under section 501(c)(3) of the IRS code. A registered charity may exclude itself from the list by filing a written request to the SOS.

The SOS is required to provide the Department of Revenue (DOR) a list of eligible charities on or before September 1, and on or before September 1 of each year thereafter. The DOR will make the list available in a digital or paper format, or both, with information that the department requires for a taxpayer to designate the organization to receive a donation from the income tax check-off. A taxpayer can only designate one eligible charity from the list.

The DOR may seek, accept and expend gifts, grants, or donations for the purposes of covering the initial costs of implementing the program. If the DOR does not receive sufficient funding to cover the initial costs by September 30, 2020, the Donate to a Colorado Nonprofit program is repealed.

The bill excludes the fund from the time limitations and minimum contribution requirements imposed on most other voluntary contribution funds.

Finally, this bill limits the amount a taxpayer can contribute to any income tax check-off to an amount equal to their income tax refund.

**Checkoff availability.** Beginning in income tax year 2019, the check-off may be added to the form if the DOR has received sufficient funds from gifts, grants, or donations to cover the startup costs, and a contribution line is available on the tax form with the Donate to a Colorado Nonprofit check-off next in the queue.

**Administration.** The DOR will annually determine the total amounts designated to each individual eligible charity and report these amounts to the State Treasurer and General Assembly. After administration costs, the State Treasurer will credit the money to the Donate to a Colorado Nonprofit Fund, and the DOR will distribute the remaining contributions to the designated charities. The DOR is not liable to a taxpayer for any error in distributing a contribution under this bill.

## **Background**

The Colorado individual income tax return form allows taxpayers to contribute to various listed organizations by donating a portion of their income tax refund or increasing the amount owed on their tax return. Legislation is required to create a new income tax check-off.

Only 20 check-off programs can appear on an individual income tax form each year. To ensure that the cap is not exceeded, the priority order system specifies that continued or renewed programs take precedence over newly created programs. Tax check-offs must contain a sunset date and meet a yearly minimum contribution of \$50,000 by the third year from when it first appeared on the form and subsequent tax years to remain on the tax form. Contributions are calculated from January 1st through September 30th of each tax year. Thus, if a program that has appeared on the form is renewed or continued and has donations of at least \$50,000, the program

remains on the form in the following tax year. Under current law, the Western Slope Military Veterans Cemetery and Homeless Prevention Activities Program funds are exempt from the mandatory sunset process.

Newly created programs can only appear on the tax form when an existing program is removed. The order of programs in the queue is determined by the date and time that the Governor signs each bill. It should be noted that 20 voluntary contributions appear on the 2017 Colorado individual income tax form. As of the date of this fiscal note, there are no tax check-off programs in the queue.

During January 1 through September 2017, the total amount of voluntary contributions made was approximately \$1.8 million, ranging from \$16,000 to \$181,000 per checkoff program.

As of February 1, 2018, there are approximately 11,200 charities eligible to receive contributions from the fund if this bill becomes law.

### **Assumptions**

This fiscal note uses the following assumptions:

- The check-off will be added to the 2020 individual income tax return form and state revenue and expenditures will begin increasing in FY 2019-20.

### **State Revenue**

The amount of contributions to the Donate to a Colorado Nonprofit Fund and the date by which the tax check-off will be available is uncertain. To the extent that this bill generates new contributions and does not shift donations from existing check-off programs, state revenue will increase in years the tax check-off is available.

The DOR may seek and accept gifts, grants, and donations from private or public sources for purposes of implementing the program beginning in FY 2018-19. As of the date of this fiscal note, no sources of gifts, grants, or donations have been identified and any increase in revenue has not been estimated.

These voluntary contributions and donations will not affect General Fund revenue and are exempt from TABOR provisions.

### **State Expenditures**

Conditional on the receipt of gifts, grants, and donations, the DOR will have expenditures of 1.8 FTE and \$248,074 in FY 2019-20 and 2.2 FTE and \$137,408 beginning in FY 2020-21, summarized in Table 2. If gifts, grants and donations are not sufficient to cover these expenditures by September 30, 2020, the Donate to a Colorado Nonprofit Fund is repealed.

**Table 2**  
**Conditional Expenditures Under SB 18-141**

<b>Cost Components</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Revenue</b>			
Personal Services (Tax Examiner I)	-	\$36,996	\$44,395
Personal Services (Analyst III)	-	\$45,946	\$55,135
Personal Services	-	\$10,844	\$13,012
Computer System Changes (Gentax)	-	\$130,000	-
Standard Operating Expenses	-	\$11,116	\$2,090
Other Costs	-	\$4,608	\$12,500
Centrally Appropriated Costs*	-	\$8,564	\$10,276
FTE - Personal Services	-	1.8 FTE	2.2 FTE
<b>Total Cost</b>	-	<b>\$248,074</b>	<b>\$137,408</b>
<b>Total FTE</b>	-	<b>1.8 FTE</b>	<b>2.2 FTE</b>

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

**Department of Revenue.** In general, costs for adding an income tax check-off line begin in the last quarter of the year in which it is scheduled to appear on the form. If the Donate to a Colorado Nonprofit income tax check-off is added to the 2020 individual income tax form, expenditures for the department are expected to begin on October 1, 2020. The FY 2019-20 expenditures in Table 2 have been prorated for this start date.

In FY 2019-20, this bill will require computer programming costs to develop and expand the current GenTax system to include over 11,000 new accounts. These changes are expected to increase expenditures by \$130,000, representing 520 hours of computer programming at \$250 per hour. The volume of new accounts will require 0.8 FTE to manage, test, and ensure the new accounts are performing correctly. In addition, it is expected that the DOR will also experience a workload increase from income tax paper returns designating a contribution to the fund. Paper files are electronically uploaded using an Optical Character Recognition (OCR) system. The most recent OCR rates recognized 57 percent of paper returns, requiring a manual review of 43 percent of paper forms. It is uncertain how many paper filers will contribute to the new fund, but this analysis assumes the bill will increase the amount of new manual reviews. On average, each paper return review takes about 20 minutes to complete. The fiscal note assumes that 0.8 FTE will be required to handle this additional workload. Finally, the department will require 0.2 FTE for compiling annual reports and workload related to the distribution of the contributions to the nonprofit organizations.

In FY 2020-21 and each year thereafter, the department will require 2.2 FTE and \$137,408 to fully implement the new income tax check-off. These costs include \$12,500 in ongoing GenTax maintenance. The bill specifies that these costs are to be paid by an annual appropriation from the Donate to a Colorado Nonprofit Fund. In the event that the moneys in the fund are insufficient to cover these costs, this fiscal note assumes that the General Fund will offset any unfunded amounts, which will be reimbursed once sufficient donations are contributed.

**Secretary of State.** The SOS is required to provide a list of qualified nonprofit charities to the DOR each year beginning on September 1, 2019. The SOS is also responsible for removing any organizations requesting to be withdrawn from the list. Workload is expected to increase for the Department, but can be accomplished with existing appropriations. The list of qualified charities is already being tracked by the SOS, and the number of charities requesting to be removed from this list is expected to be small.

**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.

**Departmental Difference**

The DOR estimates that it will require \$331,886 and 3.2 FTE in the first fiscal year in which the check-off is scheduled to appear on the income tax return, and \$231,345 and 3.7 FTE for each year thereafter. Relative to this fiscal note, the Department indicates that the large number of new accounts will require 2.5 FTE to manage, test, and ensure the new accounts are performing correctly. This fiscal note assumes 1.0 FTE is sufficient since the testing procedures will be similar for all 11,000 accounts, and the majority of contributions will be limited to a portion of the new accounts.

**State and Local Government Contacts**

Health Care Policy and Financing  
Personnel  
Secretary of State

Information Technology  
Revenue  
Treasury