

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1243.01 Bob Lackner x4350

SENATE BILL 16-186

SENATE SPONSORSHIP

Tate,

HOUSE SPONSORSHIP

Lontine,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

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, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

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

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.

upon issue committees under the Colorado constitution and the state "Fair Campaign Practices Act" (FCPA) were not to be applied to an advocacy 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

1 ESTABLISHED, FINANCED, MAINTAINED, OR CONTROLLED BY A SINGLE
2 CORPORATION OR ITS SUBSIDIARIES;

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

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

12 (c) THIS SUBSECTION (16.3) IS REPEALED, EFFECTIVE JUNE 30,
13 2019.

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

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

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

1 (1.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN LIGHT
2 OF THE OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE TENTH
3 CIRCUIT IN THE CASE OF *COALITION FOR SECULAR GOVERNMENT V.*
4 *WILLIAMS*, No. 14-1469 (10TH CIRCUIT MARCH 2, 2016), THAT AFFIRMED
5 THE ORDER OF THE FEDERAL DISTRICT COURT IN THE CASE OF *COALITION*
6 *FOR SECULAR GOV'T V. GESSLER*, CASE No. 12 CV 1708, THE DISCLOSURE
7 REQUIREMENTS SPECIFIED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a)
8 OF SUBSECTION (1) OF THIS SECTION AND THE REPORTING REQUIREMENTS
9 SPECIFIED IN SUBSECTION (3.3) OR (6) OF THIS SECTION SHALL NOT APPLY
10 TO A SMALL-SCALE ISSUE COMMITTEE. ANY SMALL-SCALE ISSUE
11 COMMITTEE SHALL DISCLOSE OR FILE REPORTS ABOUT THE CONTRIBUTIONS
12 OR EXPENDITURES IT HAS MADE OR RECEIVED OR OTHERWISE REGISTER AS
13 AN ISSUE COMMITTEE IN CONNECTION WITH ACCEPTING OR MAKING SUCH
14 CONTRIBUTIONS OR EXPENDITURES IN ACCORDANCE WITH THE FOLLOWING
15 ALTERNATIVE REQUIREMENTS:

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

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

1 THE AGGREGATE AMOUNT OF CONTRIBUTIONS OR EXPENDITURES EXCEEDS
2 TWO HUNDRED DOLLARS. THE REGISTRATION REQUIRED BY THIS
3 SUBPARAGRAPH (I) MUST INCLUDE A STATEMENT LISTING:

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

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

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

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

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

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

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

1 CONTRIBUTION AND EXPENDITURE ACCEPTED OR MADE BY THE
2 COMMITTEE.

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

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

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

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

1 (6) SUBJECT TO SUBSECTION (1.5) OF THIS SECTION, any issue
2 committee whose purpose is the recall of any elected official shall register
3 with the appropriate officer within ten calendar days of accepting or
4 making contributions or expenditures in excess of two hundred dollars to
5 support or oppose the recall. Reports of contributions and expenditures
6 shall be filed with the appropriate officer within fifteen days of the filing
7 of the committee registration and every thirty days thereafter until the date
8 of the recall election has been established and then fourteen days and
9 seven days before the recall election and thirty days following the recall
10 election.

11 **SECTION 3. Appropriation.** For the 2016-17 state fiscal year,
12 \$20,130 is appropriated to the department of state. This appropriation is
13 from the department of state cash fund created in section 24-21-104 (3)
14 (b), C.R.S. To implement this act, the department may use this
15 appropriation for personal services related to information technology
16 services.

17 **SECTION 4. Applicability.** This act applies to the portion of any
18 election cycle or for the portion of the calendar year remaining after the
19 effective date of this act and for any election cycle or calendar year
20 commencing after such effective date, whichever is applicable.

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