

SUBJECT: ABILITY OF POLITICAL PARTY TO RAISE FUNDS MARKETING LONG
DISTANCE TELEPHONE SERVICE PLAN

SUMMARY:

The Ethics Reform Act does not prohibit a political party from raising money by marketing a long distance telephone service plan. In accordance with earlier opinions and the facts submitted, the State Ethics Commission does not object to the party's decision to maintain these funds in an account separate from the campaign accounts and use them only for non-campaign related expenses. The Ethics Reform Act does not limit donations to a political party that are neither channeled through a campaign account nor used to influence the outcome of elective offices or ballot measures.

QUESTION:

A member of the General Assembly inquires whether a political party or one of its committees may solicit or accept contributions from a long distance telephone service, if the contributions are based upon the long distance service making a monthly contribution equal to 8% of the total long distance usage billed to subscribers enlisted through the party's promotional efforts. If solicitation of acceptance of such contributions is permissible, what restrictions and limitations apply? Also, may a political party or one of its committees make campaign contributions using funds obtained from the long distance service plan?

DISCUSSION:

This opinion is rendered in response to a letter dated March 29, 1994 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 2-17-5 et seq. and Section 8-13-100 et seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

"Political party" is defined in Section 8-13-1300(26) as "an association, a committee, or an organization which nominates a candidate whose name appears on the election ballot as the candidate of that association, committee, or organization." "Party committee", according to Section 8-13-1300(24), means "a committee established by a political party." Section 8-13-1300(6) defines a "committee" as follows:

'Committee' means an association, a club, an organization, or group of persons which, to influence the outcome of an elective office or a ballot measure, receives

contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle.... 'Committee' includes a party committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.

The State Ethics Commission notes that the Ethics Reform Act distinguishes a *political party* from a *party committee*, and that Section 8-13-1304 requires a *committee* that receives or expends more than \$500 to influence the outcome of an elective office or ballot measure to file a Statement of Organization. Moreover, Section 8-13-1308 requires the disclosure of campaign finances by any such committee. According to information previously furnished to the State Ethics Commission by the political party in question, all income derived from the long distance service plan "will be deposited in the 'operations account' and used only to defray the day to day cost of operating the state headquarters. *None of this income will be deposited into the [party's] 'state account' or the [party's] 'federal account.'*" (Emphasis added.) The Commission also notes that it has previously addressed issues involving political parties soliciting and accepting donations directed exclusively for the support of the parties' operating expenses. In Advisory Opinion 93-059 (January 20, 1993), the Commission advised that "the Ethics Reform Act does not require a political party to disclose contributions specifically solicited for non-campaign related expenses, provided such funds are maintained in an account separate from the campaign account and are not used to influence the outcome of elective offices or ballot measures." Similarly, in Advisory Opinion 92-240 (November 18, 1992), the State Ethics Commission advised that while the contribution limitation of Section 8-13-1322 would apply to contributions to a *political party committee*, "[n]o such restriction applies to the *political party itself*." (Emphasis added.) It is the Commission's opinion that the Ethics Reform Act does not prohibit a political party from raising money by marketing a long distance telephone service plan. Therefore, in accordance with these prior opinions and the facts submitted, the State Ethics Commission does not object to the party's decision to maintain these funds in an account separate from the campaign accounts and use them only for non-campaign related expenses. Additionally, the State Ethics Commission advises that the Ethics Reform Act does not limit donations to a political party that are neither channeled through a campaign account nor used to influence the outcome of elective offices or ballot measures.