

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0989.02 Bob Lackner

SENATE BILL 10-203

SENATE SPONSORSHIP

Carroll M., Morse, Shaffer B.

HOUSE SPONSORSHIP

Weissmann and Middleton,

Senate Committees

State, Veterans & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING INDEPENDENT EXPENDITURES IN COLORADO ELECTIONS**
102 **AFTER THE UNITED STATES SUPREME COURT CASE OF *CITIZENS***
103 ***UNITED V. FEDERAL ELECTION COMM'N.***

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://www.leg.state.co.us/billsummaries>.)

Restrictions on political activity by foreign corporations

Section 3 of the bill provides a definition of "foreign corporation" limited to corporations from foreign countries for the "Fair Campaign Practices Act" (FCPA) as a foundation for other provisions in the bill

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

restricting certain political activity by such entities. **Section 4** of the bill makes conforming amendments to other sections in the FCPA to accommodate the new statutory definition.

Section 5 of the bill prohibits any foreign corporation from expending moneys on an independent expenditure in connection with an election in the state.

Registration, disclosure, and disclaimer requirements in connection with independent expenditures

Section 5 of the bill also:

- ! In accordance with a recent decision of the Colorado supreme court, affirms that corporations and labor organizations shall not be prohibited from making independent expenditures. The bill requires all such expenditures to be disclosed in accordance with the existing constitutional and statutory requirements. This section specifies that any use of the word "person" shall be construed to include, without limitation, any corporation or labor organization.
- ! Requires any person that accepts a donation that is given for the purpose of making an independent expenditure or that makes an independent expenditure to register with the secretary of state (secretary) not later than the date on which the aggregate amount of donations accepted or expenditures made reaches or exceeds \$1,000. The bill specifies the required components of the registration.
- ! Supplements existing campaign finance disclosure requirements by requiring any person making an independent expenditure in the aggregate amount of \$1,000 or more in any one calendar year to report certain additional information to the appropriate officer; except that any person making an independent expenditure within 30 days before a primary or general election must disclose the expenditure within 48 hours after obligating moneys for the independent expenditure.
- ! Requires any communication that is broadcast, printed, mailed, delivered, or otherwise circulated that constitutes an independent expenditure for which the person making the independent expenditure expends \$1,000 or more on the communication to include in the communication a disclaimer statement containing certain information.
- ! Requires any person that expends any moneys on an independent expenditure in an aggregate amount of \$1,000 or more in any one calendar year to deliver to the appropriate officer written notice that shall list with specificity the name of the candidate whom the

- independent expenditure is intended to support or oppose.
- ! Requires any person that accepts any donation that is given for the purpose of making of an independent expenditure or expends any moneys on an independent expenditure in an amount of \$1,000 or more in any one calendar year to establish a separate account in a financial institution for the deposit of moneys donated for the making of the independent expenditure and the withdrawal of moneys used for the expenditure. Section 5 also restricts discovery of information concerning the person's use of the account.
 - ! Requires any person that donates \$1,000 or more to any person during any one calendar year for the purpose of making an independent expenditure to report the donation in accordance with the existing disclosure schedule.
 - ! Requires all new information to be disclosed to the secretary under the bill to be posted on the web site of the secretary within 2 business days after its receipt by the secretary.

Enforcement and sanctions

Section 6 of the bill:

- ! Depending on the circumstances, authorizes or requires an administrative law judge (ALJ) to impose specified penalties for failure to file certain reports, statements, or other documents required to be filed under the bill.
- ! In connection with a complaint, authorizes an ALJ to order disclosure of the source and amount of any undisclosed contributions, donations, or expenditures.
- ! Prohibits disclosure, by means of discovery or any other manner, of the membership lists of a labor organization or, in the case of a publicly held corporation, a list of the shareholders of the corporation.

Immunity from liability

Section 7 of the bill creates immunity from civil liability for media outlets where the media outlet withdraws advertising time or voids an advertising contract in the case of a person purchasing advertising time for an independent expenditure that is not compliant with the requirements of the bill.

Restrictions on political activity by the state and political subdivisions

Section 8 of the bill expands existing statutory restrictions on the ability of the state or any political subdivision of the state from making any contribution in campaigns involving the nomination, retention, or election of any person to any public office to prohibit such entities from making any donation to any other person for the purpose of making an independent expenditure. Section 8 also removes a statutory limitation that had restricted the prohibition on political involvement by the state or

political subdivisions to the use of public moneys so that the prohibition will now apply to all moneys.

Other provisions

Section 1 of the bill makes a legislative declaration. **Section 2** of the bill provides a definition of a new term.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) In the case of *Citizens United v. Federal Election Comm'n*, 558
5 U.S. ____ (2010), the United States supreme court held that corporations
6 are authorized to use their resources to influence candidate elections by
7 means of independent campaign expenditures that employ express
8 advocacy in support of or in opposition to candidates running in such
9 elections;

10 (b) In the case of *In re Interrogatories Propounded by Governor*
11 *Bill Ritter, Jr., Concerning the Effect of Citizens United v. Federal*
12 *Election Comm'n*, 558 U.S. ____ (2010) *on Certain Provisions of Article*
13 *XXVIII of the Constitution of the State of Colorado*, No. 10SA43 (Colo.
14 Mar. 22, 2010), the Colorado supreme court answered interrogatories
15 submitted by the governor, clarifying that such rights of political
16 expression, including independent expenditures, apply both to
17 corporations and to labor organizations;

18 (c) Both the United States supreme court and the Colorado
19 supreme court have routinely upheld the ability of a legislative body to
20 require disclosure of contributions and expenditures that seek to influence
21 the election of candidates for public office;

22 (d) These recent judicial decisions do not limit the plenary power
23 of the general assembly either to require disclosure to the secretary of

1 state of donations and expenditures used in independent expenditures or
2 to require disclaimers on advertisements, as the purpose of both
3 disclosure and disclaimer requirements is to allow the public to know
4 who is attempting to influence their vote;

5 (e) Nothing in these recent judicial decisions authorizes either the
6 direct contribution of resources from corporations or labor organizations
7 to candidates for state or local office or the indirect contribution of
8 resources from corporations or labor organizations to such candidates,
9 including by means of the coordination of expenditures;

10 (f) Public knowledge of the sources and manner of independent
11 campaign expenditures furthers the objectives of the voters who approved
12 article XXVIII of the state constitution, section 1 of which states that the
13 interests of the public are best served by, among other things, "full and
14 timely disclosure of campaign contributions [and] independent
15 expenditures . . .".

16 **SECTION 2.** 1-45-103 (6), Colorado Revised Statutes, is
17 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18 **1-45-103. Definitions.** As used in this article, unless the context
19 otherwise requires:

20 (6) (d) "CONTRIBUTION" SHALL NOT INCLUDE A TRANSFER BY A
21 MEMBERSHIP ORGANIZATION OF A PORTION OF A MEMBER'S DUES FOR AN
22 INDEPENDENT EXPENDITURE SPONSORED BY SUCH MEMBERSHIP
23 ORGANIZATION.

24 **SECTION 3.** 1-45-103 (7), Colorado Revised Statutes, is
25 amended, and the said 1-45-103 is further amended BY THE ADDITION
26 OF THE FOLLOWING NEW SUBSECTIONS, to read:

27 **1-45-103. Definitions.** As used in this article, unless the context

1 otherwise requires:

2 (7) "Corporation" means a domestic corporation incorporated
3 under and subject to the "Colorado Business Corporation Act", articles
4 101 to 117 of title 7, C.R.S., a domestic nonprofit corporation
5 incorporated under and subject to the "Colorado Revised Nonprofit
6 Corporation Act", articles 121 to 137 of title 7, C.R.S., or any corporation
7 incorporated under and subject to the laws of another state. ~~or foreign~~
8 ~~country~~. For purposes of this article, "domestic corporation" shall mean
9 a for-profit or nonprofit corporation incorporated under and subject to the
10 laws of this state, and "~~foreign corporation~~" "NONDOMESTIC
11 CORPORATION" shall mean a corporation incorporated under and subject
12 to the laws of another state or foreign country. FOR PURPOSES OF THIS
13 ARTICLE, "CORPORATION" INCLUDES THE PARENT OF A SUBSIDIARY
14 CORPORATION OR ANY SUBSIDIARIES OF THE PARENT, AS APPLICABLE.

15 (7.3) "DONATION" MEANS:

16 (a) THE PAYMENT, LOAN, PLEDGE, GIFT, OR ADVANCE OF MONEY,
17 OR THE GUARANTEE OF A LOAN, MADE TO ANY PERSON FOR THE PURPOSE
18 OF MAKING AN INDEPENDENT EXPENDITURE;

19 (b) ANY PAYMENT MADE TO A THIRD PARTY THAT RELATES TO,
20 AND IS MADE FOR THE BENEFIT OF, ANY PERSON THAT MAKES AN
21 INDEPENDENT EXPENDITURE;

22 (c) THE FAIR MARKET VALUE OF ANY GIFT OR LOAN OF PROPERTY
23 THAT IS GIVEN TO ANY PERSON FOR THE PURPOSE OF MAKING AN
24 INDEPENDENT EXPENDITURE; OR

25 (d) ANYTHING OF VALUE GIVEN, DIRECTLY OR INDIRECTLY, TO ANY
26 PERSON FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE.

27 (7.5) "EARMARK" MEANS A DESIGNATION, INSTRUCTION, OR

1 ENCUMBRANCE THAT DIRECTS THE TRANSMISSION BY THE RECIPIENT OF
2 ALL OR PART OF A DONATION TO A THIRD PARTY FOR THE PURPOSE OF
3 MAKING ONE OR MORE INDEPENDENT EXPENDITURES.

4 (10.5) "FOREIGN CORPORATION" MEANS:

5 (a) A PARENT CORPORATION OR THE SUBSIDIARY OF A PARENT
6 CORPORATION FORMED UNDER THE LAWS OF A FOREIGN COUNTRY THAT IS
7 FUNCTIONALLY EQUIVALENT TO A DOMESTIC CORPORATION;

8 (b) A PARENT CORPORATION OR THE SUBSIDIARY OF A PARENT
9 CORPORATION IN WHICH ONE OR MORE FOREIGN PERSONS HOLD A
10 COMBINED OWNERSHIP INTEREST THAT EXCEEDS FIFTY PERCENT;

11 (c) A PARENT CORPORATION OR THE SUBSIDIARY OF A PARENT
12 CORPORATION IN WHICH ONE OR MORE FOREIGN PERSONS HOLD A
13 MAJORITY OF THE POSITIONS ON THE CORPORATION'S BOARD OF
14 DIRECTORS; OR

15 (d) A PARENT CORPORATION OR THE SUBSIDIARY OF A PARENT
16 CORPORATION WHOSE UNITED STATES-BASED OPERATIONS, OR WHOSE
17 DECISION-MAKING WITH RESPECT TO POLITICAL ACTIVITIES, FALLS UNDER
18 THE DIRECTION OR CONTROL OF A FOREIGN ENTITY, INCLUDING THE
19 GOVERNMENT OF A FOREIGN COUNTRY.

20 (11.5) "INDEPENDENT EXPENDITURE COMMITTEE" MEANS A
21 PERSON THAT MAKES AN INDEPENDENT EXPENDITURE IN AN AMOUNT OF
22 ONE THOUSAND DOLLARS OR MORE OR THAT COLLECTS ONE THOUSAND
23 DOLLARS OR MORE FROM ONE OR MORE OTHER PERSONS FOR THE PURPOSE
24 OF MAKING AN INDEPENDENT EXPENDITURE.

25 (12.5) "MEDIA OUTLET" MEANS ANY PERSON THAT USES MEANS OF
26 COMMUNICATION, INCLUDING, WITHOUT LIMITATION, NEWSPAPERS,
27 MAGAZINES, RADIO, INTERNET, TELEVISION, OR CABLE TELEVISION, TO

1 DISSEMINATE NEWS, ENTERTAINMENT, EDUCATIONAL CONTENT, DATA, OR
2 PROMOTIONAL MESSAGES TO LARGE NUMBERS OF PEOPLE.

3 **SECTION 4.** 1-45-103.7 (6) and (8), Colorado Revised Statutes,
4 are amended, and the said 1-45-103.7 is further amended BY THE
5 ADDITION OF A NEW SUBSECTION, to read:

6 **1-45-103.7. Contribution limits - contributions from limited**
7 **liability companies - definitions.** (2.5) AN INDEPENDENT EXPENDITURE
8 COMMITTEE SHALL NOT BE TREATED AS A POLITICAL COMMITTEE AND,
9 THEREFORE, SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF SECTION 3
10 (5) OF ARTICLE XXVIII OF THE STATE CONSTITUTION, UNLESS THE
11 INDEPENDENT EXPENDITURE COMMITTEE WAS FORMED AS A POLITICAL
12 COMMITTEE.

13 (6) No ~~foreign~~ NONDOMESTIC corporation ~~shall be permitted to~~
14 MAY make any contribution under article XXVIII of the state constitution
15 or this article that a domestic corporation is prohibited from making under
16 article XXVIII of the state constitution or this article.

17 (8) As used in this section, "limited liability company" includes
18 any form of domestic entity as defined in section 7-90-102 (13), C.R.S.,
19 or foreign entity as defined in section 7-90-102 (23), C.R.S.; except that,
20 as used in this section, "limited liability company" shall not include a
21 domestic corporation, a domestic cooperative, a domestic nonprofit
22 association, a domestic nonprofit corporation, a foreign corporation, a
23 foreign cooperative, a foreign nonprofit association, ~~or~~ a foreign
24 nonprofit corporation, as those terms are defined in section 7-90-102,
25 C.R.S., A NONDOMESTIC CORPORATION AS DEFINED IN SECTION 1-45-103
26 (7), OR A FOREIGN CORPORATION AS DEFINED IN SECTION 1-45-103 (10.5).

27 **SECTION 5.** Article 45 of title 1, Colorado Revised Statutes, is

1 amended BY THE ADDITION OF THE FOLLOWING NEW
2 SECTIONS to read:

3 **1-45-107.5. Independent expenditures - restrictions on foreign**
4 **corporations - registration - disclosure - disclaimer requirements.**

5 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO FOREIGN
6 CORPORATION MAY EXPEND MONEYS ON AN INDEPENDENT EXPENDITURE
7 IN CONNECTION WITH AN ELECTION IN THE STATE.

8 (2) IN ACCORDANCE WITH THE DECISION OF THE SUPREME COURT
9 OF COLORADO IN THE CASE OF *IN RE INTERROGATORIES PROPOUNDED BY*
10 *GOVERNOR BILL RITTER, JR., CONCERNING THE EFFECT OF CITIZENS*
11 *UNITED V. FEDERAL ELECTION COMM'N, 558 U.S. ____ (2010), ON CERTAIN*
12 *PROVISIONS OF ARTICLE XXVIII OF THE CONSTITUTION OF THE STATE OF*
13 *COLORADO*, NO. 10SA43 (COLO. MAR. 22, 2010), NOTWITHSTANDING
14 SECTIONS 3 (4) (a) AND 6 (2) OF ARTICLE XXVIII OF THE STATE
15 CONSTITUTION, CORPORATIONS AND LABOR ORGANIZATIONS SHALL NOT
16 BE PROHIBITED FROM MAKING INDEPENDENT EXPENDITURES. ALL SUCH
17 EXPENDITURES SHALL BE DISCLOSED IN ACCORDANCE WITH THE
18 REQUIREMENTS OF THIS ARTICLE AND ARTICLE XXVIII OF THE STATE
19 CONSTITUTION. FOR PURPOSES OF THIS ARTICLE AND ARTICLE XXVIII OF
20 THE STATE CONSTITUTION, ANY USE OF THE WORD "PERSON" SHALL BE
21 CONSTRUED TO INCLUDE, WITHOUT LIMITATION, ANY CORPORATION OR
22 LABOR ORGANIZATION.

23 (3) (a) ANY PERSON THAT ACCEPTS A DONATION THAT IS GIVEN
24 FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE OR THAT
25 MAKES AN INDEPENDENT EXPENDITURE SHALL REGISTER WITH THE
26 SECRETARY OF STATE NOT LATER THAN THE DATE ON WHICH THE
27 AGGREGATE AMOUNT OF DONATIONS ACCEPTED OR EXPENDITURES MADE

1 REACHES OR EXCEEDS ONE THOUSAND DOLLARS.

2 (b) THE REGISTRATION REQUIRED BY PARAGRAPH (a) OF THIS
3 SUBSECTION (3) SHALL INCLUDE A STATEMENT LISTING:

4 (I) THE PERSON'S FULL NAME, SPELLING OUT ANY ACRONYMS USED
5 THEREIN;

6 (II) A NATURAL PERSON AUTHORIZED TO ACT AS A REGISTERED
7 AGENT;

8 (III) A STREET ADDRESS AND TELEPHONE NUMBER FOR THE
9 PRINCIPAL PLACE OF OPERATIONS;

10 (IV) ALL AFFILIATED PERSONS;

11 (V) THE PURPOSE OR NATURE OF INTEREST OF THE PERSON;

12 (VI) ANY INTENT OF THE PERSON TO ELECTRONICALLY FILE
13 REPORTS REQUIRED BY THIS ARTICLE THAT MAY BE FILED
14 ELECTRONICALLY ON A WEB SITE OPERATED AND MAINTAINED BY THE
15 SECRETARY OF STATE PURSUANT TO SECTION 1-45-109; AND

16 (VII) THE AGGREGATE OWNERSHIP INTEREST IN THE PERSON HELD
17 BY FOREIGN PERSONS.

18 (c) IF THE PERSON IDENTIFIED IN SUBPARAGRAPH (I) OF
19 PARAGRAPH (b) OF THIS SUBSECTION (3) IS A CORPORATION, A SUBSIDIARY
20 MAY REGISTER ON BEHALF OF ITS PARENT CORPORATION OR FOR OTHER
21 SUBSIDIARIES OF THE PARENT CORPORATION, AND THE PARENT
22 CORPORATION MAY REGISTER ON BEHALF OF ALL OF ITS SUBSIDIARIES. IN
23 EACH SUCH CASE, THE REGISTERED AGENT OF THE PERSON REGISTERING
24 SHALL SERVE AS THE REGISTERED AGENT FOR ALL SUCH AFFILIATED
25 CORPORATIONS. REGISTRATION OF A SUBSIDIARY SHALL INCLUDE THE
26 NAME OF ITS PARENT CORPORATION AS WELL AS ANY NAMES UNDER WHICH
27 THE SUBSIDIARY DOES BUSINESS.

1 (d) IF THE PERSON IDENTIFIED IN SUBPARAGRAPH (I) OF
2 PARAGRAPH (b) OF THIS SUBSECTION (3) IS A LABOR ORGANIZATION, A
3 LOCAL LABOR ORGANIZATION MAY REGISTER ON BEHALF OF ANY
4 AFFILIATED LOCAL, NATIONAL, OR INTERNATIONAL LABOR ORGANIZATION
5 THAT WILL BE MAKING INDEPENDENT EXPENDITURES, AND A NATIONAL OR
6 INTERNATIONAL LABOR ORGANIZATION MAY REGISTER ON BEHALF OF ANY
7 AFFILIATED LOCAL LABOR ORGANIZATION THAT WILL BE MAKING
8 INDEPENDENT EXPENDITURES. IN EACH SUCH CASE, THE REGISTERED
9 AGENT OF THE LABOR ORGANIZATION THAT IS REGISTERING SHALL SERVE
10 AS THE REGISTERED AGENT FOR EACH AFFILIATED LOCAL, NATIONAL, OR
11 INTERNATIONAL LABOR ORGANIZATION.

12 (4) (a) IN ADDITION TO ANY OTHER APPLICABLE DISCLOSURE
13 REQUIREMENTS SPECIFIED IN THIS ARTICLE OR IN ARTICLE XXVIII OF THE
14 STATE CONSTITUTION, ANY PERSON MAKING AN INDEPENDENT
15 EXPENDITURE IN THE AGGREGATE AMOUNT OF ONE THOUSAND DOLLARS
16 OR MORE IN ANY ONE CALENDAR YEAR SHALL REPORT THE FOLLOWING TO
17 THE APPROPRIATE OFFICER:

18 (I) THE PERSON'S FULL NAME, OR, IF THE PERSON IS A SUBSIDIARY
19 OF A PARENT CORPORATION, THE FULL NAME OF THE PARENT
20 CORPORATION, SPELLING OUT ANY ACRONYMS USED THEREIN;

21 (II) ALL NAMES UNDER WHICH THE PERSON DOES BUSINESS IN THE
22 STATE IF SUCH NAMES ARE DIFFERENT FROM THE NAME IDENTIFIED
23 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);

24 (III) THE ADDRESS OF THE HOME OFFICE OF THE PERSON, OR, IF THE
25 PERSON IS A SUBSIDIARY OF A PARENT CORPORATION, THE HOME OFFICE OF
26 THE PARENT CORPORATION; AND

27 (IV) THE NAME AND STREET ADDRESS IN THE STATE OF ITS

1 REGISTERED AGENT.

2 (b) THE INFORMATION REQUIRED TO BE DISCLOSED PURSUANT TO
3 PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE REPORTED IN
4 ACCORDANCE WITH THE SCHEDULE SPECIFIED IN SECTION 1-45-108 (2);
5 EXCEPT THAT ANY PERSON MAKING AN INDEPENDENT EXPENDITURE
6 WITHIN THIRTY DAYS BEFORE A PRIMARY OR GENERAL ELECTION SHALL
7 PROVIDE SUCH REPORT WITHIN FORTY-EIGHT HOURS AFTER OBLIGATING
8 MONEYS FOR THE INDEPENDENT EXPENDITURE.

9 (5) (a) IN ADDITION TO ANY OTHER APPLICABLE REQUIREMENTS
10 PROVIDED BY LAW, AND SUBJECT TO THE PROVISIONS OF THIS SECTION,
11 ANY COMMUNICATION THAT IS BROADCAST, PRINTED, MAILED, DELIVERED,
12 OR OTHERWISE CIRCULATED THAT CONSTITUTES AN INDEPENDENT
13 EXPENDITURE FOR WHICH THE PERSON MAKING THE INDEPENDENT
14 EXPENDITURE EXPENDS ONE THOUSAND DOLLARS OR MORE ON THE
15 COMMUNICATION SHALL INCLUDE IN THE COMMUNICATION A STATEMENT
16 THAT:

17 (I) THE COMMUNICATION HAS BEEN "PAID FOR BY (FULL NAME OF
18 THE PERSON PAYING FOR THE COMMUNICATION)"; AND

19 (II) IDENTIFIES A NATURAL PERSON WHO IS THE REGISTERED
20 AGENT IF THE PERSON IDENTIFIED IN SUBPARAGRAPH (I) OF THIS
21 PARAGRAPH (a) IS NOT A NATURAL PERSON.

22 (b) IN THE CASE OF A BROADCAST COMMUNICATION, THE
23 STATEMENT REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL
24 SATISFY ALL APPLICABLE REQUIREMENTS PROMULGATED BY THE FEDERAL
25 COMMUNICATIONS COMMISSION FOR SIZE, DURATION, AND PLACEMENT.

26 (c) IN THE CASE OF A NONBROADCAST COMMUNICATION, THE
27 SECRETARY OF STATE SHALL, BY RULE, ESTABLISH SIZE AND PLACEMENT

1 REQUIREMENTS FOR THE DISCLAIMER.

2 (6) ANY PERSON THAT EXPENDS MONEYS ON AN INDEPENDENT
3 EXPENDITURE IN AN AGGREGATE AMOUNT OF ONE THOUSAND DOLLARS OR
4 MORE IN ANY ONE CALENDAR YEAR SHALL DELIVER WRITTEN NOTICE TO
5 THE APPROPRIATE OFFICER THAT SHALL LIST WITH SPECIFICITY THE NAME
6 OF THE CANDIDATE WHOM THE INDEPENDENT EXPENDITURE IS INTENDED
7 TO SUPPORT OR OPPOSE. WHERE THE INDEPENDENT EXPENDITURE IS MADE
8 WITHIN THIRTY DAYS BEFORE A PRIMARY OR GENERAL ELECTION, THE
9 NOTICE REQUIRED BY THIS SUBSECTION (6) SHALL BE DELIVERED WITHIN
10 FORTY-EIGHT HOURS AFTER THE PERSON OBLIGATES MONEYS FOR THE
11 INDEPENDENT EXPENDITURE.

12 (7) ANY PERSON THAT ACCEPTS ANY DONATION THAT IS GIVEN FOR
13 THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE OR EXPENDS
14 ANY MONEYS ON AN INDEPENDENT EXPENDITURE IN AN AMOUNT OF ONE
15 THOUSAND DOLLARS OR MORE IN ANY ONE CALENDAR YEAR SHALL
16 ESTABLISH A SEPARATE ACCOUNT IN A FINANCIAL INSTITUTION, AND THE
17 TITLE OF THE ACCOUNT SHALL INDICATE THAT IT IS USED FOR SUCH
18 PURPOSES. ALL SUCH DONATIONS ACCEPTED BY SUCH PERSON FOR THE
19 MAKING OF ANY INDEPENDENT EXPENDITURES SHALL ONLY BE DEPOSITED
20 INTO THE ACCOUNT, AND ANY MONEYS EXPENDED FOR THE MAKING OF THE
21 INDEPENDENT EXPENDITURE SHALL ONLY BE WITHDRAWN FROM THE
22 ACCOUNT. AS LONG AS THE PERSON USES A SEPARATE ACCOUNT FOR THE
23 PURPOSES OF THIS SUBSECTION (7), IN ANY COMPLAINT RELATING TO THE
24 USE OF THE PERSON'S ACCOUNT, NO DISCOVERY MAY BE MADE OF
25 INFORMATION RELATING TO THE PERSON'S GENERAL DONORS AND ANY
26 DISCOVERY IS LIMITED TO THE SOURCES, AMOUNTS, AND USES OF
27 DONATIONS DEPOSITED INTO AND EXPENDITURES WITHDRAWN FROM THE

1 ACCOUNT.

2 (8) ANY PERSON THAT EXPENDS MONEYS ON AN INDEPENDENT
3 EXPENDITURE, REGARDLESS OF THE MEDIUM OF THE COMMUNICATION
4 PRODUCED BY THE EXPENDITURE, SHALL DISCLOSE TO THE SECRETARY OF
5 STATE, IN ACCORDANCE WITH THE SCHEDULE SPECIFIED IN SECTION
6 1-45-108 (2), ANY DONATION THAT IS GIVEN FOR THE PURPOSE OF MAKING
7 AN INDEPENDENT EXPENDITURE IN EXCESS OF TWENTY DOLLARS IN THAT
8 REPORTING PERIOD.

9 (9) (a) ANY PERSON THAT DONATES ONE THOUSAND DOLLARS OR
10 MORE TO ANY PERSON DURING ANY ONE CALENDAR YEAR FOR THE
11 PURPOSE OF MAKING OF AN INDEPENDENT EXPENDITURE SHALL REPORT
12 THE DONATION IN ACCORDANCE WITH THE SCHEDULE SPECIFIED IN
13 SECTION 1-45-108 (2); EXCEPT THAT NO REPORT IS REQUIRED FOR ANY
14 REPORTING PERIOD IN WHICH NO DONATION IS MADE.

15 (b) ON AN ANNUAL BASIS, THE SECRETARY OF STATE SHALL
16 FORWARD TO THE DEPARTMENT OF REVENUE A SUMMARY OF THE
17 DONATION REPORTS FILED UNDER PARAGRAPH (a) OF THIS SUBSECTION (9)
18 DURING THE PRECEDING CALENDAR YEAR, AND THE DEPARTMENT SHALL
19 USE SUCH INFORMATION TO ENSURE THAT NO INDEPENDENT EXPENDITURE
20 COMMITTEE OR PERSON, OR DONOR TO SUCH COMMITTEE OR PERSON, HAS
21 DEDUCTED ANY AMOUNTS PAID FOR INDEPENDENT EXPENDITURES IN
22 ESTABLISHING SUCH COMMITTEE'S, PERSON'S, OR DONOR'S STATE INCOME
23 TAX LIABILITY. THE DEPARTMENT MAY USE ITS AUDIT AND ENFORCEMENT
24 AUTHORITY UNDER SECTION 24-35-108, C.R.S., TO ENSURE THE
25 COLLECTION OF UNPAID OR DELINQUENT TAXES OWED BY INDEPENDENT
26 EXPENDITURE COMMITTEES, PERSONS THAT HAVE PAID FOR INDEPENDENT
27 EXPENDITURES, OR DONORS TO SUCH COMMITTEES OR PERSONS.

1 (10) ANY EARMARKED DONATION GIVEN FOR THE PURPOSE OF
2 MAKING AN INDEPENDENT EXPENDITURE SHALL BE DISCLOSED AS A
3 DONATION FROM BOTH THE ORIGINAL SOURCE OF THE DONATION AND THE
4 PERSON TRANSFERRING THE DONATION.

5 (11) ANY POLITICAL COMMITTEE OR SMALL DONOR COMMITTEE
6 THAT IS REGISTERED WITH THE SECRETARY OF STATE MAY MAKE AN
7 INDEPENDENT EXPENDITURE IF THE EXPENDITURE IS REPORTED IN
8 ACCORDANCE WITH THE SCHEDULE SPECIFIED IN SECTION 1-45-108 (2)
9 AND THE COMMITTEE SATISFIES THE REQUIREMENT UNDER SECTION 5 (1)
10 OF ARTICLE XXVIII OF THE STATE CONSTITUTION THAT NOTICE OF AN
11 INDEPENDENT EXPENDITURE MADE WITHIN THIRTY DAYS BEFORE A
12 PRIMARY OR GENERAL ELECTION BE DELIVERED WITHIN FORTY-EIGHT
13 HOURS AFTER OBLIGATING THE MONEYS FOR THE EXPENDITURE.

14 (12) ALL INFORMATION REQUIRED TO BE DISCLOSED TO THE
15 SECRETARY OF STATE UNDER THIS SECTION SHALL BE POSTED ON THE WEB
16 SITE OF THE SECRETARY WITHIN TWO BUSINESS DAYS AFTER ITS RECEIPT
17 BY THE SECRETARY.

18 **1-45-117.5. Media outlets - political records.** ANY MEDIA
19 OUTLET THAT IS SUBJECT TO THE PROVISIONS OF 47 U.S.C. SEC. 315 (e)
20 SHALL MAINTAIN AND MAKE AVAILABLE FOR PUBLIC INSPECTION SUCH
21 RECORDS AS THE OUTLET IS REQUIRED TO MAINTAIN TO COMPLY WITH
22 FEDERAL LAW OR RULES.

23 **SECTION 6.** 1-45-109, Colorado Revised Statutes, is amended
24 BY THE ADDITION OF A NEW SUBSECTION to read:

25 **1-45-109. Filing - where to file - timeliness - repeal.**
26 (11) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, DURING
27 THE PERIOD COMMENCING ON THE EFFECTIVE DATE OF THIS SUBSECTION

1 (11) AND CONTINUING THROUGH JULY 1, 2010, ANY REPORT, STATEMENT,
2 OR OTHER DOCUMENT REQUIRED TO BE FILED UNDER SECTION 1-45-107.5
3 THAT IS TO BE FILED ELECTRONICALLY WITH THE SECRETARY OF STATE'S
4 OFFICE PURSUANT TO THIS SECTION MAY BE FILED MANUALLY OR BY
5 MEANS OF A PORTABLE DOCUMENT FORMAT FILE ACCEPTABLE TO THE
6 SECRETARY.

7 **SECTION 7.** 1-45-111.5 (1.5), Colorado Revised Statutes, is
8 amended BY THE ADDITION OF THE FOLLOWING NEW
9 PARAGRAPHS to read:

10 **1-45-111.5. Duties of the secretary of state - enforcement -**
11 **sanctions.** (1.5) (c) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED
12 BY ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS ARTICLE, AN
13 ADMINISTRATIVE LAW JUDGE MAY IMPOSE A CIVIL PENALTY OF FIFTY
14 DOLLARS PER DAY FOR EACH DAY THAT A REPORT, STATEMENT, OR OTHER
15 DOCUMENT REQUIRED TO BE FILED UNDER THIS ARTICLE THAT IS NOT
16 SPECIFICALLY LISTED IN ARTICLE XXVIII OF THE STATE CONSTITUTION IS
17 NOT FILED BY THE CLOSE OF BUSINESS ON THE DAY DUE. ANY PERSON
18 WHO FAILS TO FILE THREE OR MORE SUCCESSIVE COMMITTEE
19 REGISTRATION REPORTS OR REPORTS CONCERNING CONTRIBUTIONS,
20 EXPENDITURES, OR DONATIONS IN ACCORDANCE WITH THE REQUIREMENTS
21 OF SECTION 1-45-107.5 SHALL BE SUBJECT TO A CIVIL PENALTY OF FIVE
22 HUNDRED DOLLARS FOR EACH DAY THAT A REPORT, STATEMENT, OR
23 OTHER DOCUMENT REQUIRED TO BE FILED BY AN INDEPENDENT
24 EXPENDITURE COMMITTEE IS NOT FILED BY THE CLOSE OF BUSINESS ON THE
25 DAY DUE. ANY PERSON WHO KNOWINGLY AND INTENTIONALLY FAILS TO
26 FILE THREE OR MORE REPORTS DUE UNDER SECTION 1-45-107.5 SHALL BE
27 SUBJECT TO A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS PER DAY

1 FOR EACH DAY THAT THE REPORT, STATEMENT, OR OTHER DOCUMENT IS
2 NOT FILED BY THE CLOSE OF BUSINESS ON THE DAY DUE. IMPOSITION OF
3 ANY PENALTY UNDER THIS PARAGRAPH (c) SHALL BE SUBJECT TO ALL
4 APPLICABLE REQUIREMENTS SPECIFIED IN SECTION 10 OF ARTICLE XXVIII
5 OF THE STATE CONSTITUTION GOVERNING THE IMPOSITION OF PENALTIES.

6 (d) IN CONNECTION WITH A COMPLAINT BROUGHT TO ENFORCE ANY
7 REQUIREMENT OF ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS
8 ARTICLE, AN ADMINISTRATIVE LAW JUDGE MAY ORDER DISCLOSURE OF THE
9 SOURCE AND AMOUNT OF ANY UNDISCLOSED CONTRIBUTIONS, DONATIONS,
10 OR EXPENDITURES.

11 (e) IN CONNECTION WITH ANY ACTION BROUGHT TO ENFORCE ANY
12 PROVISION OF ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS
13 ARTICLE, THE MEMBERSHIP LISTS OF A LABOR ORGANIZATION OR, IN THE
14 CASE OF A PUBLICLY HELD CORPORATION, A LIST OF THE SHAREHOLDERS
15 OF THE CORPORATION, SHALL NOT BE DISCLOSED BY MEANS OF DISCOVERY
16 OR ANY OTHER MANNER.

17 (f) ANY PERSON WHO IS FINED ONE THOUSAND DOLLARS PER DAY
18 FOR A KNOWING AND INTENTIONAL FAILURE TO FILE UNDER PARAGRAPH
19 (c) OF THIS SUBSECTION (1.5) SHALL, IF THE PERSON HAS SHAREHOLDERS
20 OR MEMBERS, NOTIFY SUCH SHAREHOLDERS OR MEMBERS OF THE PENALTY
21 AND THE ADJUDICATED VIOLATIONS ON ITS PUBLICLY ACCESSIBLE WEB
22 SITE IN A PROMINENT MANNER FOR NOT LESS THAN ONE HUNDRED EIGHTY
23 DAYS AFTER THE FINAL ADJUDICATION. A COPY OF THIS NOTICE, WITH THE
24 WEB SITE ADDRESS USED, SHALL BE FILED WITH THE SECRETARY OF STATE
25 AND SHALL BE A PUBLIC RECORD.

26 **SECTION 8.** 1-45-112.5, Colorado Revised Statutes, is amended
27 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to

1 read:

2 **1-45-112.5. Immunity from liability.** (3) ANY MEDIA OUTLET
3 SHALL BE IMMUNE FROM CIVIL LIABILITY IN ANY COURT WHERE THE
4 MEDIA OUTLET:

5 (a) WITHDRAWS ADVERTISING TIME RESERVED BY AN
6 INDEPENDENT EXPENDITURE COMMITTEE THAT FAILS TO REGISTER IN
7 ACCORDANCE WITH THE REQUIREMENTS OF SECTION 1-45-107.5 (3) (a); OR

8 (b) ELECTS TO VOID AN ADVERTISING CONTRACT AND THE
9 ADVERTISEMENT:

10 (I) IS PAID FOR BY AN INDEPENDENT EXPENDITURE COMMITTEE
11 THAT FAILS TO REGISTER UNDER SECTION 1-45-107.5 (3) (a);

12 (II) IS PAID FOR BY AN INDEPENDENT EXPENDITURE COMMITTEE
13 THAT IS REGISTERED UNDER SECTION 1-45-107.5 (3) (a) BUT THE
14 COMMITTEE FAILS TO FILE A DISCLOSURE REPORT UNDER SECTION
15 1-45-108 (2) THROUGH THE DATE OF THE MOST RECENT REQUIRED REPORT;

16 OR

17 (III) FAILS TO SATISFY THE REQUIREMENTS OF SECTION 1-45-107.5
18 (5) (a).

19

20 (4) AN AFFECTED MEDIA OUTLET MAY VOID A CONTRACT THAT
21 IMPLICATES PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION IN THE
22 SOLE DISCRETION OF THE MEDIA OUTLET.

23 **SECTION 9.** The introductory portion to 1-45-117 (1) (a) (I),
24 Colorado Revised Statutes, is amended to read:

25 **1-45-117. State and political subdivisions - limitations on**
26 **contributions.** (1) (a) (I) No agency, department, board, division,
27 bureau, commission, or council of the state or any political subdivision

1 ~~thereof~~ OF THE STATE shall make any contribution in campaigns involving
2 the nomination, retention, or election of any person to any public office,
3 NOR SHALL ANY SUCH ENTITY MAKE ANY DONATION TO ANY OTHER
4 PERSON FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE, nor
5 shall any such entity expend any ~~public~~ moneys from any source, or make
6 any contributions, to urge electors to vote in favor of or against any:

7 **SECTION 10. Severability.** If any provision of this act or the
8 application thereof to any person or circumstance is held invalid, such
9 invalidity shall not affect other provisions or applications of the act that
10 can be given effect without the invalid provision or application, and to
11 this end the provisions of the act are declared to be severable.

12 **SECTION 11. Applicability.** This act shall apply to the portion
13 of any election cycle or for the portion of the calendar year remaining
14 after the effective date of this act and for any election cycle or calendar
15 year commencing after such effective date, whichever is applicable.

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