



**Legislative
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FISCAL NOTE

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

Date: February 14, 2018
Bill Status: Senate Finance
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Bill Topic: INCOME TAX CHECK-OFF NONPROFIT DONATION FUND

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<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 checkoff) benefitting eligible Colorado nonprofit charitable organizations. This bill will increase state revenue and expenditures when the tax check-off becomes available. These impacts will continue into future years.

Appropriation Summary: No appropriation is required.

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

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

		FY 2018-19	FY 2019-20	FY 2020-21
Revenue	Cash Funds	-	-	Not estimated
Expenditures	Cash Funds	-	-	Not estimated
	General Fund	-	-	\$158,784
	Centrally Appropriated	-	-	\$2,455
	Total	-	-	\$161,239
	Total FTE	-	-	2.0 FTE
Transfers		-	-	-

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 October 1, 2019, and on or before October 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.

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. If a taxpayer contributes an amount in excess of their refund, the DOR is required to refund the excess amount.

Checkoff availability. If a space on the state income tax form for the check-off becomes available before tax year 2020, the bill requires the DOR to hold the space until income tax year 2020 and to include the designation line thereafter. The bill excludes the fund from the time limitations and minimum contribution requirements imposed on most other voluntary contribution funds.

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 distribute the remaining contributions to the designated charities.

The DOR may contract with a private or public entity to administer all or part of the fund. The total fees and obligations can not exceed three percent of the total amount credited to the fund for that income tax year. The DOR may share with the contacting party taxpayer information necessary to administer the fund. A contracting party shall keep all information from the department confidential. Any individual who fails to do so is guilty of a misdemeanor. The DOR may seek, accept and expend gifts, grants, or donations for the purposes of covering the initial costs of implementing the program.

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 2020-21.
- Because it is unknown whether the moneys in the fund will be sufficient to cover these administrative costs, this fiscal note assumes that the General Fund will pay any costs not covered by the fund.
- To the extent a contractor discloses classified taxpayer information, this bill may increase state revenue for fines imposed by the courts. However, based on the low number of fines imposed by the courts and the assumption that state contractors will comply with the law, the fiscal note assumes that minimal, if any, revenue will be generated. In addition, workload will increase for the district attorneys and county courts to hear any cases. The DOR has indicated that they do not currently intend to contract out for the administration of this program and the fiscal note excludes these impacts.

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 bill also allows the DOR to seek and accept gifts, grants, and donations from private or public sources for purposes of implementing the program. As of the date of this fiscal note, no sources of gifts, grants, or donations have been identified.

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

State Expenditures

Under the bill, the earliest the Donate to a Colorado Nonprofit Fund tax check-off could appear on the individual income tax form is tax year 2020 and this analysis shows these cost as beginning in FY 2020-21, as summarized in Table 2.

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

Cost Components	FY 2018-19	FY 2019-20	FY 2020-21
Department of Revenue			
Personal Services	-	-	\$26,884
Operating Expenses	-	-	\$1,900
Computer System Changes	-	-	\$130,000
Centrally Appropriated Costs*	-	-	\$2,455
FTE - Personal Services	-	-	2.0 FTE
Total Cost			\$161,239
Total FTE			2.0 FTE

* 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 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 will begin in FY 2020-21.

Expenditures include one-time GenTax programming and programming the optical charter recognition (OCR) software to recognize the change to the state income tax form. These changes are expected to increase expenditures by \$130,000, representing 520 hours of computer programming at \$250 per hour. These costs are mainly attributable to developing and expanding the current process to include over 11,000 new accounts. Since programming costs are based on the FY 2018-19 contracted rate for changes to the Colorado Integrated Tax Architecture system, these expenditures may increase by the time the check-off program is available.

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 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 2.0 FTE will be required in the first fiscal year the check-off is added to the form. Depending on the volume of contributions and manual reviews as a result of this new fund, the department may require additional FTE in later fiscal years.

Secretary of State. The SOS is required to provide a list of qualified nonprofit charities to the DOR each year beginning on October 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 \$297,341 and 2.5 FTE in the first fiscal year the check-off is scheduled to appear on the income tax return and \$338,836 and 5.1 FTE for each year thereafter. The department also assumes the paper return population will grow by 500 percent in the first year the check-off is available, resulting in over 10,000 paper returns that are likely to require a review. The Department indicates that these reviews will be conducted by tax examiners. The fiscal note acknowledges an increase in the number of new contributions through paper returns, but the fiscal note assumes this increase will be realized over a longer period of time. In addition, the fiscal note assumes these paper return reviews can be completed by an entry-level employee classification, rather than a tax examiner.

State and Local Government Contacts

Health Care Policy and Financing
Personnel
Secretary of State

Information Technology
Revenue
Treasury