



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

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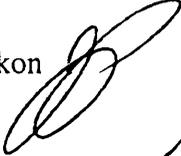
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July 9, 2004

MEMORANDUM

**AGENDA ITEM**  
For Meeting of: 7-22-04

TO: The Commission

THROUGH: James A. Pehrkon   
Staff Director

FROM: Lawrence H. Norton   
General Counsel

Rosemary C. Smith   
Associate General Counsel

Mai T. Dinh   
Assistant General Counsel

Anthony Buckley   
Staff Attorney

Subject: Draft AO 2004-22

Attached is a proposed draft of the subject advisory opinion. We request that this draft be placed on the agenda for July 22, 2004.

Attachment

2

3 The Honorable Doug Bereuter  
4 P.O. Box 94794  
5 Lincoln, NE 68509

**DRAFT**

6

7 Dear Congressman Bereuter:

8 This responds to your letter dated June 7, 2004, requesting an advisory opinion  
9 concerning the application of the Federal Election Campaign Act of 1971, as amended  
10 (“the Act”), and Commission regulations to your proposal to transfer campaign funds to  
11 the Nebraska State Republican Party.

12 ***Background***

13 You state that you are leaving the U.S. House of Representatives, effective  
14 August 31, 2004.<sup>1</sup> You further state that the Nebraska State Republican Party has  
15 purchased an office building to be renovated and used as its headquarters. Your principal  
16 campaign committee, Bereuter for Congress, recently transferred \$5,000 from its  
17 campaign account to the Nebraska State Republican Party for remodeling the building,  
18 and you are contemplating transferring another \$10,000 to \$15,000 for those same  
19 purposes. You ask if Bereuter for Congress is permitted to transfer such funds, and if so,  
20 whether they may be transferred before August 31, 2004. You further ask if there are any  
21 other factors that may affect your ability to transfer funds for this purpose.

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<sup>1</sup> On December 16, 2003, you publicly announced that you would not be seeking reelection in 2004.

1 ***Legal Analysis and Conclusions***

2 Under the Act, as amended by the Bipartisan Campaign Reform Act of 2002, a  
3 candidate's campaign funds may be spent only for one or more of the four permitted uses  
4 enumerated in 2 U.S.C. 439a, and must not be converted to the personal use of any  
5 individual (2 U.S.C. 439a(b)). A candidate's principal campaign committee may transfer,  
6 without limitation, any contributions received to a State committee of a political party.  
7 See 2 U.S.C. 439a(a)(4); *see also* 11 CFR 113.2(c). These provisions do not limit the  
8 purposes that any transferred funds may be put to, nor do they restrict the amount that  
9 may be transferred in any specific period of time.<sup>2</sup> The Commission understands that  
10 Bereuter for Congress has sufficient funds in its campaign account to make the proposed  
11 transfers.

12 Accordingly, the Commission concludes that Bereuter for Congress may transfer  
13 \$10,000 to \$15,000 in campaign funds to the Nebraska State Republican Party for the  
14 purpose of remodeling its party headquarters, and that any or all of the funds you wish to  
15 transfer may be transferred before August 31, 2004.

16 This response constitutes an advisory opinion concerning the application of the  
17 Act and Commission regulations to the specific transactions or activities set forth in your

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<sup>2</sup> A transfer pursuant to 2 U.S.C. 439a(a)(4) and 11 CFR 113.2(c) is not subject to the contribution limitation in 2 U.S.C. 441a(a)(1)(D) or 11 CFR 110.1(c)(5). Such a transfer is also consistent with the regulations addressing office buildings of State or local party committees in 11 CFR 300.35.

1 request. *See* 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any  
2 of the facts or assumptions presented, and such facts or assumptions are material to a  
3 conclusion presented in this advisory opinion, then the requestor may not rely on that  
4 conclusion as support for its proposed activity.

5

6

Sincerely,

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8

Bradley A. Smith  
Chairman

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