

  
*Colorado Legislative Council Staff Fiscal Note*  
**STATE**  
**FISCAL IMPACT**

**Drafting Number:** LLS 10-0989 **Date:** April 30, 2010  
**Prime Sponsor(s):** Sen. Carroll M. **Bill Status:** Senate SVMA  
 Rep. Weissmann; Middleton **Fiscal Analyst:** Bill Zepernick (303-866-4777)

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

| Fiscal Impact Summary  | FY 2010-2011 | FY 2011-2012 |
|--|--------------|--------------|
| <b>State Revenue</b>   |              |              |
| Cash Funds   |              |              |
| Department of State Cash Fund  | \$10,500     | <\$5,000     |
| <b>State Expenditures</b>  |              |              |
| Cash Funds   |              |              |
| Department of State Cash Fund  | \$101,662    | \$0          |
| <b>FTE Position Change</b>   |              |              |
| <b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature. |              |              |
| <b>Appropriation Summary for FY 2010-2011:</b> See State Appropriations section.                   |              |              |
| <b>Local Government Impact:</b> None.  |              |              |

**Summary of Legislation**

The bill makes changes to state law to regulate independent expenditures made in connection with state elections. These are expenditures not controlled by or coordinated with a candidate or a candidate's agent. Specifically, the bill does the following:

- defines "foreign corporation" and prohibits such corporations from making independent expenditures;
- requires persons and organizations that accept donations for or make independent expenditures greater than \$1,000 to register with the Secretary of State;
- specifies information to be collected from persons who register;
- mandates information that must be disclosed in any communication paid for with independent expenditures greater than \$1,000;
- requires that persons that accept donations for independent expenditures maintain these funds in a separate bank account;
- requires the Secretary of State to post information relating to independent expenditures on its website within certain time frames;

- specifies civil penalties that may be imposed by an administrative law judge (ALJ) for failure to file a required document with the Secretary of State;
- creates immunity from civil liability for media outlets for canceling advertisements by an independent expenditure committee that fails to register or file disclosure reports; and
- prohibits state and local governments from making independent expenditures.

### **State Revenue**

**The bill could increase fine revenue to the Department of State Cash Fund by \$10,500 in FY 2010-11.** The analysis assumes that fines will be imposed for 42 late filing days at \$500 per day, resulting in total fines of \$21,000. However, it is assumed that 50 percent of fines imposed will ultimately be collected, resulting in \$10,500 in revenue. A minimal amount of fine revenue (<\$5,000) is expected during odd-year elections when independent expenditure activity is not as significant. However, actual fine revenue collected could vary from these amounts based on the types of organization making independent expenditures, the level of compliance, and the ability to pay any fines imposed by an ALJ.

### **State Expenditures**

**The bill will increase costs in the Department of State by \$101,662 in FY 2010-11.** These costs are summarized in Table 1 and discussed below.

| <b>Cost Components</b>                      | <b>FY 2010-11</b> | <b>FY 2011-12</b> |
|---|-------------------|-------------------|
| Information Technology System Modifications | \$92,640          | \$0               |
| Legal Services                              | 4,522             | 0                 |
| Administrative Law Judges                   | 4,500             | 0                 |
| <b>TOTAL</b>                                | <b>\$101,662</b>  | <b>\$0</b>        |

**Information technology system modifications.** The department will have one-time costs of \$92,640 to modify its campaign finance disclosure system in FY 2010-11 to allow independent expenditure committees to register with the department. These costs include \$62,040 for 564 hours of programmer time and \$30,600 for project management costs.

System implementation date. It is estimated that about 5 months will be required for the contractor to develop and implement the IT system changes. Assuming the bill is signed into law in June 2010, the campaign finance system will not be able to collect information from independent expenditure committees until October or November 2010. However, the bill mandates filing with the Secretary of State upon enactment into law during the current election cycle. **It is unclear how the department will meet the requirement for immediate implementation of the bill.** Potential options include:

- accepting paper filings from independent expenditure committees; or
- allowing committees to delay filing with the Secretary of State until changes to the system are complete.

However, paper filing will increase costs above the estimates in this fiscal note and is not standard practice at the department for election filings. Allowing delayed filings does not conform to the requirements of the bill and will limit public access to information on independent expenditure, possibly until after the November election.

***Legal services.*** The department will require 60 hours of legal services from the Department of Law in FY 2010-11. These legal services are required to assist the department in developing the IT system specifications and to resolve any questions concerning the interaction of this bill with existing statutory and constitutional law regulating political committees and election finance.

***Administrative law judges.*** It is estimated that 3 cases will be referred to an ALJ in the Department of Personnel and Administration in FY 2010-11. At an average cost of \$1,500 per hearing, the department will have costs of \$4,500 in FY 2010-11 for ALJ services. If this increase results in the need for additional ALJs, this staffing will be address through the annual budget process.

### **State Appropriations**

The bill requires an appropriation of \$101,662 to the Department of State from the Department of State Cash Fund in FY 2010-11. Of this amount, \$4,522 should be reappropriated to the Department of Law for legal services.

### **Departments Contacted**

State            Law            Judicial            Personnel and Administration