

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. 18-0366.01 Bob Lackner x4350

**HOUSE BILL 18-1047**

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**HOUSE SPONSORSHIP**

**Lontine,**

**SENATE SPONSORSHIP**

**Gardner,**

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**House Committees**

State, Veterans, & Military Affairs

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING TECHNICAL MODIFICATIONS TO THE "FAIR CAMPAIGN**  
102 **PRACTICES ACT" TO FACILITATE ITS ADMINISTRATION.**

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**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>.)*

The bill makes technical modifications to the "Fair Campaign Practices Act" (FCPA) to facilitate its administration. Specifically:

- ! **Sections 1, 3, and 7** of the bill modify various existing statutory provisions to reflect distinctions among different types of committees or other entities.
- ! **Sections 2 and 3** eliminate unnecessary, overly

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.

HOUSE  
Amended 2nd Reading  
February 20, 2018

burdensome, and potentially unconstitutional double reporting of certain campaign contributions.

- ! **Sections 3 and 4** clean up and correct errors that resulted from campaign finance legislation adopted during the 2016 regular session.
- ! **Section 4** also removes certain paper-filing provisions that are rendered obsolete by electronic filing. Further, section 4 permits the secretary of state to give notice of certain campaign finance reporting deficiencies by regular mail if an e-mail address is not known.
- ! **Sections 5 and 6** clarify procedures to be followed in connection with a person's failure to file a candidate affidavit or disclosure statement and the investigation of campaign finance violations. Section 6 also allows the parties in a campaign finance enforcement action in which attorney fees and costs have been awarded to apply to the district court to convert an award of fees and costs into a district court judgment.
- ! **Section 8** allows the secretary of state discretion in deciding whether to forward to the state controller the collections of past-due debts resulting from campaign finance violations.

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

2 **SECTION 1.** In Colorado Revised Statutes, 1-45-103, **amend**  
3 (10); and **add** (6)(d) and (6)(e) as follows:

4 **1-45-103. Definitions - repeal.** (6) (d) "CONTRIBUTION" DOES  
5 NOT INCLUDE THE PAYMENT OF LEGAL FEES TO ADVISE A CANDIDATE ON  
6 COMPLIANCE WITH CAMPAIGN LAWS OR REGULATIONS OR TO REPRESENT  
7 A CANDIDATE OR CANDIDATE COMMITTEE IN ANY ACTION IN WHICH THE  
8 CANDIDATE OR COMMITTEE HAS BEEN NAMED AS A DEFENDANT. SUCH  
9 LEGAL SERVICES ARE NOT UNDERTAKEN "FOR THE BENEFIT OF ANY  
10 CANDIDATE COMMITTEE" OR "FOR THE PURPOSE OF PROMOTING THE  
11 CANDIDATE'S NOMINATION, RETENTION, RECALL, OR ELECTION" AS THOSE  
12 PHRASES ARE USED IN SECTION 2 (5)(a)(II) AND (5)(a)(IV) OF ARTICLE  
13 XXVIII OF THE STATE CONSTITUTION.

1 (e) "CONTRIBUTION" DOES NOT INCLUDE AN INTERVENTION BY THE  
2 SECRETARY OF STATE, AS AUTHORIZED BY SECTION 1-45-111.5 (1.5)(g),  
3 IN ANY ACTION BROUGHT TO ENFORCE THE PROVISIONS OF ARTICLE  
4 XXVIII OF THE STATE CONSTITUTION OR THIS ARTICLE 45.

5 (10) (a) "Expenditure" ~~shall have~~ HAS the same meaning as set  
6 forth in section 2 (8) of article XXVIII of the state constitution.

7 (b) "EXPENDITURE" DOES NOT INCLUDE LEGAL SERVICES PAID TO  
8 DEFEND A CANDIDATE OR CANDIDATE COMMITTEE AGAINST ANY ACTION  
9 BROUGHT TO ENFORCE THE PROVISIONS OF ARTICLE XXVIII OF THE STATE  
10 CONSTITUTION OR THIS ARTICLE 45.

11 **SECTION 2.** In Colorado Revised Statutes, 1-45-103.7, **amend**  
12 (2.5) and (8) as follows:

13 **1-45-103.7. Contribution limits - treatment of independent**  
14 **expenditure committees - contributions from limited liability**  
15 **companies - voter instructions on spending limits - definitions.**

16 (2.5) (a) AN INDEPENDENT EXPENDITURE COMMITTEE DIFFERS FROM A  
17 POLITICAL COMMITTEE IN THAT AN INDEPENDENT EXPENDITURE  
18 COMMITTEE DOES NOT COORDINATE ITS ACTIVITIES WITH A CANDIDATE OR  
19 POLITICAL PARTY.

20 (b) An independent expenditure committee shall not be treated as  
21 a political committee and, therefore, ~~shall not be~~ IS NOT subject to the  
22 requirements of section 3 (5) of article XXVIII of the state constitution.

23 (8) As used in this section, "limited liability company" ~~includes~~  
24 ~~any form of domestic entity~~ HAS THE SAME MEANING AS "DOMESTIC  
25 LIMITED LIABILITY COMPANY" as defined in ~~section 7-90-102 (13), C.R.S.;~~  
26 SECTION 7-90-102 (15) or ~~foreign entity~~ "FOREIGN LIMITED LIABILITY  
27 COMPANY" as defined in ~~section 7-90-102 (23), C.R.S.;~~ except that, as

1 ~~used in this section, "limited liability company" shall not include a~~  
2 ~~domestic corporation, a domestic cooperative, a domestic nonprofit~~  
3 ~~association, a domestic nonprofit corporation, a foreign corporation, a~~  
4 ~~foreign cooperative, a foreign nonprofit association, a foreign nonprofit~~  
5 ~~corporation, as those terms are defined in section 7-90-102, C.R.S., a~~  
6 ~~nondomestic corporation as defined in section 1-45-103 (7), or a foreign~~  
7 ~~corporation as defined in section 1-45-103 (10.5) SECTION 7-90-102 (24).~~

8 **SECTION 3.** In Colorado Revised Statutes, 1-45-107.5, **repeal**  
9 (9) as follows:

10 **1-45-107.5. Independent expenditures - restrictions on foreign**  
11 **corporations - registration - disclosure - disclaimer requirements.**

12 (9) (a) ~~Any person that donates one thousand dollars or more to any~~  
13 ~~person during any one calendar year for the purpose of making an~~  
14 ~~independent expenditure shall report the donation in accordance with the~~  
15 ~~schedule specified in section 1-45-108 (2) for political committees;~~  
16 ~~except that no report is required for any reporting period in which no~~  
17 ~~donation is made.~~

18 (b) ~~On an annual basis, the secretary of state shall forward to the~~  
19 ~~department of revenue a summary of the donation reports filed under~~  
20 ~~paragraph (a) of this subsection (9) during the preceding calendar year,~~  
21 ~~and the department shall use such information to ensure that no~~  
22 ~~independent expenditure committee or person, or donor to such~~  
23 ~~committee or person that has filed a report under paragraph (a) of this~~  
24 ~~subsection (9), has deducted any amounts paid for the purpose of making~~  
25 ~~one or more independent expenditures in establishing such committee's,~~  
26 ~~person's, or donor's state income tax liability. The department may use its~~  
27 ~~audit and enforcement authority under section 24-35-108, C.R.S., to~~

1 ensure the collection of unpaid or delinquent taxes owed by independent  
2 expenditure committees, persons that have paid for independent  
3 expenditures, or donors to such committees or persons that have filed a  
4 report under paragraph (a) of this subsection (9).

5 **SECTION 4.** In Colorado Revised Statutes, 1-45-108, **amend**  
6 (1)(a)(III), (2.5), (7)(a) introductory portion, and (7)(a)(I); and **add**  
7 (1)(a)(V) as follows:

8 **1-45-108. Disclosure - definition - repeal.** (1) (a) (III) Any  
9 person who expends one thousand dollars or more per calendar year on  
10 electioneering communications or regular biennial school electioneering  
11 communications shall report to the secretary of state, in accordance with  
12 the disclosure required by this section, the amount expended on the  
13 communications and the name and address of any person that contributes  
14 more than two hundred fifty dollars per year to the person expending one  
15 thousand dollars or more on the communications. If the person making a  
16 contribution of more than two hundred fifty dollars is a natural person,  
17 the disclosure required by this section must also include the person's  
18 occupation and employer. ELECTIONEERING COMMUNICATION REPORTS  
19 MUST INCLUDE THE NAME OF THE CANDIDATE OR CANDIDATES  
20 UNAMBIGUOUSLY REFERRED TO IN THE ELECTIONEERING COMMUNICATION  
21 OR REGULAR BIENNIAL SCHOOL ELECTIONEERING COMMUNICATION.

22 (V) ANY DISBURSEMENT NOT OTHERWISE DEFINED AS AN  
23 EXPENDITURE MAY BE REPORTED TO THE APPROPRIATE OFFICER.

24 (2.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (2.5)(b) OF THIS  
25 SECTION, AND in addition to any report required to be filed with the  
26 secretary of state or municipal clerk under this section, all candidate  
27 committees, ~~political committees~~, issue committees, and political parties

1 ~~shall~~ MUST file a report with the secretary of state of any contribution of  
2 one thousand dollars or more at any time within thirty days preceding the  
3 date of the primary election, general election, or regular biennial school  
4 election. This report shall be filed with the secretary of state no later than  
5 twenty-four hours after receipt of said contribution.

6 (b) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2.5)(a)  
7 OF THIS SECTION, THE FOLLOWING COMMITTEES NEED NOT FILE THE  
8 REPORTS DESCRIBED IN SUBSECTION (2.5)(a) OF THIS SECTION IN THE  
9 FOLLOWING INSTANCES:

10 (I) AN ISSUE COMMITTEE NEED NOT REPORT A CONTRIBUTION OF  
11 ONE THOUSAND DOLLARS OR MORE PRECEDING A PRIMARY ELECTION;

12 (II) A COMMITTEE FOR A CANDIDATE NOT ON THE BALLOT NEED  
13 NOT REPORT A CONTRIBUTION OF ONE THOUSAND DOLLARS OR MORE  
14 DURING THE OFF-ELECTION YEAR; AND

15 (III) A CANDIDATE OR CANDIDATE COMMITTEE FOR SCHOOL BOARD  
16 NEED NOT REPORT A CONTRIBUTION OF ONE THOUSAND DOLLARS OR MORE  
17 DURING THE OFF-ELECTION YEAR.

18 (7) (a) Notwithstanding any other provision of law, and subject to  
19 ~~the provisions of paragraph (b) of this subsection (7)~~ SUBSECTION (7)(b)  
20 OF THIS SECTION, a matter ~~shall be~~ IS considered ~~to be~~ a ballot issue or A  
21 ballot question for the purpose of determining whether an issue  
22 committee has been formally established, thereby necessitating  
23 compliance with any disclosure and reporting requirements of this ~~article~~  
24 ARTICLE 45 and article XXVIII of the state constitution, at the earliest of  
25 the following:

26 (I) A title for the matter has been designated and fixed in  
27 accordance with law AND ANY MOTION FOR REHEARING HAS BEEN HEARD;

1           **SECTION 5.** In Colorado Revised Statutes, 1-45-109, **amend** (1)  
2 introductory portion, (1)(a)(I), (2)(a), (4)(a), (4)(b), and (4)(c)(I) as  
3 follows:

4           **1-45-109. Filing - where to file - timeliness - definition.** (1) For  
5 the purpose of meeting the filing and reporting requirements of this ~~article~~  
6 ARTICLE 45:

7           (a) The following shall file with the secretary of state:

8           (I) Candidates for statewide office, the general assembly, district  
9 attorney, district court judge, SCHOOL DISTRICT DIRECTOR, or any office  
10 representing more than one county; the candidate committees for such  
11 candidates; political committees in support of or in opposition to such  
12 candidates; issue committees in support of or in opposition to an issue on  
13 the ballot in more than one county; small donor committees making  
14 contributions to such candidates; and persons expending one thousand  
15 dollars or more per calendar year on electioneering communications.

16           (2) (a) Reports required to be filed by this ~~article~~ ARTICLE 45 are  
17 timely if received by the appropriate officer not later than the close of  
18 business on the due date. ~~Reports may be filed by fax and are timely if~~  
19 ~~received by the appropriate officer not later than the close of business on~~  
20 ~~the due date only if an original of the report is received by the appropriate~~  
21 ~~officer within seven days of the due date.~~

22           (4) (a) All reports required to be filed by this ~~article~~ ARTICLE 45  
23 are public records and ~~shall be~~ ARE open to inspection by the public  
24 during regular business hours. A copy of the report ~~shall~~ MUST be kept by  
25 the appropriate officer and a copy shall be made available immediately in  
26 a file for public inspection. WHEN THE SECRETARY OF STATE IS THE  
27 APPROPRIATE OFFICER, THE SECRETARY SHALL MAKE REPORTS VIEWABLE

1 ON THE SECRETARY OF STATE'S OFFICIAL WEBSITE.

2 (b) Any report that is deemed ~~to be~~ incomplete by the appropriate  
3 officer ~~shall~~ MUST be accepted ~~on a conditional basis~~ and the committee  
4 must be notified ~~by mail as to any deficiencies found~~ OF THE DEFICIENCY.

5 If an e-mail address is on file with the secretary of state, the secretary of  
6 state may provide such notification by e-mail. The committee has ~~fifteen~~  
7 ~~business~~ THIRTY CALENDAR days from the date such notice is sent,  
8 whether electronically or by United States mail, to file an addendum that  
9 cures the deficiencies.

10 (c) (I) Upon receipt of a complaint brought under section 9 (2)(a)  
11 of article XXVIII of the state constitution alleging a failure to file other  
12 information required to be filed or disclosed pursuant to article XXVIII  
13 of the state constitution or this article 45, the secretary of state shall give  
14 notice to the committee by e-mail, OR BY REGULAR MAIL IF AN E-MAIL  
15 ADDRESS IS NOT KNOWN, of the deficiencies alleged in the complaint.  
16 Service of the notice does not toll or otherwise affect the three-day period  
17 during which the secretary of state is required to refer a complaint to an  
18 administrative law judge pursuant to section 9 (2)(a) of article XXVIII of  
19 the state constitution. Upon receipt of the notice from the secretary of  
20 state, the committee may request from the appropriate officer a  
21 postponement of the hearing brought under section 9 (2)(a) of article  
22 XXVIII of the state constitution and, if such request is timely submitted,  
23 has fifteen business days from the date of the notice to file an addendum  
24 to the relevant report that cures any such deficiencies in the disclosure  
25 specified in the notice. The committee shall also provide the complainant  
26 notice of the entity's intent to cure and a copy of the addendum on the  
27 same day that the addendum is filed with the secretary of state. Where the



1 committee files an addendum that cures all deficiencies alleged in the  
2 complaint before the expiration of the fifteen-day period specified in this  
3 subsection (4)(c)(I), the appropriate officer shall not assess a penalty  
4 against the committee that otherwise would have been assessed for the  
5 deficiencies for the period from the first date of the alleged violation  
6 through the expiration of the cure period.

7 **SECTION 6.** In Colorado Revised Statutes, 1-45-110, **amend** (3)  
8 as follows:

9 **1-45-110. Candidate affidavit - disclosure statement.**

10 ~~(3) Failure of any person to file the affidavit or the disclosure statement~~  
11 ~~required by subsection (2) of this section shall result in the~~  
12 ~~disqualification of such person as a candidate for the office being sought.~~  
13 ~~Disqualification shall occur only after the designated election official~~  
14 ~~certifying the ballot pursuant to section 1-5-203 (3)(a) has sent a notice~~  
15 ~~to the person by certified mail, return receipt requested, addressed to the~~  
16 ~~person's mailing address. The notice shall state that the person will be~~  
17 ~~disqualified as a candidate if the person fails to file the appropriate~~  
18 ~~document within five business days of receipt of the notice~~ IF ANY  
19 PERSON FAILS TO FILE THE AFFIDAVIT OR THE DISCLOSURE STATEMENT  
20 REQUIRED BY SUBSECTION (2) OF THIS SECTION, THE DESIGNATED  
21 ELECTION OFFICIAL CERTIFYING THE BALLOT IN ACCORDANCE WITH  
22 SECTION 1-5-203 (3)(a) SHALL SEND A NOTICE TO THE PERSON BY  
23 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE PERSON'S MAILING  
24 ADDRESS. THE NOTICE MUST STATE THAT THE PERSON WILL BE  
25 DISQUALIFIED AS A CANDIDATE IF THE PERSON FAILS TO FILE THE  
26 APPROPRIATE DOCUMENT WITHIN FIVE BUSINESS DAYS OF THE RECEIPT OF  
27 THE NOTICE. IF THE PERSON FAILS TO FILE THE APPROPRIATE DOCUMENT

1 WITHIN THAT TIME FRAME, THE DESIGNATED ELECTION OFFICIAL SHALL  
2 DISQUALIFY THE CANDIDATE.

3 **SECTION 7.** In Colorado Revised Statutes, 1-45-111.5, **amend**  
4 **(1.5)(a) and (2); and add (1.5)(g) as follows:**

5 **1-45-111.5. Duties of the secretary of state - enforcement -**  
6 **sanctions - definition.** (1.5) (a) Any person who believes that a violation  
7 of either the secretary of state's rules concerning campaign and political  
8 finance or this ~~article~~ ARTICLE 45 has occurred may file a written  
9 complaint with the secretary of state not later than one hundred eighty  
10 days after the date of the occurrence of the alleged violation. The  
11 complaint ~~shall be~~ IS subject to all applicable procedures specified in  
12 section 9 (2) of article XXVIII of the state constitution. THE PERSON  
13 FILING THE COMPLAINT MUST SERVE THE COMPLAINT ON THE RESPONDENT  
14 BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ON THE SAME DAY THE  
15 PERSON FILES THE COMPLAINT WITH THE SECRETARY OF STATE. THE  
16 PERSON FILING THE COMPLAINT MUST STATE FACTUAL ALLEGATIONS OF A  
17 VIOLATION. FOR PURPOSES OF THIS SECTION AND SECTION 9 (2) OF ARTICLE  
18 XXVIII OF THE STATE CONSTITUTION, "COMPLAINT" MEANS A SIGNED  
19 DOCUMENT THAT ALLEGES A VIOLATION OF ARTICLE XXVIII OF THE STATE  
20 CONSTITUTION OR OF THIS ARTICLE 45.

21 (g) THE SECRETARY OF STATE HAS, AS A MATTER OF RIGHT, THE  
22 RIGHT TO INTERVENE IN ANY ACTION PENDING BEFORE THE OFFICE OF  
23 ADMINISTRATIVE COURTS OR THE COURT OF APPEALS THAT IS BROUGHT TO  
24 ENFORCE THE PROVISIONS OF ARTICLE XXVIII OF THE STATE  
25 CONSTITUTION OR THIS ARTICLE.

26 (2) A party in any action brought to enforce the provisions of  
27 article XXVIII of the state constitution or of this ~~article shall be~~ ARTICLE

1 45 IS entitled to the recovery of the party's reasonable attorney fees and  
2 costs from any attorney or party who has brought or defended the action,  
3 either in whole or in part, upon a determination by the office of  
4 administrative courts that the action, or any part thereof, lacked  
5 substantial justification or that the action, or any part thereof, was  
6 ~~interposed~~ COMMENCED for delay or harassment or if it finds that an  
7 attorney or party unnecessarily expanded the proceeding by other  
8 improper conduct, including ~~but not limited to~~, abuses of discovery  
9 procedures available under the Colorado rules of civil procedure.  
10 Notwithstanding any other provision of this subsection (2), no attorney  
11 fees may be awarded under this subsection (2) unless the court or  
12 administrative law judge, as applicable, has first considered AND ISSUED  
13 WRITTEN FINDINGS REGARDING the provisions of section 13-17-102 (5)  
14 and (6). ~~C.R.S.~~ EITHER PARTY IN AN ACTION IN WHICH THE OFFICE OF  
15 ADMINISTRATIVE COURTS AWARDED ATTORNEY FEES AND COSTS MAY  
16 APPLY TO A DISTRICT COURT TO CONVERT AN AWARD OF ATTORNEY FEES  
17 AND COSTS INTO A DISTRICT COURT JUDGMENT. PROMPTLY UPON THE  
18 CONVERSION OF THE AWARD OF ATTORNEY FEES AND COSTS INTO A  
19 DISTRICT COURT JUDGMENT, THE CLERK OF THE DISTRICT COURT SHALL  
20 MAIL NOTICE OF THE FILING OF THE JUDGMENT TO THE JUDGMENT DEBTOR  
21 AT THE ADDRESS GIVEN AND SHALL MAKE A NOTE OF THE MAILING IN THE  
22 DOCKET. THE NOTICE MUST INCLUDE THE NAME AND POST-OFFICE  
23 ADDRESS OF THE JUDGMENT CREDITOR AND THE JUDGMENT CREDITOR'S  
24 LAWYER, IF ANY, IN THIS STATE. IN ADDITION, THE JUDGMENT CREDITOR  
25 MAY MAIL A NOTICE OF THE FILING OF THE JUDGMENT TO THE JUDGMENT  
26 DEBTOR AND MAY FILE PROOF OF MAILING WITH THE CLERK. LACK OF  
27 MAILING NOTICE OF FILING BY THE CLERK SHALL NOT AFFECT THE

1 ENFORCEMENT PROCEEDINGS IF PROOF OF MAILING BY THE JUDGMENT  
2 CREDITOR HAS BEEN FILED. For purposes of this subsection (2), "lacked  
3 substantial justification" means substantially frivolous, substantially  
4 groundless, or substantially vexatious.

5 **SECTION 8.** In Colorado Revised Statutes, 1-45-117, **amend**  
6 (4)(b) as follows:

7 **1-45-117. State and political subdivisions - limitations on**  
8 **contributions.** (4) (b) If a board, ~~of county commissioners~~ COMMISSION,  
9 OR COUNCIL is found to have made a contribution or expenditure in  
10 violation of this section, an individual member of the board, COMMISSION,  
11 OR COUNCIL who voted in favor of or otherwise authorized the  
12 contribution or expenditure may be ordered to reimburse an amount  
13 pursuant to ~~paragraph (a) of this subsection (4)~~ SUBSECTION (4)(a) OF THIS  
14 SECTION as long as the amount does not exceed the amount ordered to be  
15 reimbursed by any other individual of the board, COMMISSION, OR  
16 COUNCIL who voted in favor or otherwise authorized the contribution or  
17 expenditure.

18 **SECTION 9.** In Colorado Revised Statutes, 24-30-202.4, **amend**  
19 (2) as follows:

20 **24-30-202.4. Collection of debts due the state - controller's**  
21 **duties - creation of debt collection fund - reciprocal debt collection**  
22 **agreements - definitions.** (2) Except as otherwise provided for  
23 institutions of higher education pursuant to section 23-5-113, ~~C.R.S.~~, and  
24 except for those debts under the jurisdiction of the department of revenue  
25 referred to in section 24-35-108 (1)(a), under the jurisdiction of the  
26 judicial department referred to in section 16-11-101.6, ~~C.R.S.~~, UNDER THE  
27 JURISDICTION OF THE DEPARTMENT OF STATE REFERRED TO IN SECTION

1 1-45-111.5, and under the jurisdiction of the department of labor and  
2 employment related to overpayment of unemployment insurance benefits  
3 and delinquent taxes referred to in section 8-79-102, ~~C.R.S.~~, all state  
4 agencies shall refer to the state controller debts due the state that the  
5 agency has been unable to collect within thirty days after such debts have  
6 become past due, together with the data and information necessary for the  
7 controller to institute collection procedures. Debts are not subject to  
8 referral pursuant to this subsection (2) if payment arrangements have been  
9 made and payments due in accordance with the terms of the arrangements  
10 are not delinquent. The controller may grant a waiver to the requirement  
11 that a state agency refer debts within such thirty-day period based upon  
12 a documented request and justification provided by a state agency,  
13 pursuant to rules promulgated by the department of personnel under  
14 article 4 of this ~~title~~ TITLE 24. A waiver may include ~~but shall not be~~  
15 ~~limited to~~ extended periods to collect delinquent debts. For accounts  
16 where no waiver to assignment has been granted, the controller shall use  
17 all state collection capabilities to collect that debt, including ~~but not~~  
18 ~~limited to~~, the certification of that debt to the department of revenue for  
19 offset of that debt against any tax refund due the debtor under the  
20 provisions of ~~subparagraph (II) of paragraph (a) of subsection (3)~~  
21 SUBSECTION (3)(a)(II) of this section. No later than one hundred eighty  
22 days after receipt by the controller, the controller or the controller's  
23 designee shall legally assign all debts that are not claims in process of  
24 collection to private counsel or private collection agencies that appear on  
25 the list of private counsel or private collection agencies. For the purposes  
26 of this section, "claims in process of collection" means any debts on  
27 which payments are being made, on which payments have been promised,

1 on which suit has been brought, or any other debts as defined in rules  
2 promulgated by the department of personnel pursuant to article 4 of this  
3 ~~title~~ TITLE 24. The private counsel or private collection agencies included  
4 in the list of private counsel or private collection agencies ~~shall~~ MUST be  
5 selected through competition pursuant to the ~~provisions of the~~  
6 "Procurement Code", articles 101 to 112 of this ~~title~~ TITLE 24. Criteria for  
7 selection of the private counsel or private collection agencies shall be  
8 developed by the executive director of the department of personnel in  
9 consultation with the controller, affected state agencies, and the private  
10 collection community.

11 **SECTION 10. Safety clause.** The general assembly hereby finds,  
12 determines, and declares that this act is necessary for the immediate  
13 preservation of the public peace, health, and safety. ■