

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1243.01 Bob Lackner x4350

SENATE BILL 16-186

---

SENATE SPONSORSHIP

Tate,

HOUSE SPONSORSHIP

Lontine,

---

Senate Committees

State, Veterans, & Military Affairs

House Committees

---

A BILL FOR AN ACT

101 CONCERNING DISCLOSURE REQUIREMENTS TO BE APPLIED TO  
102 SMALL-SCALE ISSUE COMMITTEES UNDER COLORADO LAW  
103 GOVERNING CAMPAIGN FINANCE.

---

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>.)*

The United States court of appeals for the tenth circuit recently affirmed an order entered into by the federal district court for Colorado which held that the disclosure and registration requirements imposed upon issue committees under the Colorado constitution and the state "Fair Campaign Practices Act" (FCPA) were not to be applied to an advocacy

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.*

organization that raised a relatively small amount of money to promote its issue advocacy. The district court had further enjoined the secretary of state (secretary) from enforcing the FCPA disclosure requirements against the organization.

In light of this opinion, **section 2** of the bill makes existing disclosure and reporting requirements otherwise applicable to an issue committee inapplicable to a "small-scale issue committee", which the bill defines as an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed \$5,000 during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question. Instead, any small-scale issue committee is required to disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures in accordance with the following alternative requirements:

- ! Any small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that does not exceed \$200 is not required to disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures.
- ! Any small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle of between \$200 and \$5,000 is required to register with the appropriate officer within 10 business days of the date on which the aggregate amount of contributions or expenditures exceeds \$200. The bill specifies the item the registration must include. However, any such committee is not required to make any disclosure about any contributions or expenditures it has made or received.
- ! At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds \$5,000, the committee is required to report to the appropriate officer, for each particular contribution or expenditure accepted or made in an amount between \$200 and \$5,000, the name and address of each person who has made a contribution in such amount and the amount of each specific contribution and expenditure accepted or made by the committee.
- ! At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any

applicable election cycle that exceeds \$5,000, the committee is required to make disclosure of any contributions or expenditures it accepts or makes on or after the date on which such aggregate amount exceeds \$5,000 in compliance with all applicable requirements under the FCPA pertaining to the disclosure by an issue committee of its contributions or expenditures accepted or made.

! Within 15 days of a small-scale issue committee becoming an issue committee, the committee, through its registered agent, is required to report this change in the committee's status to the secretary.

The bill further defines small-scale issue committees to preclude the ability to circumvent campaign finance disclosure requirements applicable to regular issue committees by creating numerous small-scale issue committees under the \$5,000 threshold that support or oppose a common ballot measure.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 1-45-103, **add** (16.3)  
3 as follows:

4 **1-45-103. Definitions - repeal.** As used in this article, unless the  
5 context otherwise requires:

6 (16.3) (a) "SMALL-SCALE ISSUE COMMITTEE" MEANS AN ISSUE  
7 COMMITTEE THAT HAS ACCEPTED OR MADE CONTRIBUTIONS OR  
8 EXPENDITURES IN AN AMOUNT THAT DOES NOT EXCEED FIVE THOUSAND  
9 DOLLARS DURING AN APPLICABLE ELECTION CYCLE FOR THE MAJOR  
10 PURPOSE OF SUPPORTING OR OPPOSING ANY BALLOT ISSUE OR BALLOT  
11 QUESTION.

12 (b) THE FOLLOWING ARE TREATED AS A SINGLE SMALL-SCALE ISSUE  
13 COMMITTEE:

14 (I) ALL SMALL-SCALE ISSUE COMMITTEES THAT SUPPORT OR  
15 OPPOSE A COMMON BALLOT MEASURE IF THE COMMITTEES ARE  
16 ESTABLISHED, FINANCED, MAINTAINED, OR CONTROLLED BY A SINGLE

1 CORPORATION OR ITS SUBSIDIARIES;

2 (II) ALL SMALL-SCALE ISSUE COMMITTEES THAT SUPPORT OR  
3 OPPOSE A COMMON BALLOT MEASURE IF THE COMMITTEES ARE  
4 ESTABLISHED, FINANCED, MAINTAINED, OR CONTROLLED BY A SINGLE  
5 LABOR ORGANIZATION OR THE AFFILIATED LOCAL UNITS IT DIRECTS; OR

6 (III) ALL SMALL-SCALE ISSUE COMMITTEES THAT SUPPORT OR  
7 OPPOSE A COMMON BALLOT MEASURE IF THE COMMITTEES ARE  
8 ESTABLISHED, FINANCED, MAINTAINED, OR CONTROLLED BY  
9 SUBSTANTIALLY THE SAME PERSON, GROUP OF PERSONS, OR OTHER  
10 ORGANIZATIONS.

11 (c) THIS SUBSECTION (16.3) IS REPEALED, EFFECTIVE JUNE 30,  
12 2019.

13 **SECTION 2.** In Colorado Revised Statutes, 1-45-108, **amend** (1)  
14 (a) (I), (1) (a) (II), (3.3), and (6); and **add** (1.5) as follows:

15 **1-45-108. Disclosure - definition - repeal.** (1) (a) (I) SUBJECT TO  
16 SUBSECTION (1.5) OF THIS SECTION, all candidate committees, political  
17 committees, issue committees, small donor committees, and political  
18 parties shall report to the appropriate officer their contributions received,  
19 including the name and address of each person who has contributed  
20 twenty dollars or more; expenditures made, and obligations entered into  
21 by the committee or party.

22 (II) SUBJECT TO SUBSECTION (1.5) OF THIS SECTION, in the case of  
23 contributions made to a candidate committee, political committee, issue  
24 committee, and political party, the disclosure required by this section shall  
25 also include the occupation and employer of each person who has made  
26 a contribution of one hundred dollars or more to such committee or party.

27 (1.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN LIGHT

1 OF THE OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE TENTH  
2 CIRCUIT IN THE CASE OF *COALITION FOR SECULAR GOVERNMENT V.*  
3 *WILLIAMS*, No. 14-1469 (10TH CIRCUIT MARCH 2, 2016), THAT AFFIRMED  
4 THE ORDER OF THE FEDERAL DISTRICT COURT IN THE CASE OF *COALITION*  
5 *FOR SECULAR GOV'T V. GESSLER*, CASE No. 12 CV 1708, THE DISCLOSURE  
6 REQUIREMENTS SPECIFIED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a)  
7 OF SUBSECTION (1) OF THIS SECTION AND THE REPORTING REQUIREMENTS  
8 SPECIFIED IN SUBSECTION (3.3) OR (6) OF THIS SECTION SHALL NOT APPLY  
9 TO A SMALL-SCALE ISSUE COMMITTEE. ANY SMALL-SCALE ISSUE  
10 COMMITTEE SHALL DISCLOSE OR FILE REPORTS ABOUT THE CONTRIBUTIONS  
11 OR EXPENDITURES IT HAS MADE OR RECEIVED OR OTHERWISE REGISTER AS  
12 AN ISSUE COMMITTEE IN CONNECTION WITH ACCEPTING OR MAKING SUCH  
13 CONTRIBUTIONS OR EXPENDITURES IN ACCORDANCE WITH THE FOLLOWING  
14 ALTERNATIVE REQUIREMENTS:

15 (a) ANY SMALL-SCALE ISSUE COMMITTEE THAT ACCEPTS OR MAKES  
16 CONTRIBUTIONS OR EXPENDITURES IN AN AGGREGATE AMOUNT DURING  
17 ANY APPLICABLE ELECTION CYCLE THAT DOES NOT EXCEED TWO HUNDRED  
18 DOLLARS IS NOT REQUIRED TO DISCLOSE OR FILE REPORTS ABOUT THE  
19 CONTRIBUTIONS OR EXPENDITURES IT HAS MADE OR RECEIVED OR  
20 OTHERWISE REGISTER AS AN ISSUE COMMITTEE IN CONNECTION WITH  
21 ACCEPTING OR MAKING SUCH CONTRIBUTIONS OR EXPENDITURES.

22 (b) (I) ANY SMALL-SCALE ISSUE COMMITTEE THAT ACCEPTS OR  
23 MAKES CONTRIBUTIONS OR EXPENDITURES IN AN AGGREGATE AMOUNT  
24 DURING ANY APPLICABLE ELECTION CYCLE OF BETWEEN TWO HUNDRED  
25 DOLLARS AND FIVE THOUSAND DOLLARS SHALL REGISTER WITH THE  
26 APPROPRIATE OFFICER WITHIN TEN BUSINESS DAYS OF THE DATE ON WHICH  
27 THE AGGREGATE AMOUNT OF CONTRIBUTIONS OR EXPENDITURES EXCEEDS

1 TWO HUNDRED DOLLARS. THE REGISTRATION REQUIRED BY THIS  
2 SUBPARAGRAPH (I) MUST INCLUDE A STATEMENT LISTING:

3 (A) THE COMMITTEE'S FULL NAME, SPELLING OUT ANY ACRONYMS  
4 USED IN THE NAME;

5 (B) THE NAME OF A NATURAL PERSON AUTHORIZED TO ACT AS A  
6 REGISTERED AGENT OF THE COMMITTEE;

7 (C) A STREET ADDRESS FOR THE PRINCIPAL PLACE OF BUSINESS OF  
8 THE COMMITTEE;

9 (D) THE PURPOSE OR NATURE OF INTEREST OF THE COMMITTEE;  
10 AND

11 (E) THE NAME OF THE FINANCIAL INSTITUTION IN WHICH, IN A  
12 SEPARATE ACCOUNT BEARING THE NAME OF THE COMMITTEE, ALL  
13 CONTRIBUTIONS RECEIVED BY THE COMMITTEE ARE DEPOSITED.

14 (II) ANY SMALL-SCALE ISSUE COMMITTEE DESCRIBED IN  
15 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) IS NOT REQUIRED TO MAKE ANY  
16 DISCLOSURE ABOUT ANY CONTRIBUTIONS OR EXPENDITURES IT HAS MADE  
17 OR RECEIVED.

18 (c) (I) AT SUCH TIME AS ANY ISSUE COMMITTEE THAT BEGAN AS A  
19 SMALL-SCALE ISSUE COMMITTEE ACCEPTS OR MAKES CONTRIBUTIONS OR  
20 EXPENDITURES IN AN AGGREGATE AMOUNT DURING ANY APPLICABLE  
21 ELECTION CYCLE THAT EXCEEDS FIVE THOUSAND DOLLARS, THE  
22 COMMITTEE SHALL REPORT TO THE APPROPRIATE OFFICER, FOR EACH  
23 PARTICULAR CONTRIBUTION OR EXPENDITURE ACCEPTED OR MADE IN AN  
24 AMOUNT BETWEEN TWO HUNDRED DOLLARS AND FIVE THOUSAND  
25 DOLLARS, THE NAME AND ADDRESS OF EACH PERSON WHO HAS MADE A  
26 CONTRIBUTION IN SUCH AMOUNT AND THE AMOUNT OF EACH SPECIFIC  
27 CONTRIBUTION AND EXPENDITURE ACCEPTED OR MADE BY THE

1 COMMITTEE.

2 (II) AT SUCH TIME AS ANY ISSUE COMMITTEE THAT BEGAN AS A  
3 SMALL-SCALE ISSUE COMMITTEE ACCEPTS OR MAKES CONTRIBUTIONS OR  
4 EXPENDITURES IN AN AGGREGATE AMOUNT DURING ANY APPLICABLE  
5 ELECTION CYCLE THAT EXCEEDS FIVE THOUSAND DOLLARS, THE  
6 COMMITTEE SHALL MAKE DISCLOSURE OF ANY CONTRIBUTIONS OR  
7 EXPENDITURES IT ACCEPTS OR MAKES ON OR AFTER THE DATE ON WHICH  
8 SUCH AGGREGATE AMOUNT EXCEEDS FIVE THOUSAND DOLLARS IN  
9 COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS UNDER THIS ARTICLE  
10 PERTAINING TO THE DISCLOSURE BY AN ISSUE COMMITTEE OF ITS  
11 CONTRIBUTIONS OR EXPENDITURES ACCEPTED OR MADE.

12 (III) WITHIN FIFTEEN DAYS OF A SMALL-SCALE ISSUE COMMITTEE  
13 BECOMING AN ISSUE COMMITTEE, THE COMMITTEE, THROUGH ITS  
14 REGISTERED AGENT, SHALL REPORT THIS CHANGE IN THE COMMITTEE'S  
15 STATUS TO THE SECRETARY OF STATE.

16 (d) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE JUNE 30, 2019.

17 (3.3) Subject to the provisions of subsection (7) SUBSECTIONS (1.5)  
18 AND (7) of this section, each issue committee shall register with the  
19 appropriate officer within ten calendar days of accepting or making  
20 contributions or expenditures in excess of two hundred dollars to support  
21 or oppose any ballot issue or ballot question or upon receipt of the notice  
22 from the secretary of state pursuant to section 1-40-113 (1) (b). If required  
23 to register under the requirements of this subsection (3.3), the registration  
24 of the issue committee shall MUST include a statement containing the items  
25 listed in paragraphs (a) to (e) of subsection (3) of this section in  
26 connection with other committees and a political party.

27 (6) SUBJECT TO SUBSECTION (1.5) OF THIS SECTION, any issue

1 committee whose purpose is the recall of any elected official shall register  
2 with the appropriate officer within ten calendar days of accepting or  
3 making contributions or expenditures in excess of two hundred dollars to  
4 support or oppose the recall. Reports of contributions and expenditures  
5 shall be filed with the appropriate officer within fifteen days of the filing  
6 of the committee registration and every thirty days thereafter until the date  
7 of the recall election has been established and then fourteen days and  
8 seven days before the recall election and thirty days following the recall  
9 election.

10 **SECTION 3. Applicability.** This act applies to the portion of any  
11 election cycle or for the portion of the calendar year remaining after the  
12 effective date of this act and for any election cycle or calendar year  
13 commencing after such effective date, whichever is applicable.

14 **SECTION 4. Safety clause.** The general assembly hereby finds,  
15 determines, and declares that this act is necessary for the immediate  
16 preservation of the public peace, health, and safety.