

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0366.01 Bob Lackner x4350

HOUSE BILL 18-1047

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HOUSE SPONSORSHIP

Lontine,

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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.

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, 1-45-103.7, **amend**  
3 (2.5) and (8) as follows:

4 **1-45-103.7. Contribution limits - treatment of independent**  
5 **expenditure committees - contributions from limited liability**  
6 **companies - voter instructions on spending limits - definitions.**

7 (2.5) (a) AN INDEPENDENT EXPENDITURE COMMITTEE DIFFERS FROM A  
8 POLITICAL COMMITTEE IN THAT AN INDEPENDENT EXPENDITURE  
9 COMMITTEE DOES NOT COORDINATE ITS ACTIVITIES WITH A CANDIDATE OR  
10 POLITICAL PARTY.

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

1           (8) As used in this section, "limited liability company" includes  
2 ~~any form of domestic entity~~ HAS THE SAME MEANING AS "DOMESTIC  
3 LIMITED LIABILITY COMPANY" as defined in ~~section 7-90-102 (13), C.R.S.;~~  
4 SECTION 7-90-102 (15) or ~~foreign entity~~ "FOREIGN LIMITED LIABILITY  
5 COMPANY" as defined in ~~section 7-90-102 (23), C.R.S.;~~ except that, as  
6 ~~used in this section, "limited liability company" shall not include a~~  
7 ~~domestic corporation, a domestic cooperative, a domestic nonprofit~~  
8 ~~association, a domestic nonprofit corporation, a foreign corporation, a~~  
9 ~~foreign cooperative, a foreign nonprofit association, a foreign nonprofit~~  
10 ~~corporation, as those terms are defined in section 7-90-102, C.R.S., a~~  
11 ~~nondomestic corporation as defined in section 1-45-103 (7), or a foreign~~  
12 ~~corporation as defined in section 1-45-103 (10.5) SECTION 7-90-102 (24).~~

13           **SECTION 2.** In Colorado Revised Statutes, 1-45-107.5, **repeal**  
14 (9) as follows:

15           **1-45-107.5. Independent expenditures - restrictions on foreign**  
16 **corporations - registration - disclosure - disclaimer requirements.**

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

23           (b) ~~On an annual basis, the secretary of state shall forward to the~~  
24 ~~department of revenue a summary of the donation reports filed under~~  
25 ~~paragraph (a) of this subsection (9) during the preceding calendar year,~~  
26 ~~and the department shall use such information to ensure that no~~  
27 ~~independent expenditure committee or person, or donor to such~~

1 ~~committee or person that has filed a report under paragraph (a) of this~~  
2 ~~subsection (9), has deducted any amounts paid for the purpose of making~~  
3 ~~one or more independent expenditures in establishing such committee's,~~  
4 ~~person's, or donor's state income tax liability. The department may use its~~  
5 ~~audit and enforcement authority under section 24-35-108, C.R.S., to~~  
6 ~~ensure the collection of unpaid or delinquent taxes owed by independent~~  
7 ~~expenditure committees, persons that have paid for independent~~  
8 ~~expenditures, or donors to such committees or persons that have filed a~~  
9 ~~report under paragraph (a) of this subsection (9).~~

10 **SECTION 3.** In Colorado Revised Statutes, 1-45-108, **amend**  
11 (1)(a)(III), (2.5), (7)(a) introductory portion, and (7)(a)(I) as follows:

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

26 (2.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (2.5)(b) OF THIS  
27 SECTION, AND in addition to any report required to be filed with the

1 secretary of state or municipal clerk under this section, all candidate  
2 committees, ~~political committees~~, issue committees, and political parties  
3 ~~shall~~ MUST file a report with the secretary of state of any contribution of  
4 one thousand dollars or more at any time within thirty days preceding the  
5 date of the primary election, general election, or regular biennial school  
6 election. This report shall be filed with the secretary of state no later than  
7 twenty-four hours after receipt of said contribution.

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

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

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

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

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

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

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

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

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

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

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

24 (4) (a) All reports required to be filed by this ~~article~~ ARTICLE 45  
25 are public records and ~~shall be~~ ARE open to inspection by the public  
26 during regular business hours. A copy of the report ~~shall~~ MUST be kept by  
27 the appropriate officer and a copy shall be made available immediately in

1 a file for public inspection. WHEN THE SECRETARY OF STATE IS THE  
2 APPROPRIATE OFFICER, THE SECRETARY SHALL MAKE REPORTS VIEWABLE  
3 ON THE SECRETARY OF STATE'S OFFICIAL WEBSITE.

4 (b) Any report that is deemed ~~to be~~ incomplete by the appropriate  
5 officer ~~shall~~ MUST be accepted ~~on a conditional basis~~ and the committee  
6 must be notified ~~by mail as to any deficiencies found~~ OF THE DEFICIENCY.  
7 If an e-mail address is on file with the secretary of state, the secretary of  
8 state may provide such notification by e-mail. The committee has ~~fifteen~~  
9 ~~business~~ THIRTY CALENDAR days from the date such notice is sent,  
10 whether electronically or by United States mail, to file an addendum that  
11 cures the deficiencies.

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

1 notice of the entity's intent to cure and a copy of the addendum on the  
2 same day that the addendum is filed with the secretary of state. Where the  
3 committee files an addendum that cures all deficiencies alleged in the  
4 complaint before the expiration of the fifteen-day period specified in this  
5 subsection (4)(c)(I), the appropriate officer shall not assess a penalty  
6 against the committee that otherwise would have been assessed for the  
7 deficiencies for the period from the first date of the alleged violation  
8 through the expiration of the cure period.

9 **SECTION 5.** In Colorado Revised Statutes, 1-45-110, **amend** (3)  
10 as follows:

11 **1-45-110. Candidate affidavit - disclosure statement.**

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



1 APPROPRIATE DOCUMENT WITHIN FIVE BUSINESS DAYS OF THE RECEIPT OF  
2 THE NOTICE. IF THE PERSON FAILS TO FILE THE APPROPRIATE DOCUMENT  
3 WITHIN THAT TIME FRAME, THE DESIGNATED ELECTION OFFICIAL SHALL  
4 DISQUALIFY THE CANDIDATE.

5 **SECTION 6.** In Colorado Revised Statutes, 1-45-111.5, **amend**  
6 (1.5)(a) and (2) as follows:

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

23 (2) A party in any action brought to enforce the provisions of  
24 article XXVIII of the state constitution or of this ~~article shall be~~ ARTICLE  
25 45 IS entitled to the recovery of the party's reasonable attorney fees and  
26 costs from any attorney or party who has brought or defended the action,  
27 either in whole or in part, upon a determination by the office of

1 administrative courts that the action, or any part thereof, lacked  
2 substantial justification or that the action, or any part thereof, was  
3 ~~interposed~~ COMMENCED for delay or harassment or if it finds that an  
4 attorney or party unnecessarily expanded the proceeding by other  
5 improper conduct, including ~~but not limited to~~, abuses of discovery  
6 procedures available under the Colorado rules of civil procedure.  
7 Notwithstanding any other provision of this subsection (2), no attorney  
8 fees may be awarded under this subsection (2) unless the court or  
9 administrative law judge, as applicable, has first considered the  
10 provisions of section 13-17-102 (5) and (6). ~~C.R.S.~~ EITHER PARTY IN AN  
11 ACTION IN WHICH THE OFFICE OF ADMINISTRATIVE COURTS AWARDED  
12 ATTORNEY FEES AND COSTS MAY APPLY TO A DISTRICT COURT TO CONVERT  
13 AN AWARD OF ATTORNEY FEES AND COSTS INTO A DISTRICT COURT  
14 JUDGMENT. For purposes of this subsection (2), "lacked substantial  
15 justification" means substantially frivolous, substantially groundless, or  
16 substantially vexatious.

17 **SECTION 7.** In Colorado Revised Statutes, 1-45-117, **amend**  
18 (4)(b) as follows:

19 **1-45-117. State and political subdivisions - limitations on**  
20 **contributions.** (4) (b) If a board, ~~of county commissioners~~ COMMISSION,  
21 OR COUNCIL is found to have made a contribution or expenditure in  
22 violation of this section, an individual member of the board, COMMISSION,  
23 OR COUNCIL who voted in favor of or otherwise authorized the  
24 contribution or expenditure may be ordered to reimburse an amount  
25 pursuant to ~~paragraph (a) of this subsection (4)~~ SUBSECTION (4)(a) OF THIS  
26 SECTION as long as the amount does not exceed the amount ordered to be  
27 reimbursed by any other individual of the board, COMMISSION, OR

1 COUNCIL who voted in favor or otherwise authorized the contribution or  
2 expenditure.

3 **SECTION 8.** In Colorado Revised Statutes, 24-30-202.4, **amend**  
4 (2) as follows:

5 **24-30-202.4. Collection of debts due the state - controller's**  
6 **duties - creation of debt collection fund - reciprocal debt collection**  
7 **agreements - definitions.** (2) Except as otherwise provided for  
8 institutions of higher education pursuant to section 23-5-113, ~~C.R.S.~~, and  
9 except for those debts under the jurisdiction of the department of revenue  
10 referred to in section 24-35-108 (1)(a), under the jurisdiction of the  
11 judicial department referred to in section 16-11-101.6, ~~C.R.S.~~, UNDER THE  
12 JURISDICTION OF THE DEPARTMENT OF STATE REFERRED TO IN SECTION  
13 1-45-111.5, and under the jurisdiction of the department of labor and  
14 employment related to overpayment of unemployment insurance benefits  
15 and delinquent taxes referred to in section 8-79-102, ~~C.R.S.~~, all state  
16 agencies shall refer to the state controller debts due the state that the  
17 agency has been unable to collect within thirty days after such debts have  
18 become past due, together with the data and information necessary for the  
19 controller to institute collection procedures. Debts are not subject to  
20 referral pursuant to this subsection (2) if payment arrangements have been  
21 made and payments due in accordance with the terms of the arrangements  
22 are not delinquent. The controller may grant a waiver to the requirement  
23 that a state agency refer debts within such thirty-day period based upon  
24 a documented request and justification provided by a state agency,  
25 pursuant to rules promulgated by the department of personnel under  
26 article 4 of this ~~title~~ TITLE 24. A waiver may include ~~but shall not be~~  
27 ~~limited to~~ extended periods to collect delinquent debts. For accounts

1 where no waiver to assignment has been granted, the controller shall use  
2 all state collection capabilities to collect that debt, including ~~but not~~  
3 ~~limited to~~, the certification of that debt to the department of revenue for  
4 offset of that debt against any tax refund due the debtor under the  
5 provisions of ~~subparagraph (II) of paragraph (a) of subsection (3)~~  
6 SUBSECTION (3)(a)(II) of this section. No later than one hundred eighty  
7 days after receipt by the controller, the controller or the controller's  
8 designee shall legally assign all debts that are not claims in process of  
9 collection to private counsel or private collection agencies that appear on  
10 the list of private counsel or private collection agencies. For the purposes  
11 of this section, "claims in process of collection" means any debts on  
12 which payments are being made, on which payments have been promised,  
13 on which suit has been brought, or any other debts as defined in rules  
14 promulgated by the department of personnel pursuant to article 4 of this  
15 ~~title~~ TITLE 24. The private counsel or private collection agencies included  
16 in the list of private counsel or private collection agencies ~~shall~~ MUST be  
17 selected through competition pursuant to the ~~provisions of the~~  
18 "Procurement Code", articles 101 to 112 of this ~~title~~ TITLE 24. Criteria for  
19 selection of the private counsel or private collection agencies shall be  
20 developed by the executive director of the department of personnel in  
21 consultation with the controller, affected state agencies, and the private  
22 collection community.

23 **SECTION 9. Act subject to petition - effective date.** This act  
24 takes effect at 12:01 a.m. on the day following the expiration of the  
25 ninety-day period after final adjournment of the general assembly (August  
26 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act  
2 within such period, then the act, item, section, or part will not take effect  
3 unless approved by the people at the general election to be held in  
4 November 2018 and, in such case, will take effect on the date of the  
5 official declaration of the vote thereon by the governor.