

116TH CONGRESS  
1ST SESSION

# S. 761

To amend title 31, United States Code, to allow the heads of certain Executive departments to accept conditional gifts on behalf of Executive departments, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 12, 2019

Mr. ENZI (for himself and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend title 31, United States Code, to allow the heads of certain Executive departments to accept conditional gifts on behalf of Executive departments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Donations for Our Na-  
5 tion’s Advancement, Transformation, and Enhancement  
6 Act” or the “DONATE Act”.

1 **SEC. 2. ACCEPTANCE OF CONDITIONAL GIFTS.**

2 (a) IN GENERAL.—Subchapter III of chapter 13 of  
3 title 31, United States Code, is amended by adding at the  
4 end the following:

5 **“§ 1356. Acceptance of conditional gifts**

6 “(a) DEFINITION.—In this section—

7 “(1) the term ‘covered conditional gift’ means a  
8 conditional gift accepted under subsection (b); and

9 “(2) the term ‘Executive department’ means—

10 “(A) the Department of Agriculture;

11 “(B) the Department of Commerce;

12 “(C) the Department of Education;

13 “(D) the Department of Energy;

14 “(E) the Department of Homeland Secu-  
15 rity;

16 “(F) the Department of Housing and  
17 Urban Development;

18 “(G) the Department of the Interior;

19 “(H) the Department of Justice;

20 “(I) the Department of Labor;

21 “(J) the Department of the Treasury; or

22 “(K) the Department of Veterans Affairs.

23 “(b) ACCEPTANCE.—

24 “(1) IN GENERAL.—Notwithstanding any other  
25 provision of law, and subject to paragraph (2), the  
26 head of each Executive department may, at the dis-

1       cretion of the head of the Executive department, ac-  
2       cept a conditional gift on behalf of the Executive de-  
3       partment if the conditional gift is made—

4                   “(A) in cash; and

5                   “(B) by an individual who is a citizen of  
6       the United States.

7       “(2) LIMITATION ON ACCEPTANCE.—A condi-  
8       tional gift may not be accepted under paragraph (1)  
9       if the conditional gift is conditioned upon carrying  
10      out any act or purpose that will require an expendi-  
11      ture of funds in an amount that exceeds the amount  
12      of the conditional gift, unless the expenditure has  
13      been approved by an Act of Congress.

14      “(c) LIMITATION ON USE.—The principal of and in-  
15      come from any covered conditional gift shall be held, in-  
16      vested, reinvested, and used in accordance with the condi-  
17      tions of the conditional gift, except that the principal of  
18      and income from a conditional gift may not be invested  
19      or reinvested in a manner in which the principal of or in-  
20      come from the conditional gift will accrue interest.

21      “(d) BUDGET JUSTIFICATIONS.—In the annual  
22      budget justification submitted by each Executive depart-  
23      ment, the head of the Executive department shall include,  
24      with respect to the year preceding the date on which the  
25      budget justification is submitted, a statement of—

1           “(1) each covered conditional gift accepted on  
2           behalf of the Executive department during the year  
3           preceding the date on which the annual budget jus-  
4           tification is submitted;

5           “(2) how each covered conditional gift described  
6           in paragraph (1) was used by the Executive depart-  
7           ment; and

8           “(3) as applicable, the account or fund in which  
9           the funds from each covered gift described in para-  
10          graph (1) are deposited.

11          “(e) DEFICIT REDUCTION.—If funds from a covered  
12          conditional gift remain unexpended after carrying out the  
13          conditional act or purpose of the covered conditional gift  
14          and are not required to carry out any other conditional  
15          act or purpose of the covered conditional gift—

16                 “(1) the head of the Executive department to  
17                 which the covered conditional gift was made may, at  
18                 the discretion of the head of the Executive depart-  
19                 ment, transfer the remaining funds to the Secretary  
20                 of the Treasury; and

21                 “(2) the Secretary of the Treasury shall—

22                         “(A) deposit any remaining funds trans-  
23                         ferred under paragraph (1) in the general fund  
24                         of the Treasury; and

1           “(B) dedicate any remaining funds trans-  
2           ferred under paragraph (1) for the sole purpose  
3           of deficit reduction.

4           “(f) CERTAIN INSUFFICIENT CONDITIONAL GIFTS.—  
5 If a head of an Executive department accepts a covered  
6 conditional gift that is made in an amount that is insuffi-  
7 cient to meet the cost of carrying out any conditional act  
8 or purpose of the conditional gift, the acceptance shall not  
9 obligate the Executive department to expend any funds to  
10 carry out the conditional act or purpose.”.

11           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
12 The table of sections for subchapter III of chapter 13 of  
13 title 31, United States Code, is amended by adding at the  
14 end the following:

“1356. Acceptance of conditional gifts.”.

15 **SEC. 3. GAO REPORT RELATING TO GIFTS ACCEPTED ON**  
16 **BEHALF OF EXECUTIVE DEPARTMENTS.**

17           (a) DEFINITIONS.—In this section—

18           (1) the term “Executive department” has the  
19 meaning given the term in section 101 of title 5,  
20 United States Code; and

21           (2) the term “gift” means any conditional or  
22 unconditional gift made to an Executive department.

23           (b) REPORT.—Not later than 1 year after the date  
24 of enactment of this Act, the Comptroller General of the  
25 United States shall submit to the Committee on Homeland

1 Security and Governmental Affairs of the Senate and the  
2 Committee on Oversight and Reform of the House of Rep-  
3 resentatives a report that shall include—

4 (1) with respect to the year preceding the date  
5 on which the report is submitted, a statement of—

6 (A) the source of each gift made to the Ex-  
7 ecutive department during that period;

8 (B) how each gift described in subpara-  
9 graph (A) was, is being, or will be used; and

10 (C) the account or fund in which the funds  
11 from each gift described in subparagraph (A)  
12 are deposited;

13 (2) a description of the process that each Exec-  
14 utive department uses to—

15 (A) manage any gifts made to the Execu-  
16 tive department; and

17 (B) ensure that all gifts made to the Exec-  
18 utive department are efficiently used; and

19 (3) recommendations for Executive departments  
20 relating to enhancing the management and use of  
21 any gifts made to Executive departments.

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