

CHAPTER 269

ELECTIONS

SENATE BILL 10-203

BY SENATOR(S) Carroll M., Morse, Shaffer B., Bacon, Boyd, Newell;
 also REPRESENTATIVE(S) Weissmann and Middleton, Casso, Court, Ferrandino, Frangas, Hullinghorst, Labuda, Miklosi,
 Pommer, Rice, Ryden, Tyler, Vigil.

AN ACT

CONCERNING INDEPENDENT EXPENDITURES IN COLORADO ELECTIONS AFTER THE UNITED STATES SUPREME COURT CASE OF *CITIZENS UNITED V. FEDERAL ELECTION COMM'N*, AND MAKING AN APPROPRIATION THEREFOR.

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

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

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) These recent judicial decisions do not limit the plenary power of the general assembly either to require disclosure to the secretary of state of donations and expenditures used in independent expenditures or to require disclaimers on advertisements, as the purpose of both disclosure and disclaimer requirements is to allow the public to know who is attempting to influence their vote;

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

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

SECTION 2. 1-45-103 (7), Colorado Revised Statutes, is amended, and the said 1-45-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

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

(7.3) (a) "DONATION" MEANS:

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

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

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

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

(b) "DONATION" SHALL NOT INCLUDE A TRANSFER BY A MEMBERSHIP ORGANIZATION OF A PORTION OF A MEMBER'S DUES FOR AN INDEPENDENT EXPENDITURE SPONSORED BY SUCH MEMBERSHIP ORGANIZATION.

(7.5) "EARMARK" MEANS A DESIGNATION, INSTRUCTION, OR ENCUMBRANCE THAT DIRECTS THE TRANSMISSION BY THE RECIPIENT OF ALL OR PART OF A DONATION TO A THIRD PARTY FOR THE PURPOSE OF MAKING ONE OR MORE INDEPENDENT EXPENDITURES IN EXCESS OF ONE THOUSAND DOLLARS.

(10.5) "FOREIGN CORPORATION" MEANS:

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

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

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

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

(11.5) "INDEPENDENT EXPENDITURE COMMITTEE" MEANS ONE OR MORE PERSONS THAT MAKE AN INDEPENDENT EXPENDITURE IN AN AGGREGATE AMOUNT IN EXCESS OF ONE THOUSAND DOLLARS OR THAT COLLECTS IN EXCESS OF ONE THOUSAND DOLLARS FROM ONE OR MORE PERSONS FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE.

(12.5) "MEDIA OUTLET" MEANS A PUBLICATION OR BROADCAST MEDIUM THAT TRANSMITS NEWS, FEATURE STORIES, ENTERTAINMENT, OR OTHER INFORMATION TO THE PUBLIC THROUGH VARIOUS DISTRIBUTION CHANNELS, INCLUDING, WITHOUT LIMITATION, NEWSPAPERS; MAGAZINES; RADIO; AND BROADCAST, CABLE, OR SATELLITE TELEVISION.

(12.7) "OBLIGATING" MEANS, IN CONNECTION WITH A NAMED CANDIDATE, AGREEING TO SPEND IN EXCESS OF ONE THOUSAND DOLLARS FOR AN INDEPENDENT EXPENDITURE OR TO GIVE, PLEDGE, LOAN, OR PURCHASE ONE OR MORE GOODS, SERVICES, OR OTHER THINGS OF VALUE THAT HAVE A FAIR MARKET VALUE IN EXCESS OF ONE THOUSAND DOLLARS AS AN INDEPENDENT EXPENDITURE. "OBLIGATING" SHALL NOT REQUIRE THAT THE TOTAL AMOUNT IN EXCESS OF ONE THOUSAND DOLLARS BE FINALLY DETERMINED AT THE TIME OF THE AGREEMENT TO SPEND MONEYS FOR AN INDEPENDENT EXPENDITURE OR TO GIVE, PLEDGE, LOAN, OR PURCHASE ANYTHING OF VALUE.

SECTION 3. 1-45-103.7 (6) and (8), Colorado Revised Statutes, are amended,

and the said 1-45-103.7 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1-45-103.7. Contribution limits - contributions from limited liability companies - definitions. (2.5) AN INDEPENDENT EXPENDITURE COMMITTEE SHALL NOT BE TREATED AS A POLITICAL COMMITTEE AND, THEREFORE, SHALL NOT BE SUBJECT TO THE REQUIREMENTS OF SECTION 3 (5) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

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

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

SECTION 4. Article 45 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

1-45-107.5. Independent expenditures - restrictions on foreign corporations - registration - disclosure - disclaimer requirements. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO FOREIGN CORPORATION MAY EXPEND MONEYS ON AN INDEPENDENT EXPENDITURE IN CONNECTION WITH AN ELECTION IN THE STATE.

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

(3) (a) ANY PERSON THAT ACCEPTS A DONATION THAT IS GIVEN FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE IN EXCESS OF ONE THOUSAND DOLLARS OR THAT MAKES AN INDEPENDENT EXPENDITURE IN EXCESS OF ONE THOUSAND DOLLARS SHALL REGISTER WITH THE APPROPRIATE OFFICER WITHIN TWO BUSINESS

DAYS OF THE DATE ON WHICH AN AGGREGATE AMOUNT OF DONATIONS ACCEPTED OR EXPENDITURES MADE REACHES OR EXCEEDS ONE THOUSAND DOLLARS.

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

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

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

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

(IV) THE AGGREGATE OWNERSHIP INTEREST IN THE PERSON HELD BY FOREIGN PERSONS CALCULATED AS OF THE TIME THE PERSON REGISTERS WITH THE APPROPRIATE OFFICER UNDER PARAGRAPH (a) OF THIS SUBSECTION (3).

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

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

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

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

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

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

(IV) THE NAME AND STREET ADDRESS IN THE STATE OF ITS REGISTERED AGENT.

(b) (I) ANY PERSON WHO EXPENDS AN AGGREGATE AMOUNT IN EXCESS OF ONE THOUSAND DOLLARS OR MORE PER CALENDAR YEAR FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE SHALL REPORT TO THE APPROPRIATE OFFICER, IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION, THE NAME AND ADDRESS OF ANY PERSON THAT, FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE, DONATES MORE THAN TWO HUNDRED FIFTY DOLLARS PER YEAR TO THE PERSON EXPENDING ONE THOUSAND DOLLARS OR MORE ON AN INDEPENDENT EXPENDITURE.

(II) IF THE PERSON MAKING THE DONATION OF TWO HUNDRED FIFTY DOLLARS OR MORE IS A NATURAL PERSON, THE DISCLOSURE REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL ALSO INCLUDE THE DONOR'S OCCUPATION AND EMPLOYER.

(III) IF THE PERSON MAKING THE DONATION OF TWO HUNDRED FIFTY DOLLARS OR MORE IS NOT A NATURAL PERSON, THE DISCLOSURE REQUIRED BY THIS PARAGRAPH (b) SHALL ALSO INCLUDE:

(A) THE DONOR'S FULL NAME, OR, IF THE DONOR IS A SUBSIDIARY OF A PARENT CORPORATION, THE FULL NAME OF THE PARENT CORPORATION, SPELLING OUT ANY ACRONYMS USED THEREIN;

(B) ALL NAMES UNDER WHICH THE DONOR DOES BUSINESS IN THE STATE IF SUCH NAMES ARE DIFFERENT FROM THE NAME IDENTIFIED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b);

(C) THE ADDRESS OF THE HOME OFFICE OF THE DONOR, OR, IF THE DONOR IS A SUBSIDIARY OF A PARENT CORPORATION, THE HOME OFFICE OF THE PARENT CORPORATION; AND

(D) THE NAME AND STREET ADDRESS IN THE STATE OF THE DONOR'S REGISTERED AGENT.

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

(5) (a) IN ADDITION TO ANY OTHER APPLICABLE REQUIREMENTS PROVIDED BY LAW, AND SUBJECT TO THE PROVISIONS OF THIS SECTION, 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 IN EXCESS OF ONE THOUSAND DOLLARS

ON THE COMMUNICATION SHALL INCLUDE IN THE COMMUNICATION A STATEMENT THAT:

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

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

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

(c) IN THE CASE OF A NONBROADCAST COMMUNICATION, THE SECRETARY OF STATE SHALL, BY RULE, ESTABLISH SIZE AND PLACEMENT REQUIREMENTS FOR THE DISCLAIMER.

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

(7) ANY PERSON THAT ACCEPTS ANY DONATION THAT IS GIVEN FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE OR EXPENDS ANY MONEYS ON AN INDEPENDENT EXPENDITURE IN AN AGGREGATE AMOUNT IN EXCESS OF ONE THOUSAND DOLLARS IN ANY ONE CALENDAR YEAR SHALL ESTABLISH A SEPARATE ACCOUNT IN A FINANCIAL INSTITUTION, AND THE TITLE OF THE ACCOUNT SHALL INDICATE THAT IT IS USED FOR SUCH PURPOSES. ALL SUCH DONATIONS ACCEPTED BY SUCH PERSON FOR THE MAKING OF ANY SUCH INDEPENDENT EXPENDITURES SHALL ONLY BE DEPOSITED INTO THE ACCOUNT, AND ANY MONEYS EXPENDED FOR THE MAKING OF SUCH INDEPENDENT EXPENDITURE SHALL ONLY BE WITHDRAWN FROM THE ACCOUNT. AS LONG AS THE PERSON USES A SEPARATE ACCOUNT FOR THE PURPOSES OF THIS SUBSECTION (7), IN ANY COMPLAINT RELATING TO THE USE OF THE PERSON'S ACCOUNT, NO DISCOVERY MAY BE MADE OF INFORMATION RELATING TO THE IDENTITY OF THE PERSON'S MEMBERS AND GENERAL DONORS AND ANY DISCOVERY IS LIMITED TO THE SOURCES, AMOUNTS, AND USES OF DONATIONS DEPOSITED INTO AND EXPENDITURES WITHDRAWN FROM THE ACCOUNT.

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

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

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

(10) ANY EARMARKED DONATION GIVEN FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE IN EXCESS OF ONE THOUSAND DOLLARS SHALL BE DISCLOSED AS A DONATION FROM BOTH THE ORIGINAL SOURCE OF THE DONATION AND THE PERSON TRANSFERRING THE DONATION.

(11) ON REPORTS IT FILES WITH THE APPROPRIATE OFFICIAL, AN INDEPENDENT EXPENDITURE COMMITTEE THAT OBLIGATES IN EXCESS OF ONE THOUSAND DOLLARS FOR AN INDEPENDENT EXPENDITURE SHALL DISCLOSE A GOOD FAITH ESTIMATE OF THE FAIR MARKET VALUE OF THE EXPENDITURE IF THE COMMITTEE DOES NOT KNOW THAT ACTUAL AMOUNT OF THE EXPENDITURE AS OF THE DATE THAT A REPORT IS REQUIRED TO BE FILED WITH THE APPROPRIATE OFFICIAL.

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

(13) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ANY REQUIREMENT CONTAINED IN THIS SECTION THAT IS APPLICABLE TO A CORPORATION SHALL ALSO BE APPLICABLE TO A LABOR ORGANIZATION.

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

SECTION 5. 1-45-109, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1-45-109. Filing - where to file - timeliness - repeal. (11) NOTWITHSTANDING

ANY OTHER PROVISION OF THIS SECTION, DURING THE PERIOD COMMENCING ON THE EFFECTIVE DATE OF THIS SUBSECTION (11) AND CONTINUING THROUGH DECEMBER 31, 2010, ANY REPORT, STATEMENT, OR OTHER DOCUMENT REQUIRED TO BE FILED UNDER SECTION 1-45-107.5 THAT IS TO BE FILED ELECTRONICALLY WITH THE SECRETARY OF STATE'S OFFICE PURSUANT TO THIS SECTION MAY BE FILED MANUALLY OR BY MEANS OF A PORTABLE DOCUMENT FORMAT FILE ACCEPTABLE TO THE SECRETARY.

SECTION 6. 1-45-111.5 (1.5), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

1-45-111.5. Duties of the secretary of state - enforcement - sanctions.

(1.5)(c) IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS ARTICLE, AN ADMINISTRATIVE LAW JUDGE MAY IMPOSE A CIVIL PENALTY OF FIFTY DOLLARS PER DAY FOR EACH DAY THAT A REPORT, STATEMENT, OR OTHER DOCUMENT REQUIRED TO BE FILED UNDER THIS ARTICLE THAT IS NOT SPECIFICALLY LISTED IN ARTICLE XXVIII OF THE STATE CONSTITUTION IS NOT FILED BY THE CLOSE OF BUSINESS ON THE DAY DUE. ANY PERSON WHO FAILS TO FILE THREE OR MORE SUCCESSIVE COMMITTEE REGISTRATION REPORTS OR REPORTS CONCERNING CONTRIBUTIONS, EXPENDITURES, OR DONATIONS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 1-45-107.5 SHALL BE SUBJECT TO A CIVIL PENALTY OF UP TO FIVE HUNDRED DOLLARS FOR EACH DAY THAT A REPORT, STATEMENT, OR OTHER DOCUMENT REQUIRED TO BE FILED BY AN INDEPENDENT EXPENDITURE COMMITTEE IS NOT FILED BY THE CLOSE OF BUSINESS ON THE DAY DUE. ANY PERSON WHO KNOWINGLY AND INTENTIONALLY FAILS TO FILE THREE OR MORE REPORTS DUE UNDER SECTION 1-45-107.5 SHALL BE SUBJECT TO A CIVIL PENALTY OF UP TO ONE THOUSAND DOLLARS PER DAY FOR EACH DAY THAT THE REPORT, STATEMENT, OR OTHER DOCUMENT IS NOT FILED BY THE CLOSE OF BUSINESS ON THE DAY DUE. IMPOSITION OF ANY PENALTY UNDER THIS PARAGRAPH (c) SHALL BE SUBJECT TO ALL APPLICABLE REQUIREMENTS SPECIFIED IN SECTION 10 OF ARTICLE XXVIII OF THE STATE CONSTITUTION GOVERNING THE IMPOSITION OF PENALTIES.

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

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

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

SECTION 7. 1-45-112.5, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

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

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

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

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

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

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

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

SECTION 8. The introductory portion to 1-45-117 (1) (a) (I), Colorado Revised Statutes, is amended to read:

1-45-117. State and political subdivisions - limitations on contributions.

(1) (a) (I) No agency, department, board, division, bureau, commission, or council of the state or any political subdivision ~~thereof~~ OF THE STATE shall make any contribution in campaigns involving the nomination, retention, or election of any person to any public office, NOR SHALL ANY SUCH ENTITY MAKE ANY DONATION TO ANY OTHER PERSON FOR THE PURPOSE OF MAKING AN INDEPENDENT EXPENDITURE, nor shall any such entity expend any ~~public~~ moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:

SECTION 9. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2010, the sum of one hundred one thousand six hundred sixty-two dollars (\$101,662) cash funds, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of four thousand five hundred twenty-two dollars, or so much thereof as may be necessary, for the provision of legal services to the department of state related to the implementation of this act. Said sum shall be from reappropriated funds received

from the department of state out of the appropriation made in subsection (1) of this section.

(3) In addition to any other appropriation, there is hereby appropriated to the department of personnel and administration, division of administrative courts, for the fiscal year beginning July 1, 2010, the sum of four thousand five hundred dollars (\$4,500), or so much thereof as may be necessary, for the provision of administrative law judge services to the department of state related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of state out of the appropriation made in subsection (1) of this section.

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

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

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

Approved: May 25, 2010