

By the Committee on Rules Subcommittee on Ethics and Elections;
and Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to elections; amending s. 106.08,
3 F.S.; revising the limitations on contributions made
4 to certain candidates and political committees;
5 amending s. 106.021, F.S.; providing requirements and
6 restrictions on the use of contributions received
7 prior to a candidate changing his or her candidacy to
8 a new office, to conform; reenacting ss. 106.04(5),
9 106.075(2), 106.19, and 106.29, F.S., relating to
10 contributions made by committees of continuous
11 existence, contributions made to pay all or part of
12 loans incurred, penalties for the acceptance of
13 contributions or expenditures made in excess of the
14 statutory limits or failing to report or falsely
15 reporting certain information, and contributions
16 received and expenditures made by state executive and
17 county executive committees of each political party,
18 to incorporate the amendment made to s. 106.08, F.S.,
19 in references thereto; providing an effective date.

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

22
23 Section 1. Section 106.08, Florida Statutes, is amended to
24 read:

25 106.08 Contributions; limitations on.-

26 (1) (a) Except for political parties, no person, political
27 committee, or committee of continuous existence may, in any
28 election, make contributions ~~in excess of \$500~~ to any candidate
29 ~~for election to or retention in office~~ or to any political

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30 committee supporting or opposing one or more candidates in
31 excess of the following amounts:-

32 1. To a candidate for the offices of Governor and
33 Lieutenant Governor, or any political committee supporting or
34 opposing only such candidates, \$10,000. Candidates for the
35 offices of Governor and Lieutenant Governor on the same ticket
36 are considered a single candidate for the purposes of this
37 paragraph.

38 2. To a candidate for statewide office other than the
39 offices of Governor and Lieutenant Governor, or any political
40 committee supporting or opposing only such candidates, \$5,000.

41 3. To a candidate for legislative or multicounty office, or
42 any political committee supporting or opposing only such
43 candidates, \$2,500.

44 4. To a candidate for countywide office or to a candidate
45 in any election conducted on less than a countywide basis; a
46 candidate for county court judge or circuit judge; a candidate
47 for retention as a judge of a district court of appeal or as a
48 justice of the Supreme Court; or any political committee
49 supporting or opposing only such candidates, \$1,000.

50 5. To a political committee supporting or opposing two or
51 more candidates that are subject to different contribution
52 limitations under this paragraph, the lowest of such
53 contribution limitations. Candidates for the offices of Governor
54 and Lieutenant Governor on the same ticket are considered a
55 single candidate for the purpose of this section.

56 (b)1. The contribution limits provided in this subsection
57 do not apply to contributions made by a state or county
58 executive committee of a political party regulated by chapter

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59 103 or to amounts contributed by a candidate to his or her own
60 campaign.

61 2. Notwithstanding the limits provided in this subsection,
62 an unemancipated child under the age of 18 years of age may not
63 make a contribution in excess of \$100 to any candidate or to any
64 political committee supporting one or more candidates.

65 (c) The contribution limits of this subsection apply to
66 each election. For purposes of this subsection, the primary
67 election and general election are separate elections so long as
68 the candidate is not an unopposed candidate as defined in s.
69 106.011(15). However, for the purpose of contribution limits
70 with respect to candidates for retention as a justice or judge,
71 there is only one election, which is the general election.

72 (2) (a) A candidate may not accept contributions from
73 national, state, including any subordinate committee of a
74 national, state, or county committee of a political party, and
75 county executive committees of a political party, which
76 contributions in the aggregate exceed \$50,000, no more than
77 \$25,000 of which may be accepted prior to the 28-day period
78 immediately preceding the date of the general election.

79 (b) A candidate for statewide office may not accept
80 contributions from national, state, or county executive
81 committees of a political party, including any subordinate
82 committee of a national, state, or county committee of a
83 political party, which contributions in the aggregate exceed
84 \$250,000, no more than \$125,000 of which may be accepted prior
85 to the 28-day period immediately preceding the date of the
86 general election. Polling services, research services, costs for
87 campaign staff, professional consulting services, and telephone

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88 calls are not contributions to be counted toward the
89 contribution limits of paragraph (a) or this paragraph. Any item
90 not expressly identified in this paragraph as nonallocable is a
91 contribution in an amount equal to the fair market value of the
92 item and must be counted as allocable toward the contribution
93 limits of paragraph (a) or this paragraph. Nonallocable, in-kind
94 contributions must be reported by the candidate under s. 106.07
95 and by the political party under s. 106.29.

96 (3) (a) Any contribution received by a candidate with
97 opposition in an election or by the campaign treasurer or a
98 deputy campaign treasurer of such a candidate on the day of that
99 election or less than 5 days prior to the day of that election
100 must be returned by him or her to the person or committee
101 contributing it and may not be used or expended by or on behalf
102 of the candidate.

103 (b) Except as otherwise provided in paragraph (c), any
104 contribution received by a candidate or by the campaign
105 treasurer or a deputy campaign treasurer of a candidate after
106 the date at which the candidate withdraws his or her candidacy,
107 or after the date the candidate is defeated, becomes unopposed,
108 or is elected to office must be returned to the person or
109 committee contributing it and may not be used or expended by or
110 on behalf of the candidate.

111 (c) With respect to any campaign for an office in which an
112 independent or minor party candidate has filed as required in s.
113 99.0955 or s. 99.096, but whose qualification is pending a
114 determination by the Department of State or supervisor of
115 elections as to whether or not the required number of petition
116 signatures was obtained:

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117 1. The department or supervisor shall, no later than 3 days
118 after that determination has been made, notify in writing all
119 other candidates for that office of that determination.

120 2. Any contribution received by a candidate or the campaign
121 treasurer or deputy campaign treasurer of a candidate after the
122 candidate has been notified in writing by the department or
123 supervisor that he or she has become unopposed as a result of an
124 independent or minor party candidate failing to obtain the
125 required number of petition signatures shall be returned to the
126 person, political committee, or committee of continuous
127 existence contributing it and shall not be used or expended by
128 or on behalf of the candidate.

129 (4) Any contribution received by the chair, campaign
130 treasurer, or deputy campaign treasurer of a political committee
131 supporting or opposing a candidate with opposition in an
132 election or supporting or opposing an issue on the ballot in an
133 election on the day of that election or less than 5 days prior
134 to the day of that election may not be obligated or expended by
135 the committee until after the date of the election.

136 (5) (a) A person may not make any contribution through or in
137 the name of another, directly or indirectly, in any election.

138 (b) Candidates, political committees, and political parties
139 may not solicit contributions from any religious, charitable,
140 civic, or other causes or organizations established primarily
141 for the public good.

142 (c) Candidates, political committees, and political parties
143 may not make contributions, in exchange for political support,
144 to any religious, charitable, civic, or other cause or
145 organization established primarily for the public good. It is

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146 not a violation of this paragraph for:

147 1. A candidate, political committee, or political party
148 executive committee to make gifts of money in lieu of flowers in
149 memory of a deceased person;

150 2. A candidate to continue membership in, or make regular
151 donations from personal or business funds to, religious,
152 political party, civic, or charitable groups of which the
153 candidate is a member or to which the candidate has been a
154 regular donor for more than 6 months; or

155 3. A candidate to purchase, with campaign funds, tickets,
156 admission to events, or advertisements from religious, civic,
157 political party, or charitable groups.

158 (6) (a) A political party may not accept any contribution
159 that has been specifically designated for the partial or
160 exclusive use of a particular candidate. Any contribution so
161 designated must be returned to the contributor and may not be
162 used or expended by or on behalf of the candidate.

163 (b) 1. A political party may not accept any in-kind
164 contribution that fails to provide a direct benefit to the
165 political party. A "direct benefit" includes, but is not limited
166 to, fundraising or furthering the objectives of the political
167 party.

168 2.a. An in-kind contribution to a state political party may
169 be accepted only by the chairperson of the state political party
170 or by the chairperson's designee or designees whose names are on
171 file with the division in a form acceptable to the division
172 prior to the date of the written notice required in sub-
173 subparagraph b. An in-kind contribution to a county political
174 party may be accepted only by the chairperson of the county

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175 political party or by the county chairperson's designee or
176 designees whose names are on file with the supervisor of
177 elections of the respective county prior to the date of the
178 written notice required in sub-subparagraph b.

179 b. A person making an in-kind contribution to a state
180 political party or county political party must provide prior
181 written notice of the contribution to a person described in sub-
182 subparagraph a. The prior written notice must be signed and
183 dated and may be provided by an electronic or facsimile message.
184 However, prior written notice is not required for an in-kind
185 contribution that consists of food and beverage in an aggregate
186 amount not exceeding \$1,500 which is consumed at a single
187 sitting or event if such in-kind contribution is accepted in
188 advance by a person specified in sub-subparagraph a.

189 c. A person described in sub-subparagraph a. may accept an
190 in-kind contribution requiring prior written notice only in a
191 writing that is signed and dated before the in-kind contribution
192 is made. Failure to obtain the required written acceptance of an
193 in-kind contribution to a state or county political party
194 constitutes a refusal of the contribution.

195 d. A copy of each prior written acceptance required under
196 sub-subparagraph c. must be filed with the division at the time
197 the regular reports of contributions and expenditures required
198 under s. 106.29 are filed by the state executive committee and
199 county executive committee.

200 e. An in-kind contribution may not be given to a state or
201 county political party unless the in-kind contribution is made
202 as provided in this subparagraph.

203 (7) (a) Any person who knowingly and willfully makes or

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204 accepts no more than one contribution in violation of subsection
205 (1) or subsection (5), or any person who knowingly and willfully
206 fails or refuses to return any contribution as required in
207 subsection (3), commits a misdemeanor of the first degree,
208 punishable as provided in s. 775.082 or s. 775.083. If any
209 corporation, partnership, or other business entity or any
210 political party, political committee, committee of continuous
211 existence, or electioneering communications organization is
212 convicted of knowingly and willfully violating any provision
213 punishable under this paragraph, it shall be fined not less than
214 \$1,000 and not more than \$10,000. If it is a domestic entity, it
215 may be ordered dissolved by a court of competent jurisdiction;
216 if it is a foreign or nonresident business entity, its right to
217 do business in this state may be forfeited. Any officer,
218 partner, agent, attorney, or other representative of a
219 corporation, partnership, or other business entity, or of a
220 political party, political committee, committee of continuous
221 existence, electioneering communications organization, or
222 organization exempt from taxation under s. 527 or s. 501(c)(4)
223 of the Internal Revenue Code, who aids, abets, advises, or
224 participates in a violation of any provision punishable under
225 this paragraph commits a misdemeanor of the first degree,
226 punishable as provided in s. 775.082 or s. 775.083.

227 (b) Any person who knowingly and willfully makes or accepts
228 two or more contributions in violation of subsection (1) or
229 subsection (5) commits a felony of the third degree, punishable
230 as provided in s. 775.082, s. 775.083, or s. 775.084. If any
231 corporation, partnership, or other business entity or any
232 political party, political committee, committee of continuous

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233 existence, or electioneering communications organization is
234 convicted of knowingly and willfully violating any provision
235 punishable under this paragraph, it shall be fined not less than
236 \$10,000 and not more than \$50,000. If it is a domestic entity,
237 it may be ordered dissolved by a court of competent
238 jurisdiction; if it is a foreign or nonresident business entity,
239 its right to do business in this state may be forfeited. Any
240 officer, partner, agent, attorney, or other representative of a
241 corporation, partnership, or other business entity, or of a
242 political committee, committee of continuous existence,
243 political party, or electioneering communications organization,
244 or organization exempt from taxation under s. 527 or s.
245 501(c)(4) of the Internal Revenue Code, who aids, abets,
246 advises, or participates in a violation of any provision
247 punishable under this paragraph commits a felony of the third
248 degree, punishable as provided in s. 775.082, s. 775.083, or s.
249 775.084.

250 (8) Except when otherwise provided in subsection (7), any
251 person who knowingly and willfully violates any provision of
252 this section shall, in addition to any other penalty prescribed
253 by this chapter, pay to the state a sum equal to twice the
254 amount contributed in violation of this chapter. Each campaign
255 treasurer shall pay all amounts contributed in violation of this
256 section to the state for deposit in the General Revenue Fund.

257 (9) This section does not apply to the transfer of funds
258 between a primary campaign depository and a savings account or
259 certificate of deposit or to any interest earned on such account
260 or certificate.

261 (10) Contributions to a political committee or committee of

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262 continuous existence may be received by an affiliated
263 organization and transferred to the bank account of the
264 political committee or committee of continuous existence via
265 check written from the affiliated organization if such
266 contributions are specifically identified as intended to be
267 contributed to the political committee or committee of
268 continuous existence. All contributions received in this manner
269 shall be reported pursuant to s. 106.07 by the political
270 committee or committee of continuous existence as having been
271 made by the original contributor.

272 Section 2. Paragraph (a) of subsection (1) of section
273 106.021, Florida Statutes, is amended to read:

274 106.021 Campaign treasurers; deputies; primary and
275 secondary depositories.—

276 (1) (a) Each candidate for nomination or election to office
277 and each political committee shall appoint a campaign treasurer.
278 Each person who seeks to qualify for nomination or election to,
279 or retention in, office shall appoint a campaign treasurer and
280 designate a primary campaign depository prior to qualifying for
281 office. Any person who seeks to qualify for election or
282 nomination to any office by means of the petitioning process
283 shall appoint a treasurer and designate a primary depository on
284 or before the date he or she obtains the petitions. Each
285 candidate shall at the same time he or she designates a campaign
286 depository and appoints a treasurer also designate the office
287 for which he or she is a candidate. If the candidate is running
288 for an office which will be grouped on the ballot with two or
289 more similar offices to be filled at the same election, the
290 candidate must indicate for which group or district office he or

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291 she is running. Nothing in this subsection shall prohibit a
292 candidate, at a later date, from changing the designation of the
293 office for which he or she is a candidate. However, if a
294 candidate changes the designated office for which he or she is a
295 candidate, the candidate must notify all contributors in writing
296 of the intent to seek a different office and offer to return pro
297 rata, upon their request, those contributions given in support
298 of the original office sought. This notification shall be given
299 within 15 days after the filing of the change of designation and
300 shall include a standard form developed by the Division of
301 Elections for requesting the return of contributions. The notice
302 requirement shall not apply to any change in a numerical
303 designation resulting solely from redistricting. If, within 30
304 days after being notified by the candidate of the intent to seek
305 a different office, the contributor notifies the candidate in
306 writing that the contributor wishes his or her contribution to
307 be returned, the candidate shall return the contribution, on a
308 pro rata basis, calculated as of the date the change of
309 designation is filed. Up to a maximum of the contribution limit
310 in s. 106.08 for the newly designated office, any contribution
311 ~~contributions~~ not requested to be returned within the 30-day
312 period may be used by the candidate for the newly designated
313 office; however, the candidate must dispose of any amount
314 exceeding the contribution limit pursuant to the options in s.
315 106.11(5)(b)-(d) for a candidate who withdraws his or her
316 candidacy. No person shall accept any contribution or make any
317 expenditure with a view to bringing about his or her nomination,
318 election, or retention in public office, or authorize another to
319 accept such contributions or make such expenditure on the

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320 person's behalf, unless such person has appointed a campaign
321 treasurer and designated a primary campaign depository. A
322 candidate for an office voted upon statewide may appoint not
323 more than 15 deputy campaign treasurers, and any other candidate
324 or political committee may appoint not more than 3 deputy
325 campaign treasurers. The names and addresses of the campaign
326 treasurer and deputy campaign treasurers so appointed shall be
327 filed with the officer before whom such candidate is required to
328 qualify or with whom such political committee is required to
329 register pursuant to s. 106.03.

330 Section 3. For the purpose of incorporating the amendment
331 made by this act to section 106.08, Florida Statutes, in a
332 reference thereto, subsection (5) of section 106.04, Florida
333 Statutes, is reenacted to read:

334 106.04 Committees of continuous existence.-

335 (5) No committee of continuous existence shall make an
336 electioneering communication, contribute to any candidate or
337 political committee an amount in excess of the limits contained
338 in s. 106.08(1), or participate in any activity which is
339 prohibited by this chapter. If any violation occurs, it shall be
340 punishable as provided in this chapter for the given offense. No
341 funds of a committee of continuous existence shall be expended
342 on behalf of a candidate, except by means of a contribution made
343 through the duly appointed campaign treasurer of a candidate. No
344 such committee shall make expenditures in support of, or in
345 opposition to, an issue unless such committee first registers as
346 a political committee pursuant to this chapter and undertakes
347 all the practices and procedures required thereof; provided such
348 committee may make contributions in a total amount not to exceed

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349 25 percent of its aggregate income, as reflected in the annual
350 report filed for the previous year, to one or more political
351 committees registered pursuant to s. 106.03 and formed to
352 support or oppose issues.

353 Section 4. For the purpose of incorporating the amendment
354 made by this act to section 106.08, Florida Statutes, in a
355 reference thereto, subsection (2) of section 106.075, Florida
356 Statutes, is reenacted to read:

357 106.075 Elected officials; report of loans made in year
358 preceding election; limitation on contributions to pay loans.-

359 (2) Any person who makes a contribution to an individual to
360 pay all or part of a loan incurred, in the 12 months preceding
361 the election, to be used for the individual's campaign, may not
362 contribute more than the amount which is allowed in s.
363 106.08(1).

364 Section 5. For the purpose of incorporating the amendment
365 made by this act to section 106.08, Florida Statutes, in a
366 reference thereto, section 106.19, Florida Statutes, is
367 reenacted to read:

368 106.19 Violations by candidates, persons connected with
369 campaigns, and political committees.-

370 (1) Any candidate; campaign manager, campaign treasurer, or
371 deputy treasurer of any candidate; committee chair, vice chair,
372 campaign treasurer, deputy treasurer, or other officer of any
373 political committee; agent or person acting on behalf of any
374 candidate or political committee; or other person who knowingly
375 and willfully:

376 (a) Accepts a contribution in excess of the limits
377 prescribed by s. 106.08;

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378 (b) Fails to report any contribution required to be
379 reported by this chapter;

380 (c) Falsely reports or deliberately fails to include any
381 information required by this chapter; or

382 (d) Makes or authorizes any expenditure in violation of s.
383 106.11(4) or any other expenditure prohibited by this chapter;

384
385 is guilty of a misdemeanor of the first degree, punishable as
386 provided in s. 775.082 or s. 775.083.

387 (2) Any candidate, campaign treasurer, or deputy treasurer;
388 any chair, vice chair, or other officer of any political
389 committee; any agent or person acting on behalf of any candidate
390 or political committee; or any other person who violates
391 paragraph (1)(a), paragraph (1)(b), or paragraph (1)(d) shall be
392 subject to a civil penalty equal to three times the amount
393 involved in the illegal act. Such penalty may be in addition to
394 the penalties provided by subsection (1) and shall be paid into
395 the General Revenue Fund of this state.

396 (3) A political committee sponsoring a constitutional
397 amendment proposed by initiative which submits a petition form
398 gathered by a paid petition circulator which does not provide
399 the name and address of the paid petition circulator on the form
400 is subject to the civil penalties prescribed in s. 106.265.

401 Section 6. For the purpose of incorporating the amendment
402 made by this act to section 106.08, Florida Statutes, in a
403 reference thereto, section 106.29, Florida Statutes, is
404 reenacted to read:

405 106.29 Reports by political parties; restrictions on
406 contributions and expenditures; penalties.-

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407 (1) The state executive committee and each county executive
408 committee of each political party regulated by chapter 103 shall
409 file regular reports of all contributions received and all
410 expenditures made by such committee. Such reports shall contain
411 the same information as do reports required of candidates by s.
412 106.07 and shall be filed on the 10th day following the end of
413 each calendar quarter, except that, during the period from the
414 last day for candidate qualifying until the general election,
415 such reports shall be filed on the Friday immediately preceding
416 both the primary election and the general election. In addition
417 to the reports filed under this section, the state executive
418 committee and each county executive committee shall file a copy
419 of each prior written acceptance of an in-kind contribution
420 given by the committee during the preceding calendar quarter as
421 required under s. 106.08(6). Each state executive committee
422 shall file the original and one copy of its reports with the
423 Division of Elections. Each county executive committee shall
424 file its reports with the supervisor of elections in the county
425 in which such committee exists. Any state or county executive
426 committee failing to file a report on the designated due date
427 shall be subject to a fine as provided in subsection (3). No
428 separate fine shall be assessed for failure to file a copy of
429 any report required by this section.

430 (2) The chair and treasurer of each state or county
431 executive committee shall certify as to the correctness of each
432 report filed by them on behalf of such committee. Any committee
433 chair or treasurer who certifies the correctness of any report
434 while knowing that such report is incorrect, false, or
435 incomplete commits a felony of the third degree, punishable as

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436 provided in s. 775.082, s. 775.083, or s. 775.084.

437 (3) (a) Any state or county executive committee failing to
438 file a report on the designated due date shall be subject to a
439 fine as provided in paragraph (b) for each late day. The fine
440 shall be assessed by the filing officer, and the moneys
441 collected shall be deposited in the General Revenue Fund.

442 (b) Upon determining that a report is late, the filing
443 officer shall immediately notify the chair of the executive
444 committee as to the failure to file a report by the designated
445 due date and that a fine is being assessed for each late day.
446 The fine shall be \$1,000 for a state executive committee, and
447 \$50 for a county executive committee, per day for each late day,
448 not to exceed 25 percent of the total receipts or expenditures,
449 whichever is greater, for the period covered by the late report.
450 However, if an executive committee fails to file a report on the
451 Friday immediately preceding the general election, the fine
452 shall be \$10,000 per day for each day a state executive
453 committee is late and \$500 per day for each day a county
454 executive committee is late. Upon receipt of the report, the
455 filing officer shall determine the amount of the fine which is
456 due and shall notify the chair. The filing officer shall
457 determine the amount of the fine due based upon the earliest of
458 the following:

- 459 1. When the report is actually received by such officer.
- 460 2. When the report is postmarked.
- 461 3. When the certificate of mailing is dated.
- 462 4. When the receipt from an established courier company is
463 dated.
- 464 5. When the electronic receipt issued pursuant to s.

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465 106.0705 is dated.

466

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

472 (c) The chair of an executive committee may appeal or
473 dispute the fine, based upon unusual circumstances surrounding
474 the failure to file on the designated due date, and may request
475 and shall be entitled to a hearing before the Florida Elections
476 Commission, which shall have the authority to waive the fine in
477 whole or in part. Any such request shall be made within 20 days
478 after receipt of the notice of payment due. In such case, the
479 chair of the executive committee shall, within the 20-day
480 period, notify the filing officer in writing of his or her
481 intention to bring the matter before the commission.

482 (d) The appropriate filing officer shall notify the Florida
483 Elections Commission of the repeated late filing by an executive
484 committee, the failure of an executive committee to file a
485 report after notice, or the failure to pay the fine imposed.

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

490 (5) No state or county executive committee, in the
491 furtherance of any candidate or political party, directly or
492 indirectly, shall give, pay, or expend any money, give or pay
493 anything of value, authorize any expenditure, or become

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494 pecuniarily liable for any expenditure prohibited by this
495 chapter. However, the contribution of funds by one executive
496 committee to another or to established party organizations for
497 legitimate party or campaign purposes is not prohibited, but all
498 such contributions shall be recorded and accounted for in the
499 reports of the contributor and recipient.

500 (6) (a) The national, state, and county executive committees
501 of a political party may not contribute to any candidate any
502 amount in excess of the limits contained in s. 106.08(2), and
503 all contributions required to be reported under s. 106.08(2) by
504 the national executive committee of a political party shall be
505 reported by the state executive committee of that political
506 party.

507 (b) A violation of the contribution limits contained in s.
508 106.08(2) is a misdemeanor of the first degree, punishable as
509 provided in s. 775.082 or s. 775.083. A civil penalty equal to
510 three times the amount in excess of the limits contained in s.
511 106.08(2) shall be assessed against any executive committee
512 found in violation thereof.

513 Section 7. This act shall take effect July 1, 2011.