

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 19-0841.01 Bob Lackner x4350

SENATE BILL 19-232

SENATE SPONSORSHIP

Foote,

HOUSE SPONSORSHIP

Weissman,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE CODIFICATION OF THE RULES OF THE SECRETARY OF**
102 **STATE ADDRESSING THE PROCEDURES FOR THE ENFORCEMENT**
103 **OF STATE LAWS 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://leg.colorado.gov>.)

Section 1 of the bill codifies in the "Fair Campaign Practices Act" (FCPA) the rules of the secretary of state (secretary) addressing the procedures that govern the enforcement of state laws governing campaign and political finance. In particular, the codified provisions specify the procedures governing the filing of complaints, initial review of

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.

SENATE
Amended 3rd Reading
April 27, 2019

SENATE
Amended 2nd Reading
April 24, 2019

complaints by the elections division (division) within the secretary's office, the method by which a respondent may cure a violation of the campaign finance laws, the investigation of unresolved or uncured complaints by the division, the conduct of hearings, audits by the division of campaign finance documents it receives for filing, and the issuance of advisory opinions by the secretary.

Sections 2, 3, and 4 specify conforming amendments to other existing sections of the FCPA. **Section 5** deletes an existing statutory provision requiring administrative law judges to complete continuing legal education in campaign finance that is made obsolete by the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 1-45-111.7 as
3 follows:

4 **1-45-111.7. Campaign finance complaints - initial review -**
5 **curing violations - investigation and enforcement - hearings -**
6 **advisory opinions - document review - collection of debts resulting**
7 **from campaign finance penalties - definitions. (1) Definitions.** AS
8 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (a) "ARTICLE XXVIII" MEANS ARTICLE XXVIII OF THE STATE
10 CONSTITUTION.

11 (b) "DEPUTY SECRETARY" MEANS THE DEPUTY SECRETARY OF
12 STATE APPOINTED PURSUANT TO SECTION 24-21-105 OR THE DEPUTY
13 SECRETARY'S DESIGNEE.

14 (c) "DIVISION" MEANS THE DIVISION WITHIN THE OFFICE OF THE
15 SECRETARY RESPONSIBLE FOR ADMINISTERING THE STATE'S LAWS
16 GOVERNING CAMPAIGN AND POLITICAL FINANCE.

17 (d) "HEARING OFFICER" MEANS A PERSON AUTHORIZED TO
18 CONDUCT A HEARING UNDER SECTION 24-4-105 (3).

19 (e) "RULES" MEANS THE RULES OF THE SECRETARY CONCERNING
20 CAMPAIGN AND POLITICAL FINANCE.

1 (f) "SECRETARY" MEANS THE SECRETARY OF STATE OR THE
2 SECRETARY'S DESIGNATE.

3 (2) **Filing complaints.** (a) ANY PERSON WHO BELIEVES THAT A
4 VIOLATION HAS OCCURRED OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE
5 RULES MAY FILE A COMPLAINT WITH THE SECRETARY.

6 (b) A COMPLAINT MUST BE FILED NO LATER THAN ONE HUNDRED
7 EIGHTY DAYS AFTER THE DATE ON WHICH THE COMPLAINANT EITHER
8 KNEW OR SHOULD HAVE KNOWN, BY THE EXERCISE OF REASONABLE
9 DILIGENCE, OF THE ALLEGED VIOLATION.

10 (c) ANY COMPLAINT MUST BE FILED IN WRITING AND SIGNED BY
11 THE COMPLAINANT ON THE FORM PROVIDED BY THE SECRETARY. THE
12 COMPLAINT MUST IDENTIFY ONE OR MORE RESPONDENTS AND INCLUDE
13 THE INFORMATION REQUIRED TO BE PROVIDED ON THE FORM.

14 (d) UPON RECEIPT OF A COMPLAINT, THE DIVISION SHALL NOTIFY
15 THE RESPONDENT OF THE COMPLAINT BY E-MAIL OR BY REGULAR MAIL IF
16 E-MAIL IS UNAVAILABLE.

17 (e) THE DIVISION SHALL FORWARD ANY COMPLAINT MADE AGAINST
18 A CANDIDATE FOR SECRETARY OR THE SECRETARY TO THE DEPARTMENT
19 OF LAW FOR THE REVIEW OF THE COMPLAINT BY THE ATTORNEY GENERAL
20 TO ACT ON BEHALF OF THE DIVISION IN ACCORDANCE WITH APPLICABLE
21 REQUIREMENTS OF THIS SECTION.

22 (3) **Initial review.** (a) THE DIVISION SHALL CONDUCT AN INITIAL
23 REVIEW OF A COMPLAINT FILED UNDER SUBSECTION (2) OF THIS SECTION
24 TO DETERMINE WHETHER THE COMPLAINT:

25 (I) WAS TIMELY FILED UNDER SUBSECTION (2)(b) OF THIS SECTION;

26 (II) SPECIFICALLY IDENTIFIES ONE OR MORE VIOLATIONS OF
27 ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES; AND

1 (III) ALLEGES SUFFICIENT FACTS TO SUPPORT A FACTUAL AND
2 LEGAL BASIS FOR THE VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT.

3 (b) WITHIN TEN BUSINESS DAYS OF RECEIVING A COMPLAINT, THE
4 DIVISION SHALL TAKE ONE OR MORE OF THE ACTIONS SPECIFIED IN THIS
5 SUBSECTION (3)(b):

6 (I) IF THE DIVISION MAKES AN INITIAL DETERMINATION THAT THE
7 COMPLAINT WAS NOT TIMELY FILED, HAS NOT SPECIFICALLY IDENTIFIED
8 ONE OR MORE VIOLATIONS OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE
9 RULES, OR DOES NOT ASSERT FACTS SUFFICIENT TO SUPPORT A FACTUAL OR
10 LEGAL BASIS FOR AN ALLEGED VIOLATION, THE DIVISION SHALL PREPARE
11 AND FILE WITH THE DEPUTY SECRETARY A MOTION TO DISMISS THE
12 COMPLAINT. THE DEPUTY SECRETARY SHALL MAKE A DETERMINATION ON
13 THE MOTION TO DISMISS WITHIN FIVE BUSINESS DAYS, WHICH MUST BE
14 PROVIDED TO THE COMPLAINANT AND THE RESPONDENT BY E-MAIL OR BY
15 REGULAR MAIL IF E-MAIL IS UNAVAILABLE. IF THE DEPUTY SECRETARY
16 DENIES THE MOTION, THE DIVISION SHALL DETERMINE WHETHER TO
17 CONDUCT A REVIEW UNDER SUBSECTION (3)(b)(II) OR (3)(b)(III) OF THIS
18 SECTION. THE FINAL DETERMINATION BY THE DEPUTY SECRETARY ON THE
19 MOTION TO DISMISS CONSTITUTES FINAL AGENCY ACTION AND IS SUBJECT
20 TO JUDICIAL REVIEW BY A STATE DISTRICT COURT UNDER SECTION
21 24-4-106.

22 (II) IF THE DIVISION MAKES AN INITIAL DETERMINATION THAT THE
23 COMPLAINT ALLEGES ONE OR MORE CURABLE VIOLATIONS AS ADDRESSED
24 IN SUBSECTION (4) OF THIS SECTION, THE DIVISION SHALL NOTIFY THE
25 RESPONDENT AND PROVIDE THE RESPONDENT AN OPPORTUNITY TO CURE
26 THE VIOLATIONS.

27 (III) IF THE DIVISION MAKES AN INITIAL DETERMINATION THAT THE

1 COMPLAINT HAS SPECIFICALLY IDENTIFIED ONE OR MORE VIOLATIONS OF
2 ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES, AND HAS ALLEGED
3 FACTS SUFFICIENT TO SUPPORT A FACTUAL OR LEGAL BASIS FOR EACH
4 ALLEGED VIOLATION, AND THAT EITHER A FACTUAL FINDING OR A LEGAL
5 INTERPRETATION IS REQUIRED, THE DIVISION SHALL CONDUCT ADDITIONAL
6 REVIEW UNDER SUBSECTION (5) OF THIS SECTION WITHIN THIRTY DAYS TO
7 DETERMINE WHETHER TO FILE A COMPLAINT WITH A HEARING OFFICER.

8 (4) **Curing violations.** (a) UPON THE DIVISION'S INITIAL
9 DETERMINATION THAT A COMPLAINT ALLEGES A FAILURE TO FILE OR
10 OTHERWISE DISCLOSE REQUIRED INFORMATION, OR ALLEGES ANOTHER
11 CURABLE VIOLATION, THE DIVISION SHALL NOTIFY THE RESPONDENT BY
12 E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE OF THE CURABLE
13 DEFICIENCIES ALLEGED IN THE COMPLAINT.

14 (b) THE RESPONDENT HAS TEN BUSINESS DAYS FROM THE DATE THE
15 NOTICE IS E-MAILED OR MAILED TO FILE AN AMENDMENT TO ANY
16 RELEVANT REPORT THAT CURES ANY DEFICIENCIES SPECIFIED IN THE
17 NOTICE.

18 (c) THE RESPONDENT SHALL PROVIDE THE DIVISION WITH NOTICE
19 OF THE RESPONDENT'S INTENT TO CURE ON THE FORM PROVIDED BY THE
20 SECRETARY AND INCLUDE A COPY OF ANY AMENDMENTS TO ANY REPORT
21 CONTAINING ONE OR MORE DEFICIENCIES.

22 (d) UPON RECEIPT OF THE RESPONDENT'S NOTICE OF AN INTENT TO
23 CURE, THE DIVISION MAY ASK THE RESPONDENT TO PROVIDE ADDITIONAL
24 INFORMATION AND MAY GRANT THE RESPONDENT AN EXTENSION OF TIME
25 TO FILE AN AMENDED NOTICE OF INTENT TO CURE IN ORDER TO RESPOND
26 TO ANY SUCH REQUEST.

27 (e) (I) AFTER THE PERIOD FOR CURE HAS EXPIRED, THE DIVISION

1 SHALL DETERMINE WHETHER THE RESPONDENT HAS CURED ANY
2 VIOLATION ALLEGED IN THE COMPLAINT AND, IF SO, WHETHER THE
3 RESPONDENT HAS SUBSTANTIALLY COMPLIED WITH ITS LEGAL
4 OBLIGATIONS UNDER ARTICLE XXVIII, THIS ARTICLE 45, AND THE RULES
5 IN ACCORDANCE WITH SUBSECTION (4)(f) OF THIS SECTION.

6 (II) IF THE DIVISION DETERMINES THAT THE RESPONDENT HAS
7 SUBSTANTIALLY COMPLIED WITH ITS LEGAL OBLIGATIONS, THE DIVISION
8 SHALL PREPARE AND FILE WITH THE DEPUTY SECRETARY A MOTION TO
9 DISMISS THE COMPLAINT. THE MOTION MUST BE ACCOMPANIED BY A
10 DRAFT ORDER SPECIFYING THE MANNER IN WHICH THE RESPONDENT HAS
11 SATISFIED THE FACTORS SPECIFIED IN SUBSECTION (4)(f) OF THIS SECTION.
12 THE DEPUTY SECRETARY SHALL MAKE A DETERMINATION ON THE MOTION
13 TO DISMISS, WHICH MUST BE PROVIDED TO THE COMPLAINANT AND THE
14 RESPONDENT BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE.
15 IF THE DEPUTY SECRETARY DENIES THE MOTION, THE DIVISION SHALL
16 DETERMINE WHETHER TO CONDUCT A REVIEW UNDER SUBSECTION
17 (3)(b)(II) OR (3)(b)(III) OF THIS SECTION. THE DETERMINATION BY THE
18 DEPUTY SECRETARY UNDER THIS SUBSECTION (4)(e)(II) IS FINAL AGENCY
19 ACTION AND IS SUBJECT TO JUDICIAL REVIEW BY A STATE DISTRICT COURT
20 UNDER SECTION 24-4-106.

21 (III) IF THE DIVISION DETERMINES THAT THE RESPONDENT HAS
22 FAILED TO SUBSTANTIALLY COMPLY UNDER SUBSECTION (4)(f) OF THIS
23 SECTION, THE DIVISION SHALL CONDUCT AN ADDITIONAL REVIEW UNDER
24 SUBSECTION (5)(a) OF THIS SECTION TO DETERMINE WHETHER TO FILE THE
25 COMPLAINT WITH A HEARING OFFICER.

26 (f) IN DETERMINING WHETHER AN ENTITY SUBSTANTIALLY
27 COMPLIED WITH ITS LEGAL OBLIGATIONS UNDER ARTICLE XXVIII, THIS

1 ARTICLE 45, OR THE RULES THE DIVISION MUST CONSIDER:

2 (I) THE EXTENT OF THE RESPONDENT'S NONCOMPLIANCE;

3 (II) THE PURPOSE OF THE PROVISION VIOLATED AND WHETHER
4 THAT PURPOSE WAS SUBSTANTIALLY ACHIEVED DESPITE THE
5 NONCOMPLIANCE; AND

6 (III) WHETHER THE NONCOMPLIANCE MAY PROPERLY BE VIEWED
7 AS AN INTENTIONAL ATTEMPT TO MISLEAD THE ELECTORATE OR ELECTION
8 OFFICIALS.

9 (g) IF THE DIVISION DETERMINES THAT THE RESPONDENT FAILED
10 TO CURE ANY ALLEGED DEFICIENCY, THE DIVISION SHALL CONDUCT AN
11 ADDITIONAL REVIEW UNDER SUBSECTION (5)(a) OF THIS SECTION TO
12 DETERMINE WHETHER TO FILE A COMPLAINT WITH A HEARING OFFICER.

13 (5) **Investigations and enforcement.** (a) (I) THE DIVISION SHALL
14 INVESTIGATE EACH COMPLAINT THAT WAS NOT DISMISSED DURING EITHER
15 ITS INITIAL REVIEW OR BY MEANS OF THE CURE PROCEEDINGS IN
16 ACCORDANCE WITH SUBSECTION (3) OR (4) OF THIS SECTION TO DETERMINE
17 WHETHER TO FILE A COMPLAINT WITH A HEARING OFFICER. THE DIVISION
18 MAY ALSO INITIATE AN INVESTIGATION UNDER SUBSECTION (7)(b) OF THIS
19 SECTION.

20 (II) FOR THE PURPOSE OF AN INVESTIGATION RELATING TO A
21 COMPLAINT FILED UNDER SUBSECTION (2)(a) OF THIS SECTION OR AN
22 INVESTIGATION INITIATED BY THE DIVISION UNDER SUBSECTION (7)(b) OF
23 THIS SECTION, THE DIVISION MAY REQUEST THE PRODUCTION OF ANY
24 DOCUMENTS OR OTHER TANGIBLE THINGS THAT ARE BELIEVED TO BE
25 RELEVANT OR MATERIAL TO THE INVESTIGATION, AND SHALL ESTABLISH
26 THE RELEVANCE AND MATERIALITY IN WRITING. NOTWITHSTANDING ANY
27 OTHER PROVISION OF LAW, DOCUMENTS OR OTHER TANGIBLE THINGS

1 PROVIDED TO THE DIVISION DURING THE COURSE OF AN INVESTIGATION
2 UNDER THIS SUBSECTION (5) ARE NOT SUBJECT TO INSPECTION OR COPYING
3 UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF
4 TITLE 24. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, DOCUMENTS
5 OR OTHER TANGIBLE THINGS PROVIDED TO THE DIVISION DURING THE
6 COURSE OF AN INVESTIGATION UNDER THIS SUBSECTION (5) AND OTHER
7 MATERIALS PREPARED OR ASSEMBLED TO ASSIST THE SECRETARY'S
8 DESIGNEE IN REACHING A DECISION ARE WORK PRODUCT AS DEFINED IN
9 SECTION 24-72-202 (6.5)(a) AND ARE NOT PUBLIC RECORDS SUBJECT TO
10 INSPECTION UNDER PART 2 OF ARTICLE 72 OF TITLE 24.

11 (III) IF THE DIVISION RECEIVES A PERSON'S MEMBERSHIP LIST OR
12 DONOR LIST DURING THE COURSE OF THE DIVISION'S INITIAL REVIEW UNDER
13 SUBSECTION (3) OF THIS SECTION, INVESTIGATION UNDER THIS SUBSECTION
14 (5), OR THE CURE PROCESS, INCLUDING THE DETERMINATION OF
15 SUBSTANTIAL COMPLIANCE, AS DESCRIBED IN SUBSECTION (4) OF THIS
16 SECTION, THE DIVISION SHALL NOT DISCLOSE SUCH LIST OR THE IDENTITY
17 OF ANY MEMBER OR DONOR TO ANY PERSON. NOTWITHSTANDING ANY
18 OTHER PROVISION OF LAW, ANY SUCH MEMBERSHIP OR DONOR LIST IS NOT
19 A PUBLIC RECORD SUBJECT TO INSPECTION, COPYING, OR ANY OTHER FORM
20 OF REPRODUCTION UNDER PART 2 OF ARTICLE 72 OF TITLE 24.

21 (IV) THE DIVISION SHALL DETERMINE WHETHER IT WILL FILE A
22 COMPLAINT WITH A HEARING OFFICER WITHIN THIRTY DAYS AFTER
23 INITIATING AN INVESTIGATION. IF THE DIVISION MAKES A DETERMINATION
24 THAT A COMPLAINT SHOULD NOT BE FILED WITH A HEARING OFFICER
25 BECAUSE THERE IS NOT SUFFICIENT INFORMATION TO SUPPORT THE
26 ALLEGATIONS CONTAINED IN THE COMPLAINT OR FOR ANY OTHER REASON,
27 IT SHALL PREPARE AND FILE WITH THE DEPUTY SECRETARY A MOTION TO

1 DISMISS THE COMPLAINT. THE DEPUTY SECRETARY SHALL MAKE A
2 DETERMINATION ON THE MOTION TO DISMISS WITHIN THIRTY-FIVE DAYS OF
3 THE INITIAL DETERMINATION OF THE DIVISION UNDER THIS SUBSECTION
4 (5)(a)(IV), OR THE INITIATION OF AN INVESTIGATION BY THE DIVISION
5 UNDER SUBSECTION (7)(b) OF THIS SECTION, WHICH MUST BE PROVIDED TO
6 THE COMPLAINANT AND THE RESPONDENT BY E-MAIL OR BY REGULAR MAIL
7 IF E-MAIL IS UNAVAILABLE. IF THE DEPUTY SECRETARY DENIES THE
8 MOTION, THE DIVISION HAS FOURTEEN BUSINESS DAYS TO FILE A
9 COMPLAINT WITH A HEARING OFFICER UNDER THIS SUBSECTION (5).

10 (V) IF THE DIVISION FILES A COMPLAINT WITH A HEARING OFFICER
11 UNDER THIS SUBSECTION (5), IT IS RESPONSIBLE FOR CONDUCTING SUCH
12 DISCOVERY AS MAY BE NECESSARY FOR EFFECTIVELY PROSECUTING THE
13 COMPLAINT, SUPPLEMENTING OR AMENDING THE COMPLAINT WITH SUCH
14 ADDITIONAL OR ALTERNATIVE CLAIMS OR ALLEGATIONS AS MAY BE
15 SUPPORTED BY THE DIVISION'S INVESTIGATION, AMENDING THE COMPLAINT
16 TO STRIKE ALLEGATIONS OR CLAIMS THAT ARE NOT SUPPORTED BY THE
17 DIVISION'S INVESTIGATION, AND IN ALL OTHER RESPECTS PROSECUTING
18 THE COMPLAINT.

19 (b) A COMPLAINANT OR ANY OTHER NONRESPONDENT IS NOT A
20 PARTY TO THE DIVISION'S INITIAL REVIEW, CURE PROCEEDINGS,
21 INVESTIGATION, OR ANY PROCEEDINGS BEFORE A HEARING OFFICER AS
22 DESCRIBED IN THIS SECTION. A COMPLAINANT MAY SEEK PERMISSION
23 FROM THE HEARING OFFICER TO FILE A BRIEF AS AN AMICUS CURIAE. A
24 PERSON'S STATUS AS A COMPLAINANT IS NOT SUFFICIENT TO ESTABLISH
25 THAT HE OR SHE MAY BE AFFECTED OR AGGRIEVED BY THE SECRETARY'S
26 ACTION ON THE COMPLAINT. TO THE EXTENT THIS SUBSECTION (5)(b)
27 CONFLICTS IN ANY RESPECT WITH SECTION 24-4-105 OR 24-4-106, THIS

1 SUBSECTION (5)(b) CONTROLS. A COMPLAINANT MAY ALSO SEEK JUDICIAL
2 REVIEW BY A STATE DISTRICT COURT OF A FINAL AGENCY ACTION UNDER
3 SECTION 24-4-106.

4 (6) **Conduct of hearings.** (a) ANY HEARING CONDUCTED BY A
5 HEARING OFFICER UNDER THIS SECTION MUST BE IN ACCORDANCE WITH
6 SECTION 24-4-105; EXCEPT THAT A HEARING OFFICER SHALL SCHEDULE A
7 HEARING WITHIN THIRTY DAYS OF THE FILING OF THE COMPLAINT, WHICH
8 HEARING MAY BE CONTINUED UPON THE MOTION OF ANY PARTY FOR UP TO
9 THIRTY DAYS OR A LONGER EXTENSION OF TIME UPON A SHOWING OF GOOD
10 CAUSE.

11 (b) ANY INITIAL DETERMINATION MADE BY A HEARING OFFICER
12 MUST BE MADE IN ACCORDANCE WITH SECTION 24-4-105 AND IS SUBJECT
13 TO REVIEW BY THE DEPUTY SECRETARY. THE FINAL AGENCY DECISION IS
14 SUBJECT TO REVIEW UNDER SECTION 24-4-106.

15 (7) **Document review.** (a) IN ADDITION TO ANY OTHER POWERS
16 AND DUTIES IT POSSESSES UNDER LAW, THE DIVISION MAY ALSO REVIEW
17 ANY DOCUMENT THE SECRETARY RECEIVES FOR FILING UNDER ARTICLE
18 XXVIII, THIS ARTICLE 45, OR THE RULES.

19 (b) IN CONNECTION WITH THE REVIEW OF OTHER AVAILABLE
20 INFORMATION REGARDING A POTENTIAL VIOLATION UNDER THIS
21 SUBSECTION (7):

22 (I) IF THE DIVISION DETERMINES THAT A PERSON VIOLATED OR
23 POTENTIALLY VIOLATED ANY OF THE PROVISIONS OF ARTICLE XXVIII,
24 THIS ARTICLE 45, OR THE RULES, THE DIVISION SHALL EITHER NOTIFY THE
25 PERSON OF HIS OR HER OPPORTUNITY TO CURE THE IDENTIFIED
26 DEFICIENCIES IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION OR
27 NOTIFY THE PERSON THAT THE DIVISION IS INITIATING AN INVESTIGATION

1 UNDER SUBSECTION (5) OF THIS SECTION. THE DIVISION SHALL SEND THE
2 NOTIFICATION BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE.

3 (II) IF THE DIVISION INITIATES AN INVESTIGATION OR FILES A
4 COMPLAINT WITH A HEARING OFFICER IN CONNECTION WITH ITS _____
5 REVIEW, THE PROCEDURES DESCRIBED IN SUBSECTIONS (5) AND (6) OF THIS
6 SECTION APPLY.

7 (c) AS USED IN THIS SUBSECTION (7), "REVIEW" MEANS THE
8 FACTUAL INSPECTION ___ OF ANY DOCUMENT REQUIRED TO BE FILED WITH
9 THE SECRETARY FOR CAMPAIGN FINANCE REGISTRATION, REPORTING, OR
10 DISCLOSURE IN ORDER TO ASSESS THE DOCUMENT'S ACCURACY AND
11 COMPLETENESS AND THE TIMELINESS OF THE DOCUMENT'S FILING.

12 (8) **Advisory opinions.** (a) ANY PERSON SEEKING GUIDANCE ON
13 THE APPLICATION OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES
14 MAY REQUEST THAT THE SECRETARY ISSUE AN ADVISORY OPINION
15 REGARDING THAT PERSON'S SPECIFIC ACTIVITY.

16 (b) THE SECRETARY SHALL DETERMINE, AT THE SECRETARY'S
17 DISCRETION, WHETHER TO ISSUE AN ADVISORY OPINION UNDER
18 SUBSECTION (8)(a) OF THIS SECTION. IN MAKING THIS DETERMINATION,
19 THE SECRETARY SHALL CONSIDER FACTORS INCLUDING WHETHER:

20 (I) THE ADVISORY OPINION WILL TERMINATE A CONTROVERSY OR
21 REMOVE ONE OR MORE UNCERTAINTIES AS TO THE APPLICATION OF THE
22 LAW TO THE REQUESTOR'S SITUATION;

23 (II) THE REQUEST INVOLVES A SUBJECT, QUESTION, OR ISSUE THAT
24 CONCERNS A FORMAL OR INFORMAL MATTER OR INVESTIGATION
25 CURRENTLY PENDING BEFORE THE SECRETARY OR A COURT; AND

26 (III) THE REQUEST SEEKS A RULING ON A MOOT OR HYPOTHETICAL
27 QUESTION.

1 (c) A PERSON MAY RELY ON AN ADVISORY OPINION ISSUED BY THE
2 SECRETARY AS AN AFFIRMATIVE DEFENSE TO ANY COMPLAINT FILED
3 UNDER THIS SECTION.

4 (d) A REFUSAL BY THE SECRETARY TO ISSUE AN ADVISORY OPINION
5 DOES NOT CONSTITUTE A FINAL AGENCY ACTION THAT IS SUBJECT TO
6 APPEAL.

7 (9) **Miscellaneous matters - debt collection - municipal**
8 **complaints.** (a) THE SECRETARY MAY SEND TO THE STATE CONTROLLER
9 FOR COLLECTION ANY OUTSTANDING DEBT RESULTING FROM A CAMPAIGN
10 FINANCE PENALTY THAT THE SECRETARY DEEMS COLLECTIBLE.

11 (b) ANY COMPLAINT ARISING OUT OF A MUNICIPAL CAMPAIGN
12 FINANCE MATTER MUST BE EXCLUSIVELY FILED WITH THE CLERK OF THE
13 APPLICABLE MUNICIPALITY.

14 **SECTION 2.** In Colorado Revised Statutes, 1-45-103.7, **amend**
15 (7)(a) as follows:

16 **1-45-103.7. Contribution limits - treatment of independent**
17 **expenditure committees - contributions from limited liability**
18 **companies - voter instructions on spending limits - definitions.**

19 (7) (a) Any person who believes that a violation of subsection (5) or (6)
20 SUBSECTION (1.5), (5), OR (6) of this section has occurred may file a
21 written complaint with the secretary of state ~~no later than one hundred~~
22 ~~eighty days after the date of the alleged violation.~~ The complaint shall be
23 ~~subject to all applicable procedures specified in section 9 (2) of article~~
24 ~~XXVIII of the state constitution~~ IN ACCORDANCE WITH SECTION
25 1-45-111.7.

26 **SECTION 3.** In Colorado Revised Statutes, 1-45-109, **repeal**
27 (4)(b), (4)(c), (11), and (12) as follows:

1 **1-45-109. Filing - where to file - timeliness - definition.**

2 (4) (b) Any report that is deemed incomplete by the appropriate officer
3 must be accepted and the committee must be notified of the deficiency.
4 If an e-mail address is on file with the secretary of state, the secretary of
5 state may provide such notification by e-mail. The committee has thirty
6 calendar days from the date such notice is sent, whether electronically or
7 by United States mail, to file an addendum that cures the deficiencies:

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

1 ~~(4)(c)(I), the appropriate officer shall not assess a penalty against the~~
2 ~~committee that otherwise would have been assessed for the deficiencies~~
3 ~~for the period from the first date of the alleged violation through the~~
4 ~~expiration of the cure period.~~

5 ~~(H) Upon filing an addendum to the relevant report by the~~
6 ~~committee that cures all such deficiencies in accordance with subsection~~
7 ~~(4)(c)(I) of this section, the appropriate officer shall set a hearing within~~
8 ~~thirty days of the notice to determine whether all issues raised by the~~
9 ~~complaint have been resolved. If the committee fails to cure any such~~
10 ~~deficiency, any penalty imposed for the deficiency continues to accrue~~
11 ~~until further resolution of the matter. Notwithstanding any other provision~~
12 ~~of law, subsection (4)(c)(I) of this section only applies in the case of a~~
13 ~~good faith effort by a committee to make a timely disclosure in~~
14 ~~accordance with article XXVIII of the state constitution or this article 45~~
15 ~~or where the disclosure made by the committee is in substantial~~
16 ~~compliance with such legal requirements. The committee has the burden~~
17 ~~of demonstrating good faith or substantial compliance under this~~
18 ~~subsection (4)(c)(H) by a preponderance of the evidence in the hearing~~
19 ~~held by the appropriate officer under section 9 (2)(a) of article XXVIII of~~
20 ~~the state constitution. Where the committee fails to satisfy its burden of~~
21 ~~demonstrating either good faith or substantial compliance, the~~
22 ~~administrative law judge shall enter or impose a civil penalty in~~
23 ~~accordance with the following:~~

24 ~~(A) If the amount of the penalty that has accrued to that point in~~
25 ~~time is less than five thousand dollars, the administrative law judge shall~~
26 ~~impose a penalty in the amount of the penalty that has accrued to that~~
27 ~~point in time.~~

1 ~~(B) If the amount of the civil penalty that has accrued to that point~~
2 ~~in time is five thousand or more dollars, the administrative law judge~~
3 ~~shall impose a penalty, in his or her discretion, in an amount that is not~~
4 ~~less than five thousand dollars.~~

5 ~~(11) Notwithstanding any other provision of this section, during~~
6 ~~the period commencing May 25, 2010, and continuing through December~~
7 ~~31, 2010, any report, statement, or other document required to be filed~~
8 ~~under section 1-45-107.5 that is to be filed electronically with the~~
9 ~~secretary of state's office pursuant to this section may be filed manually~~
10 ~~or by means of a portable document format file acceptable to the~~
11 ~~secretary.~~

12 ~~(12) For purposes of subsection (4)(c) of this section, "appropriate~~
13 ~~officer" means a hearing officer or an administrative law judge.~~

14 **SECTION 4.** In Colorado Revised Statutes, 1-45-111.5, **amend**
15 **(1.5)(a), (1.5)(b), (1.5)(c), (1.5)(d), (1.5)(e), (2), (3), and (4)(d)(II); and**
16 **repeal (5) as follows:**

17 **1-45-111.5. Duties of the secretary of state - enforcement -**
18 **sanctions - definitions.** (1.5) (a) Any person who believes that a
19 violation of ~~either~~ ARTICLE XXVIII OF THE STATE CONSTITUTION, the
20 secretary of state's rules concerning campaign and political finance or this
21 article 45 has occurred may file a written complaint with the secretary of
22 state ~~not later than one hundred eighty days after the date of the~~
23 ~~occurrence of the alleged violation. The complaint is subject to all~~
24 ~~applicable procedures specified in section 9 (2) of article XXVIII of the~~
25 ~~state constitution. The person filing the complaint must serve the~~
26 ~~complaint on the respondent by certified mail, return receipt requested,~~
27 ~~on the same day the person files the complaint with the secretary of state.~~

1 ~~The person filing the complaint must state factual allegations of a~~
2 ~~violation. For purposes of this section and section 9(2) of article XXVIII~~
3 ~~of the state constitution, "complaint" means a signed document that~~
4 ~~alleges a violation of article XXVIII of the state constitution or of this~~
5 ~~article 45 IN ACCORDANCE WITH SECTION 1-45-111.7.~~

6 (b) Any person who commits a violation of either the secretary of
7 state's rules concerning campaign and political finance or this article that
8 is not specifically listed in ~~section 9(2)(a) of article XXVIII of the state~~
9 constitution shall be subject to any of the sanctions specified in section 10
10 of article XXVIII of the state constitution or in this section.

11 (c) In addition to any other penalty authorized by article XXVIII
12 of the state constitution or this ~~article, an administrative law judge~~
13 ARTICLE 45, A HEARING OFFICER may impose a civil penalty of fifty
14 dollars per day for each day that a report, statement, or other document
15 required to be filed under this ~~article~~ ARTICLE 45 that is not specifically
16 listed in article XXVIII of the state constitution is not filed by the close
17 of business on the day due. Any person who fails to file three or more
18 successive committee registration reports or reports concerning
19 contributions, expenditures, or donations in accordance with the
20 requirements of section 1-45-107.5 shall be subject to a civil penalty of
21 up to five hundred dollars for each day that a report, statement, or other
22 document required to be filed by an independent expenditure committee
23 is not filed by the close of business on the day due. Any person who
24 knowingly and intentionally fails to file three or more reports due under
25 section 1-45-107.5 shall be subject to a civil penalty of up to one
26 thousand dollars per day for each day that the report, statement, or other
27 document is not filed by the close of business on the day due. Imposition

1 of any penalty under this ~~paragraph (c)~~ SUBSECTION (1.5)(c) shall be
2 subject to all applicable requirements specified in section 10 of article
3 XXVIII of the state constitution governing the imposition of penalties.

4 (d) In connection with a complaint brought to enforce any
5 requirement of article XXVIII of the state constitution or this ~~article, an~~
6 ~~administrative law judge~~ ARTICLE 45, A HEARING OFFICER may order
7 disclosure of the source and amount of any undisclosed donations or
8 expenditures.

9 (e) In connection with any action brought to enforce any provision
10 of article XXVIII of the state constitution or this ~~article~~ ARTICLE 45, the
11 membership lists of a MEMBERSHIP ORGANIZATION, A labor organization
12 or, in the case of a publicly held corporation, a list of the shareholders of
13 the corporation, shall not be disclosed by means of discovery or by any
14 other manner.

15 (2) A party in any action brought to enforce the provisions of
16 article XXVIII of the state constitution or of this article 45 is entitled to
17 the recovery of the party's reasonable attorney fees and costs from any
18 attorney or party who has brought or defended the action, either in whole
19 or in part, upon a determination by the ~~office of administrative courts~~
20 HEARING OFFICER that the action, or any part thereof, lacked substantial
21 justification or that the action, or any part thereof, was commenced for
22 delay or harassment or if it finds that an attorney or party unnecessarily
23 expanded the proceeding by other improper conduct, including abuses of
24 discovery procedures available under the Colorado rules of civil
25 procedure. Notwithstanding any other provision of this subsection (2), no
26 attorney fees may be awarded under this subsection (2) unless the court
27 or ~~administrative law judge~~ HEARING OFFICER, as applicable, has first

1 considered and issued written findings regarding the provisions of section
2 13-17-102 (5) and (6). Either party in an action in which the ~~office of~~
3 ~~administrative courts~~ HEARING OFFICER awarded attorney fees and costs
4 may apply to a district court to convert an award of attorney fees and
5 costs into a district court judgment. Promptly upon the conversion of the
6 award of attorney fees and costs into a district court judgment, the clerk
7 of the district court shall mail notice of the filing of the judgment to the
8 judgment debtor at the address given and shall make a note of the mailing
9 in the docket. The notice must include the name and post-office address
10 of the judgment creditor and the judgment creditor's lawyer, if any, in this
11 state. In addition, the judgment creditor may mail a notice of the filing of
12 the judgment to the judgment debtor and may file proof of mailing with
13 the clerk. Lack of mailing notice of filing by the clerk shall not affect the
14 enforcement proceedings if proof of mailing by the judgment creditor has
15 been filed. For purposes of this subsection (2), "lacked substantial
16 justification" means substantially frivolous, substantially groundless, or
17 substantially vexatious.

18 (3) Upon a determination by the ~~office of administrative courts~~
19 HEARING OFFICER that an issue committee failed to file a report required
20 pursuant to section 1-45-108, the ~~administrative law judge~~ HEARING
21 OFFICER shall direct the issue committee to file any such report within ten
22 days containing all required disclosure of any previously unreported
23 contributions or expenditures and may, in addition to any other penalty,
24 impose a penalty not to exceed twenty dollars for each contribution
25 received and expenditure made by the issue committee that was not timely
26 reported.

27 (4) (d) If the court determines that the subpoenaed witness or

1 party is required to comply with the administrative subpoena:

2 (II) The ~~administrative law judge~~ HEARING OFFICER shall schedule
3 a hearing on the complaint to occur on a day after the occurrence of the
4 required deposition and such other discovery as may be warranted due to
5 such deposition.

6 (5) ~~Not later than December 1, 2016, the secretary of state shall~~
7 ~~create and post on the secretary's official website a campaign finance~~
8 ~~training course that offers sufficient content to satisfy the training~~
9 ~~requirements for administrative law judges that is required by section~~
10 ~~24-30-1003 (6), C.R.S.~~

11 **SECTION 5.** In Colorado Revised Statutes, 24-30-1003, **repeal**
12 (6) as follows:

13 **24-30-1003. Administrative law judges - appointment -**
14 **qualifications - standards of conduct.** (6) ~~On and after January 1, 2017,~~
15 ~~before hearing a complaint that has been filed with the office of~~
16 ~~administrative courts in accordance with section 9 (2) of article XXVIII~~
17 ~~of the state constitution, an administrative law judge shall complete four~~
18 ~~credit hours of continuing legal education courses that have been certified~~
19 ~~by the Colorado supreme court. The four credit hours of legal education~~
20 ~~must be substantially related to election or campaign finance law. An~~
21 ~~administrative law judge who hears campaign finance complaints must~~
22 ~~obtain the four credit hours on an annual basis. An administrative law~~
23 ~~judge may satisfy the requirements of this subsection (6) by completing~~
24 ~~the campaign finance training course that is offered on the secretary of~~
25 ~~state's website pursuant to section 1-45-111.5 (5), C.R.S.~~

26 **SECTION 6. Effective date - applicability.** (1) This act takes
27 effect July 1, 2019, and applies to complaints filed with the secretary of

1 state on or after said date.

2 (2) Section 1-45-103.7 (7)(a), Colorado Revised Statutes, as
3 amended in section 1 of House Bill 19-1007, does not take effect if this
4 act, Senate Bill 19-232, becomes law.

5 **SECTION 7. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.