



FEDERAL ELECTION COMMISSION
Washington, DC 20463

2 SEP 1976

RE: AOR 1976-37

Rick Scott, DFL State Chair
Minnesota Democratic Farmer
Labor Party
730 East 38th Street
Minneapolis, Minnesota 55407

Dear Mr. Scott:

This responds further to your letter of June 14, 1976, concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), to the organizational structure and operations of the Minnesota Democratic Farmer Labor Party ("MDFLP").

We regret the delay in answering your inquiry, but since the date of its reconstitution on May 21, 1976, the Commission has been required to give priority to the consideration of proposed regulations which must be submitted to Congress under 2 U.S.C. §438(c). The proposed regulations have now been completed, and were sent to Congress on August 3, 1976.

Your letter indicates that the MDFLP has established two committees: a State committee, and a Federal committee which is identified as the MDFLP's Dollars for Democrats Committee. This committee is registered with the Commission and, according to your letter, is the only source for expenditures made on behalf of Federal candidates. Your letter notes that the MDFLP has organizations at several jurisdictional levels including precinct organization, county unit organization, and congressional district organization. You say that each group operates through its own central committee and has complete control over any funds which it raises for its own account although occasionally various groups at the same or different levels engage in joint fundraising. You then ask two questions:

1. Are all of the committees at the various levels of the party organization to be treated as a single committee or person for the purposes of

contribution limits established under the Federal Election Campaign Act as amended.

2. Assuming that the special account has been registered with the Federal Election Commission for longer than six months and has received contributions from more than 50 individuals, would the Minnesota DFL and its various committees at all levels be treated as a multicandidate committee for purposes of the contribution limits contained in the Federal Election Campaign Act.

With respect to the question of what contribution limitations would apply to the committees at the different levels of the MDFLP's organization, §441a(a) of Title 2, United States Code contain various limitations on contributions from persons and multicandidate political committees to Federal candidates and political committees.¹ For purposes of these contribution limits §110.3(b)(2) of the proposed regulations provides that the MDFLP and subordinate State committees "established, financed, maintained, or controlled" by the MDFLP are presumed to be a single committee. However, the presumption will not apply if:

- (A) the political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and
- (B) the political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with or at the request or suggestion of any other party unit or political committee established, financed, maintained or controlled by another party unit.

Each subordinate committee of the MDFLP which satisfies the stated criteria for avoiding application of the presumption would be entitled to its own contribution limits. A committee not satisfying the criteria would, under 2 U.S.C. §441a(a)(5), be considered one with the MDFLP.² In the latter event, all contributions of both entities to Federal candidates and political committees would be aggregated and considered as made by a

¹ See §102.6(b) of the Commission's proposed regulations regarding permissible contributions to State and subordinate State committees supporting Federal candidates (copy enclosed).

² "[A]ll contributions made by political committees established or financed or maintained or controlled by any . . . other person . . . shall be considered to have been made by a single political committee;" "person" is defined in §431(h) to include committees, associations, and organizations.

single committee for purposes of the limits in 2 U.S.C. §441a(a)(1) and (2).³ However, the fact that various groups within the MDFLP engage in joint fundraising activities would not preclude their establishing independent status under §110.3(b)(2). See §110.3(a)(1)(iii)(E). Furthermore, under 2 U.S.C. 441a(a)(5)(A) there is no limit on "transfers between political committees of funds raised through joint fundraising efforts."

Your second question concerns the requirements necessary to become a "multicandidate political committee" under 2 U.S.C. §441a(a)(4). Under the Act, any separate committee could establish its own status as a "multicandidate political committee" by (1) registering with the Commission six months, (2) receiving contributions from more than 50 persons, and (3) except for State party organizations, contributing to five or more Federal candidates. Please note that the exemption from the requirement of contributing to five or more Federal candidates applies only to State party organizations; any district, county, or precinct organization within a State must comply with all three requirements to become a "multicandidate political committee" under the Act. However, if the various committees within the MDFLP structure fail to establish their independence and are therefore deemed one entity with the DMFLP for purposes of their total permissible contributions, they would not need to separately qualify as multicandidate political committees if the State committee qualified under 2 U.S.C. §441a(a)(4).

In addition to providing for contributions to Federal candidates the Act, 2 U.S.C. §441a(d), expressly allows a State committee of a political party, "including any subordinate committee of a State committee," to make expenditures in connection with the general election campaigns of candidates for the House of Representatives and the United States Senate which do not in the aggregate exceed the applicable limits--\$10,000 for each House candidate and 2 cents times the State's voting age population for a Senate candidate. The relationship between the various levels of the party structure and MDFLP for purposes of contribution limits is not determinative with regard to party expenditures since by operation of law §441a(d) gives only one spending limit to the entire State party structure: State, county, district, city, or other subdivision of a State. Any desired allocation of this amount between the State committee and subordinate committees is possible, so long as the total expenditure limit is not exceeded. Section 110.7(c) of the Commission's proposed regulations sets out alternative methods available to the State committee for the administering of this spending limitation.

This response relates to your opinion request but may be regarded as informational only and not as an advisory opinion since it is based in part on proposed regulations of the Commission which must be submitted to Congress. The proposed regulations may be prescribed in final form by the Commission only if not disapproved either by the House or the Senate within thirty legislative days from the date received by each body. 2 U.S.C. §438(c). As stated above, the regulations were submitted to

³ The Commission notes that 2 U.S.C. §431 contains several exemptions from the definition of "contribution" and "expenditure." Some of these exemptions only go to limitations, others are exemptions from reporting and limitations.

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Congress on August 3, 1976. It is the Commission's view that no enforcement or compliance action should be initiated in this matter if the actions of the political committee you represent conform to the conclusions and views stated in this letter.

Sincerely yours,

(signed)
Vernon W. Thomson
Chairman for the
Federal Election Commission

Enclosures