DEPARTMENT OF JUSTICE
100 State Office Building
Salem, Oregon 97310
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April 7, 1980

The Honorable Fred Heard
Senate Majority Leader
S223 State Capitol
Salem, Oregon 97310

The Honorable Grattan Kerans
House Majority Leader
H295 State Capitol
Salem, Oregon 97310

Dear Senator Heard and Representative Kerans:

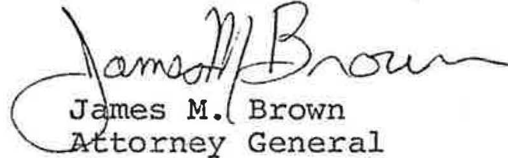
I am transmitting with this letter the Attorney General's opinion issued in response to your questions concerning a fund created by the "Governor's committee" with the stated purpose of defraying those expenses of Governor Atiyeh incurred in performing political functions of his office for which he would not be reimbursed by the state. This opinion has taken longer to prepare than we initially expected because providing clear answers to your questions has proved difficult.

One of the particular difficulties that we encountered arises out of the traditional and basic legal distinction between "law" and "facts." Clearly, the Attorney General has the capacity and authority to research, evaluate and interpret the statutes. In that process we may necessarily rely on some limited assumed facts in order to reach conclusions. However, we cannot hear evidence and make factual determinations in the manner of courts. Decisions on factual questions must therefore be left to others having that legal capacity.

We have found that the applicable statutes contain ambiguities that should be resolved by future legislative action in fairness both to public office holders and to

those charged with the responsibility of enforcing those laws. Until that is accomplished, reasonable people will continue to disagree upon the force and effect of these statutory provisions.

Sincerely,



James M. Brown
Attorney General

JMB/js

cc: The Honorable Victor Atiyeh
Governor

DEPARTMENT OF JUSTICE
100 State Office Building
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April 7, 1980

No. 7883

This opinion is issued in response to questions presented by the Honorable Fred W. Heard, State Senator, and the Honorable Grattan Kerans, State Representative.

FIRST QUESTION PRESENTED

May a committee or other group collect contributions from individuals and businesses to establish a fund to be used to defray expenses incurred by an elected official in performing the political functions of his office?

ANSWER GIVEN

Yes. However, such action may, depending upon the facts involved in the particular case, violate the provisions concerning offering or soliciting of certain gifts to or for public officials, found in ORS 244.040.

SECOND QUESTION PRESENTED

If such a fund may be established, is the fund committee required to comply with ORS ch 260, relating to political committees?

ANSWER GIVEN

So long as the fund is not used, either directly or indirectly, to support or oppose any candidate, measure or political party, the fund committee is not subject to the requirements and restrictions of ORS ch 260.

THIRD QUESTION PRESENTED

Can such a fund be transferred to a candidate's principal political committee at a later date?

ANSWER GIVEN

Yes, subject to the restrictions and reporting requirements of ORS ch 260.

FOURTH QUESTION PRESENTED

Would the answer to the third question presented be different if the original fund contained contributions received from businesses prohibited from making direct campaign contributions by state or federal law?

ANSWER GIVEN

This question cannot be answered in the abstract. The answer would depend upon the facts of the particular case. See discussion.

DISCUSSION

The particular fund giving rise to this opinion request came into existence in 1979 after the election of Governor Atiyeh. The fund was created by a group of the Governor's election campaign supporters. Contributions to the fund came from various individuals and corporations, in amounts ranging from twenty-five dollars to five hundred dollars. Contributions to the "Governor's Committee" fund were solicited by letters mailed to potential contributors. These letters stated that the purpose of the fund was to allow the

Governor to perform the political functions of his office without charge to the taxpayer. Checks were to be made out to the "Governor's Committee." The letters further stated that the Governor was not a political candidate and that contributions to the fund would not qualify as political contributions for tax purposes.

The committee acted openly and publicly. A press release was issued by the Governor's Committee on August 23, 1979, announcing formation of the fund, and stating that "money from the fund would not be used to pay any personal expenses of the Governor or his family" and that "[t]he only expenses covered by this fund will be those which are tax deductible for the Governor because they are related to the Governor's job and are not reimbursable by the State." The committee also voluntarily filed a report with the Secretary of State, detailing all contributions received.

We are informed that the Governor's request for reimbursement must be approved by at least two of the three officers of the committee. However, there is no committee charter or other formal document describing permissible uses of the fund, or establishing provisions for refunding any unused contributions at the end of the Governor's term of office.[1]

The first question presented asks whether a committee may establish a fund such as the one described above, where fund proceeds are used to reimburse expenses incurred by an elected

official in performing the political functions of his office. This question requires that we examine the code of ethics for public officials contained in ORS 244.040. That statute provides in part:

> "(2) No public official or candidate for office or a member of his household shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of $100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has any official position or over which the official exercises any authority.
>
> ". . . .
>
> "(5) No person shall offer during any calendar year any gifts with an aggregate value in excess of $100 to any public official or candidate therefor or a member of his household if the person has a legislative or administrative interest in a governmental agency in which the official has any official position or over which the official exercises any authority." (Emphasis added.)

ORS 244.020(5) defines "gift" as follows:

> "(5) 'Gift' means something of economic value given to a public official or member of the official's household without valuable consideration, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials; and something of economic value given to a public official or member of the official's household for valuable consideration less than that required from others who are not public officials. However, 'gift' does not mean:
>
> "(a) Campaign contributions.
>
> "(b) Gifts from relatives.
>
> "(c) The giving or receiving of food, lodging and travel when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity, provided that when such expenses incurred exceed $50, such

expenses shall be disclosed yearly on a form prescribed by the [Oregon Government Ethics] commission stating the name, nature and business address of the organization paying the public official's expenses and the date and the amount of that expenditure. The disclosure requirements of this paragraph apply only to public officials required to file a statement of economic interest under ORS 244.050." (Emphasis added.)

In determining whether the prohibition found in ORS 244.040 against giving certain gifts to public officials has been violated, it is important to consider what that provision does and does not prohibit. Only "gifts" with an aggregate value exceeding $100, received from a single source during a calendar year, are prohibited, and then only if the source "could reasonably be known to have a legislative or administrative interest in a governmental agency" over which the official exercises authority or in which he has an official position. Thus any donor may make a gift not exceeding $100 to a public official, even if the donor has a clear legislative or administrative interest in the official's actions. Approximately 10 percent of the donations made to the Governor's Committee involved amounts of $100 or less, and as to these contributions we see no potential violation of the ethics statute by the donors.

The questions before us may be simplified, we believe, by taking a hypothetical case which does not reflect the facts actually before us in this opinion. Assume a committee is formed to solicit donations to be used for the personal benefit of the Governor. The donors do have an administrative

interest in agencies over which the Governor has authority. No individual "officer" of the committee set up to disburse the funds (as distinguished from donors without authority over disbursements) has a personal administrative interest in agencies over which the Governor has authority, beyond the general interest which every citizen has.

If any individual donor gives more than $100 to the committee with the understanding that the money is to be used for the personal benefit of the Governor, we have no difficulty in concluding that that individual has violated the law, notwithstanding that the gift is made through a conduit. We do not believe that where a group is established for the express purpose of collecting funds and distributing them to a public official, that a contributor may use the group to shield what would otherwise be an unlawful offer of a gift. This seems particularly clear where the public official is aware of who contributed to the fund. To take any other view would emasculate the gift prohibition in ORS 244.040 to such an extent as to create an absurd and unreasonable result. A statute should not be so construed. Pacific Power & Light Co. v. State Tax Comm., 249 Or 103, 347 P2d 473 (1968).

If 100 donors (most with an administrative interest in the office of Governor) pay in $50 each, no individual donor has violated the law. But if the committee then pays over $5,000 to the Governor for his personal use, we believe that the committee and the Governor will have violated the law. While

individual committee "officers" may have no administrative interest in the office of Governor or agencies over which he has control, we believe the committee must be deemed to have such an interest if it acts for persons who have such an interest. The group interest is that of its member-donors; if the donors have a legislative or administrative interest in the public official's actions, then the group itself must be seen as having such an interest.

The test, therefore, is twofold. First, do individual donors have an administrative interest in the office of Governor such that direct gifts (over $100) by them would be prohibited? Second, are the purposes for which the committee has made funds available for the benefit of the Governor such that they constitute gifts to him?

There is no dollar limitation on the value of a gift which a public official may accept if the official could not reasonably have known that the donor had a "legislative or administrative interest" in an agency in which the official held a position or over which he exercised authority. The phrase "legislative or administrative interest" is defined by ORS 244.020(7) as:

> ". . . an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the formal vote or official action of a public official."

In determining whether a donor has a legislative or administrative interest in a governmental agency in or over

which the public official who is the recipient of a gift exercises authority, it is necessary to be able to point to a specific "economic interest, distinct from that of the general public," which the donor has in a particular agency with which the official is associated. ORS 244.020(7). For example, a utility company clearly has an administrative interest in actions taken by the Public Utility Commissioner, and a legislative interest in many actions taken by the state legislature. In general, any person or business required to hold a license issued by, or subject to regulations of, a governmental agency probably has an administrative interest in the licensing or regulating agency. However, the general interest that any member of the public would have in operations of governmental agencies is statutorily insufficient to constitute a "legislative or administrative interest" within the meaning of the definition. There will certainly be cases where it is not so clear whether the necessary "interest, distinct from that of the general public," exists. The question is important, however, because in order to find any violation of ORS 244.040(2) or (5), it must be determined that the donor had such an interest in the public official's agency.

It is clear that not every citizen of the state is prohibited from making a gift exceeding $100 to the Governor. We further conclude that if the statute is to have any meaning at all, any corporation or person carrying on a business

subject to pervasive regulation by administrative agencies over which the Governor exercises authority, is prohibited from making, and the Governor is prohibited from accepting, such a gift. There is no easily defined line between the remote interest of every citizen (which does not constitute the requisite "legislative or administrative interest"), and the obvious interest of, for example, a utility or insurance company (which does constitute such an interest). Determination of whether individual donors contributing to the Governor's Committee had an administrative or legislative interest requires factual findings which we lack sufficient information to make. We therefore do not attempt to reach a conclusion concerning the "interested" status, or lack of it, of any individual donor here involved.

We have concluded that if there was a "gift" within the meaning of ORS 244.040, that gift was made by the committee and by any individual contributors found to have an "interested" status and who donated over $100. Clearly, the contributors conveyed something of economic value to the committee, with the knowledge that the committee would transfer the contributions to the Governor or a member of his household. (The press release issued when the committee was established stated that moneys might also be used to provide the Governor's wife with secretarial assistance, though we are informed that in fact no such assistance was provided.) Many of the contributions exceeded $100. It could reasonably be

found that these payments, although technically made to the committee, were in fact "offered" to the Governor within the meaning of ORS 244.040(5). As noted above, whether individual contributors had a legislative or administrative interest in an agency over which the Governor exercised authority requires a factual determination beyond the scope of this opinion.

Did the Governor "solicit or receive" a gift exceeding $100? We are informed the Governor actually received only one payment from the committee, in an amount between $500 and $600, as reimbursement for expenses incurred by his wife in attending a conference. (Two other payments were made from the fund as reimbursement for similar expenses incurred by the State Ombudsman.) However, ORS 244.040(2) prohibits public officials from soliciting or receiving, "directly or indirectly," certain gifts. Here, the direct solicitation of funds was made by the committee, but we believe it could reasonably be found that this solicitation was made with the knowledge and approval, and on behalf, of the Governor. Again, whether individual contributors "could reasonably be known [by the Governor] to have a legislative or administrative interest" in a governmental agency over which the Governor exercised authority requires factual determinations beyond the scope of this opinion.

Finally, we come to the question of whether payments to reimburse the Governor (or members of his family) for expenses

incurred in conjunction with public or political functions constitute "gifts."

ORS 244.020(5) defines "gift" as

> ". . . something of economic value given to a public official or member of the official's household without valuable consideration, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials; [or] . . . given . . . for valuable consideration less than that required from others who are not public officials. . . ." (Emphasis added.)

A reimbursement or prepayment of expenses is clearly something of economic value. The donors here have not extended an offer of expense reimbursement to others who are not public officials.

The payment or reimbursement of expenses is a gift only if it is given "without valuable consideration." In determining whether "valuable consideration" sufficient to sustain a contract has been given, courts do not generally look to the adequacy of the consideration.[2] See, e.g., Moyer v. Ramseyer, 226 Or 122, 359 P2d 407 (1961); Eldridge v. Johnston, 195 Or 379, 245 P2d 239 (1952); Van Horn Const Corp v. Joy, 186 Or 473, 207 P2d 157 (1949). But the legislature, in its definition of "gift" in ORS 244.020(5), was concerned with something more than "valuable consideration" sufficient to sustain a contract. Valuable consideration is not defined in ORS ch 244, but in the context of ORS 244.020(5) and 244.040(2) and (5), it seems clear that the statute requires that public officials provide substantially equivalent value

when they receive something of economic value. Evidence of this is found in the definition of "gift," which includes not only things of economic value provided without valuable consideration, but also includes things of economic value given a public official or member of the official's household for valuable consideration less than that required of non-public officials. In addition, the prohibition on offering and soliciting or receiving gifts is stated in dollar terms (gifts in excess of $100 in value).

Thus, when a question is raised concerning a possible gift made to a public official, presence of the phrase "valuable consideration" in the definition of gift requires that a determination be made whether the official provided something of substantially equivalent economic value in exchange, or whether the item received was available to non-public officials on the same terms. If the answer in both cases is no, then valuable consideration within the meaning of ORS 244.020(5) was not given for the item.

It is difficult to conceive of a situation, under this analysis, in which an official's attendance (without more) could constitute something of substantially equivalent economic value to the donors, so that the payment of expenses would not constitute a gift. And further language in the statute justifies a conclusion that the legislature assumed that such payment of expenses would constitute a gift, but for

an exception specifically provided. ORS 244.040(5)(c) excludes from the definition of "gift":

> "The giving or receiving of food, lodging and travel when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity, ..."

This exclusion would be unnecessary if the official's attendance at an event itself constituted valuable consideration.

It would be reasonable to construe this provision to apply to the funds in question here, all of which were used to reimburse food, lodging and travel expenses associated with attendance by the Governor's wife and the Ombudsman at events "related" to the Governor's or Ombudsman's office.[3] However, the Ethics Commission has adopted an administrative rule interpreting this exception as follows:

> "In order to qualify for the exclusion from the definition of 'gift' under ORS 244.020(5)(c), the food, lodging or travel referred to therein must be provided by a host or sponsor of the event in question." OAR 199-20-006.

We believe that ORS 244.020(5)(c), read as a whole, is ambiguous on the question of whether reimbursement must come from the host or sponsor of the event. The language quoted above, standing alone, suggests that it is the <u>purpose</u> for which the reimbursement was provided that is determinative, and that <u>who</u> provides the reimbursement is of no consequence. However, language in the remainder of the sentence, not quoted above, requiring disclosure of the "name, nature and business

address of the organization paying the public official's expenses" (emphasis added) may, on the other hand, be read as strongly implying that the reimbursement must come from the host or sponsor of the event. Under the circumstances, we cannot say that the Ethics Commission's interpretation of the statute is so clearly erroneous as to be invalid. The interpretation by an agency of an ambiguous statute which the agency is charged with enforcing is entitled to some deference. Curly's Dairy, Inc. v. State Dept. of Agriculture, 244 Or 15, 415 P2d 740 (1966); Fields v. Workmen's Compensation Bd., 26 Or App 323, 552 P2d 834, reversed on other grounds, 276 Or 805, 556 P2d 651 (1976).[4]

It is not contended that the reimbursements in question here were made by a "host or sponsor" of the events attended. Accordingly, under the interpretation adopted by the rule discussed above, the exception to the definition of gift provided by ORS 244.020(5)(c) does not apply here. We therefore conclude that payment or reimbursement of expenses for attendance at conventions or other functions (except by the host or sponsor) is a gift, for purposes of ORS 244.040, if the donors have an administrative or legislative interest in the official's office and the payment exceeds $100.

We have found ORS 244.040 and the definitions applicable thereto to be in some important respects ambiguous and difficult to apply.[5] In particular, we believe it would be helpful if the phrase "without valuable consideration" in ORS

244.020(5) were clarified, and if it were made clear whether the exception provided in subsection (5)(c) of that statute, relating to food, lodging and travel expense reimbursements, applied only to reimbursements made by an event's host or sponsor or to reimbursement from any source. It is also unclear whether only food, lodging and travel expenses of the public official are covered, or whether the exception also extends to expenses of household members. In order to provide due process of law, a statute prohibiting actions and imposing penalties must be sufficiently clear to inform those subject to it what actions are prohibited. City of Portland v. Arndorfer, 44 Or App 37, ___ P2d ___ (1980); 16A Am Jur2d Constitutional Law, sec 818.

We believe that in measuring actions taken by the Governor, the committee and the contributors with regard to the Governor's Committee fund, the ambiguous nature of the statutes involved must be considered. We also note that the Governor's Committee acted openly, even to the extent of voluntarily filing a statement of contributions with the Secretary of State, in the apparent belief that it was not violating any applicable law.

The second question presented asks if the Governor's Committee must comply with ORS ch 260, relating to political committees.

ORS 260.005(11) defines a "political committee" as

". . . a combination of two or more individuals, or a person other than an individual, the primary or incidental purpose of which is to support or oppose any candidate, measure or political party, and which has received a contribution or made an expenditure for that purpose." (Emphasis added.)

"Expenditure"

> ". . . includes the payment or furnishing of money or any thing of value or the incurring or repayment of indebtedness or obligation by or on behalf of a candidate, political committee or person in consideration for any services, supplies, equipment or other thing of value performed or furnished in support of or opposition to a candidate, political committee or measure. 'Expenditure' does not include contributions, filing fees, fees for space in the voters' pamphlet or expenses incurred by a candidate or the candidate's spouse for personal transportation of the candidate or spouse." ORS 260.005(6). (Emphasis added.)

Thus, so long as the fund is not used, either directly or indirectly, to support or oppose any candidate, measure or political party, the fund committee is not subject to the restrictions of ORS ch 260.[6]

The definition of "candidate" is critical in determining whether or not a committee is a "political committee" subject to ORS ch 260. ORS 260.005(1) defines "candidate" as

> ". . . an individual whose name is printed on a ballot, or whose name is expected to be or has been presented with the individual's consent, for nomination or election to public office, or a public office holder against whom a recall petition has been completed and filed."

The definition of "candidate" has remained essentially unchanged since 1909. The last revision, in 1979, was part of Senate Bill 20, (Or Laws 1979, ch 126), a comprehensive revision of the Corrupt Practices Act. During hearings before

the Senate Committee on Elections and Reapportionment, committee members expressed their hesitancy to make major revisions in the definitions section of the statute, even where present language was seemingly redundant, because of the committee's desire not to create new loopholes.

An individual may be a candidate under the definition when that individual's name is "expected to be . . . presented, with the individual's consent, for nomination or election to public office." Construing a similar statute in Illinois, the Illinois Court of Appeals held:

> "Nothing in the Act compels the conclusion that it was to be limited in application only to political committees for declared candidates and nominees for public office. Rather, the Act was designed to cover a broad range of campaign activity and we believe that it requires the filing of all campaign reports by state political committees in existence after the effective date of the act." Walker v. State Bd. of Elections 72 Ill App3d 877, 391 NE2d 507, 510 (1979). See also Richman v. Shevin, 354 So2d 1200 (Fla 1978).

The Oregon Campaign Finance Regulations should be similarly interpreted so as to keep "popular elections free from any taint of corruption, and from all improper or unlawful influences whatever." State ex rel Church v. Dustin, 5 Or 375, 20 AR 746 (1875).

Governor Atiyeh is not an announced candidate for re-election or for election to any other office. His term of office does not expire for almost two years. As noted above, the letters soliciting contributions to the fund stated that the Governor is not a political candidate and that

contributions should not be considered political contributions for tax purposes. We are informed that the only expenditure made from the fund involving the Governor or a member of his household was for reimbursement of the Governor for expenses incurred by his wife in attending the Republican Governor's Association Conference. This is consistent with the announced purpose of the fund, i.e., to reimburse the Governor for expenses associated with the political functions of his position which are not properly chargeable to the taxpayers.

Even under a liberal reading of the applicable definitions, we do not believe that, based upon actions taken to date, the Governor's Committee is a "political committee" within the meaning of ORS 260.005(11), or that the Governor is presently a "candidate" within the meaning of ORS 260.005(1). Accordingly, the Governor's Committee is not presently subject to ORS ch 260 campaign finance regulations. As stated above, the fund is now apparently in the process of dissolution. If the fund is in fact dissolved, there will be no future fund expenditures which might change this conclusion.

The third question presented asks whether a fund such as the one under discussion here may later be transferred to a candidate's principal political committee. We find no statutory proscription on such a transfer, provided the reporting and other requirements of ORS ch 260 are complied with.[7] We note in particular ORS 260.055, which requires an accounting of all contributions and expenditures made by or on

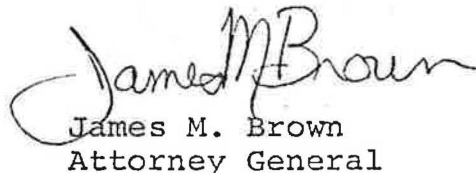
behalf of a candidate or political committee that are required to be reported under ORS 260.072 or 260.092, and ORS 260.083, setting forth the required contents of contribution and expenditure statements.

The fourth question is related to the third. It asks whether our answer to the third question would be different if the original fund contained contributions received from businesses legally prohibited from making direct campaign contributions. ORS 260.415(2) provides:

> "No company shall contribute to aid, promote or prevent the nomination or election of any person, or to aid or promote the interests, success or defeat of any political party or political committee supporting or opposing any person as a candidate. No person shall solicit or receive such contribution from a company."

ORS 260.415(1) defines "company" to include a number of regulated business entities, such as banks,[8] trust, utility and insurance companies and common carriers. Thus, none of the companies falling within the subsection (1) definition may make a contribution for the purposes described in subsection (2), <u>and</u> no person, including a political committee, may <u>solicit or receive</u> such a contribution from one of those companies. Clearly, if such a company directly made, or was solicited to make, a contribution for one of the proscribed purposes, ORS 260.415 would be violated.[9] Where the company made a contribution to a group which was not a political committee, to be used for purposes other than those described in ORS 260.415(2), and that group later provides funds to a

candidate or political committee for campaign use, the answer is less clear and would depend upon the facts of the particular case. Because no specific facts concerning such a situation have been presented to us, we venture no further on this question.



James M. Brown
Attorney General

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[1]On March 5, 1980, the Governor requested the committee to terminate the fund and return pro-rated shares of the contributions made to the contributors.

[2]We note an argument, based on a strictly contractual analysis of the "without valuable consideration" language, that any consideration given by the public official in exchange for the reimbursement would be sufficient to remove the payments from the gift definition. Under this analysis, for example, the Governor's promise to attend political events which he otherwise would not or could not attend, given in exchange for the committee's promise to provide reimbursement of expenses incurred by the Governor in fulfilling his promise, would provide consideration for the reimbursement. As discussed below, however, we believe the ethics statutes contemplate something more than this in their requirement of "valuable consideration."

[3]It could be argued, however, that the exception extends only to reimbursement of expenses of a public official, and not to expenses of family members. This is an example of the many ambiguities in ORS 244.040, about which we will have more to say later in this discussion.

[4]We do note that at least one payment from the fund for expenses incurred by the Governor's Ombudsman was made before the Ethics Commission's rule took effect on December 20, 1979.

[5]The ambiguous nature of the gift prohibition provisions and the problems which that ambiguity create for persons attempting to determine what activities are and are not

prohibited have been pointed out on several other occasions. See, e.g., Conclusion 3 of Hearings Officer William B. Wyllie in his Recommended Findings and Conclusions to the Ethics Commission In re the Matter of Kenneth M. Fobes, November 12, 1976 ("The statutes in question need to more clearly delineate what conduct is permitted and what is proscribed. It is probably beyond the ability of most people in or out of government, to understand exactly what these statutes command."). See also testimony on Senate Bill 521 by Forrest Amsden, then Vice Chairman of the Ethics Commission, before the Senate State and Federal Affairs Committee, March 17, 1975, regarding the need for clarification in the ethics laws. With regard to the gift prohibition provisions in particular, Mr. Amsden stated that ". . . it would be . . . awfully difficult for everyone covered by it to make up his or her mind as to what a gift or favor actually is." Senate Bill 521, a bill to amend the ethics laws, did not pass.

[6]The requirements and restrictions of ORS ch 260 and those of ch 244 are not mutually exclusive. See ORS 244.040. In certain situations, a committee may be subject to both ch 244 and ch 260. For example, a committee may disburse funds to an elected official. The characterization of those funds as a "gift" will subject the committee to the provisions of ch 244. However, if the funds are characterized as campaign contributions (which by definition are not a "gift," ORS 244.020(5)(a)), the committee will be considered a "political committee" subject to ch 260.

[7]We do not consider the propriety of such a transfer, or the legal rights, if any, of contributors to the fund where, as here, they were informed that their contributions were not political contributions and were to be used for assertedly non-campaign purposes. It may well be asserted by individual contributors, however, that the contributions were given for a specific purpose and the committee has no authority to use the funds collected for any other purpose.

[8]We assume this question arises because of the contribution reported in materials filed by the Governor's Committee with the Secretary of State, listing a contribution received from U.S. Bancorp, a bank-holding company. We are informed that this contribution was refunded in full to U.S. Bancorp.

[9]Violation of this provision is a Class A misdemeanor. ORS 260.993(1).