



## Legislative Council Staff

*Nonpartisan Services for Colorado's Legislature*

# FINAL FISCAL NOTE

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<b>Drafting Number:</b>	LLS 18-0489	<b>Date:</b>	June 20, 2018
<b>Prime Sponsors:</b>	Sen. Gardner Rep. Wist; Gray	<b>Bill Status:</b>	Signed into Law
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**Bill Topic:** COLORADO TRUST CODE

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**Summary of Fiscal Impact:**

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

This bill creates the Colorado Trust Code, which will govern trust administration. This bill will minimally increase state revenue and expenditures.

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

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

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### Summary of Legislation

Under current law, the administration of trusts is governed by provisions within the probate code. This bill repeals many of these provisions from the probate code and creates the Colorado Trust Code and aligns it with the national uniform law. Specifically, the new trust code outlines the following:

- judicial proceedings;
- representation;
- creation, validity, modification, and termination of trusts;
- duties and powers of trustees; and
- liabilities of trustees and rights of persons dealing with trustees.

In creating the trust code, the bill also makes several changes to how trusts operate. These changes include, allowing for the creation of oral trusts, allowing courts to review trustee actions, and allowing courts to review trust amendments, among other changes.

### Background

The Colorado Commission on Uniform State Laws is charged with working with the national Uniform Law Commission (ULC) to promote uniformity in state laws where uniformity may be deemed desirable and practicable. This is achieved by developing proposed uniform legislation through the ULC that can be adopted by the various state legislatures. Colorado's commissioners are required to be attorneys admitted to practice law in Colorado. Members include six attorneys

appointed or reappointed by joint resolution of the General Assembly; any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership); and the Director of the Office of Legislative legal Services, or the Director's designee. The Office of Legislative Legal Services provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts.

### **State Revenue**

Overall, the bill may increase state revenue to the Judicial Department by a minimal amount. Under the bill, trusts are no longer required to be registered with the courts, which decreases revenue to the Judicial Department. However, given that there is currently no penalty for failing to register a trust, the fiscal note assumes that any decrease will be minimal. The bill also makes several changes that could increase court filings related to trusts including, allowing for oral trusts, allowing the courts to review trustee actions, and allowing the courts to review trust amendments not agreed on by all beneficiaries and trustees. This potential increase in court filings will increase revenue to the Judicial Department from various filing fees. However, the fiscal note assumes that the majority of trustees will abide by the law and to their responsibilities in a trust. Therefore, the increase in caseload and revenue will be minimal.

### **TABOR Refund**

This bill increases state revenue from filing fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

### **State Expenditures**

The bill will minimally increase workload in the trial courts in the Judicial Department and increase expenditures in the Department of Law starting in FY 2018-19. These impacts are discussed below.

**Judicial Department.** The trial courts in the Judicial Department will have an increase in workload to the extent that the bill increases civil filings related to trusts. The bill allows the courts to review a trustee's individual actions, which under current law can only be done through surcharge litigation. By allowing the courts to review a trustee's actions, the number of cases filed with the court will increase. The bill will also increase workload by allowing the courts to review oral trusts and amendments to trusts that parties do not agree on. The fiscal note assumes that most trustees will abide by the law and the responsibilities for trusts and that any increase in workload will be minimal. Should an increase in appropriations be required, the Judicial Department can request it through the annual budget process.

**Department of Law.** Under current law, the Department of Law (DOL) is deemed a qualified beneficiary of charitable trusts and will receive notifications when a trust is amended or terminated (this includes non-charitable trusts). To the extent that the bill increases the frequency that trusts are amended, the DOL will receive additional notifications. The fiscal note assumes that this increase in workload is minimal and can be accomplished within existing appropriations.

**Effective Date**

The bill was signed into law by the Governor on April 26, 2018, and takes effect January 1, 2019, if no referendum petition is filed.

**State and Local Government Contacts**

Information Technology

Judicial

Law