

February 14, 2002

Notice of a Change in the FEC Allocation of Expenses for Certain Mixed-Purpose Travel

Dear Colleague:

On February 6, 2002, the Federal Election Commission (FEC) clarified the scope of its travel expense allocation regulation concerning mixed purpose travel, *i.e.* a trip that involves stops for campaign as well as official activities (see 67 FR 5445-6). It is the Committee's understanding that as clarified the FEC regulation will allow expenses for a trip that is mixed purpose to be pro-rated between expenses of (i) official travel paid with Senate funds and (ii) campaign travel paid with campaign funds, to appropriately reflect the travel expenses associated with each purpose of the trip.

Previously, the FEC regulation (11 CFR 106.3; as incorporated in Senate Ethics Manual, p. 119) on mixed travel was perceived as requiring a Legislative candidate whose trip involved both campaign-related and non-campaign-related stops to pay for travel costs with campaign funds as calculated on an actual cost-per mile basis, starting the point of origin of the trip, including each campaign-related stop and ending at the point of origin of the trip. In interpreting its regulation, the FEC makes it clear that the allocation and reporting requirements of 11CFR 106.3 are not applicable to the extent that a candidate pays for travel expenses using funds authorized and appropriated by the Federal Government.¹ The FEC notes that use of Federal funds is governed by appropriations statutes and that mixed purpose travel is subject to Congressional oversight, specifically Ethics Committee rulings.

Under the Committee's rulings (see Senate Ethics Manual, p. 118-19, but disregard Example 12, which is no longer apt), expenses for such a mixed purpose trip may be pro-rated on a reasonable basis (*i.e.* proration should be based on an evaluation of the number, nature, length, and efforts dedicated to the various events) to accurately reflect the purposes of the trip. Alternatively, a Senator could use campaign or personal funds to pay for the entire cost of the trip. For example: if a Senator flies to a state for two campaign and two official events, (i) absent something unusual in the character of the events, Ethics Committee rulings² would permit the transportation to be equally divided between appropriated funds and campaign funds (if evaluation of the factors noted above so indicates, this equal division should be adjusted as necessary to accurately reflect the purposes of the travel), or (ii) the campaign or the Senator's funds may be used to pay for all of the transportation. As always, caution in the expenditure of official funds is advised.

If you have any questions about this matter, please do not hesitate to contact the Committee at 4-2981.

Sincerely,

Harry Reid
Chairman

Pat Roberts
Vice Chairman

¹The FEC reasoned that the Federal Election Campaign Act (2 USC 431 *et seq.*), which applies to a contribution or expenditure made by a person (as defined under the Act) for the purpose of influencing a Federal election, expressly excludes the Federal Government in the statutory definition of the term person.

²The Committee on Rules and Administration has sole jurisdiction over appropriated funds and, therefore, must approve any expenditure of Senate funds.