

By Representative Needelman

1                                   A bill to be entitled  
 2           An act relating to reporting requirements under  
 3           the Florida Election Code; amending s. 106.011,  
 4           F.S.; modifying the definitions of "political  
 5           committee," "independent expenditure," "issue,"  
 6           and "communications media"; revising additional  
 7           definitions, to conform terminology; amending  
 8           s. 106.071, F.S.; revising requirements  
 9           relating to the reporting of independent  
 10          expenditures; providing penalties; revising  
 11          penalties applicable to the omission of  
 12          disclaimers required in political  
 13          advertisements paid for by independent  
 14          expenditure; amending ss. 101.031, 101.663,  
 15          104.185, 106.03, 106.04, 106.07, 106.085,  
 16          106.125, 106.143, and 106.29, F.S.; revising  
 17          terminology, to conform; providing an effective  
 18          date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1. Subsections (1), (4), (5), (6), (7), (13),  
 23           and (17) of section 106.011, Florida Statutes, are amended to  
 24           read:

25           106.011 Definitions.--As used in this chapter, the  
 26           following terms have the following meanings unless the context  
 27           clearly indicates otherwise:

28           (1)(a) "Political committee" means:

29           1. A combination of two or more individuals who, or a  
 30           person other than an individual that, in an aggregate amount  
 31           in excess of \$500 during a single calendar year:

1           a. Accepts contributions for the purpose of making  
2 contributions to any candidate, political committee, committee  
3 of continuous existence, or political party;

4           b. Accepts contributions for the purpose of expressly  
5 advocating the election or defeat of a candidate or the  
6 passage or defeat of a ballot issue;

7           c. Makes expenditures for the purpose of expressly  
8 advocating the election or defeat of a candidate or the  
9 passage or defeat of a ballot issue; or

10           d. Makes contributions to a common fund, other than a  
11 joint checking account between spouses, from which  
12 contributions are made to any candidate, political committee,  
13 committee of continuous existence, or political party.~~the~~  
14 ~~primary or incidental purpose of which is to support or oppose~~  
15 ~~any candidate, issue, or political party, which accepts~~  
16 ~~contributions or makes expenditures during a calendar year in~~  
17 ~~an aggregate amount in excess of \$500; "political committee"~~  
18 ~~also means~~

19           2. The sponsor of a proposed constitutional amendment  
20 by initiative who intends to seek the signatures of registered  
21 electors.

22           (b) Notwithstanding paragraph (a), the following  
23 entities shall not be considered political committees for  
24 purposes of this chapter:

25           1. Organizations ~~that~~ which are certified by the  
26 Department of State as committees of continuous existence  
27 pursuant to s. 106.04, national political parties, and the  
28 state and county executive committees of political parties  
29 regulated by chapter 103 ~~shall not be considered political~~  
30 ~~committees for the purposes of this chapter.~~

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1           2. Corporations regulated by chapter 607 or chapter  
2 617 or other business entities formed for purposes other than  
3 to support or oppose ballot issues or candidates, ~~are not~~  
4 ~~political committees~~ if their political activities are limited  
5 to contributions to candidates, political parties, or  
6 political committees or expenditures in support of or in  
7 opposition to a ballot ~~an~~ issue from corporate or business  
8 funds and if no contributions are received by such  
9 corporations or business entities.

10           3. Issue advocacy groups that support or oppose an  
11 issue that is not on the ballot, that are not controlled by a  
12 candidate, and whose major purpose is not the election or  
13 defeat of a candidate.

14           (4) "Expenditure" means a purchase, payment,  
15 distribution, loan, advance, transfer of funds by a campaign  
16 treasurer or deputy campaign treasurer between a primary  
17 depository and a separate interest-bearing account or  
18 certificate of deposit, or gift of money or anything of value  
19 made for the purpose of influencing the results of an  
20 election. However, "expenditure" does not include a purchase,  
21 payment, distribution, loan, advance, or gift of money or  
22 anything of value made for the purpose of influencing the  
23 results of an election when made by an organization, in  
24 existence prior to the time during which a candidate qualifies  
25 or an issue is placed on the ballot for that election, for the  
26 purpose of printing or distributing such organization's  
27 newsletter, containing a statement by such organization in  
28 support of or opposition to a candidate or ballot issue, which  
29 newsletter is distributed only to members of such  
30 organization.

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1           (5)(a) "Independent expenditure" means an expenditure  
2 by a person for the purpose of advocating the election or  
3 defeat of a candidate or the approval or rejection of a ballot  
4 ~~an~~ issue, which expenditure is not controlled by, coordinated  
5 with, or made upon consultation with, any candidate, political  
6 committee, or agent of such candidate or committee. An  
7 expenditure for such purpose by a person having a contract  
8 with the candidate, political committee, or agent of such  
9 candidate or committee in a given election period shall not be  
10 deemed an independent expenditure.

11           (b) An expenditure for the purpose of advocating the  
12 election or defeat of a candidate which is made by the  
13 national, state, or county executive committee of a political  
14 party, including any subordinate committee of a national,  
15 state, or county committee of a political party, or by any  
16 political committee or committee of continuous existence, or  
17 any other person, shall not be considered an independent  
18 expenditure if the committee or person:

19           1. Communicates with the candidate, the candidate's  
20 campaign, or an agent of the candidate acting on behalf of the  
21 candidate, including any pollster, media consultant,  
22 advertising agency, vendor, advisor, or staff member,  
23 concerning the preparation of, use of, or payment for, the  
24 specific expenditure or advertising campaign at issue; or

25           2. Makes a payment in cooperation, consultation, or  
26 concert with, at the request or suggestion of, or pursuant to  
27 any general or particular understanding with the candidate,  
28 the candidate's campaign, a political committee supporting the  
29 candidate, or an agent of the candidate relating to the  
30 specific expenditure or advertising campaign at issue; or

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1           3. Makes a payment for the dissemination,  
2 distribution, or republication, in whole or in part, of any  
3 broadcast or any written, graphic, or other form of campaign  
4 material prepared by the candidate, the candidate's campaign,  
5 or an agent of the candidate, including any pollster, media  
6 consultant, advertising agency, vendor, advisor, or staff  
7 member; or

8           4. Makes a payment based on information about the  
9 candidate's plans, projects, or needs communicated to a member  
10 of the committee or person by the candidate or an agent of the  
11 candidate, provided the committee or person uses the  
12 information in any way, in whole or in part, either directly  
13 or indirectly, to design, prepare, or pay for the specific  
14 expenditure or advertising campaign at issue; or

15           5. After the last day of qualifying for statewide or  
16 legislative office, consults about the candidate's plans,  
17 projects, or needs in connection with the candidate's pursuit  
18 of election to office and the information is used in any way  
19 to plan, create, design, or prepare an independent expenditure  
20 or advertising campaign, with:

21           a. Any officer, director, employee, or agent of a  
22 national, state, or county executive committee of a political  
23 party that has made or intends to make expenditures in  
24 connection with or contributions to the candidate; or

25           b. Any person whose professional services have been  
26 retained by a national, state, or county executive committee  
27 of a political party that has made or intends to make  
28 expenditures in connection with or contributions to the  
29 candidate; or

30           6. After the last day of qualifying for statewide or  
31 legislative office, retains the professional services of any

1 person also providing those services to the candidate in  
2 connection with the candidate's pursuit of election to office;  
3 or

4           7. Arranges, coordinates, or directs the expenditure,  
5 in any way, with the candidate or an agent of the candidate.

6           (c) An expenditure by any person for a paid expression  
7 in any communications media prescribed in subsection (13),  
8 whether radio, television, newspaper, magazine, periodical,  
9 campaign literature, direct mail, the Internet, or display or  
10 by means other than the spoken word in direct conversation,  
11 that does not specifically support or oppose any candidate or  
12 ballot issue, but that references a clearly identifiable  
13 candidate or ballot issue, which expenditure in the aggregate  
14 is in the amount of \$100 or more and is made within 30 days  
15 before an election, shall be deemed an independent  
16 expenditure.

17           (6) "Election" means any primary election, special  
18 primary election, general election, special election, or  
19 municipal election held in this state for the purpose of  
20 nominating or electing candidates to public office, choosing  
21 delegates to the national nominating conventions of political  
22 parties, or submitting a ballot ~~an~~ issue to the electors for  
23 their approval or rejection.

24           (7) "Ballot issue," or "issue" when qualified as  
25 appearing or being placed on the ballot, means any proposition  
26 which is required by the State Constitution, by law or  
27 resolution of the Legislature, or by the charter, ordinance,  
28 or resolution of any political subdivision of this state to be  
29 submitted to the electors for their approval or rejection at  
30 an election, or any proposition for which a petition is

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1 circulated in order to have such proposition placed on the  
2 ballot at any election.

3 (13) "Communications media" means broadcasting  
4 stations, newspapers, magazines, outdoor advertising  
5 facilities, printers, direct mailing companies, advertising  
6 agencies, the Internet, and telephone companies; but with  
7 respect to telephones, an expenditure shall be deemed to be an  
8 expenditure for the use of communications media only if made  
9 for the costs of telephones, paid telephonists, or automatic  
10 telephone equipment to be used by a candidate or a political  
11 committee to communicate with potential voters but excluding  
12 any costs of telephones incurred by a volunteer for use of  
13 telephones by such volunteer.

14 (17) "Political advertisement" means a paid expression  
15 in any communications media prescribed in subsection (13),  
16 whether radio, television, newspaper, magazine, periodical,  
17 campaign literature, direct mail, the Internet, or display or  
18 by means other than the spoken word in direct conversation,  
19 which shall support or oppose any candidate, elected public  
20 official, or ballot issue. However, political advertisement  
21 does not include:

22 (a) A statement by an organization, in existence prior  
23 to the time during which a candidate qualifies or an issue is  
24 placed on the ballot for that election, in support of or  
25 opposition to a candidate or ballot issue, in that  
26 organization's newsletter, which newsletter is distributed  
27 only to the members of that organization.

28 (b) Editorial endorsements by any newspaper, radio or  
29 television station, or other recognized news medium.

30 Section 2. Section 106.071, Florida Statutes, is  
31 amended to read:

1           106.071 Independent expenditures; reports;  
2 disclaimers.--

3           (1)(a) Each person who makes an independent  
4 expenditure with respect to any candidate or ballot issue,  
5 which expenditure, in the aggregate, is in the amount of \$100  
6 or more, shall file periodic reports of such expenditures in  
7 the same manner, at the same time, and with the same officer  
8 as a political committee supporting or opposing such candidate  
9 or ballot issue. The report shall contain the full name and  
10 address of each person to whom and for whom each such  
11 expenditure has been made; the amount, date, and purpose of  
12 each such expenditure; a description of the services or goods  
13 obtained by each such expenditure; and the name and address  
14 of, and office sought by, each candidate on whose behalf such  
15 expenditure was made.

16           (b) Notwithstanding paragraph (a), each person who  
17 makes an independent expenditure with respect to any  
18 candidate, which expenditure in the aggregate is in excess of  
19 \$1,000 and is made at any point during the period following  
20 the last day of qualifying for that candidacy through the  
21 ensuing general election, must report the expenditure by hand  
22 or mail, delivered or postmarked within 24 hours after  
23 publication, with the qualifying officer of the candidate  
24 supported or opposed by the expenditure. However, any  
25 political advertisement paid for by an independent expenditure  
26 published on the day of an election must be reported on that  
27 day to the qualifying officer by hand delivery or facsimile  
28 transmission. The report shall contain the same information  
29 as is required of reports under paragraph (a).

30           (c) Each report required under this subsection shall  
31 be signed by the person submitting the report and certified as



1 true and correct, subject to the conditions and penalties  
2 prescribed in s. 106.07(5). Any person failing to file a  
3 report on the designated due date shall be subject to a fine  
4 as provided in s. 106.07(8) for submitting late reports.

5 (2)(a) Any political advertisement paid for by an  
6 independent expenditure shall prominently state "Paid  
7 political advertisement paid for by ...(Name of person or  
8 committee paying for advertisement)... independently of any  
9 ...(candidate or committee)...," and shall contain the name  
10 and address of the person paying for the political  
11 advertisement.

12 (b)~~(2)~~ Any person who fails to include the disclaimer  
13 prescribed in paragraph (a) ~~subsection (1)~~ in any political  
14 advertisement which is required to contain such disclaimer  
15 shall be liable for a civil fine of \$5,000 or the entire  
16 amount of the expenditure for the political advertisement not  
17 containing such disclaimer, whichever is greater, as  
18 determined by the Florida Elections Commission ~~is guilty of a~~  
19 misdemeanor of the first degree, punishable as provided in s.  
20 775.082 or s. 775.083.

21 (3) No person may make a contribution in excess of  
22 \$1,000 to any other person, to be used by such other person to  
23 make an independent expenditure.

24 Section 3. Subsection (2) of section 101.031, Florida  
25 Statutes, is amended to read:

26 101.031 Instructions for electors.--

27 (2) The supervisor of elections in each county shall  
28 have posted at each polling place in the county the Voter's  
29 Bill of Rights and Responsibilities in the following form:

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31 VOTER'S BILL OF RIGHTS

- 1  
2 Each registered voter in this state has the right to:  
3 1. Vote and have his or her vote accurately counted.  
4 2. Cast a vote if he or she is in line when the polls  
5 are closing.  
6 3. Ask for and receive assistance in voting.  
7 4. Receive up to two replacement ballots if he or she  
8 makes a mistake prior to the ballot being cast.  
9 5. An explanation if his or her registration is in  
10 question.  
11 6. If his or her registration is in question, cast a  
12 provisional ballot.  
13 7. Prove his or her identity by signing an affidavit  
14 if election officials doubt the voter's identity.  
15 8. Written instructions to use when voting, and, upon  
16 request, oral instructions in voting from elections officers.  
17 9. Vote free from coercion or intimidation by  
18 elections officers or any other person.  
19 10. Vote on a voting system that is in working  
20 condition and that will allow votes to be accurately cast.

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22 VOTER RESPONSIBILITIES  
23

- 24 Each registered voter in this state has the  
25 responsibility to:  
26 1. Study and know candidates and ballot issues.  
27 2. Keep his or her voter address current.  
28 3. Know his or her precinct and its hours of  
29 operation.  
30 4. Bring proper identification to the polling station.  
31 5. Know how to operate voting equipment properly.

- 1           6. Treat precinct workers with courtesy.  
2           7. Respect the privacy of other voters.  
3           8. Report problems or violations of election law.  
4           9. Ask questions when confused.  
5           10. Check his or her completed ballot for accuracy.
- 6           Section 4. Subsection (1) of section 101.663, Florida  
7 Statutes, is amended to read:  
8           101.663 Electors; change of residence.--  
9           (1) An elector who changes his or her residence to  
10 another county in Florida from the county in Florida in which  
11 he or she is registered as an elector after the books in the  
12 county to which the elector has changed his or her residence  
13 are closed for any general, primary, or special election shall  
14 be permitted to vote absentee in the county of his or her  
15 former residence in that election for President and Vice  
16 President, United States Senator, statewide offices, and  
17 statewide ballot issues. Such person shall not be permitted  
18 to vote in the county of the person's former residence after  
19 the general election.
- 20           Section 5. Section 104.185, Florida Statutes, is  
21 amended to read:  
22           104.185 Petitions; knowingly signing more than once;  
23 signing another person's name or a fictitious name.--  
24           (1) A person who knowingly signs a petition or  
25 petitions for a candidate, a minor political party, or a  
26 ballot ~~an~~ issue more than one time commits a misdemeanor of  
27 the first degree, punishable as provided in s. 775.082 or s.  
28 775.083.
- 29           (2) A person who signs another person's name or a  
30 fictitious name to any petition to secure ballot position for  
31 a candidate, a minor political party, or a ballot ~~an~~ issue

1 commits a misdemeanor of the first degree, punishable as  
2 provided in s. 775.082 or s. 775.083.

3 Section 6. Paragraph (g) of subsection (2) and  
4 subsection (3) of section 106.03, Florida Statutes, are  
5 amended to read:

6 106.03 Registration of political committees.--

7 (2) The statement of organization shall include:

8 (g) Any ballot issue or issues such organization is  
9 supporting or opposing;

10 (3)(a) A political committee which is organized to  
11 support or oppose statewide, legislative, or multicounty  
12 candidates or issues to be voted upon on a statewide or  
13 multicounty basis shall file a statement of organization with  
14 the Division of Elections.

15 (b) Except as provided in paragraph (c), a political  
16 committee which is organized to support or oppose candidates  
17 or issues to be voted on in a countywide election or  
18 candidates or issues to be voted on in any election held on  
19 less than a countywide basis shall file a statement of  
20 organization with the supervisor of elections of the county in  
21 which such election is being held.

22 (c) A political committee which is organized to  
23 support or oppose only candidates for municipal office or  
24 issues to be voted on in a municipal election shall file a  
25 statement of organization with the officer before whom  
26 municipal candidates qualify.

27 (d) Any political committee which would be required  
28 under this subsection to file a statement of organization in  
29 two or more locations by reason of the committee's intention  
30 to support or oppose candidates or ballot issues at state or  
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1 multicounty and local levels of government need file only with  
2 the Division of Elections.

3 Section 7. Subsection (5) of section 106.04, Florida  
4 Statutes, is amended to read:

5 106.04 Committees of continuous existence.--

6 (5) No committee of continuous existence shall  
7 contribute to any candidate or political committee an amount  
8 in excess of the limits contained in s. 106.08(1) or  
9 participate in any other activity which is prohibited by this  
10 chapter. If any violation occurs, it shall be punishable as  
11 provided in this chapter for the given offense. No funds of a  
12 committee of continuous existence shall be expended on behalf  
13 of a candidate, except by means of a contribution made through  
14 the duly appointed campaign treasurer of a candidate. No such  
15 committee shall make expenditures in support of, or in  
16 opposition to, a ballot ~~an~~ issue unless such committee first  
17 registers as a political committee pursuant to this chapter  
18 and undertakes all the practices and procedures required  
19 thereof; provided such committee may make contributions in a  
20 total amount not to exceed 25 percent of its aggregate income,  
21 as reflected in the annual report filed for the previous year,  
22 to one or more political committees registered pursuant to s.  
23 106.03 and formed to support or oppose ballot issues.

24 Section 8. Paragraph (d) of subsection (1) of section  
25 106.07, Florida Statutes, is amended to read:

26 106.07 Reports; certification and filing.--

27 (1) Each campaign treasurer designated by a candidate  
28 or political committee pursuant to s. 106.021 shall file  
29 regular reports of all contributions received, and all  
30 expenditures made, by or on behalf of such candidate or  
31 political committee. Reports shall be filed on the 10th day

1 following the end of each calendar quarter from the time the  
2 campaign treasurer is appointed, except that, if the 10th day  
3 following the end of a calendar quarter occurs on a Saturday,  
4 Sunday, or legal holiday, the report shall be filed on the  
5 next following day which is not a Saturday, Sunday, or legal  
6 holiday. Quarterly reports shall include all contributions  
7 received and expenditures made during the calendar quarter  
8 which have not otherwise been reported pursuant to this  
9 section.

10 (d)1. When a special election is called to fill a  
11 vacancy in office, all political committees and committees of  
12 continuous existence making contributions or expenditures to  
13 influence the results of such special election shall file  
14 campaign treasurers' reports with the filing officer on the  
15 dates set by the Department of State pursuant to s. 100.111.

16 2. When an election is called for an issue to appear  
17 on the ballot at a time when no candidates are scheduled to  
18 appear on the ballot, all political committees making  
19 contributions or expenditures in support of or in opposition  
20 to such ballot issue shall file reports on the 18th and 4th  
21 days prior to such election.

22 Section 9. Subsection (4) of section 106.085, Florida  
23 Statutes, is amended to read:

24 106.085 Independent expenditures; unfair surprise  
25 prohibited; notice requirements; penalty.--

26 (4) This section does not prohibit a person from  
27 making an independent expenditure in support of or in  
28 opposition to any candidate or ballot issue, unless otherwise  
29 prohibited by law, from expressing his or her opinion on any  
30 issue, or from purchasing any political advertisement or  
31 campaign material.

1           Section 10. Section 106.125, Florida Statutes, is  
2 amended to read:

3           106.125 Credit cards; conditions on use.--Any  
4 candidate for statewide office or any political committee  
5 created to support or oppose any candidate for statewide  
6 office or to support or oppose any statewide ballot issue may  
7 obtain, and use in making travel-related campaign  
8 expenditures, credit cards. The obtention and use of credit  
9 cards by any such candidate or political committee shall be  
10 subject to the following conditions:

11           (1) Credit cards may be obtained only from the same  
12 bank which has been designated as the candidate's or political  
13 committee's primary campaign depository.

14           (2) Credit cards shall be in the name of the candidate  
15 or political committee and shall reflect that the account is a  
16 campaign account.

17           (3) Before a credit card may be used, a copy of the  
18 agreement or contract between the candidate and the bank, or  
19 the political committee and the bank, and a list of all  
20 persons who have been authorized to use the card shall be  
21 filed with the Secretary of State.

22           (4) All credit cards issued to candidates or political  
23 committees shall expire no later than midnight of the last day  
24 of the month of the general election.

25           (5) Each statement rendered by the issuer of a credit  
26 card shall be paid upon receipt.

27           (6) Campaign travel-related expenditures shall include  
28 transportation, lodging, meals, and other expenses incurred in  
29 connection with traveling for campaign purposes.

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1 This section shall not be deemed to preclude the use of  
2 advance payments by a check drawn on the primary depository  
3 account for travel-related expenses. The treasurer shall  
4 require an accounting of actual expenses and reconcile any  
5 overpayment or underpayment to the original payee.

6 Section 11. Subsection (6) of section 106.143, Florida  
7 Statutes, is amended to read:

8 106.143 Political advertisements circulated prior to  
9 election; requirements.--

10 (6) This section does not apply to novelty items  
11 having a retail value of \$10 or less which support, but do not  
12 oppose, a candidate or ballot issue.

13 Section 12. Subsection (4) of section 106.29, Florida  
14 Statutes, is amended to read:

15 106.29 Reports by political parties; restrictions on  
16 contributions and expenditures; penalties.--

17 (4) Any contribution received by a state or county  
18 executive committee less than 5 days before an election shall  
19 not be used or expended in behalf of any candidate, ballot  
20 issue, or political party participating in such election.

21 Section 13. This act shall take effect upon becoming a  
22 law.

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HOUSE SUMMARY

Modifies the definition of "political committee" to exclude issue advocacy groups. Modifies the definition of "independent expenditure" to include issue advocacy advertisements. Modifies the definition of "issue" to clarify its applicability to ballot issues only. Modifies the definition of "communications media" to include the Internet. Revises additional definitions and other provisions of law to conform terminology. Revises requirements relating to the reporting of independent expenditures with respect to any candidate which in the aggregate exceed \$1,000 and are made at any point during the period following the last day of qualifying for that candidacy through the ensuing general election. Provides penalties for reports of independent expenditures that are late or knowingly incorrect, false, or incomplete. Provides for civil penalties in lieu of criminal penalties for failure to provide the required disclaimer in political advertisements paid for by independent expenditure. See bill for details.