

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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.

SENATE
Amended 2nd Reading
February 21, 2018

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:

4 **PART 50**

5 **DONATE TO A COLORADO NONPROFIT FUND**

1 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;

1 (g) ALLOWING COLORADO TAXPAYERS TO DESIGNATE A
2 REGISTERED CHARITABLE ORGANIZATION OF THEIR CHOOSING THROUGH
3 A WRITE-IN LINE ON THE INDIVIDUAL INCOME TAX RETURN FORM WILL
4 ALLOW CHARITIES TO RAISE ADDITIONAL FUNDS EARLIER IN THE YEAR,
5 AND WILL INCREASE CHOICES FOR TAXPAYERS WHO WISH TO DONATE ALL
6 OR PART OF THEIR TAX REFUNDS; AND

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.

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

23 **39-22-5002. Voluntary contribution designation - procedure**
24 **- effective date. (1) (a) THE EXECUTIVE DIRECTOR SHALL ENSURE THAT**
25 **THE COLORADO STATE INDIVIDUAL INCOME TAX RETURN FORM CONTAINS**
26 **A LINE FOR THE DONATE TO A COLORADO NONPROFIT FUND IN THE FIRST**
27 **INCOME TAX YEAR:**

1 (I) IN WHICH THE DEPARTMENT HAS RECEIVED, ON OR BEFORE
2 AUGUST 15, SUFFICIENT FUNDS TO IMPLEMENT THIS PART 50 FROM GIFTS,
3 GRANTS, AND DONATIONS, PURSUANT TO SECTION 39-22-5005:

4 (II) THAT BEGINS ON OR AFTER JANUARY 1, 2019; AND

5 (III) THAT BEGINS AFTER THE YEAR IN WHICH THE EXECUTIVE
6 DIRECTOR FILES WRITTEN CERTIFICATION WITH THE REVISOR OF STATUTES
7 AS SPECIFIED IN SECTION 39-22-1001 (8) THAT A LINE ON THE INCOME TAX
8 RETURN FORM HAS BECOME AVAILABLE AND THE DONATE TO A COLORADO
9 NONPROFIT FUND, CREATED IN SECTION 39-22-5004, IS NEXT IN THE QUEUE
10 ESTABLISHED PURSUANT TO SECTION 39-22-1001 (8).

11 (b) THE EXECUTIVE DIRECTOR SHALL ENSURE THAT THE LINE FOR
12 THE DONATE TO A COLORADO NONPROFIT FUND APPEARS ON THE FORM IN
13 EACH TAX YEAR AFTER THE YEAR IT IS ADDED PURSUANT TO SUBSECTION
14 (1)(a) OF THIS SECTION. THE LINE MUST ALLOW EACH INDIVIDUAL
15 TAXPAYER TO DESIGNATE THE AMOUNT OF THE CONTRIBUTION, IF ANY,
16 AND THE NAME AND SUCH IDENTIFYING INFORMATION AS THE
17 DEPARTMENT OF REVENUE MAY REQUIRE OF A SINGLE CHARITABLE
18 ORGANIZATION FROM THE LIST OF ELIGIBLE CHARITABLE ORGANIZATIONS
19 PROVIDED UNDER SECTION 39-22-5003 TO RECEIVE THE CONTRIBUTION.

20 (2) If a line on the individual income tax return form
21 becomes available before THE REQUIREMENTS OF SUBSECTION (1)(a)
22 OF THIS SECTION ARE MET, and the donate to a Colorado nonprofit
23 fund is next in the queue established pursuant to section
24 39-22-1001 (8), the executive director shall file the written
25 certification as specified in section 39-22-1001 (8) and shall
26 ensure that the line on the form is reserved for the donate to a
27 Colorado nonprofit fund until THE REQUIREMENTS OF SUBSECTION

1 (1)(a) OF THIS SECTION ARE MET. NOTWITHSTANDING ANY OTHER
2 PROVISION OF LAW, THE EXECUTIVE DIRECTOR SHALL NOT USE THE LINE
3 FOR ANOTHER FUND FROM THE QUEUE. ==

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

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

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

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

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

26 (c) THE SECRETARY OF STATE SHALL PROVIDE THE LIST OF
27 ELIGIBLE CHARITABLE ORGANIZATIONS TO THE DEPARTMENT OF REVENUE

1 IN A DIGITAL FORMAT.

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

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

21 **39-22-5004. Contributions credited to the donate to a**
22 **Colorado nonprofit fund - creation - appropriation - distribution.**

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

1 SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT
2 AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

3 (2) THE DEPARTMENT OF REVENUE SHALL DETERMINE ANNUALLY
4 THE TOTAL AMOUNT DESIGNATED TO THE FUND AND THE TOTAL AMOUNTS
5 DESIGNATED TO EACH INDIVIDUAL ELIGIBLE CHARITABLE ORGANIZATION
6 PURSUANT TO SECTION 39-22-5002, AND SHALL REPORT THOSE AMOUNTS
7 TO THE STATE TREASURER AND TO THE GENERAL ASSEMBLY. THE STATE
8 TREASURER SHALL CREDIT TO THE FUND THE TOTAL AMOUNT DESIGNATED
9 TO THE FUND.

10 (3) THE GENERAL ASSEMBLY SHALL APPROPRIATE ANNUALLY
11 FROM THE FUND TO THE DEPARTMENT OF REVENUE, THE SECRETARY OF
12 STATE, AND THE STATE TREASURER ITS ACTUAL, REASONABLE COSTS OF
13 IMPLEMENTING THIS PART 50. AFTER THE APPROPRIATIONS TO THE
14 DEPARTMENT OF REVENUE, THE SECRETARY OF STATE, AND THE STATE
15 TREASURER ARE DEDUCTED, THE STATE TREASURER SHALL DISTRIBUTE
16 THE REMAINING FUNDS TO THE ELIGIBLE CHARITABLE ORGANIZATIONS AS
17 DESIGNATED BY TAXPAYERS AFTER A REDUCTION PROPORTIONATE TO THE
18 AMOUNT DEDUCTED FROM THE FUND FOR THE ADMINISTRATION OF THE
19 FUND.

20 (4) THE DEPARTMENT IS NOT LIABLE TO A TAXPAYER OR TO AN
21 ELIGIBLE CHARITABLE ORGANIZATION FOR ANY ERROR IN DISTRIBUTING A
22 CONTRIBUTION UNDER THIS PART 50. ---

23 **39-22-5005. Initial funding - repeal.** (1) THE DEPARTMENT OF
24 REVENUE MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS
25 FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF IMPLEMENTING
26 THE DONATE TO A COLORADO NONPROFIT FUND, INCLUDING BUT NOT
27 LIMITED TO CREATING INFORMATION SYSTEMS AND PROCEDURES

1 NECESSARY TO COLLECT AND DISTRIBUTE DESIGNATED CONTRIBUTIONS.
2 THE DEPARTMENT SHALL TRANSMIT ALL MONEY RECEIVED THROUGH
3 GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL
4 CREDIT THE MONEY TO THE DONATE TO A COLORADO NONPROFIT FUND
5 CREATED IN SECTION 39-22-5004 (1).

6 (2) THIS PART 50 IS REPEALED IF THE DEPARTMENT OF REVENUE
7 DOES NOT RECEIVE SUFFICIENT FUNDING TO IMPLEMENT THE DONATE TO
8 A COLORADO NONPROFIT FUND FROM GIFTS, GRANTS, AND DONATIONS AS
9 DESCRIBED IN SUBSECTION (1) OF THIS SECTION ON OR BEFORE SEPTEMBER
10 30, 2020. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL NOTIFY
11 THE REVISOR OF STATUTES IN WRITING IF THE DEPARTMENT HAS NOT
12 RECEIVED THE AMOUNTS REQUIRED BY THIS SUBSECTION (2) ON OR BEFORE
13 SEPTEMBER 30, 2020, BY E-MAILING THE NOTICE TO
14 REVISOROFSTATUTES.GA@STATE.CO.US. THIS PART 50 IS REPEALED,
15 EFFECTIVE UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

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

18 **39-22-1001. Limitations on voluntary contribution programs**
19 **- queue - notice - reestablishment of certain programs.** (1) (b) There
20 shall be no requirement for a sunset clause for the homeless prevention
21 activities program fund voluntary contribution established in part 13 of
22 this ~~article~~ or ARTICLE 22, the western slope military veterans' cemetery
23 voluntary contribution established in part 19 of this ~~article~~ ARTICLE 22, OR
24 THE DONATE TO A COLORADO NONPROFIT FUND VOLUNTARY
25 CONTRIBUTION ESTABLISHED IN PART 50 OF THIS ARTICLE 22. All other
26 voluntary contribution programs shall remain on Colorado income tax
27 returns for the income tax years specified in the part in which the

1 voluntary contribution is established and shall be repealed or
2 reestablished as directed in such part.

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

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

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

19 (b) IF A TAXPAYER CONTRIBUTES AN AMOUNT THAT EXCEEDS THE
20 TAXPAYER'S REFUND TO A VOLUNTARY CONTRIBUTION FUND OR FUNDS,
21 THE CONTRIBUTION IN EXCESS OF THE AMOUNT OF THE TAXPAYER'S
22 REFUND IS VOID AND THE DEPARTMENT SHALL REFUND THE EXCESS TO THE
23 TAXPAYER. IN REFUNDING THE EXCESS AMOUNT, THE DEPARTMENT SHALL
24 REDUCE EACH CONTRIBUTION DESIGNATED BY THE TAXPAYER BY A
25 PROPORTIONATE AMOUNT SO THAT THE TOTAL OF ALL CONTRIBUTIONS
26 DOES NOT EXCEED THE AMOUNT OF THE TAXPAYER'S REFUND.

27

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