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SENATE BILL 18-141

BY SENATOR(S) Court, Aguilar, Crowder, Donovan, Fenberg, Fields, Garcia, Guzman, Jahn, Jones, Kagan, Kerr, Lundberg, Martinez Humenik, Merrifield, Tate, Todd, Williams A., Zenzinger;
also REPRESENTATIVE(S) Wilson and Hansen, Liston, Michaelson Jenet, Pettersen, Rosenthal, Saine.

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

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

SECTION 1. In Colorado Revised Statutes, **add** part 51 to article 22 of title 39 as follows:

PART 51
DONATE TO A COLORADO NONPROFIT FUND
VOLUNTARY CONTRIBUTION

39-22-5101. 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

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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;

(g) 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

(h) 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.

(2) 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.

39-22-5102. Voluntary contribution designation - procedure - effective date. (1) (a) THE EXECUTIVE DIRECTOR SHALL ENSURE THAT THE COLORADO STATE INDIVIDUAL INCOME TAX RETURN FORM CONTAINS A LINE FOR THE DONATE TO A COLORADO NONPROFIT FUND IN THE FIRST INCOME TAX YEAR:

(I) IN WHICH THE DEPARTMENT HAS RECEIVED, ON OR BEFORE AUGUST 15, SUFFICIENT FUNDS TO IMPLEMENT THIS PART 51 FROM GIFTS, GRANTS, AND DONATIONS, PURSUANT TO SECTION 39-22-5105;

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

(III) THAT BEGINS AFTER THE YEAR IN WHICH THE EXECUTIVE DIRECTOR FILES WRITTEN CERTIFICATION WITH THE REVISOR OF STATUTES AS SPECIFIED IN SECTION 39-22-1001 (8) THAT A LINE ON THE INCOME TAX RETURN FORM HAS BECOME AVAILABLE AND THE DONATE TO A COLORADO NONPROFIT FUND, CREATED IN SECTION 39-22-5104, IS NEXT IN THE QUEUE ESTABLISHED PURSUANT TO SECTION 39-22-1001 (8).

(b) THE EXECUTIVE DIRECTOR SHALL ENSURE THAT THE LINE FOR THE DONATE TO A COLORADO NONPROFIT FUND APPEARS ON THE FORM IN EACH TAX YEAR AFTER THE YEAR IT IS ADDED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION. THE LINE MUST ALLOW EACH INDIVIDUAL TAXPAYER TO DESIGNATE THE AMOUNT OF THE CONTRIBUTION, IF ANY, AND THE NAME AND SUCH IDENTIFYING INFORMATION AS THE DEPARTMENT OF REVENUE MAY REQUIRE OF A SINGLE CHARITABLE ORGANIZATION FROM THE LIST OF ELIGIBLE CHARITABLE ORGANIZATIONS PROVIDED UNDER SECTION 39-22-5103 TO RECEIVE THE CONTRIBUTION.

(2) IF A LINE ON THE INDIVIDUAL INCOME TAX RETURN FORM

BECOMES AVAILABLE BEFORE THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION ARE MET, AND THE DONATE TO A COLORADO NONPROFIT FUND IS NEXT IN THE QUEUE ESTABLISHED PURSUANT TO SECTION 39-22-1001 (8), THE EXECUTIVE DIRECTOR SHALL FILE THE WRITTEN CERTIFICATION AS SPECIFIED IN SECTION 39-22-1001 (8) AND SHALL ENSURE THAT THE LINE ON THE FORM IS RESERVED FOR THE DONATE TO A COLORADO NONPROFIT FUND UNTIL THE REQUIREMENTS OF SUBSECTION (1)(a) OF THIS SECTION ARE MET. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXECUTIVE DIRECTOR SHALL NOT USE THE LINE FOR ANOTHER FUND FROM THE QUEUE.

(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 DONATE TO A COLORADO NONPROFIT FUND UNDER THIS SECTION.

39-22-5103. List of eligible charitable organizations. (1) (a) ON OR BEFORE SEPTEMBER 1, 2019, AND ON OR BEFORE SEPTEMBER 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) HAVE BEEN REGISTERED WITH THE SECRETARY OF STATE UNDER THE "COLORADO CHARITABLE SOLICITATIONS ACT", ARTICLE 16 OF TITLE 6, FOR AT LEAST FIVE YEARS AS OF THE DATE THE LIST IS GENERATED;

(II) BE 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

(III) 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 39-22-5102.

(3) A TAXPAYER MAY DESIGNATE ONE CHARITY FROM THE LIST MADE AVAILABLE BY THE DEPARTMENT OF REVENUE FOR THE TAX YEAR FOR WHICH THE TAXPAYER IS FILING A RETURN USING THE DONATE TO A COLORADO NONPROFIT FUND VOLUNTARY CONTRIBUTION LINE CREATED IN SECTION 39-22-5102. IF A TAXPAYER DESIGNATES AN ORGANIZATION THAT IS NOT ELIGIBLE UNDER THIS SECTION, OR IF THE DEPARTMENT OF REVENUE CANNOT DETERMINE WHICH CHARITABLE ORGANIZATION A TAXPAYER HAS DESIGNATED, THE CONTRIBUTION IS VOID.

39-22-5104. 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 51 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.

(2) 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 39-22-5102, 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.

(3) 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 51. 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.

(4) THE DEPARTMENT IS NOT LIABLE TO A TAXPAYER OR TO AN ELIGIBLE CHARITABLE ORGANIZATION FOR ANY ERROR IN DISTRIBUTING A CONTRIBUTION UNDER THIS PART 51.

39-22-5105. 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. THE DEPARTMENT SHALL TRANSMIT ALL MONEY RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE DONATE TO A COLORADO NONPROFIT FUND CREATED IN SECTION 39-22-5104 (1).

(2) THIS PART 51 IS REPEALED 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, 2020. 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, 2020, BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS PART 51 IS REPEALED, EFFECTIVE UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

SECTION 2. In Colorado Revised Statutes, 39-22-1001, **amend** (1)(b) and (5)(c)(I) 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 51 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 51 OF THIS ARTICLE 22. Such voluntary ~~contribution~~ CONTRIBUTIONS shall not be required to receive a minimum amount of contributions in any income tax year.

SECTION 3. 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.

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO