A bill to be entitled 1 2 An act relating to campaign financing; 3 providing a short title; amending s. 106.011, 4 F.S.; revising definitions of the terms 5 "political committee," "contribution," "expenditure," and "political advertisement"; 6 7 amending s. 106.021, F.S.; eliminating a 8 provision that authorizes the unrestricted 9 expenditure of funds for the purpose of jointly endorsing three or more candidates; amending s. 10 11 106.03, F.S.; providing additional requirements 12 for registration of political committees and certification of committees of continuous 13 14 existence; providing penalties and 15 applicability; amending s. 106.04, F.S.; 16 requiring committees of continuous existence to update certain certification information; 17 requiring an up-to-date membership list with 18 19 the application for certification and with each annual and regular report; specifying 20 21 information membership lists must provide; 2.2 requiring membership dues to be reported in the 23 same manner as regular contributions; 24 prohibiting committees of continuous existence from making expenditures in support of or 25 26 opposition to an elected public official 27 without registering as a political committee; providing that records of a committee of 28 29 continuous existence relating to political 30 activities are public records; revising the fine for late filing of reports by committees 31

1 of continuous existence; providing penalties; 2 amending s. 106.07, F.S.; correcting a cross 3 reference, to conform; providing for severability; providing effective dates. 4 5 6 Be It Enacted by the Legislature of the State of Florida: 7 Section 1. This act may be cited as the "Marjorie 8 9 Turnbull Campaign Finance Reform Act." 10 Section 2. Effective July 1, 2002, subsections (1), 11 (3), (4), and (17) of section 106.011, Florida Statutes, are 12 amended to read: 13 106.011 Definitions.--As used in this chapter, the 14 following terms have the following meanings unless the context clearly indicates otherwise: 15 16 (1)(a) "Political committee" means: 1. A combination of two or more individuals, or a 17 person other than an individual, that in an aggregate amount 18 19 in excess of \$500 during a calendar year: 20 a. Accepts contributions for the purpose of making contributions to any candidate, elected public official, 21 22 political committee, committee of continuous existence, or political party; 23 24 b. Accepts contributions for the purpose of expressly 25 advocating the election or defeat of any candidate, elected 26 public official, or issue; 27 c. Makes expenditures for the purpose of expressly 28 advocating the election or defeat of any candidate, elected public official, or issue; or 29 d. Makes contributions to a common fund, other than a 30

joint checking account between spouses, from which

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contributions are made to any candidate, elected public official, political committee, committee of continuous existence, or political party. the primary or incidental purpose of which is to support or oppose any candidate, issue, or political party, which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of \$500; "political committee" also means

- 2. The sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors.
- (b) Notwithstanding paragraph (a), the following entities shall not be considered political committees for purposes of this chapter:
- 1. Organizations which are certified by the Department of State as committees of continuous existence pursuant to s. 106.04, national political parties, and the state and county executive committees of political parties regulated by chapter 103 shall not be considered political committees for the purposes of this chapter.
- 2. Corporations regulated by chapter 607 or chapter 617 or other business entities formed for purposes other than to support or oppose issues or candidates, are not political committees if their political activities are limited to contributions to candidates, political parties, or political committees or expenditures in support of or opposition to an issue from corporate or business funds and if no contributions are received by such corporations or business entities.
 - (3) "Contribution" means:
- (a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, 31 | including contributions in kind having an attributable

monetary value in any form, made for the purpose of influencing the results of an election.

- (b) A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.
- (c) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.
- (d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.
- (e) Any funds received by a political committee which are used or intended to be used, directly or indirectly, to pay for a political advertisement supporting or opposing an elected public official.

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Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services, including, but not limited to, legal and accounting services, provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee. This definition shall not be construed to include editorial endorsements.

(4)"Expenditure" means a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary 31 depository and a separate interest-bearing account or

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certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or for purchasing a political advertisement supporting or opposing an elected public official. However, "expenditure" does not include a purchase, payment, distribution, loan, advance, or gift of money or anything of value made for the purpose of influencing the results of an election when made by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, for the purpose of printing or distributing such organization's newsletter, containing a statement by such organization in support of or opposition to a candidate or issue, which newsletter is distributed only to members of such organization.

(17)(a) "Political advertisement" means a paid expression in any communications media prescribed in subsection (13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which shall support or oppose any candidate, elected public official, or issue. In addition, an advertisement is presumed to be a political advertisement if it is a paid expression in any communications media described in subsection (13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which substantially mentions or shows a clearly identifiable candidate for election or reelection and is distributed at any point during the period following the last day of qualifying for that candidacy through the ensuing general election and which, when examined by a reasonable

person, would be understood as a communication made for the purpose of influencing the results of an election on that candidacy during that period and for which aggregate expenditures on like advertisements exceed \$1,000.

- (b) However, Political advertisement does not
 include:
- $\frac{1.(a)}{A}$ A statement by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization.
- 2.(b) Editorial endorsements by any newspaper, radio or television station, or other recognized news medium.
- 3. A paid expression in any communications media which mentions or shows a clearly identifiable candidate for election or reelection which:
- a. Advertises a business rather than the candidate, is paid for out of funds of that business, and is similar to other advertisements for that business which have mentioned or shown the candidate and have been distributed regularly over a period of at least 1 year before the qualifying period for that candidacy; or
- b. Is distributed or broadcast only to areas other than the geographical area of the electorate for that candidacy.
- Section 3. Effective July 1, 2002, subsection (3) of section 106.021, Florida Statutes, is amended to read:
- 106.021 Campaign treasurers; deputies; primary and secondary depositories.--

 contribution or expenditure, including contributions or expenditures of a candidate or of the candidate's family, shall be directly or indirectly made or received in furtherance of the candidacy of any person for nomination or election to political office in the state or on behalf of any political committee except through the duly appointed campaign treasurer of the candidate or political committee. However, expenditures may be made directly by any political committee or political party regulated by chapter 103 for obtaining time, space, or services in or by any communications medium for the purpose of jointly endorsing three or more candidates, and any such expenditure shall not be considered a contribution or expenditure to or on behalf of any such candidates for the purposes of this chapter.

Section 4. Section 106.03, Florida Statutes, is amended to read:

106.03 Registration of political committees.--

- (1) Each political committee which anticipates receiving contributions or making expenditures during a calendar year in an aggregate amount exceeding \$500 or which is seeking the signatures of registered electors in support of an initiative shall file a statement of organization as provided in subsection(4)(3)within 10 days after its organization or, if later, within 10 days after the date on which it has information which causes the committee to anticipate that it will receive contributions or make expenditures in excess of \$500. If a political committee is organized within 10 days of any election, it shall immediately file the statement of organization required by this section.
 - (2) The statement of organization shall include:

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- (a) The name and address of the committee;
- (b) The names, addresses, and relationships of affiliated or connected organizations;
 - (c) The area, scope, or jurisdiction of the committee;
- (d) The name, address, and position, and principal employer of the custodian of books and accounts;
- (e) The name, address, and position, and principal employer of each other principal officer officers, including officers and members of the finance committee, if any;
- (f) The name, address, office sought, and party
 affiliation of:
 - 1. Each candidate whom the committee is supporting;
- 2. Any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever;
- (g) Any issue or issues such organization is supporting or opposing;
- (h) If the committee is supporting the entire ticket of any party, a statement to that effect and the name of the party;
- (i) A statement of whether the committee is a continuing one; $\label{eq:continuing}$
- (j) Plans for the disposition of residual funds which will be made in the event of dissolution;
- (k) A listing of all banks, safe-deposit boxes, or other depositories used for committee funds; and
- (1) A statement of the reports required to be filed by the committee with federal officials, if any, and the names, addresses, and positions of such officials.
- (3)(a) The name of the committee provided in the statement of organization must include the name of the

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corporation, labor union, professional association, political committee, committee of continuous existence, or other business entity whose officials, employees, agents, or members, directly or indirectly, established or organized the committee, if any.

- (b) If the name of the committee provided in the statement of organization does not include the name of a corporation, labor union, professional association, political committee, committee of continuous existence, or other business entity, the name must include the economic or special interest, if identifiable, principally represented by the committee's organizers or intended to be advanced by the committee's receipts.
- (c) Any person who knowingly and willfully violates this subsection shall be fined not less than \$1,000 and not more than \$10,000 for each violation. Any officer, partner, agent, attorney, or other representative of a corporation, labor union, professional association, political committee, committee of continuous existence, or other business entity who aids, abets, advises, or participates in a violation of any provision of this subsection shall be fined not less than \$1,000 and not more than \$10,000 for each violation.
- $(4)\frac{(3)}{(3)}$ (a) A political committee which is organized to support or oppose statewide, legislative, or multicounty candidates or issues to be voted upon on a statewide or multicounty basis shall file a statement of organization with the Division of Elections.
- (b) Except as provided in paragraph (c), a political committee which is organized to support or oppose candidates or issues to be voted on in a countywide election or 31 candidates or issues in any election held on less than a

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countywide basis shall file a statement of organization with the supervisor of elections of the county in which such election is being held.

- (c) A political committee which is organized to support or oppose only candidates for municipal office or issues to be voted on in a municipal election shall file a statement of organization with the officer before whom municipal candidates qualify.
- (d) Any political committee which would be required under this subsection to file a statement of organization in two or more locations by reason of the committee's intention to support or oppose candidates or issues at state or multicounty and local levels of government need file only with the Division of Elections.
- (5) Any change in information previously submitted in a statement of organization shall be reported to the agency or officer with whom such committee is required to register pursuant to subsection(4)(3), within 10 days following the change.
- (6) (6) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$500 shall so notify the agency or officer with whom such committee is required to file the statement of organization.
- (7) (6) If the filing officer finds that a political committee has filed its statement of organization consistent with the requirements of subsections subsection (2) and (3), it shall notify the committee in writing that it has been registered as a political committee. If the filing officer 31 | finds that a political committee's statement of organization

does not meet the requirements of <u>subsections</u> subsection (2) <u>and (3)</u>, it shall notify the committee of such finding and shall state in writing the reasons for rejection of the statement of organization.

- (8)(7) The Division of Elections shall <u>adopt</u> promulgate rules to prescribe the manner in which inactive committees may be dissolved and have their registration canceled. Such rules shall, at a minimum, provide for:
- (a) Notice which shall contain the facts and conduct which warrant the intended action, including but not limited to failure to file reports and limited activity.
 - (b) Adequate opportunity to respond.
- (c) Appeal of the decision to the Florida Elections Commission. Such appeals shall be exempt from the confidentiality provisions of s. 106.25.

Section 5. Section 106.04, Florida Statutes, is amended to read:

106.04 Committees of continuous existence.--

- (1) In order to qualify as a committee of continuous existence for the purposes of this chapter, a group, organization, association, or other such entity which is involved in making contributions to candidates, political committees, or political parties, shall meet the following criteria:
- (a) It shall be organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and
- (b) At least 25 percent of the income of such organization, excluding interest, must be derived from dues or

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30 31 assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws.

- (2) Any group, organization, association, or other entity may seek certification from the Department of State as a committee of continuous existence by filing an application with the Division of Elections on a form provided by the division. Such application shall provide the information required of political committees by s. 106.03(2) and (3), and any change in such information shall be reported pursuant to s. 106.03(5). Each application shall be accompanied by the name and street address of the principal officer of the applying entity as of the date of the application; a copy of the charter or bylaws of the organization; a copy of the dues or assessment schedule of the organization, or formula by which dues or assessments are levied; an up-to-date membership list; and a complete financial statement or annual audit summarizing all income received, and all expenses incurred, by the organization during the 12 months preceding the date of application. The membership list must provide the name and occupation of, and the amount of dues paid by, each member of the organization and shall be updated and submitted with each annual and regular report filed pursuant to subsection (4). A membership list shall be made available for inspection if deemed necessary by the division.
- (3) If the Division of Elections finds that an applying organization meets the criteria for a committee of continuous existence as provided by subsection (1), it shall certify such findings and notify the applying organization of such certification. If it finds that an applying organization does not meet the criteria for certification, it shall notify

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the organization of such findings and shall state the reasons why such criteria are not met.

- (4)(a) Each committee of continuous existence shall file an annual report with the Division of Elections during the month of January. Such annual reports shall contain the same information and shall be accompanied by the same materials as original applications filed pursuant to subsection (2). However, the charter or bylaws need not be filed if the annual report is accompanied by a sworn statement by the chair that no changes have been made to such charter or bylaws since the last filing.
- (b)1. Each committee of continuous existence shall file regular reports with the Division of Elections at the same times and subject to the same filing conditions as are established by s. 106.07(1) and (2) for candidates' reports.
- Any committee of continuous existence failing to so file a report with the Division of Elections pursuant to this paragraph on the designated due date shall be subject to a fine for late filing as provided by this section.
- (c) All committees of continuous existence shall file the original and one copy of their reports with the Division of Elections. In addition, a duplicate copy of each report shall be filed with the supervisor of elections in the county in which the committee maintains its books and records, except that if the filing officer to whom the committee is required to report is located in the same county as the supervisor no such duplicate report is required to be filed with the supervisor. Reports shall be on forms provided by the division and shall contain the following information:
- The full name, address, and occupation of each 31 person who has made one or more contributions to the committee

 during the reporting period, together with the amounts and dates of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is \$100 or less, the occupation of the contributor or principal type of business need not be listed. However, for any contributions which represent the payment of dues by members in a fixed amount pursuant to the schedule on file with the Division of Elections, only the aggregate amount of such contributions need be listed, together with the number of members paying such dues and the amount of the membership dues.

- 2. The name and address of each political committee or committee of continuous existence from which the reporting committee received, or the name and address of each political committee, committee of continuous existence, or political party to which it made, any transfer of funds, together with the amounts and dates of all transfers.
- 3. Any other receipt of funds not listed pursuant to subparagraph 1. or subparagraph 2., including the sources and amounts of all such funds.
- 4. The name and address of, and office sought by, each candidate to whom the committee has made a contribution during the reporting period, together with the amount and date of each contribution.
- (d) The treasurer of each committee shall certify as to the correctness of each report and shall bear the responsibility for its accuracy and veracity. Any treasurer who willfully certifies to the correctness of a report while knowing that such report is incorrect, false, or incomplete

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

- (5)(a) No committee of continuous existence shall contribute to any candidate or political committee an amount in excess of the limits contained in s. 106.08(1) or participate in any other activity which is prohibited by this chapter. If any violation occurs, it shall be punishable as provided in this chapter for the given offense.
- (b) No funds of a committee of continuous existence shall be expended on behalf of a candidate, except by means of a contribution made through the duly appointed campaign treasurer of a candidate. No such committee shall make expenditures in support of, or in opposition to, an issue or an elected public official unless such committee first registers as a political committee pursuant to this chapter and undertakes all the practices and procedures required thereof; provided such committee may make contributions in a total amount not to exceed 25 percent of its aggregate income, as reflected in the annual report filed for the previous year, to one or more political committees registered pursuant to s. 106.03 and formed to support or oppose issues.
- (6) All accounts and records of a committee of continuous existence may be inspected under reasonable circumstances by any authorized representative of the Division of Elections or the Florida Elections Commission. All records relating to political activities of a committee of continuous existence, as specified in subsection (5), are public records and subject to inspection under s. 119.07. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.

- (7) If a committee of continuous existence ceases to meet the criteria prescribed by subsection (1), the Division of Elections shall revoke its certification until such time as the criteria are again met. The Division of Elections shall promulgate rules to prescribe the manner in which such certification shall be revoked. Such rules shall, at a minimum, provide for:
- (a) Notice, which shall contain the facts and conduct that warrant the intended action.
 - (b) Adequate opportunity to respond.
- (c) Appeal of the decision to the Florida Elections Commission. Such appeals shall be exempt from the confidentiality provisions of s. 106.25.
- (8)(a) Any committee of continuous existence failing to file a report on the designated due date shall be subject to a fine of. The fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the Elections Commission Trust Fund. No separate fine shall be assessed for failure to file a copy of any report required by this section.
- (b) Upon determining that a report is late, the filing officer shall immediately notify the treasurer of the committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. Upon receipt of the report, the filing officer shall determine the amount of fine which is due and shall notify the treasurer of the committee. The filing officer shall determine the

amount of the fine due based upon the earliest of the following:

- 1. When the report is actually received by such officer.
 - 2. When the report is postmarked.
 - 3. When the certificate of mailing is dated.
- 4. When the receipt from an established courier company is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). An officer or member of a committee shall not be personally liable for such fine.

- (c) Any treasurer of a committee may appeal or dispute the fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the treasurer of the committee shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.
- (d) The filing officer shall notify the Florida Elections Commission of the repeated late filing by a committee of continuous existence, the failure of a committee of continuous existence to file a report after notice, or the failure to pay the fine imposed.
- Section 6. Any political committee or committee of continuous existence organized before January 1, 2003, shall

have 60 days, beginning January 1, 2003, within which to amend its name, if necessary, to comply with the requirements of s. 106.03(3), Florida Statutes, as created by this act, or s. 106.04(2), Florida Statutes, as amended by this act, as applicable.

Section 7. Subsection (3) of section 106.07, Florida

Section 7. Subsection (3) of section 106.07, Florida Statutes, is amended to read:

106.07 Reports; certification and filing.--

(3) Reports required of a political committee shall be filed with the agency or officer before whom such committee registers pursuant to s. $106.03\underline{(4)}\overline{(3)}$ and shall be subject to the same filing conditions as established for candidates' reports. Only committees that file with the Department of State shall file the original and one copy of their reports. Incomplete reports by political committees shall be treated in the manner provided for incomplete reports by candidates in subsection (2).

Section 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 9. Except as otherwise provided herein, this act shall take effect January 1, 2003.

HOUSE SUMMARY Creates the "Marjorie Turnbull Campaign Finance Reform Act." Revises definitions of the terms "political committee," "contribution," "expenditure," and "political committee, " "contribution," "expenditure, " and "political advertisement." Eliminates a provision that authorizes the unrestricted expenditure of funds for the purpose of jointly endorsing three or more candidates. Provides additional requirements for registration of political committees and certification of committees of continuous existence, which relate to the principal employer of certain officials and to the committee name. Requires committees of continuous existence to update certain certification information. Requires an up-to-date membership list with the application for certification membership list with the application for certification and with each annual and regular report and specifies the information membership lists must provide. Requires membership dues to be reported in the same manner as regular contributions. Prohibits committees of continuous existence from making expenditures in support of or opposition to an elected public official without registering as a political committee. Provides that records of a committee of continuous existence relating to political activities are public records. Revises the fine for late filing of reports by committees of continuous existence. See bill for details.