A BILL FOR AN ACT

CONCERNING VOLUNTARY CONTRIBUTION DESIGNATIONS ON THE 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
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.

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

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

PART 50
DONATE TO A COLORADO NONPROFIT FUND

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VOLUNTARY CONTRIBUTION

39-22-5001. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The program allowing taxpayers to make donations to charitable organizations through their Colorado state individual income tax return forms, commonly known as the "tax check-off program", has been a groundbreaking and profoundly important effort that has touched countless lives in myriad ways;

(b) Colorado's tax check-off program, which was the first of its kind in the country, was established in 1977 and has resulted in over thirty million dollars contributed to benefit the public through the work of Colorado nonprofit entities, inspiring similar programs in almost every state in the country;

(c) In fiscal year 2017, Colorado taxpayers received over one billion dollars in income tax refunds. The average refund was approximately five hundred sixty dollars.

(d) Between January 1, 2017, and November 1, 2017, Coloradans gave over one million seven hundred thousand dollars to support programs through the voluntary contribution options on their individual income tax return forms;

(e) Increasing the number of charitable organizations that taxpayers may designate on their tax forms can expand charitable giving throughout the state;

(f) Charitable organizations help contribute to vibrant communities across the state;
ALLOWING COLORADO TAXPAYERS TO DESIGNATE A REGISTERED CHARITABLE ORGANIZATION OF THEIR CHOOSING THROUGH A WRITE-IN LINE ON THE INDIVIDUAL INCOME TAX RETURN FORM WILL ALLOW CHARITIES TO RAISE ADDITIONAL FUNDS EARLIER IN THE YEAR, AND WILL INCREASE CHOICES FOR TAXPAYERS WHO WISH TO DONATE ALL OR PART OF THEIR TAX REFUNDS; AND

A program allowing the designation of a registered charitable organization of a taxpayer's choosing through a write-in line on the individual income tax return form would also be the first of its kind in the country.

IT IS THE INTENT OF THE GENERAL ASSEMBLY TO PROVIDE COLORADANS THE OPPORTUNITY TO DESIGNATE CONTRIBUTIONS TO REGISTERED CHARITABLE ORGANIZATIONS OF THEIR CHOOSING BY ESTABLISHING THE DONATE TO A COLORADO NONPROFIT FUND, ALLOWING TAXPAYERS TO MAKE VOLUNTARY CONTRIBUTIONS FROM THEIR TAX REFUNDS ON THEIR INCOME TAX RETURN FORMS. THE GENERAL ASSEMBLY FURTHER INTENDS THAT THIS PROCESS BE EFFICIENT AND CONVENIENT FOR TAXPAYERS, NONPROFITS, AND THE DEPARTMENT OF REVENUE AND THEREFORE ENCOURAGES THE DEPARTMENT AND THE SECRETARY OF STATE TO USE DIGITAL RESOURCES AND FORMATS THAT INCREASE EFFICIENCY AND REDUCE THE RISK OF ERRORS IN IMPLEMENTING THE FUND.

39-22-5002. Voluntary contribution designation - procedure - effective date. (1) Except as stated in subsection (2) of this section, in the first income tax year immediately following the year in which the executive director files written certification with the revisor of statutes as specified in section 39-22-1001 (8)

(3) The Executive Director shall notify the Secretary of State when he or she files the written certification that a line has become available for the donation to a Colorado nonprofit fund under this section.

39-22-5003. List of eligible charitable organizations. (1)(a) On or before October 1, 2019, and on or before October 1 of each year thereafter, the Secretary of State shall provide to the Department of Revenue a list of all eligible charitable organizations. To be eligible, a charitable organization must:

(I) Be registered and in good standing with the Secretary of State under the "Colorado Charitable Solicitations Act", Article 16 of Title 6, as of the date the list is generated; and

(II) Be a nonprofit organization that is exempt from taxation under Section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended.

(b) A registered charitable organization may file a written request with the Secretary of State, on a form prescribed by the Secretary of State, to exclude itself from the list provided to the Department of Revenue under subsection (1)(a) of this section. The Secretary of State shall not include in the list the name or information of any charitable organization that files such a request.

(c) The Secretary of State shall provide the list of eligible charitable organizations to the Department of Revenue in a digital format.

(2) The Department of Revenue shall make the list of
ELIGIBLE CHARITABLE ORGANIZATIONS AVAILABLE TO THE PUBLIC FOR EACH INCOME TAX YEAR. THE DEPARTMENT MAY MAKE THE LIST AVAILABLE IN A DIGITAL FORMAT OR A PAPER FORMAT OR BOTH. THE LIST MUST INCLUDE, FOR EACH CHARITABLE ORGANIZATION, ALL IDENTIFYING INFORMATION THAT THE DEPARTMENT REQUIRES FOR A TAXPAYER TO DESIGNATE THE ORGANIZATION TO RECEIVE A DONATION THROUGH THE DONATE TO A COLORADO NONPROFIT FUND VOLUNTARY CONTRIBUTION LINE ESTABLISHED IN SECTION 39-22-5002.


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

(1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE DONATE TO A COLORADO NONPROFIT FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND CONSISTS OF MONEY CREDITED TO THE FUND PURSUANT TO THIS PART 50 AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.
THE DEPARTMENT OF REVENUE SHALL DETERMINE ANNually
the total amount designated to the fund and the total amounts
designated to each individual eligible charitable organization
pursuant to section 39-22-5002, and shall report those amounts
to the state treasurer and to the general assembly. The state
treasurer shall credit to the fund the total amount designated
to the fund.

THE GENERAL ASSEMBLY SHALL APPROPRIATE ANNually
from the fund to the department of revenue, the secretary of
state, and the state treasurer its actual, reasonable costs of
implementing this part 50. After the appropriations to the
department of revenue, the secretary of state, and the state
treasurer are deducted, the state treasurer shall distribute
the remaining funds to the eligible charitable organizations as
designated by taxpayers after a reduction proportionate to the
amount deducted from the fund for the administration of the
fund.

(a) The department of revenue may contract with a
private or public entity to administer all or part of the fund.
The total fees and obligations owed under any such contract
for a given income tax year must not exceed three percent of the
total amount credited to the fund for that income tax year.

(b) Notwithstanding any other provision of law, if the
department enters into a contract under this subsection (4), the
department may share with the contracting party such
taxpayer information as is necessary to implement this section.
A contracting party shall keep all information received from
THE DEPARTMENT CONFIDENTIAL AND ANY INDIVIDUAL WHO FAILS TO DO
SO IS GUILTY OF A MISDEMEANOR AND SUBJECT TO PUNISHMENT AS
SPECIFIED IN SECTION 39-21-113 (6).

39-22-5005. Initial funding - repeal. (1) The department of
revenue may seek, accept, and expend gifts, grants, or donations
from private or public sources for the purposes of implementing
the donate to a Colorado nonprofit fund, including but not
limited to creating information systems and procedures
necessary to collect and distribute designated contributions.

(2) If the department of revenue does not receive
sufficient funding to implement the donate to a Colorado
nonprofit fund from gifts, grants, and donations as described in
subsection (1) of this section on or before September 30, 2019,
this part 50 is repealed, effective October 1, 2019. The executive
director of the department shall notify the revisor of statutes,
in writing, if the department has not received the amounts
required by this subsection (2) on or before September 30, 2019.

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

39-22-1001. Limitations on voluntary contribution programs
- queue - notice - reestablishment of certain programs. (1) (b) There
shall be no requirement for a sunset clause for the homeless prevention
activities program fund voluntary contribution established in part 13 of
this article or ARTICLE 22, the western slope military veterans' cemetery
voluntary contribution established in part 19 of this article ARTICLE 22, OR
the donate to a Colorado nonprofit fund voluntary
contribution established in part 50 of this article 22. All other
voluntary contribution programs shall remain on Colorado income tax returns for the income tax years specified in the part in which the voluntary contribution is established and shall be repealed or reestablished as directed in such part.

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

(c) (I) Paragraphs (a) and (b) of this subsection (5) subsections (5)(a) and (5)(b) of this section shall not apply to the western slope military veterans' cemetery voluntary contribution established in part 19 of this article article 22 or the donate to a Colorado nonprofit fund voluntary contribution established in part 50 of this article. Such voluntary contribution contributions shall not be required to receive a minimum amount of contributions in any income tax year.

(11) (a) Notwithstanding any other provision of law, a taxpayer shall not designate to any voluntary contribution fund established in this article 22, or any combination of voluntary contribution funds established in this article 22, an amount in excess of the taxpayer's refund.

(b) If a taxpayer contributes an amount that exceeds the taxpayer's refund to a voluntary contribution fund or funds, the contribution in excess of the amount of the taxpayer's refund is void and the department shall refund the excess to the taxpayer. In refunding the excess amount, the department shall reduce each contribution designated by the taxpayer by a proportionate amount so that the total of all contributions
SECTION 3. In Colorado Revised Statutes, 39-21-113, add (25) as follows:

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

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