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**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 23, 2018)

Drafting Number: LLS 18-0753
Prime Sponsors: Rep. Garnett
Sen. Gardner

Date: April 4, 2018
Bill Status: House Appropriations
Fiscal Analyst: Greg Sobetski | 303-866-4105
Greg.Sobetski@state.co.us

Bill Topic: INCOME TAX CREDIT LEAVE OF ABSENCE ORGAN DONATION

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" 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 an income tax credit for employers who allow paid leave to employees who donate an organ and/or who hire replacement help during an employee's leave of absence for organ donation. It causes an ongoing revenue decrease and requires a one-time implementation expenditure.

Appropriation Summary: For FY 2018-19, the bill requires a \$6,290 appropriation to the Department of Revenue.

Fiscal Note Status: This revised fiscal note reflects the introduced bill and the March 2018 revenue forecast.

**Table 1
State Fiscal Impacts Under HB 18-1202**

		FY 2017-18 <i>current year</i>	FY 2018-19	FY 2019-20
Revenue	General Fund	(\$47,000)	(\$98,000)	(\$105,000)
Expenditures	General Fund	-	\$6,290	-
Transfers		-	-	-
TABOR Refund		-	(\$98,000)	(\$105,000)

Summary of Legislation

Beginning in the current tax year 2018, this bill creates an income tax credit for employers whose employees donate an organ and grant their employee a paid leave of absence. The tax credit is equal to 35 percent of an employee's paid leave, not to exceed 10 days, and/or the amount paid to a temporary employee during a donor employee's paid leave. Employers may not claim the credit for employees with an annual salary greater than or equal to \$80,000. The credit is nonrefundable, meaning that it is limited to a taxpayer's income tax liability. Any remaining credit not used in one tax year may be carried forward for up to five years.

State Revenue

This bill decreases state General Fund revenue by \$47,000 in the current FY 2017-18, \$98,000 in FY 2018-19, and \$105,000 in FY 2019-20 and subsequent years. The reduction for FY 2017-18 represents a half-year impact on an accrual accounting basis.

Assumptions. Data from the Organ Procurement and Transplantation Network in the U.S. Department of Health and Human Services indicate that 160 living Colorado residents donated organs during 2017, including 151 kidney donors and 9 liver donors. This population is assumed to grow by between 4 percent and 5 percent annually based on historical rates of growth in the population of living organ donors. Donor populations were segmented by age. In each age group, the donor population is assumed to have a similar employment rate and average wage to the state population as a whole. Employment rates and mean wages were grown by the March 2018 Legislative Council Staff forecast. For 2018, there are assumed to be 167 living donors, of whom 125 will be employed, earning the state mean wage of \$26.95 per hour. Assuming that all of these workers are allowed 80 hours of leave, the value of their paid leave will be about \$269,000, of which about \$94,000 will be allowed as a credit to their employers.

To the extent that employers do not allow paid leave or hire temporary employees, and that donors are paid annual salaries greater than or equal to \$80,000, the revenue reduction will be lower than estimated.

To the extent that the bill motivates more paid leave and/or additional organ donations, the revenue reduction will be greater than estimated. Additionally, this fiscal note assumes that employers will claim the credit only because they offer paid leave or because they hire temporary workers, not both. If employers claim the credit for both reasons, the revenue reduction will be greater than estimated.

The bill is assumed not to allow a tax credit for employers whose employees donate bone marrow. If bone marrow donations qualify for the credit, the revenue reduction will be greater than estimated.

TABOR Refund

This bill reduces state income tax revenue, which will reduce the amount of money required to be refunded under TABOR by \$98,000 in FY 2018-19 and \$105,000 in FY 2019-20. A TABOR refund obligation is not expected for the current FY 2017-18.

Since the bill reduces revenue to the General Fund 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.

State Expenditures

The bill increases General Fund expenditures by \$6,290 in FY 2018-19 only. These one-time implementation costs will occur in the Department of Revenue.

Computer programming. This bill requires changes to the department'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 require expenditures of \$1,250, representing 5 hours of programming. All GenTax programming changes are tested by department staff. Testing for this bill will require expenditures for contract personnel totaling \$3,840, representing 160 hours of testing at a rate of \$24 per hour.

Form change. This bill requires a change to one tax form with an expected cost of \$1,200. Form changes are administered by the Department of Personnel and Administration using reappropriated Department of Revenue funds.

Technical Note

If information on organ donation cannot be accessed for reasons related to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and associated Colorado laws, it may be impossible for the Department of Revenue to verify that employees of taxpayers claiming the credit did in fact donate an organ. As a consequence, Department of Revenue enforcement may be less robust than for similar credits, reducing workload and raising the possibility that the credit may be allowed to fraudulent claimants.

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.

State Appropriations

For FY 2018-19, the bill requires a \$6,290 General Fund appropriation to the Department of Revenue, from which \$1,200 should be reappropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Information Technology

Labor

Personnel

Revenue