

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0793.01 Megan Waples x4348

SENATE BILL 18-141

SENATE SPONSORSHIP

Court,

HOUSE SPONSORSHIP

Wilson,

Senate Committees

Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING VOLUNTARY CONTRIBUTION DESIGNATIONS ON THE**
102 **COLORADO INDIVIDUAL INCOME TAX RETURN FORM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 1 of the bill creates the donate to a Colorado nonprofit fund (fund) in the state treasury. A voluntary contribution designation line for the fund will appear on the state individual income tax return form when a space becomes available and the fund is next in the queue. If the space for the fund becomes available before January 1, 2020, the bill requires the department of revenue (department) to hold the space for the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

fund until January 1, 2020, and to include the line thereafter. The line will allow a taxpayer receiving a refund to designate a contribution to an eligible charitable organization (eligible organization) of their choice.

The bill requires the secretary of state to provide a list of eligible organizations. To be eligible, an organization must be registered and in good standing with the secretary under the "Colorado Charitable Solicitations Act" and be a nonprofit that is tax exempt under section 501 (c)(3) of the internal revenue code. A charity may request to exclude itself from the list. The department will make the list of eligible organizations available to the public and a taxpayer may choose a single charity from the list to receive the contribution through the fund.

Once the fund is placed on the form, the department is directed to determine annually the total amount designated to the fund, and the total amounts designated to each eligible organization, and to report those amounts to the state treasurer and the general assembly. The state treasurer is required to credit the total amount to the fund. The bill requires the general assembly to appropriate from the fund to the department, the secretary of state, and the state treasurer their actual, reasonable costs for implementing the fund. The department is authorized to contract with a private or public entity to administer the fund, but the total fees under the contract for a given year cannot exceed 3% of the total amount credited to the fund for that year.

After the appropriations for the administration of the fund are deducted, the state treasurer is required to distribute the contributions to the charities as designated by taxpayers after a reduction proportionate to the amount deducted from the fund for administration.

Section 2 excludes the fund from the time limitations and minimum contribution requirements imposed on voluntary contribution funds. It also adds a limitation that a taxpayer cannot contribute to any voluntary contribution fund or combination of voluntary contribution funds in an amount that exceeds the amount of the taxpayer's refund.

Section 3 allows the department to share information with a contractor if necessary to implement the fund under a contract and requires the contractor to keep that information confidential subject to a penalty.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 50 to article
3 22 of title 39 as follows:

PART 50

DONATE TO A COLORADO NONPROFIT FUND

VOLUNTARY CONTRIBUTION

2 **39-22-5001. Legislative declaration.** (1) THE GENERAL
3 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

4 (a) THE PROGRAM ALLOWING TAXPAYERS TO MAKE DONATIONS TO
5 CHARITABLE ORGANIZATIONS THROUGH THEIR COLORADO STATE
6 INDIVIDUAL INCOME TAX RETURN FORMS, COMMONLY KNOWN AS THE
7 "TAX CHECK-OFF PROGRAM", HAS BEEN A GROUNDBREAKING AND
8 PROFOUNDLY IMPORTANT EFFORT THAT HAS TOUCHED COUNTLESS LIVES
9 IN MYRIAD WAYS;

10 (b) COLORADO'S TAX CHECK-OFF PROGRAM, WHICH WAS THE FIRST
11 OF ITS KIND IN THE COUNTRY, WAS ESTABLISHED IN 1977 AND HAS
12 RESULTED IN OVER THIRTY MILLION DOLLARS CONTRIBUTED TO BENEFIT
13 THE PUBLIC THROUGH THE WORK OF COLORADO NONPROFIT ENTITIES,
14 INSPIRING SIMILAR PROGRAMS IN ALMOST EVERY STATE IN THE COUNTRY;

15 (c) IN FISCAL YEAR 2017, COLORADO TAXPAYERS RECEIVED OVER
16 ONE BILLION DOLLARS IN INCOME TAX REFUNDS. THE AVERAGE REFUND
17 WAS APPROXIMATELY FIVE HUNDRED SIXTY DOLLARS.

18 (d) BETWEEN JANUARY 1, 2017, AND NOVEMBER 1, 2017,
19 COLORADANS GAVE OVER ONE MILLION SEVEN HUNDRED THOUSAND
20 DOLLARS TO SUPPORT PROGRAMS THROUGH THE VOLUNTARY
21 CONTRIBUTION OPTIONS ON THEIR INDIVIDUAL INCOME TAX RETURN
22 FORMS;

23 (e) INCREASING THE NUMBER OF CHARITABLE ORGANIZATIONS
24 THAT TAXPAYERS MAY DESIGNATE ON THEIR TAX FORMS CAN EXPAND
25 CHARITABLE GIVING THROUGHOUT THE STATE:

26 (f) CHARITABLE ORGANIZATIONS HELP CONTRIBUTE TO VIBRANT
27 COMMUNITIES ACROSS THE STATE;

7 (h) A PROGRAM ALLOWING THE DESIGNATION OF A REGISTERED
8 CHARITABLE ORGANIZATION OF A TAXPAYER'S CHOOSING THROUGH A
9 WRITE-IN LINE ON THE INDIVIDUAL INCOME TAX RETURN FORM WOULD
10 ALSO BE THE FIRST OF ITS KIND IN THE COUNTRY.

23 39-22-5002. Voluntary contribution designation - procedure

24 - **effective date.** (1) EXCEPT AS STATED IN SUBSECTION (2) OF THIS
25 SECTION, IN THE FIRST INCOME TAX YEAR IMMEDIATELY FOLLOWING THE
26 YEAR IN WHICH THE EXECUTIVE DIRECTOR FILES WRITTEN CERTIFICATION
27 WITH THE REVISOR OF STATUTES AS SPECIFIED IN SECTION 39-22-1001 (8)

1 THAT A LINE ON THE INCOME TAX RETURN FORM HAS BECOME AVAILABLE
2 AND THE DONATE TO A COLORADO NONPROFIT FUND, CREATED IN SECTION
3 39-22-5004, IS NEXT IN THE QUEUE ESTABLISHED PURSUANT TO SAID
4 SECTION 39-22-1001 (8), AND IN EACH INCOME TAX YEAR THEREAFTER,
5 THE EXECUTIVE DIRECTOR SHALL ENSURE THAT THE COLORADO STATE
6 INDIVIDUAL INCOME TAX RETURN FORM CONTAINS A LINE FOR THE DONATE
7 TO A COLORADO NONPROFIT FUND. THE LINE MUST ALLOW EACH
8 INDIVIDUAL TAXPAYER TO DESIGNATE THE AMOUNT OF THE
9 CONTRIBUTION, IF ANY, AND THE NAME AND SUCH IDENTIFYING
10 INFORMATION AS THE DEPARTMENT OF REVENUE MAY REQUIRE OF A
11 SINGLE CHARITABLE ORGANIZATION FROM THE LIST OF ELIGIBLE
12 CHARITABLE ORGANIZATIONS PROVIDED UNDER SECTION 39-22-5003 TO
13 RECEIVE THE CONTRIBUTION.

14 (2) THE EXECUTIVE DIRECTOR SHALL NOT INCLUDE A LINE FOR THE
15 DONATE TO A COLORADO NONPROFIT FUND BEFORE JANUARY 1, 2020. IF
16 A LINE ON THE INDIVIDUAL INCOME TAX RETURN FORM BECOMES
17 AVAILABLE BEFORE JANUARY 1, 2020, AND THE DONATE TO A COLORADO
18 NONPROFIT FUND IS NEXT IN THE QUEUE ESTABLISHED PURSUANT TO
19 SECTION 39-22-1001 (8), THE EXECUTIVE DIRECTOR SHALL FILE THE
20 WRITTEN CERTIFICATION AS SPECIFIED IN SECTION 39-22-1001 (8) AND
21 SHALL ENSURE THAT THE LINE ON THE FORM IS RESERVED FOR THE DONATE
22 TO A COLORADO NONPROFIT FUND UNTIL JANUARY 1, 2020.
23 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXECUTIVE
24 DIRECTOR SHALL NOT USE THE LINE FOR ANOTHER FUND FROM THE QUEUE.
25 ON AND AFTER JANUARY 1, 2020, THE EXECUTIVE DIRECTOR SHALL
26 ENSURE THAT THE LINE FOR THE DONATE TO A COLORADO NONPROFIT
27 FUND IS INCLUDED ON THE FORM AS PROVIDED IN SUBSECTION (1) OF THIS

1 SECTION.

2 (3) THE EXECUTIVE DIRECTOR SHALL NOTIFY THE SECRETARY OF
3 STATE WHEN HE OR SHE FILES THE WRITTEN CERTIFICATION THAT A LINE
4 HAS BECOME AVAILABLE FOR THE DONATE TO A COLORADO NONPROFIT
5 FUND UNDER THIS SECTION.

6 **39-22-5003. List of eligible charitable organizations.** (1)(a) ON
7 OR BEFORE OCTOBER 1, 2019, AND ON OR BEFORE OCTOBER 1 OF EACH
8 YEAR THEREAFTER, THE SECRETARY OF STATE SHALL PROVIDE TO THE
9 DEPARTMENT OF REVENUE A LIST OF ALL ELIGIBLE CHARITABLE
10 ORGANIZATIONS. TO BE ELIGIBLE, A CHARITABLE ORGANIZATION MUST:

11 (I) BE REGISTERED AND IN GOOD STANDING WITH THE SECRETARY
12 OF STATE UNDER THE "COLORADO CHARITABLE SOLICITATIONS ACT",
13 ARTICLE 16 OF TITLE 6, AS OF THE DATE THE LIST IS GENERATED; AND

14 (II) BE A NONPROFIT ORGANIZATION THAT IS EXEMPT FROM
15 TAXATION UNDER SECTION 501 (c)(3) OF THE FEDERAL "INTERNAL
16 REVENUE CODE OF 1986", AS AMENDED.

17 (b) A REGISTERED CHARITABLE ORGANIZATION MAY FILE A
18 WRITTEN REQUEST WITH THE SECRETARY OF STATE, ON A FORM
19 PRESCRIBED BY THE SECRETARY OF STATE, TO EXCLUDE ITSELF FROM THE
20 LIST PROVIDED TO THE DEPARTMENT OF REVENUE UNDER SUBSECTION
21 (1)(a) OF THIS SECTION. THE SECRETARY OF STATE SHALL NOT INCLUDE IN
22 THE LIST THE NAME OR INFORMATION OF ANY CHARITABLE ORGANIZATION
23 THAT FILES SUCH A REQUEST.

24 (c) THE SECRETARY OF STATE SHALL PROVIDE THE LIST OF
25 ELIGIBLE CHARITABLE ORGANIZATIONS TO THE DEPARTMENT OF REVENUE
26 IN A DIGITAL FORMAT.

27 (2) THE DEPARTMENT OF REVENUE SHALL MAKE THE LIST OF

1 ELIGIBLE CHARITABLE ORGANIZATIONS AVAILABLE TO THE PUBLIC FOR
2 EACH INCOME TAX YEAR. THE DEPARTMENT MAY MAKE THE LIST
3 AVAILABLE IN A DIGITAL FORMAT OR A PAPER FORMAT OR BOTH. THE LIST
4 MUST INCLUDE, FOR EACH CHARITABLE ORGANIZATION, ALL IDENTIFYING
5 INFORMATION THAT THE DEPARTMENT REQUIRES FOR A TAXPAYER TO
6 DESIGNATE THE ORGANIZATION TO RECEIVE A DONATION THROUGH THE
7 DONATE TO A COLORADO NONPROFIT FUND VOLUNTARY CONTRIBUTION
8 LINE ESTABLISHED IN SECTION 39-22-5002.

9 (3) A TAXPAYER MAY DESIGNATE ONE CHARITY FROM THE LIST
10 MADE AVAILABLE BY THE DEPARTMENT OF REVENUE FOR THE TAX YEAR
11 FOR WHICH THE TAXPAYER IS FILING A RETURN USING THE DONATE TO A
12 COLORADO NONPROFIT FUND VOLUNTARY CONTRIBUTION LINE CREATED
13 IN SECTION 39-22-5002. IF A TAXPAYER DESIGNATES AN ORGANIZATION
14 THAT IS NOT ELIGIBLE UNDER THIS SECTION, OR IF THE DEPARTMENT OF
15 REVENUE CANNOT DETERMINE WHICH CHARITABLE ORGANIZATION A
16 TAXPAYER HAS DESIGNATED, THE CONTRIBUTION IS VOID AND THE
17 DEPARTMENT OF REVENUE SHALL REFUND TO THE TAXPAYER THE FULL
18 AMOUNT DESIGNATED FOR THE CONTRIBUTION.

19 **39-22-5004. Contributions credited to the donate to a
20 Colorado nonprofit fund - creation - appropriation - distribution.**

21 (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DONATE TO
22 A COLORADO NONPROFIT FUND, REFERRED TO IN THIS SECTION AS THE
23 " FUND ". THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT
24 TO THIS PART 50 AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY
25 MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER
26 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT
27 AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

18 (4) (a) THE DEPARTMENT OF REVENUE MAY CONTRACT WITH A
19 PRIVATE OR PUBLIC ENTITY TO ADMINISTER ALL OR PART OF THE FUND.
20 THE TOTAL FEES AND OBLIGATIONS OWED UNDER ANY SUCH CONTRACT
21 FOR A GIVEN INCOME TAX YEAR MUST NOT EXCEED THREE PERCENT OF THE
22 TOTAL AMOUNT CREDITED TO THE FUND FOR THAT INCOME TAX YEAR

23 (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE
24 DEPARTMENT ENTERS INTO A CONTRACT UNDER THIS SUBSECTION (4), THE
25 DEPARTMENT MAY SHARE WITH THE CONTRACTING PARTY SUCH
26 TAXPAYER INFORMATION AS IS NECESSARY TO IMPLEMENT THIS SECTION.
27 A CONTRACTING PARTY SHALL KEEP ALL INFORMATION RECEIVED FROM

1 THE DEPARTMENT CONFIDENTIAL AND ANY INDIVIDUAL WHO FAILS TO DO
2 SO IS GUILTY OF A MISDEMEANOR AND SUBJECT TO PUNISHMENT AS
3 SPECIFIED IN SECTION 39-21-113 (6).

4 **39-22-5005. Initial funding - repeal.** (1) THE DEPARTMENT OF
5 REVENUE MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS
6 FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF IMPLEMENTING
7 THE DONATE TO A COLORADO NONPROFIT FUND, INCLUDING BUT NOT
8 LIMITED TO CREATING INFORMATION SYSTEMS AND PROCEDURES
9 NECESSARY TO COLLECT AND DISTRIBUTE DESIGNATED CONTRIBUTIONS.

10 (2) IF THE DEPARTMENT OF REVENUE DOES NOT RECEIVE
11 SUFFICIENT FUNDING TO IMPLEMENT THE DONATE TO A COLORADO
12 NONPROFIT FUND FROM GIFTS, GRANTS, AND DONATIONS AS DESCRIBED IN
13 SUBSECTION (1) OF THIS SECTION ON OR BEFORE SEPTEMBER 30, 2019,
14 THIS PART 50 IS REPEALED, EFFECTIVE OCTOBER 1, 2019. THE EXECUTIVE
15 DIRECTOR OF THE DEPARTMENT SHALL NOTIFY THE REVISOR OF STATUTES,
16 IN WRITING, IF THE DEPARTMENT HAS NOT RECEIVED THE AMOUNTS
17 REQUIRED BY THIS SUBSECTION (2) ON OR BEFORE SEPTEMBER 30, 2019.

18 **SECTION 2.** In Colorado Revised Statutes, 39-22-1001, **amend**
19 (1)(b) and (5)(c)(I); and **add** (11) as follows:

20 **39-22-1001. Limitations on voluntary contribution programs**
21 **- queue - notice - reestablishment of certain programs.** (1) (b) There
22 shall be no requirement for a sunset clause for the homeless prevention
23 activities program fund voluntary contribution established in part 13 of
24 this ~~article~~ or ARTICLE 22, the western slope military veterans' cemetery
25 voluntary contribution established in part 19 of this ~~article~~ ARTICLE 22, OR
26 THE DONATE TO A COLORADO NONPROFIT FUND VOLUNTARY
27 CONTRIBUTION ESTABLISHED IN PART 50 OF THIS ARTICLE 22. All other

1 voluntary contribution programs shall remain on Colorado income tax
2 returns for the income tax years specified in the part in which the
3 voluntary contribution is established and shall be repealed or
4 reestablished as directed in such part.

5 (5) Every voluntary contribution established in this article 22 must
6 receive a minimum dollar amount of contributions in each income tax
7 year as follows:

8 (c) (I) ~~Paragraphs (a) and (b) of this subsection (5) SUBSECTIONS~~
9 (5)(a) AND (5)(b) OF THIS SECTION shall not apply to the western slope
10 military veterans' cemetery voluntary contribution established in part 19
11 of this ~~article~~ ARTICLE 22 OR THE DONATE TO A COLORADO NONPROFIT
12 FUND VOLUNTARY CONTRIBUTION ESTABLISHED IN PART 50 OF THIS
13 ARTICLE 22. Such voluntary ~~contribution~~ CONTRIBUTIONS shall not be
14 required to receive a minimum amount of contributions in any income tax
15 year.

16 (11) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
17 TAXPAYER SHALL NOT DESIGNATE TO ANY VOLUNTARY CONTRIBUTION
18 FUND ESTABLISHED IN THIS ARTICLE 22, OR ANY COMBINATION OF
19 VOLUNTARY CONTRIBUTION FUNDS ESTABLISHED IN THIS ARTICLE 22, AN
20 AMOUNT IN EXCESS OF THE TAXPAYER'S REFUND.

21 (b) IF A TAXPAYER CONTRIBUTES AN AMOUNT THAT EXCEEDS THE
22 TAXPAYER'S REFUND TO A VOLUNTARY CONTRIBUTION FUND OR FUNDS,
23 THE CONTRIBUTION IN EXCESS OF THE AMOUNT OF THE TAXPAYER'S
24 REFUND IS VOID AND THE DEPARTMENT SHALL REFUND THE EXCESS TO THE
25 TAXPAYER. IN REFUNDING THE EXCESS AMOUNT, THE DEPARTMENT SHALL
26 REDUCE EACH CONTRIBUTION DESIGNATED BY THE TAXPAYER BY A
27 PROPORTIONATE AMOUNT SO THAT THE TOTAL OF ALL CONTRIBUTIONS

1 DOES NOT EXCEED THE AMOUNT OF THE TAXPAYER'S REFUND.

2 **SECTION 3.** In Colorado Revised Statutes, 39-21-113, **add** (25)
3 as follows:

4 **39-21-113. Reports and returns - rule.** (25) NOTWITHSTANDING
5 ANY OTHER PROVISION OF THIS SECTION, THE EXECUTIVE DIRECTOR MAY
6 PROVIDE TO A PARTY TO A CONTRACT UNDER SECTION 39-22-5004 (4)
7 SUCH INFORMATION AS IS NECESSARY TO IMPLEMENT PART 50 OF ARTICLE
8 22 OF THIS TITLE 39. THE CONTRACTING PARTY SHALL KEEP ALL
9 INFORMATION RECEIVED FROM THE EXECUTIVE DIRECTOR CONFIDENTIAL
10 AND ANY INDIVIDUAL WHO FAILS TO DO SO IS GUILTY OF A MISDEMEANOR
11 AND SUBJECT TO PUNISHMENT AS SPECIFIED IN SUBSECTION (6) OF THIS
12 SECTION.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2018 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.