

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

CHAMBER ACTION

Senate

House

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Senator Lee moved the following amendment:

**Senate Amendment (with title amendment)**

On page 18, line 18, delete that line

and insert:

Section 8. Subsections (7) through (38) are renumbered as subsections (8) through (39), respectively, and a new subsection (8) is added to said section to read:

97.021 Definitions.--For the purposes of this code, except where the context clearly indicates otherwise, the term:

(7) "Early voting" means casting a ballot prior to election day at a location designated by the supervisor of elections and depositing the voted ballot in the tabulation system.

Section 9. Paragraphs (b) and (c) of subsection (4) of section 101.015, Florida Statutes, are amended to read:

101.015 Standards for voting systems.--

(4)

(b) Each supervisor of elections shall establish

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 written procedures to assure accuracy and security in his or  
2 her county, including procedures related to early voting  
3 pursuant to s. 101.657. ~~and~~ Such procedures shall be reviewed  
4 in each odd-numbered year by the Department of State.

5 (c) Each supervisor of elections shall submit any  
6 revisions to the security procedures to the Department of  
7 State at least 45 days before early voting commences pursuant  
8 to s. 101.657 in an ~~the first~~ election in which they are to  
9 take effect.

10 Section 10. Subsection (2) of section 101.5612,  
11 Florida Statutes, is amended to read:

12 101.5612 Testing of tabulating equipment.--

13 (2) On any day not more than 10 days prior to the  
14 commencement of early voting as provided in s. 101.657  
15 ~~election day~~, the supervisor of elections shall have the  
16 automatic tabulating equipment publicly tested to ascertain  
17 that the equipment will correctly count the votes cast for all  
18 offices and on all measures. Public notice of the time and  
19 place of the test shall be given at least 48 hours prior  
20 thereto by publication once in one or more newspapers of  
21 general circulation in the county or, if there is no newspaper  
22 of general circulation in the county, by posting the such  
23 notice in at least four conspicuous places in the county. The  
24 supervisor or the municipal elections official may, at the  
25 time of qualifying, give written notice of the time and  
26 location of the such public preelection test to each candidate  
27 qualifying with that office and obtain a signed receipt that  
28 the such notice has been given. The Department of State shall  
29 give written notice to each statewide candidate at the time of  
30 qualifying, or immediately at the end of qualifying, that the  
31 voting equipment will be tested and advise each ~~such~~ candidate

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 to contact the county supervisor of elections as to the time  
2 and location of the public preelection test. The supervisor or  
3 the municipal elections official shall, at least 15 days prior  
4 to the commencement of early voting as provided in s. 101.657  
5 ~~an election~~, send written notice by certified mail to the  
6 county party chair of each political party and to all  
7 candidates for other than statewide office whose names appear  
8 on the ballot in the county and who did not receive written  
9 notification from the supervisor or municipal elections  
10 official at the time of qualifying, stating the time and  
11 location of the public preelection test of the automatic  
12 tabulating equipment. The canvassing board shall convene, and  
13 each member of the canvassing board shall certify to the  
14 accuracy of the test. For the test, the canvassing board may  
15 designate one member to represent it. The test shall be open  
16 to representatives of the political parties, the press, and  
17 the public. Each political party may designate one person with  
18 expertise in the computer field who shall be allowed in the  
19 central counting room when all tests are being conducted and  
20 when the official votes are being counted. ~~The~~ ~~Such~~ designee  
21 shall not interfere with the normal operation of the  
22 canvassing board.

23 Section 11. Section 101.5613, Florida Statutes, is  
24 amended to read:

25 101.5613 Examination of equipment during voting.--A  
26 member of the election board or, for purposes of early voting  
27 pursuant to s. 101.657, a representative of the supervisor of  
28 elections, shall occasionally examine the face of the voting  
29 device and the ballot information to determine that the device  
30 and the ballot information have not been damaged or tampered  
31 with.

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1           Section 12. Section 101.657, Florida Statutes, is  
2 amended to read:

3           101.657 Early voting ~~absentee ballots in person.--~~  
4           ~~(1) Any qualified and registered elector may pick up~~  
5 ~~and vote an absentee ballot in person at the office of, and~~  
6 ~~under the supervision of, the supervisor of elections. Before~~  
7 ~~receiving the ballot, the elector must present a current and~~  
8 ~~valid picture identification as provided in s. 97.0535(3)(a).~~  
9 ~~If the elector fails to furnish the required identification,~~  
10 ~~or if the supervisor is in doubt as to the identity of the~~  
11 ~~elector, the supervisor must follow the procedure prescribed~~  
12 ~~in s. 101.49. If the elector who fails to furnish the required~~  
13 ~~identification is a first-time voter who registered by mail~~  
14 ~~and has not provided the required identification to the~~  
15 ~~supervisor of elections prior to voting, the elector shall be~~  
16 ~~allowed to vote a provisional ballot. The canvassing board~~  
17 ~~shall compare the signature on the provisional ballot envelope~~  
18 ~~with the signature on the voter's registration and, if the~~  
19 ~~signatures match, shall count the ballot.~~

20           ~~(1)(a)(2) As an alternative to the provisions of ss.~~  
21 ~~101.64 and 101.65, The supervisor of elections shall may allow~~  
22 ~~an elector to vote early cast an absentee ballot in the main~~  
23 ~~or branch office of the supervisor by depositing the voted~~  
24 ~~ballot in a voting device used by the supervisor to collect or~~  
25 ~~tabulate ballots. In order for a branch office to be used for~~  
26 ~~early voting, it shall be a full-service facility of the~~  
27 ~~supervisor and shall have been designated as such at least 1~~  
28 ~~year prior to the election. The supervisor may designate any~~  
29 ~~city hall or public library as an early voting site; however,~~  
30 ~~if so designated, the site must be geographically located so~~  
31 ~~as to provide all voters in the county an equal opportunity to~~

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 cast a ballot, insofar as is practicable. The results or  
2 tabulation may not be made before the close of the polls on  
3 election day.

4 (b) Early voting shall begin on the 15th day before an  
5 election and end on the day before an election. For purposes  
6 of a special election held pursuant to s. 100.101, early  
7 voting shall begin on the 8th day before an election and end  
8 on the day before an election. Early voting shall be provided  
9 for at least 8 hours per weekday during the applicable  
10 periods. Early voting shall also be provided for 8 hours in  
11 the aggregate for each weekend during the applicable periods.

12 (2)(a) The elector must provide identification as  
13 required in subsection (1) and must complete an Early Voting  
14 ~~In-Office~~ Voter Certificate in substantially the following  
15 form:

16  
17 EARLY VOTING ~~IN-OFFICE~~ VOTER CERTIFICATE

18  
19 I, \_\_\_\_\_, am a qualified elector in this election and  
20 registered voter of \_\_\_\_\_ County, Florida. I do solemnly swear  
21 or affirm that I am the person so listed on the voter  
22 registration rolls of \_\_\_\_\_ County and that I reside at the  
23 listed address. I understand that if I commit or attempt to  
24 commit fraud in connection with voting, vote a fraudulent  
25 ballot, or vote more than once in an election I could be  
26 convicted of a felony of the third degree and both fined up to  
27 \$5,000 and imprisoned for up to 5 years. I understand that my  
28 failure to sign this certificate ~~and have my signature~~  
29 ~~witnessed~~ invalidates my ballot.

30  
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Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 ... (Voter's Signature) ...

2

3 ... (Address) ...

4

5 ... (City/State) ...

6

7 ~~... (Name of Witness) ...~~

8 ~~... (Signature of Witness) ...~~

9 ~~... (Type of identification provided) ...~~

10 (b) Any elector may challenge an elector seeking to  
11 vote early ~~cast an absentee ballot~~ under the provisions of s.  
12 101.111. Any challenged voter ballot must vote ~~be placed in a~~  
13 provisional ~~regular absentee~~ ballot ~~envelope~~. The canvassing  
14 board shall review the ballot and decide the validity of the  
15 ballot by majority vote.

16 (c) The canvass of returns for ballots cast under this  
17 subsection shall be substantially the same as votes cast by  
18 electors in precincts, as provided in s. 101.5614.

19 Section 13. Effective July 1, 2004, and operating  
20 retroactively to January 1, 2002, subsection (3) of section  
21 106.021, Florida Statutes, is amended to read:

22 106.021 Campaign treasurers; deputies; primary and  
23 secondary depositories.--

24 (3) ~~Except for independent expenditures,~~ No  
25 contribution or expenditure, including contributions or  
26 expenditures of a candidate or of the candidate's family,  
27 shall be directly or indirectly made or received in  
28 furtherance of the candidacy of any person for nomination or  
29 election to political office in the state or on behalf of any  
30 political committee except through the duly appointed campaign  
31 treasurer of the candidate or political committee, subject to

Bill No. CS for SB's 2346 & 516

Amendment No.      Barcode 625488

1 ~~the following exceptions:; however,~~

2       (a) Independent expenditures;

3       (b) Reimbursements to a candidate or any other

4 individual ~~may be reimbursed~~ for expenses incurred in

5 connection with the campaign or activities of the political

6 committee for travel, food and beverage, office supplies, and

7 ~~mementos expressing gratitude to campaign supporters~~ by a

8 check drawn upon the campaign account and reported pursuant to

9 s. 106.07(4). After July 1, 2004, the full name and address of

10 each person to whom the candidate or other individual made

11 payment for which reimbursement was made by check drawn upon

12 the campaign account shall be reported pursuant to s.

13 106.07(4), together with the purpose of such payment;

14       (c) Expenditures made indirectly through a treasurer

15 for goods or services, such as communications media placement

16 or procurement services, campaign signs, insurance, or other

17 expenditures that include multiple integral components as part

18 of the expenditure and reported pursuant to s.

19 106.07(4)(a)13.; or

20       (d) In addition, Expenditures may be made directly by

21 any political committee or political party regulated by

22 chapter 103 for obtaining time, space, or services in or by

23 any communications medium for the purpose of jointly endorsing

24 three or more candidates, and any such expenditure shall not

25 be considered a contribution or expenditure to or on behalf of

26 any such candidates for the purposes of this chapter.

27       Section 14. Section 106.023, Florida Statutes, is

28 amended to read:

29       106.023 Statement of candidate.--

30       (1) Each candidate must file a statement with the

31 qualifying officer within 10 days after filing the appointment

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 of campaign treasurer and designation of campaign depository,  
2 stating that the candidate has read and understands the  
3 requirements of this chapter. Such statement shall be provided  
4 by the filing officer and shall be in substantially the  
5 following form:

6 STATEMENT OF CANDIDATE

7

8 I, \_\_\_\_, candidate for the office of \_\_\_\_, have  
9 received, read, and understand the requirements of Chapter  
10 106, Florida Statutes.

11

12 . . . (Signature of candidate) . . . . . (Date) . . . .

13

14 Willful failure to file this form is a violation of ss.  
15 106.19(1)(c) and 106.25(3), F.S.

16 (2) The execution and filing of the statement of  
17 candidate does not in and of itself create a presumption that  
18 any violation of this chapter or chapter 104 is a willful  
19 violation as defined in s. 106.37.

20 Section 15. Paragraph (a) of subsection (8) of section  
21 106.04, Florida Statutes, is amended to read:

22 106.04 Committees of continuous existence.--

23 (8)(a) Any committee of continuous existence failing  
24 to file a report on the designated due date shall be subject  
25 to a fine. The fine shall be \$50 per day for the first 3 days  
26 late and, thereafter, \$500 per day for each late day, not to  
27 exceed 25 percent of the total receipts or expenditures,  
28 whichever is greater, for the period covered by the late  
29 report. The fine shall be assessed by the filing officer, and  
30 the moneys collected shall be deposited in the General Revenue  
31 ~~Elections Commission Trust~~ Fund. No separate fine shall be

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 assessed for failure to file a copy of any report required by  
2 this section.

3 Section 16. Paragraph (a) of subsection (2), paragraph  
4 (a) of subsection (4), and paragraphs (a), (c), and (d) of  
5 subsection (8) of section 106.07, Florida Statutes, are  
6 amended to read:

7 106.07 Reports; certification and filing.--

8 (2)(a) All reports required of a candidate by this  
9 section shall be filed with the officer before whom the  
10 candidate is required by law to qualify. All candidates who  
11 file with the Department of State shall file the original and  
12 one copy of their reports. In addition, a copy of each report  
13 for candidates for other than statewide office who qualify  
14 with the Department of State shall be filed with the  
15 supervisor of elections in the county where the candidate  
16 resides. Reports shall be filed not later than 5 p.m. of the  
17 day designated; however, any report postmarked by the United  
18 States Postal Service no later than midnight of the day  
19 designated shall be deemed to have been filed in a timely  
20 manner. Any report received by the filing officer within 5  
21 days after the designated due date that was delivered by the  
22 United States Postal Service shall be deemed timely filed  
23 unless it has a postmark that indicates that the report was  
24 mailed after the designated due date. A certificate of mailing  
25 obtained from and dated by the United States Postal Service at  
26 the time of mailing, or a receipt from an established courier  
27 company, which bears a date on or before the date on which the  
28 report is due, shall be proof of mailing in a timely manner.  
29 Reports shall contain information of all previously unreported  
30 contributions received and expenditures made as of the  
31 preceding Friday, except that the report filed on the Friday

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 immediately preceding the election shall contain information  
2 of all previously unreported contributions received and  
3 expenditures made as of the day preceding that designated due  
4 date. All such reports shall be open to public inspection.

5 (4)(a) Each report required by this section shall  
6 contain:

7 1. The full name, address, and occupation, if any of  
8 each person who has made one or more contributions to or for  
9 such committee or candidate within the reporting period,  
10 together with the amount and date of such contributions. For  
11 corporations, the report must provide as clear a description  
12 as practicable of the principal type of business conducted by  
13 the corporation. However, if the contribution is \$100 or less  
14 or is from a relative, as defined in s. 112.312, provided that  
15 the relationship is reported, the occupation of the  
16 contributor or the principal type of business need not be  
17 listed.

18 2. The name and address of each political committee  
19 from which the reporting committee or the candidate received,  
20 or to which the reporting committee or candidate made, any  
21 transfer of funds, together with the amounts and dates of all  
22 transfers.

23 3. Each loan for campaign purposes to or from any  
24 person or political committee within the reporting period,  
25 together with the full names, addresses, and occupations, and  
26 principal places of business, if any, of the lender and  
27 endorsers, if any, and the date and amount of such loans.

28 4. A statement of each contribution, rebate, refund,  
29 or other receipt not otherwise listed under subparagraphs 1.  
30 through 3.

31 5. The total sums of all loans, in-kind contributions,

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 and other receipts by or for such committee or candidate  
2 during the reporting period. The reporting forms shall be  
3 designed to elicit separate totals for in-kind contributions,  
4 loans, and other receipts.

5           6. The full name and address of each person to whom  
6 expenditures have been made by or on behalf of the committee  
7 or candidate within the reporting period; the amount, date,  
8 and purpose of each such expenditure; and the name and address  
9 of, and office sought by, each candidate on whose behalf such  
10 expenditure was made. However, expenditures made from the  
11 petty cash fund provided by s. 106.12 need not be reported  
12 individually.

13           7. The full name and address of each person to whom an  
14 expenditure for personal services, salary, or reimbursement  
15 for authorized expenses as provided in s. 106.021(3) has been  
16 made and which is not otherwise reported, including the  
17 amount, date, and purpose of such expenditure. However,  
18 expenditures made from the petty cash fund provided for in s.  
19 106.12 need not be reported individually.

20           8. The total amount withdrawn and the total amount  
21 spent for petty cash purposes pursuant to this chapter during  
22 the reporting period.

23           9. The total sum of expenditures made by such  
24 committee or candidate during the reporting period.

25           10. The amount and nature of debts and obligations  
26 owed by or to the committee or candidate, which relate to the  
27 conduct of any political campaign.

28           11. A copy of each credit card statement which shall  
29 be included in the next report following receipt thereof by  
30 the candidate or political committee. Receipts for each credit  
31 card purchase shall be retained by the treasurer with the

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 records for the campaign account.

2           12. The amount and nature of any separate  
3 interest-bearing accounts or certificates of deposit and  
4 identification of the financial institution in which such  
5 accounts or certificates of deposit are located.

6           13. The primary purposes of an expenditure made  
7 indirectly through a campaign treasurer pursuant to s.  
8 106.021(3) for goods and services such as communications media  
9 placement or procurement services, campaign signs, insurance,  
10 and other expenditures that include multiple components as  
11 part of the expenditure. The primary purpose of an expenditure  
12 shall be that purpose, including integral and directly related  
13 components, that comprises 80 percent of such expenditure.

14           (8)(a) Any candidate or political committee failing to  
15 file a report on the designated due date shall be subject to a  
16 fine as provided in paragraph (b) for each late day, and, in  
17 the case of a candidate, such fine shall be paid only from  
18 personal funds of the candidate. The fine shall be assessed by  
19 the filing officer and the moneys collected shall be  
20 deposited:

21           1. In the General Revenue ~~Elections Commission Trust~~  
22 Fund, in the case of a candidate for state office or a  
23 political committee that registers with the Division of  
24 Elections; or

25           2. In the general revenue fund of the political  
26 subdivision, in the case of a candidate for an office of a  
27 political subdivision or a political committee that registers  
28 with an officer of a political subdivision.

29  
30 No separate fine shall be assessed for failure to file a copy  
31 of any report required by this section.

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1           (c) Any candidate or chair of a political committee  
2 may appeal or dispute the fine, based upon, but not limited  
3 to, unusual circumstances surrounding the failure to file on  
4 the designated due date, and may request and shall be entitled  
5 to a hearing before the Florida Elections Commission, which  
6 shall have the authority to waive the fine in whole or in  
7 part. The Florida Elections Commission must consider the  
8 mitigating and aggravating circumstances contained in s.  
9 106.265(1) when determining the amount of a fine, if any, to  
10 be waived. Any such request shall be made within 20 days after  
11 receipt of the notice of payment due. In such case, the  
12 candidate or chair of the political committee shall, within  
13 the 20-day period, notify the filing officer in writing of his  
14 or her intention to bring the matter before the commission.

15           (d) The appropriate filing officer shall notify the  
16 Florida Elections Commission of the repeated late filing by a  
17 candidate or political committee, the failure of a candidate  
18 or political committee to file a report after notice, or the  
19 failure to pay the fine imposed. The commission shall  
20 investigate only those alleged late filing violations  
21 specifically identified by the filing officer and as set forth  
22 in the notification. Any other alleged violations must be  
23 separately stated and reported by the division to the  
24 commission under s. 106.25(2).

25           Section 17. Effective January 1, 2005, paragraph (a)  
26 of subsection (2) of section 106.07, Florida Statutes, as  
27 amended by this act, and paragraph (b) of subsection (2),  
28 subsection (3), and paragraph (b) of subsection (8) of said  
29 section, are amended to read:

30           106.07 Reports; certification and filing.--

31           (2)(a) All reports required of a candidate by this

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 section shall be filed with the officer before whom the  
2 candidate is required by law to qualify. All candidates who  
3 file with the Department of State shall file ~~the original and~~  
4 ~~one copy of~~ their reports pursuant to s. 106.0705. In  
5 addition, a copy of each report for candidates for other than  
6 statewide office who qualify with the Department of State  
7 shall be filed with the supervisor of elections in the county  
8 where the candidate resides. Except as provided in s.  
9 106.0705, reports shall be filed not later than 5 p.m. of the  
10 day designated; however, any report postmarked by the United  
11 States Postal Service no later than midnight of the day  
12 designated shall be deemed to have been filed in a timely  
13 manner. Any report received by the filing officer within 5  
14 days after the designated due date that was delivered by the  
15 United States Postal Service shall be deemed timely filed  
16 unless it has a postmark that indicates that the report was  
17 mailed after the designated due date. A certificate of mailing  
18 obtained from and dated by the United States Postal Service at  
19 the time of mailing, or a receipt from an established courier  
20 company, which bears a date on or before the date on which the  
21 report is due, shall be proof of mailing in a timely manner.  
22 Reports shall contain information of all previously unreported  
23 contributions received and expenditures made as of the  
24 preceding Friday, except that the report filed on the Friday  
25 immediately preceding the election shall contain information  
26 of all previously unreported contributions received and  
27 expenditures made as of the day preceding that designated due  
28 date. All such reports shall be open to public inspection.

29 (b)1. Any report which is deemed to be incomplete by  
30 the officer with whom the candidate qualifies shall be  
31 accepted on a conditional basis, and the campaign treasurer

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 shall be notified by registered mail as to why the report is  
2 incomplete and be given 3 days from receipt of such notice to  
3 file an addendum to the report providing all information  
4 necessary to complete the report in compliance with this  
5 section. Failure to file a complete report after such notice  
6 constitutes a violation of this chapter.

7           2. In lieu of the notice by registered mail as  
8 required in subparagraph 1., the qualifying officer may notify  
9 the campaign treasurer by telephone that the report is  
10 incomplete and request the information necessary to complete  
11 the report. If, however, such information is not received by  
12 the qualifying officer within 3 days after of the telephone  
13 request therefor, notice shall be sent by registered mail as  
14 provided in subparagraph 1.

15           (3) Reports required of a political committee shall be  
16 filed with the agency or officer before whom such committee  
17 registers pursuant to s. 106.03(3) and shall be subject to the  
18 same filing conditions as established for candidates' reports.  
19 ~~Only committees that file with the Department of State shall~~  
20 ~~file the original and one copy of their reports.~~ Incomplete  
21 reports by political committees shall be treated in the manner  
22 provided for incomplete reports by candidates in subsection  
23 (2).

24           (8)

25           (b) Upon determining that a report is late, the filing  
26 officer shall immediately notify the candidate or chair of the  
27 political committee as to the failure to file a report by the  
28 designated due date and that a fine is being assessed for each  
29 late day. The fine shall be \$50 per day for the first 3 days  
30 late and, thereafter, \$500 per day for each late day, not to  
31 exceed 25 percent of the total receipts or expenditures,

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 whichever is greater, for the period covered by the late  
2 report. However, for the reports immediately preceding each  
3 primary and general election, the fine shall be \$500 per day  
4 for each late day, not to exceed 25 percent of the total  
5 receipts or expenditures, whichever is greater, for the period  
6 covered by the late report. For reports required under s.  
7 106.141(7), the fine is \$50 per day for each late day, not to  
8 exceed 25 percent of the total receipts or expenditures,  
9 whichever is greater, for the period covered by the late  
10 report. Upon receipt of the report, the filing officer shall  
11 determine the amount of the fine which is due and shall notify  
12 the candidate or chair. The filing officer shall determine the  
13 amount of the fine due based upon the earliest of the  
14 following:

- 15 1. When the report is actually received by such  
16 officer.
- 17 2. When the report is postmarked.
- 18 3. When the certificate of mailing is dated.
- 19 4. When the receipt from an established courier  
20 company is dated.
- 21 5. When the electronic receipt issued pursuant to s.  
22 106.0705 is dated.

23  
24 Such fine shall be paid to the filing officer within 20 days  
25 after receipt of the notice of payment due, unless appeal is  
26 made to the Florida Elections Commission pursuant to paragraph  
27 (c). In the case of a candidate, such fine shall not be an  
28 allowable campaign expenditure and shall be paid only from  
29 personal funds of the candidate. An officer or member of a  
30 political committee shall not be personally liable for such  
31 fine.

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 Section 18. Effective January 1, 2005, section  
 2 106.0705, Florida Statutes, is created to read:

3 106.0705 Electronic filing of campaign treasurer's  
 4 reports.--

5 (1) As used in this section, "electronic filing  
 6 system" means an Internet system for recording and reporting  
 7 campaign finance activity by reporting period.

8 (2)(a) Each candidate who is required to file reports  
 9 pursuant to s. 106.07 with the division must file such reports  
 10 with the division by means of the division's electronic filing  
 11 system.

12 (b) Each political committee, committee of continuous  
 13 existence, or state executive committee that is required to  
 14 file reports with the division under s. 106.04, s. 106.07, or  
 15 s. 106.29, as applicable, must file such reports with the  
 16 division by means of the division's electronic filing system.

17 (c) Each person or organization that is required to  
 18 file reports with the division under s. 106.071 must file such  
 19 reports with the division by means of the division's  
 20 electronic filing system.

21 (3) Reports filed pursuant to this section shall be  
 22 completed and filed through the electronic filing system not  
 23 later than midnight of the day designated. Reports not filed  
 24 by midnight of the day designated are late filed and are  
 25 subject to the penalties under s. 106.04(8), s. 106.07(8), or  
 26 s. 106.29(3), as applicable.

27 (4) Each report filed pursuant to this section is  
 28 considered to be under oath by the candidate and treasurer or  
 29 the chair and treasurer, whichever is applicable, and such  
 30 persons are subject to the provisions of s. 106.04(4)(d), s.  
 31 106.07(5), or s. 106.29(2), as applicable. Persons given a

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 secure sign-on to the electronic filing system are responsible  
2 for protecting such from disclosure and are responsible for  
3 all filings using such credentials, unless they have notified  
4 the division that their credentials have been compromised.

5 (5) The electronic filing system developed by the  
6 division must:

7 (a) Be based on access by means of the Internet.

8 (b) Be accessible by anyone with Internet access using  
9 standard web-browsing software.

10 (c) Provide for direct entry of campaign finance  
11 information as well as upload of such information from  
12 campaign finance software certified by the division.

13 (d) Provide a method that prevents unauthorized access  
14 to electronic filing system functions.

15 (6) The division shall adopt rules pursuant to ss.  
16 120.536(1) and 120.54 to administer this section and provide  
17 for the reports required to be filed pursuant to this section.  
18 Such rules shall, at a minimum, provide:

19 (a) Alternate filing procedures in case the division's  
20 electronic filing system is not operable.

21 (b) For the issuance of an electronic receipt to the  
22 person submitting the report indicating and verifying that the  
23 report has been filed.

24 Section 19. Paragraph (a) of subsection (4) and  
25 subsection (6) of section 106.141, Florida Statutes, are  
26 amended to read:

27 106.141 Disposition of surplus funds by candidates.--

28 (4)(a) Except as provided in paragraph (b), any  
29 candidate required to dispose of funds pursuant to this  
30 section shall, at the option of the candidate, dispose of such  
31 funds by any of the following means, or any combination

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 thereof:

2           1. Return pro rata to each contributor the funds that  
3 have not been spent or obligated.

4           2. Donate the funds that have not been spent or  
5 obligated to a charitable organization or organizations that  
6 meet the qualifications of s. 501(c)(3) of the Internal  
7 Revenue Code.

8           3. Give not more than \$10,000 of the funds that have  
9 not been spent or obligated to the political party of which  
10 such candidate is a member, except that a candidate for the  
11 Florida Senate may give not more than \$30,000 of such funds to  
12 the political party of which the candidate is a member.

13           4. Give the funds that have not been spent or  
14 obligated:

15           a. In the case of a candidate for state office, to the  
16 state, to be deposited in either the Election Campaign  
17 Financing Trust Fund or the General Revenue Fund, as  
18 designated by the candidate; or

19           b. In the case of a candidate for an office of a  
20 political subdivision, to such political subdivision, to be  
21 deposited in the general fund thereof.

22           (6) Prior to disposing of funds pursuant to subsection  
23 (4) or transferring funds into an office account pursuant to  
24 subsection (5), any candidate who filed an oath stating that  
25 he or she was unable to pay the election assessment or fee for  
26 verification of petition signatures without imposing an undue  
27 burden on his or her personal resources or on resources  
28 otherwise available to him or her, or who filed both such  
29 oaths, or who qualified by the alternative method and was not  
30 required to pay an election assessment, shall reimburse the  
31 state or local governmental entity, whichever is applicable,

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 for such waived assessment or fee or both. Such reimbursement  
 2 shall be made first for the cost of petition verification and  
 3 then, if funds are remaining, for the amount of the election  
 4 assessment. If there are insufficient funds in the account to  
 5 pay the full amount of either the assessment or the fee or  
 6 both, the remaining funds shall be disbursed in the above  
 7 manner until no funds remain. All funds disbursed pursuant to  
 8 this subsection shall be remitted to the qualifying officer.  
 9 Any reimbursement for petition verification costs which are  
 10 reimbursable by the state shall be forwarded by the qualifying  
 11 officer to the state for deposit in the General Revenue Fund.  
 12 All reimbursements for the amount of the election assessment  
 13 shall be forwarded by the qualifying officer to the Department  
 14 of State for deposit in the General Revenue Elections  
 15 ~~Commission Trust~~ Fund.

16 Section 20. Subsections (2) and (4) of section 106.25,  
 17 Florida Statutes, are amended to read:

18 106.25 Reports of alleged violations to Florida  
 19 Elections Commission; disposition of findings.--

20 (2) The commission shall investigate all violations of  
 21 this chapter and chapter 104, but only after having received  
 22 either a sworn complaint or information reported to it under  
 23 this subsection by the Division of Elections. Any person,  
 24 other than the division, having information of any violation  
 25 of this chapter or chapter 104 shall file a sworn complaint  
 26 with the commission. The commission shall investigate only  
 27 those alleged violations specifically contained within the  
 28 sworn complaint. If any complainant fails to allege all  
 29 violations that arise from the facts or allegations alleged in  
 30 a complaint, the commission shall be barred from investigating  
 31 a subsequent complaint from such complainant that is based

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 upon such facts or allegations that were raised or could have  
2 been raised in the first complaint. Such sworn complaint shall  
3 state whether a complaint of the same violation has been made  
4 to any state attorney. Within 5 days after receipt of a sworn  
5 complaint, the commission shall transmit a copy of the  
6 complaint to the alleged violator. All sworn complaints  
7 alleging violations of the Florida Election Code over which  
8 the commission has jurisdiction shall be filed with the  
9 commission within 2 years after ~~of~~ the alleged violations. The  
10 period of limitations is tolled on the day a sworn complaint  
11 is filed with the commission.

12 (4) The commission shall undertake a preliminary  
13 investigation to determine if the facts alleged in a sworn  
14 complaint or a matter initiated by the division constitute  
15 probable cause to believe that a violation has occurred. The  
16 respondent, the complainant, and their respective counsels  
17 shall be permitted to attend the hearing at which the probable  
18 cause determination is made. Notice of the hearing shall be  
19 sent to the respondent and the complainant at least 14 days  
20 prior to the date of the hearing. The respondent and his or  
21 her counsel shall be permitted to make a brief oral statement  
22 in the nature of oral argument to the commission before the  
23 probable cause determination. The commission's determination  
24 shall be based upon the investigator's report, the complaint,  
25 and staff recommendations, as well as any written statements  
26 submitted by the respondent and any oral statements made at  
27 the hearing. No testimony or other evidence shall be accepted  
28 at the hearing. Upon completion of the preliminary  
29 investigation, the commission shall, by written report, find  
30 probable cause or no probable cause to believe that this  
31 chapter or chapter 104 has been violated.

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 (a) If no probable cause is found, the commission  
2 shall dismiss the case and the case shall become a matter of  
3 public record, except as otherwise provided in this section,  
4 together with a written statement of the findings of the  
5 preliminary investigation and a summary of the facts which the  
6 commission shall send to the complainant and the alleged  
7 violator.

8 (b) If probable cause is found, the commission shall  
9 so notify the complainant and the alleged violator in writing.  
10 All documents made or received in the disposition of the  
11 complaint shall become public records upon a finding by the  
12 commission.

13

14 In a case where probable cause is found, the commission shall  
15 make a preliminary determination to consider the matter or to  
16 refer the matter to the state attorney for the judicial  
17 circuit in which the alleged violation occurred.

18 Section 21. Subsection (5) is added to section  
19 106.265, Florida Statutes, to read:

20 106.265 Civil penalties.--

21 (5) In any case in which the commission determines  
22 that a person has filed a complaint against another person  
23 with a malicious intent to injure the reputation of the person  
24 complained against by filing the complaint with knowledge that  
25 the complaint contains one or more false allegations or with  
26 reckless disregard for whether the complaint contains false  
27 allegations of fact material to a violation of this chapter or  
28 chapter 104, the complainant shall be liable for costs and  
29 reasonable attorney's fees incurred in the defense of the  
30 person complained against, including the costs and reasonable  
31 attorney's fees incurred in proving entitlement to and the

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 amount of costs and fees. If the complainant fails to pay such  
 2 costs and fees voluntarily within 30 days following such  
 3 finding by the commission, the commission shall forward such  
 4 information to the Department of Legal Affairs, which shall  
 5 bring a civil action in a court of competent jurisdiction to  
 6 recover the amount of such costs and fees awarded by the  
 7 commission.

8 Section 22. Paragraph (a) of subsection (3) of section  
 9 106.29, Florida Statutes, is amended to read:

10 106.29 Reports by political parties; restrictions on  
 11 contributions and expenditures; penalties.--

12 (3)(a) Any state or county executive committee failing  
 13 to file a report on the designated due date shall be subject  
 14 to a fine as provided in paragraph (b) for each late day. The  
 15 fine shall be assessed by the filing officer, and the moneys  
 16 collected shall be deposited in the General Revenue Elections  
 17 ~~Commission Trust~~ Fund.

18 Section 23. Effective January 1, 2005, paragraph (b)  
 19 of subsection (3) of section 106.29, Florida Statutes, is  
 20 amended to read:

21 106.29 Reports by political parties; restrictions on  
 22 contributions and expenditures; penalties.--

23 (3)

24 (b) Upon determining that a report is late, the filing  
 25 officer shall immediately notify the chair of the executive  
 26 committee as to the failure to file a report by the designated  
 27 due date and that a fine is being assessed for each late day.  
 28 The fine shall be \$1,000 for a state executive committee, and  
 29 \$50 for a county executive committee, per day for each late  
 30 day, not to exceed 25 percent of the total receipts or  
 31 expenditures, whichever is greater, for the period covered by

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 the late report. However, if an executive committee fails to  
 2 file a report on the Friday immediately preceding the general  
 3 election, the fine shall be \$10,000 per day for each day a  
 4 state executive committee is late and \$500 per day for each  
 5 day a county executive committee is late. Upon receipt of the  
 6 report, the filing officer shall determine the amount of the  
 7 fine which is due and shall notify the chair. The filing  
 8 officer shall determine the amount of the fine due based upon  
 9 the earliest of the following:

- 10           1. When the report is actually received by such  
 11 officer.
- 12           2. When the report is postmarked.
- 13           3. When the certificate of mailing is dated.
- 14           4. When the receipt from an established courier  
 15 company is dated.
- 16           5. When the electronic receipt issued pursuant to s.  
 17 106.0705 is dated.

18  
 19 Such fine shall be paid to the filing officer within 20 days  
 20 after receipt of the notice of payment due, unless appeal is  
 21 made to the Florida Elections Commission pursuant to paragraph  
 22 (c). An officer or member of an executive committee shall not  
 23 be personally liable for such fine.

24           Section 24. If any provision of this act or its  
 25 application to any person or circumstance is held invalid, the  
 26 invalidity does not affect other provisions or applications of  
 27 the act which can be given effect without the invalid  
 28 provision or application, and to this end the provisions of  
 29 this act are severable.

30           Section 25. Except as otherwise provided herein, this  
 31 act shall take effect July 1, 2004.

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 26, delete that line

4

5 and insert:

6 messages; amending s. 97.021, F.S.; defining  
7 the term "early voting"; amending s. 101.015,  
8 F.S.; requiring supervisors of elections to  
9 include written procedures for early voting in  
10 their accuracy and security procedures and to  
11 submit any revisions to those security  
12 procedures within a specified period before  
13 early voting commences; amending s. 101.5612,  
14 F.S.; providing for testing of tabulating  
15 equipment prior to commencement of early voting  
16 and notice thereof; amending s. 101.5613, F.S.;  
17 specifying the person responsible for  
18 examination of equipment for purposes of early  
19 voting; amending s. 101.657, F.S.; authorizing  
20 and providing requirements for early voting;  
21 providing for designation of certain facilities  
22 as early voting sites; amending s. 106.021,  
23 F.S.; providing exceptions to a prohibition  
24 against making certain contributions or  
25 expenditures in connection with a campaign or  
26 activities of a political committee;  
27 authorizing reimbursement of expenses incurred  
28 in connection with a campaign or activities of  
29 a political committee; requiring disclosure of  
30 the names and addresses of persons reimbursed  
31 from a campaign account; providing for

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 retroactive operation; amending s. 106.023,  
2 F.S.; providing that the execution and filing  
3 of the statement of candidate does not in and  
4 of itself create a presumption that a violation  
5 of ch. 106 or ch. 104, F.S., is a willful  
6 violation; amending s. 106.04, F.S.; reducing  
7 the fine for late filing of campaign finance  
8 reports by committees of continuous existence  
9 for the first 3 days; providing for deposit of  
10 fine proceeds into the General Revenue Fund;  
11 amending s. 106.07, F.S.; revising requirements  
12 for filing campaign reports; revising  
13 requirements with respect to timely filing of  
14 mailed reports; requiring the reporting of the  
15 primary purposes of certain expenditures made  
16 indirectly through a campaign treasurer for  
17 certain goods and services; expanding grounds  
18 for appealing or disputing a fine; requiring  
19 the Florida Elections Commission to consider  
20 mitigating and aggravating circumstances in  
21 determining the amount of a fine, if any, to be  
22 waived for late-filed reports; providing for  
23 deposit of certain fine proceeds into the  
24 General Revenue Fund; limiting investigation of  
25 alleged late filing violations; providing for  
26 electronic filing of reports; allowing  
27 electronic receipts to be used as proof of  
28 filing; creating s. 106.0705, F.S.; providing  
29 for electronic filing of campaign finance  
30 reports; providing standards and guidelines;  
31 providing penalties; providing for adoption of

Bill No. CS for SB's 2346 & 516

Amendment No. \_\_\_\_ Barcode 625488

1 rules; amending s. 106.141, F.S.; increasing  
2 the amount of surplus funds a candidate for the  
3 Florida Senate can turn back to a political  
4 party; providing for deposit into the General  
5 Revenue Fund of reimbursed election  
6 assessments; amending s. 106.25, F.S.;  
7 restricting the alleged violations the  
8 commission may investigate to those  
9 specifically contained within a sworn  
10 complaint; providing restrictions on subsequent  
11 complaints based on the same facts or  
12 allegations as a prior complaint; authorizing  
13 respondents and complainants and their counsels  
14 to attend hearings at which probable cause is  
15 determined; requiring prior notice; permitting  
16 a brief oral statement; specifying bases for  
17 determining probable cause; amending s.  
18 106.265, F.S.; providing liability of  
19 complainants for costs and reasonable  
20 attorney's fees under certain circumstances;  
21 providing for civil actions to collect such  
22 costs and fees; amending s. 106.29, F.S.;  
23 providing that the proceeds of funds assessed  
24 against political parties for the late filing  
25 of reports shall be deposited into the General  
26 Revenue Fund; providing for determination of  
27 fine for electronically filed campaign finance  
28 reports; providing for severability; providing  
29 effective dates.

30

31