December 3, 2010

The Honorable Richard C. Martinez
New Mexico State Senator
P.O. Box 934
Espanola, NM 87532

Re: Opinion Request—Campaign Expenditures

Dear Senator Martinez,

You have requested our advice regarding what constitutes an appropriate use of campaign funds. Specifically, you ask whether campaign funds may be used to: (1) pay individual membership dues in organizations like the National Hispanic Caucus of State Legislators and the American Legislative Exchange Council; and (2) make donations to county organizations of political parties. As discussed below, since the relevant law provides no particular guidance as to membership dues in the cited or other organizations, we are unable to provide a legal opinion as to that matter. As to donations to county organizations of political parties, we conclude that under existing statutes, contributions to a county organization that has complied with relevant law is permitted.

"Reasonably Related" Expenditures

The Campaign Reporting Act, NMSA 1978, §§ 1-19-25 through 1-19-36 (2009) ("the Act"), governs expenditures of campaign contributions received by a candidate seeking or considering an office that is covered by the Act. Section 1-19-29.1(A)(2) of the Act expressly authorizes "expenditures of legislators that are reasonably related to performing the duties of the office, including mail, telephone and travel expenditures to serve constituents, but excluding personal and legislative living expenses."

We note that in 2009 the legislature amended Section 1-19-29.1, which amendment takes effect November 3, 2010. See 2009 N.M. Laws, ch. 68, §§ 3, 6. The amendment does not impact the conclusions set out in this letter.
The Act does not define “reasonably related” and the examples set forth in Section 1-19-29.1(A)(2) provide little guidance as to the legislature’s intent regarding the payment of membership dues. As a result, we are unable to reach a legal conclusion regarding the permissibility of paying individual membership dues in any particular organization out of campaign contributions. You must use your best judgment, considering the benefits of membership in and the function, activities and other relevant factors of each organization, to determine whether expenditures for membership dues for each organization are “reasonably related” to your performance of your duties as a member of the state senate.

Donations to County Organizations of Political Parties

Your second question asks if a donation to a county organization of a political party is an appropriate use of campaign contributions. Section 1-19-29.1(A)(6) of the Act allows a candidate to make donations to a “political party” using campaign contributions. The term “political party” is not defined in the Act.2

Under the rules of statutory construction, the meaning of an undefined word or phrase used in a statute “is determined by its context, the rules of grammar and common usage.” NMSA 1978, § 12-2A-2 (1997). In addition, a statute on the same or a related subject may be considered in determining the meaning of a statute’s text. See id., § 12-2A-20(B); Team Specialty Products v. New Mexico Taxation & Rev. Dep’t., 2005 NMCA 20, ¶ 9, 137 N.M. 50, 107 P.3d 4.

These principles allow us to look to other provisions of the Election Code, NMSA 1978, §§ 1-1-1 through 1-24-4 (2010), to ascertain the meaning of the term “political party” as used in the Act. In particular, the Code describes the process for qualifying as a political party in New Mexico. See id., § 1-7-2(A) (1995). That section contemplates that there may be county organizations of a party, and requires, in part, that those county organizations adopt and file uniform rules and regulations. See id. Because the Election Code recognizes county organizations of a political party, we conclude that a donation of campaign contributions to a county organization constitutes a permissible donation to a political party for purposes of Section 1-19-29.1(A)(6).

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2 The 2009 amendment to Section 1-19-29.1, effective on November 3, 2010, changes the term “political party” to “political committee” and amends the definition of “political committee” to include a “political party.” See 2009 N.M. Laws, ch. 68, §§ 2, 3. The amendment does not add a definition of “political party.” Consequently, the 2009 amendment does not affect our analysis of the question posed.
If we may be of further assistance, please let us know. Your request to us was for a formal Attorney General's Opinion on the matters discussed above. Such an opinion would be a public document available to the general public. Although we are providing you our legal advice in the form of a letter instead of an Attorney General's Opinion, we believe this letter is also a public document, not subject to the attorney-client privilege. Therefore, we may provide copies of this letter to the public.

Sincerely,

Elizabeth A. Glenn
Deputy Attorney General