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Authors

La Raja, Ray
Koppell, Jonathan
Trost, Christine

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**CASHING IN ON THE CAMPAIGN:
THE PERSONAL USE OF CAMPAIGN FUNDS
IN CALIFORNIA**

Ray La Raja
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**THE TRAVERS SERIES
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**TRAVERS SERIES ON ETHICS AND
GOVERNMENT**

**Cashing in on the Campaign:
The Personal Use of Campaign Funds in California**

**By Ray La Raja,
Jonathan Koppell,
and Christine Trost**

December 1997

Institute of Governmental Studies
University of California
111 Moses Hall
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TRIVERS SERIES ON ETHICS AND GOVERNMENT

Cashing in on the Campaign: The Personal Use of Campaign Funds in California

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Cashing in on the Campaign: The Personal Use of Campaign Funds in California

Abstract

The “professionalization” of legislatures has reduced opportunities for elected officials to earn outside income as tightened ethics laws have cut off sources of illicit income. This has turned attention to one of the last remaining sources of potential material benefit for political candidates: their campaign treasuries. This paper examines the issue of personal use of campaign funds with particular focus on California’s efforts to regulate this area of campaign finance. Although few regard this as the most serious problem in the American campaign finance system it suggests lessons for other areas. The authors offer policy recommendations based on comparison of personal use regulations in California, other states and at the federal level. Among these recommendations are the use of explicit lists of permitted and prohibited expenditures, education of candidates and their staff, and greater reliance on public disclosure as a check against abuse.

Introduction

This paper examines the laws in California regulating the personal use of campaign funds by a candidate or officeholder. Personal use refers to the expenditure of campaign money for the private benefit of a candidate. In California, state codes decreeing the legitimate uses of campaign funds have explicitly prohibited the use of such funds for private benefit. We evaluate these rules to see how well they guard against abuses by comparing them to statutes in other states and the federal government. We also interview political consultants, journalists and enforcement agency staff to gain insights from those regularly involved with campaign finance regulations.

Many observers of the campaign finance system consider personal use of campaign funds a minor problem compared to other issues such as large contributions, soft money, and independent expenditures by PACs.¹ Yet resolving actual and potential problems involving the personal use of campaign funds is an important piece of the ethics puzzle. It has been argued that the last refuge of old fashioned bribery in the American political system are the large campaign funds established by candidates for public office. Given that many states, including California, have banned gift-giving and honoraria to officials, the temptation is great to use the campaign fund as a vehicle for receiving largesse. The notion that campaign contributions are not bribes

¹ Such comments were made by several scholars, including Robert Stern and Herbert Alexander, at the *Travers Conference on Campaign Finance* at the University of California, Berkeley, May 1997.

depends, in part, on the distinction between campaign and personal use. If that distinction collapses, so too does the claim that contributions are not bribes.

Americans have been trying to root *quid pro quo* exchanges out of the governmental process since at least the turn of the century. Nevertheless, a blatant example of the *quid pro quo* occurred not too long ago in California. In this instance, a state legislator's campaign treasury became the repository for a money laundering scheme. Former State Senator Alan Robbins used his office as a racketeering enterprise to extort cash and campaign contributions from several real estate developers. Donations to his campaign treasury were used to pay a public relation's firm with ties to Robbins, which then funneled part of the money back to the Senator for his personal benefit.²

A more recent federal probe found that city council members in Clovis City in Fresno County conspired in 1996 with a developer to disguise \$63,000 in bribery money as campaign contributions to provide favorable votes on projects.³

Even if a *quid pro quo* does not occur, there is an additional, perhaps more significant, point to be made about using campaign funds for personal use. By law, such funds are considered a public trust to be used for the specific purpose of supporting or opposing a candidate for public office.⁴ When a candidate uses funds for his own private benefit he violates this trust and erodes the legitimacy of a campaign finance system that supports electoral politics in the state and nation.⁵

For these reasons, the problem of using campaign funds for personal use should be taken seriously in the context of campaign finance reform. While most observers focus on problems associated with political contributions, the other side of the equation – expenditures – deserves careful scrutiny as well. Campaign funds are the chief resource in modern elections for informing the public, contacting voters, and mobilizing public opinion. The quality and legitimacy of elections, depends, in part on how candidates spend campaign funds.

Regulating the personal use of campaign funds is not an easy task. A primary obstacle is the considerable disagreement over what constitutes a valid political expenditure. The laws in most states, including California, remain vague on this point. Recently, however, Californians through Proposition 208 made a significant effort to curtail personal use of campaign funds by limiting

² Paul Jacobs and Mark Gladstone, "The Anatomy of a Shakedown," *Los Angeles Times*, June 26, 1992, p. A3. Robbins pleaded guilty in December 1991 to trading votes for campaign contributions from several business interests. He was sentenced to five years in federal prison and \$475, 000 in fines and restitution.

³ Angela Valdivia, "Operation Rezone – The FBI's Clovis/Fresno Corruption Investigation," *Fresno Bee*, January 5, 1996, A1.

⁴ The California Code reads: "All contributions deposited into the campaign account shall be deemed to be held in trust for expenses associated with the election of the candidate to the specific office for which the candidate has stated, pursuant to Section 85200, that he or she intends to seek or expenses associated with holding that office." See California Code, Section 89510.

⁵ Private benefit in this context means a *material* benefit that accrues to the candidate or officeholder. Personal benefits also include winning office if one assumes, for instance, that candidates enjoy the power and prestige of holding office. For a discussion on this subject, see Bruce E. Cain, "Moralism and Realism in Campaign Finance Reform," in *Voting Rights and Elections*, University of Chicago, Chicago Legal Forum 1995, p. 111.

the amount of campaign money an officeholder may retain after an election. This strategy puts California at the forefront among states in regulating personal use of campaign funds.

The first section of this paper explains why personal use of campaign funds became a problem starting in the 1970s. The second section describes how the State of California addresses this problem and the third section compares its strategies with other states and the federal government. The final section identifies the main lessons learned from comparing regulatory strategies and concludes with policy recommendations for improving regulatory performance.

The Rise of Personal Use of Campaign Funds

Using public office for personal benefit is nothing new in American politics, but ironically, progressive reforms intended to eliminate corruption and conflicts of interest made campaign funds a potential source of corruption. In efforts to reduce conflicts of interest by legislators who simultaneously worked in real estate, agriculture and other businesses operating within the state, laws were passed in California in the 1960s regulating outside employment. Since this time, the California legislature has been “professionalized;” members engage in politics full-time. Their primary source of income is the salary received as a public official. Today, officeholders who are not independently wealthy are more reliant on income from public office than those in the past. In trying to do away with conflict of interest, the unintended consequence has been to make legislators more likely to seek benefits through the perquisites of office and activities associated with campaigning. As gifts and honoraria are banned, one likely area for appropriating cash for personal consumption is the campaign fund.

According to one campaign consultant in California, “the frequency of abuse (on personal use of campaign funds) depends on how broke a candidate is. If they are not personally wealthy, and are taking a year off to run for office, then they may use it to make a car payment or buy a suit. But I don’t think it is a problem. Mostly wealthy people run.”⁶ Aside from concerns that the current electoral process may discourage less affluent people from running for office, these comments suggest that the campaign treasury can be a source of personal benefit for legislators who are not independently wealthy.

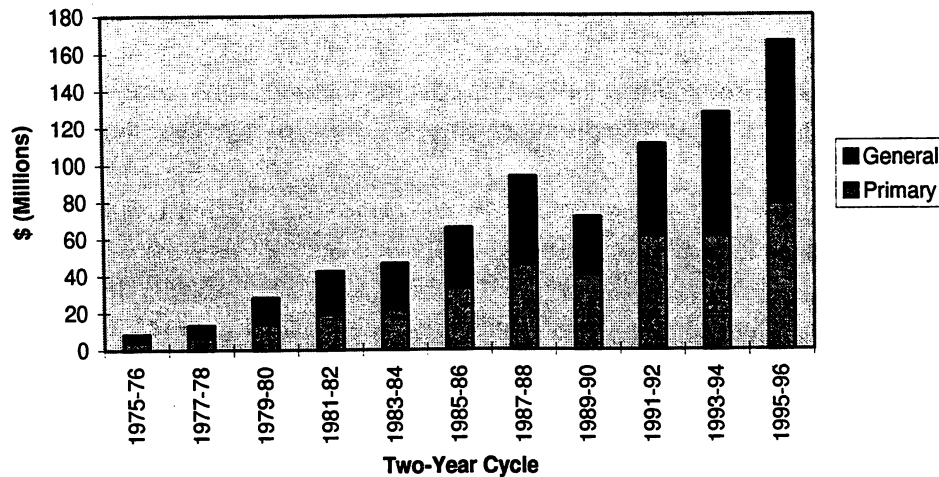
Coupled with the rise of professional legislatures came the increased importance of money as a resource critical to winning elections. Beginning in the early 1970s, the amount of money spent in California legislative elections began to rise steeply as candidates sought the advantage of advertising, consultants, direct mail and other components of the modern campaign (see Figure 1). Increased spending was also fueled by continued population growth that required greater sums of money to reach voters.⁷ It comes as little surprise that spending for state legislative races in California is high relative to other states since the districts are the largest in the nation.⁸

⁶ Billy Barry, telephone interview on 19 August 1996.

⁷ Corey Cook, “Campaign Finance Reform,” California Research Bureau (July 1994).

⁸ Corey Cook and Charlene Simmons, “California Political Reform: Selected Research,” California Research Bureau (January 1994).

**Figure 1. Total Campaign Expenditures by Candidates For the California Legislature: 1975-1996
(constant 1983 dollars)**



Source: CA Secretary of State

Incumbents at the state and federal level also amass campaign “war chests” to scare away challengers or pursue other political goals. Large campaign accounts elevate the cost of entering races for challengers, giving incumbents a surer hold on their seat. Some incumbents say they need the huge surplus of funds “just in case” they face a very wealthy opponent or should they decide to run for higher office.

Representative Stephen Solarz of New York, who retained \$1.4 million in leftover campaign money after the 1990 elections, cited this rationale. "It's kind of an insurance policy," Mr. Solarz said. "There's no way I could have raised that kind of money in one cycle. But it's also a nest egg for any future race for higher office."⁹

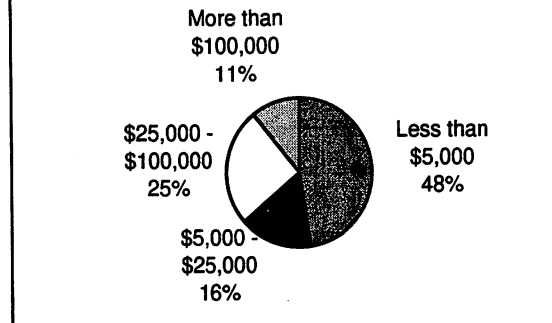
In California, especially, incumbents have used surplus campaign funds to build political loyalty among colleagues through transfers to their political committees. This practice has recently been banned by Proposition 208.¹⁰ Prior to Proposition 208's amendments to state law, surplus funds after an election were a strategic resource for legislators. For this reason, some legislators grew their campaign treasuries assiduously even when they faced little competition.

Figure 2 shows that more than one-half of the 1994 candidates for state legislature had sums greater than \$5000 in their campaign accounts at the end of 1995, an off-election year. Fully 36 percent of all candidates had more than \$25,000, and 11 percent had more that \$100,000.

⁹ Richard L. Berke, “Study Says 165 in House Can Put Excess War Chest to Personal Use,” *New York Times*, March 29, 1991, A11.

¹⁰ Incumbents may continue to make contributions from their *personal* funds to another candidate for elective office. See California Code Section 85306.

Figure 2. Candidates for State Legislature: Ending Cash on Hand (Dec.'95)



Source: CA Secretary of State

Some critics claim the burgeoning campaign accounts are merely “slush funds” for officials.¹¹ According to the Campaign Study Group, a campaign finance research organization, about half the campaign money spent in elections for the House of Representatives goes toward “traditional” campaign expenses such as advertising, mailings, signs, phone banks and staff salaries.¹² On average, each House member spends another 25 percent on raising campaign funds. “The final part of the pie is about 25 percent and is spent in a host of ways,” according to Dwight Morris, president of the Campaign Study Group. “For some candidates, it comes down to nothing more than self-aggrandizement.”¹³ Morris has documented dinners purchased by campaigns, luxury automobiles bought and maintained with election funds and “all sorts of things that are essentially lifestyle enhancements.”¹⁴

¹¹ Sara Fritz and Dwight Morris, *Gold-plated politics: running for Congress in the 1990s* (Washington, D.C., Congressional Quarterly, 1992).

¹² As cited in Alan Levin, “Campaign Finance Laws Give Candidates Room to Maneuver,” *Hartford Courant*, October 20, 1996, A1.

¹³ *Ibid.*

¹⁴ See Fritz and Morris (1992). Morris cites some of the following examples. During the 1990 elections cycle, Reps. Bill Dickenson, R-Ala., Bill Young, D-Fla., Charles Hatcher, D-Ga, Marvin Leath D-Texas, and Edward Madigan, R-Ill., were among those who bought themselves expensive new cars with their campaign funds. Majority Leader Richard Gephardt, D-Mo., and Rep. Robert Davis, D-Mich., frequently chartered airplanes for themselves. Similar uses of campaign expenditures have been found in the U.S. Senate. For instance, former Oklahoma Sen. David Boren bought \$ 17,000 worth of American Indian art to decorate his office in 1991 with campaign funds, which he donated to the University of Oklahoma when he became president of this institution.

Past incidents of personal benefits at campaign expense . . .

. . . in California¹⁵

- *Two Assembly members each spent \$1,500 on professional football tickets*
- *An Assemblyman spent \$1000 on purchases in Hong Kong*
- *An Assemblyman spent \$2,000 at a Chanel Boutique*
- *A State Senator spent \$1,200 at Eddie Bauer, a clothing retailer*

. . . in Congress¹⁶

- *Five Members of the House bought cars*
- *Two Senators rented apartments in their home states*
- *Two Members of Congress endowed academic chairs in their names*
- *Several Members paid for country club memberships*
- *Five Members of the House bought tuxedos*

The most common variety of personal benefits involve goods and services that are tied to ordinary officeholder responsibilities. For example, campaign money is used frequently to lease cars so candidates may visit voters in their district or pay for meals during the campaign. At times, however, these funds have been used for items that appear less relevant to the task of running for office. In the past some officials used them to purchase homes, automobiles and clothes. Others have used campaign funds to pay for legal fees, insurance premiums, football tickets, and even vacations.

California's Strategy to Regulate Personal Use

In practice, California has adopted a mix of strategies to prevent misuse of campaign funds. The advent of political reform in this area came from a series of amendments to the state constitution passed in 1966. As an element of the "professionalization" of the legislature, one section of Article IV called on the state legislature to create a code of ethics governing official conduct. A joint committee on legislative ethics was established to administer the code.

Soon after the amendments were passed, critics of the ethics code said it was too vague and that enforcement was lax. These arguments set the stage for the next wave of reforms in 1974, when Californians approved Proposition 9, or the Fair Political Practices Act, which created sweeping ethics rules covering campaign finance. The Act established and guaranteed funding for the Fair Political Practices Commission (FPPC), an agency charged with regulating and enforcing campaign practices and other political activity for state and local governments.¹⁷

Continued public pressure from reform groups resulted in the Ethics in Government Act of 1990 which improved laws prohibiting legislators from profiting from their positions as public officials. The statutes pertaining to personal use were added at this time. Most recently in

¹⁵ Compiled by California Common Cause, March 1992.

¹⁶ These examples from the 1990 election cycle were taken from Sara Fritz and Dwight Morris, *Handbook of Campaign Spending* (Washington, D.C.: Congressional Quarterly, 1992).

¹⁷ The FPPC often works in cooperation with local District Attorneys' Offices in enforcing the state codes.

November 1996, Californians passed Proposition 208, perhaps the toughest set of campaign finance laws in the nation.¹⁸ In addition to requiring the elimination of surplus campaign funds and barring non-election year fund raising, the measures contained in Prop 208 limit campaign contributions and increase the penalties for violating campaign finance laws.

The FPPC has been responsible for crafting and interpreting the statutes guiding personal use of campaign funds.¹⁹ In this task, they pursue a three-pronged strategy. First, they provide a broad statement in the California Code of how campaign funds should be used:

An expenditure to seek office is within the lawful execution of the trust...if it is reasonably related to a political purpose. An expenditure associated with holding office is within the lawful execution of the trust...if it is reasonably related to a legislative or governmental purpose. Expenditures which confer a substantial personal benefit shall be directly related to a political, legislative, or governmental purpose.²⁰

The last sentence acknowledges that a candidate might receive a substantial benefit in the process of running for or holding office. The only legal requirement is that the expenditure is *directly related to a political, legislative or governmental purpose*, thereby making the personal benefit incidental to the political, legislative or governmental goal. Staff at the FPPC acknowledge that the “directly related” clause is problematic. According to Gary Huckaby, Director of Communications, “It’s difficult to nail down. In the end it is subjective and left up to who is leading the investigation, making the call at the time. But there is a body of casework we can turn to as a benchmark in most cases. In other cases, it’s a close call, which is why we continue to write regulations as new ground comes up. The ‘directly related’ standard gives us a footing for understanding more than 90 percent of the cases.”²¹

A second component of the regulatory strategy is to create a “list” of several kinds of prohibitions. Table 1 is an inventory of the prohibited expenditures cited in the California Code. The method of listing prohibitions lends precision to the broad injunction not to use campaign funds for anything but a political, legislative or governmental purpose. For instance, a candidate might wonder what kind of clothing he can buy with campaign funds. Can he wear suits that are put to use everyday during the legislative session? How about sports clothes for weekend outings with members of the Chamber of Commerce?

The subsection of the statute renders some specificity:

Campaign funds shall not be used for campaign, business, or casual clothing except specialty clothing that is not suitable for everyday use, including but not limited to,

¹⁸ Proposition 208 is currently under court review to assess the constitutionality of its provisions.

¹⁹ The state legislature has a joint ethics committee which continues to have jurisdiction in this area for members of the Assembly. In 1991 the Senate ethics committee was established as well.

²⁰ California Code, Section 89512 (previously Section 85801).

²¹ Huckaby, 12 August 1996.

formal wear, where this attire is to be worn by the candidate, or elected officer and is directly related to a political, legislative or governmental purpose.²²

Given this language, candidates and officeholders may claim legitimately that purchasing a tuxedo to attend a formal dinner is an allowable expenditure so long as the dinner has a political function. The acquisition of tennis clothes, however, is not a permitted expenditure regardless of intended purpose. In this way, the list of specific examples gives substance to the general rule, providing context to help the candidate understand the statute.

The lists in the California Code also clarify when exceptions to the general prohibition will be permitted. For instance, the statute specifically excludes health-related expenses which involve “examination by physicians, dentists, psychiatrists, psychologists, or counselors, expenses or medications, treatments or medical equipment, expenses for hospitalization, health club dues, and special dietary foods.” Candidates are also informed, however, that a legitimate health care expenditure with campaign funds includes “employer costs of health care benefits of *bona fide* employee or independent contractor of the committee.”²³

²² California Code, Section 89513 (d).

²³ California Code, Section 89513 (b)(2).

Table 1. California's Rules on Personal Benefits

PROHIBITED EXPENDITURES	✓ = EXCEPTION (when "directly related to political, legislative or governmental purpose")	ADDITIONAL REQUIREMENTS...
Travel	✓	
Professional services	✓	
Health-related	✓	Only for employee health benefits
Fines (e.g., parking citations)	✓	
Clothing	✓	Only for "specialty clothing"
Tickets for entertainment	✓	
Personal gifts	✓	
Loans	✓	Only to specified organizations
Attorney's fees	✓	Only when related to activities of political committee or status as officeholder
Donations or loans	"reasonably related..."	Only to charitable, educational, civic, or religious organizations
Vehicle	✓	May be owned/leased by committee, not candidate
Real property, appliances or equipment	✓	May be owned/leased by committee, not candidate; purchase of real property prohibited.
Security system	✓	If candidate has received threats that arise from status as candidate or officeholder
Compensation	✓	Only for reimbursement; no salary
Activities associated with holding office	✓	
Use of Surplus Campaign Funds		
•outstanding campaign debts	✓	
•repayments	✓	Pro rata return of funds to contributors
•donations	"reasonably related..."	Only to charitable, educational, civic, or religious organizations
•contributions to committees	✓	Only to political party or committee, so long as funds not used to support or oppose candidate for elective office in California
•professional services	✓	

The California rules also attempt to create some institutional buffers to prevent benefits from accruing directly to candidates or their staff. For real property, equipment and vehicles, the statute requires that these goods be purchased in the *committee* of the candidate and not the candidate's name. An auditor at the FPPC recounted a recent instance when an official purchased a 4-wheel truck with campaign funds. The legislator said he needed it in the rough hill

country of his district to get around to see his constituents. This purchase violated the laws on personal use because the truck was in his name, not in the name of the campaign committee.²⁴

Once the campaign committee is defunct, the goods must be sold off at market value rather than become the property of the candidate. Although this requirement does little to prevent significant personal benefit while the campaign committee still exists, the arrangement prevents former candidates from benefiting once they are out of office.²⁵ The FPPC has fined officials after they retire for failure to sell property owned by their election committee (see “Recent Enforcement Decisions” below).

Examples of “Gray Areas”	FPPC Ruling ²⁶
A candidate who does not own any suits wants to buy some for his campaign appearances.	Not Allowed. The candidate may only purchase “specialty” clothing that is not suited for everyday use (e.g., formal wear).
A candidate gets a parking ticket while attending an election rally. She says the cost was incurred while performing her political duties so she should be able to pay with campaign funds.	Not Allowed. Only fines incurred as a result of violating elections law may be paid for with campaign funds.
A candidate wants to throw a victory celebration for all his friends and supporters using campaign funds.	Allowed. The party is a valid political function.

Source: Fair Political Practices Commission

As the chart above makes clear, even though the Code provides lists of prohibited expenditures, exceptions can be made in every category so long as the expenditure is somehow related to a political, legislative or governmental purpose. This kind of wording acts as an escape clause to permit candidates and their campaign treasurers to justify spending merely by linking it to a political purpose, however loosely coupled the purpose is to the actual campaign. At times, the personal use rules lack “teeth” according to staff at the FPPC, since the “purpose” clause is wide open to many interpretations.²⁷ One campaign consultant says “the loopholes in the law are big enough to drive the Nina, Pinta and the Santa Maria through,” but he and others say public perception and desire to avoid the look of impropriety keep candidates in check.²⁸

²⁴ William Morland, Accounting Specialist, interview, 20 August 1996.

²⁵ For instance, former Assemblyman Norman Waters was fined \$1,000 in 1992 for failing to remove video equipment from his home after the campaign was over (see the *Political Reform Act of 1974, annotated version*, published by the Fair Political Practices Commission (1996).

²⁶ Examples provided by Kevin Moen, Accounting Specialist at the FPPC in a telephone interview, 30 September 1997. For instance, former Assemblyman Norman Waters was fined \$1,000 in 1992 for failing to remove video equipment from his home after the campaign was over (see the *Political Reform Act of 1974, annotated version*, published by the Fair Political Practices Commission (1996).

²⁷ William Moreland, 9 July 1997; and Huckaby, 12 August 1996.

²⁸ Billy Barry, interview, 19 August 1996; confirming statements from interview with Ruth Bernstein, former campaign manager and pollster, 16 August 1996.

Having recognized that the statutes are open to interpretation for many activities, the FPPC incorporates a third component in its regulatory strategy. It issues advisory letters on specific cases based on requests from campaign committees and local enforcement agencies. Candidates and officeholders are encouraged to call or write to the FPPC to ask for advice in specific instances when the law is unclear.

Interviews with auditors, enforcers, and even some members of the political reform community suggest that, for the most part, personal use of campaign funds is not a significant problem in California.²⁹ Huckaby of the FPPC says that, “on balance, most officials are painfully aware of personal use regulations and what the provisions say. We have a set regimen where random audits are conducted after an election year. This is where [abuses] turn up. We also act on complaints, too. But those legislators that use campaign funds to pay rent or health club dues claim they weren’t aware. In general we open 600 cases a year, last year 51 cases came to the enforcement division. The rest were deemed unintentional, or of little harm to the public.”³⁰ Staff at the FPPC say most potential problems with misuse of campaign funds are resolved through requests for advisory opinions on the personal use of campaign funds. Even so, the agency finds individuals who violate the rules as the list on the following page illustrates.

RECENT ENFORCEMENT DECISIONS:

- *In 1995, Floyd H. Weaver, a member of the Stockton City Council, used campaign funds to buy personal life insurance. He also failed to report the expenditures for the life insurance on his campaign statement. He was fined \$4,000 because expenses must be related to holding public office.*
- *Charles Calderon, an Assembly member, and his controlled committees improperly used campaign funds for modeling photographs, a costumed entertainer and a tennis outfit that were not related to campaign purposes. (In addition, Calderon failed to disclose payments to vendors for expenditures totaling \$32,407). Fined \$15,000.*
- *In 1992, Robert Smith, Fresno City Councilman, improperly loaned \$8,493 in campaign funds to his personal insurance business. Fined \$1000.*
- *In 1993, State Assemblyman Curtis Tucker, Jr. violated the “personal use” provisions when he used campaign funds to pay for rent on a Sacramento apartment in 1990, which was rented in his name. During that time, Tucker also received an Assembly per diem for housing which he used for other expenses. Fined \$10,000.*
- *Norman Waters, former state assemblyman, failed to properly dispose of video equipment that had been purchased by his campaign committee. After losing in the November 1990 election, he kept the equipment at his personal residence instead of disposing of it as permitted by law. Fined \$1000.*

Source: Fair Political Practices Commission

²⁹ Ibid.

³⁰ Huckaby, interview 12, August 1996.

The FPPC keeps no official statistics about abuses of the personal use statutes. At this point, we have to rely on the assessments of those actively engaged in the campaign process when determining whether personal use is a significant problem. FPPC staff believe it is a minor problem compared with conflicts of interest. Not many cases are reported, even by groups that are vigilant about keeping close tabs on candidates, such as the political press, opposing candidates and public interest organizations (e.g., California Common Cause). Diane Fishburn, a veteran campaign consultant, agrees that personal use is not a problem but says the rules are effective because of self-enforcement rather than rigorous oversight. "The personal use laws have been effective at stopping the most egregious behavior. But if some bad apple wants to do something, the laws won't stop him."³¹ Such statements reveal the importance of establishing good disclosure mechanisms so that candidates will fear being shamed by public opinion for unlawful or frivolous spending. The laws regarding personal use mark the legal boundaries, but public opinion erects the fence that prevents violators from stepping over.

California's Personal Use Regulations: How California Compares to the Federal Government and Other States

The federal rules governing personal use of campaign funds arise out of the 1979 amendments to the Federal Election Campaign Act. Although the provision disallowing personal use of campaign funds was passed in 1979, the specific rules were not issued until some fifteen years later. What prompted the Federal Elections Commission (FEC) to write the rules was the passage of the Ethics Reform Act of 1989. Among many additions to the law clarifying the distinction between campaign money and personal funds, the most recent rules completed in 1995 eliminate the grandfather clause included in the 1979 legislation that allowed some members of Congress to convert campaign dollars to private accounts when they retired.³² The 1989 Act also made clear that political expenses, even if not directly related to the campaign, constitute an acceptable use of campaign funds.³³

The Federal government, through its regulatory arm, the FEC, pursues a strategy similar to California with three important differences. First, the federal statutes incorporate a more comprehensive *list of prohibitions* than in California. For instance, household items, salaries to family members, and even funeral expenses are explicitly prohibited in federal rules. By contrast, California rules do not cite these items, instead allowing interpretation to be guided by the broad injunction that expenditures must be "directly related to a political purpose." The method used by the federal government is designed as a preventive regulatory strategy. The rules mark out what specific kinds of activities are disallowed rather than leaving discretion to the

³¹ Diane Fishburn, campaign consultant, telephone interview, 12 August 1996.

³² Both the House and Senate have their own set of rules concerning personal use of campaign funds that apply to members. On four occasions, the ethics committee has found that members misappropriated campaign funds for personal use resulting in censure of their colleagues. All four instances involved loans from the campaign to members of their staff.

³³ The rules are actually quite clear in prohibiting co-mingling of office funds and campaign funds. For example, campaign funds cannot be used to buy refreshments for an event that is advertised using office money. Perhaps this is because Congress is more sensitive to the uses of tax-appropriated funds than for campaign funds.

candidate or campaign treasurer to test the limits of what is politically relevant. Table 2 illustrates the specific categories of personal use cited in the statute, with California's coverage in comparison.

Table 2. Personal Use Expenditures: Federal versus California

DISALLOWED Personal Use Expenses	FEDERAL X =disallowed	CALIFORNIA X =disallowed
Household food or supplies	X	Not cited
Funeral, cremation, burial	X	Not cited
Clothing	X ^a	X ^b
Tuition payments	X	Not cited
Mortgage, rent or utility	X	X
Admission to sporting event, concert, theater or other entertainment	X	X
Dues or fees to country club, health club, recreation facility or other nonpolitical organization	X	X
Gifts	X ^a	X
Salary payments to family member	X	not cited

^a de minimus amount

^b except specialty clothing

To be sure, the federal statutes do not contain an exhaustive list of prohibitions for personal use. Indeed, it would be difficult to see how they could, given the myriad circumstances that might be described as related to campaign or official work, especially in areas such as meals and travel. Rather than make a long list of exceptions, they draw on a simple rule. On a *case-by-case basis* the FEC determines whether an expenditure would exist "irrespective" of the candidate's campaign or duties as a Federal officeholder. In such cases, the expenditure is counted as personal use. For example, a Congressman must buy groceries whether he is an elected official or not. He cannot write off the purchase of these groceries, or the use of a vehicle to pick them up on the campaign account. If the Congressman gets a parking ticket while picking up groceries he cannot pay the fine with campaign funds for the same reason. The "irrespective" clause is useful in common categories of expenditures because it provides a concrete litmus test: are these activities common to all civilians, or is it the nature of the public office that requires them?

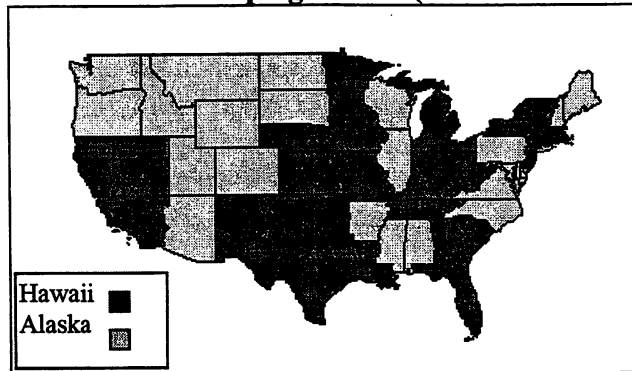
A third difference is that federal statutes tend to *limit the value of personal benefits* allowed to candidates. Quite simply, the rules seem stingier than in California. For instance, federal statutes employ the "de minimus" clause, meaning "of the least amount," for several items including clothes and gifts. California, by contrast, puts no limits on the value of clothes, gifts, or services the candidate might accrue as a result of a campaign-related expenditure. The federal statutes say explicitly that Members of Congress cannot use campaign funds to purchase clothing

other than campaign T-shirts or hats, while California statutes permit officials to purchase “specialty clothing” such as tuxedos with campaign funds. Beyond the symbolism embedded in this comparison is the important point that the federal statutes encourage frugal spending by emphasizing that items of personal benefit must be “of the least amount.” Of course, even the concept of *de minimus* is open to interpretation, and whether Members of Congress are more parsimonious in their spending of campaign funds in practice is a matter which merits investigation.

Other States

The range in regulating personal use among the fifty states is considerable. Most states pursue strategies similar to California, relying heavily on the notion that people have a common conception of what it means to spend money for activities directly related to a political purpose. Some states, like Nebraska or Connecticut, provide rather comprehensive lists of prohibited expenditures, while others such as New Hampshire or North Carolina do not even mention personal use in its campaign finance rules. Twenty-eight states have laws specifically prohibiting personal use of campaign funds for all candidates for public office³⁴ (see Chart 3 below and Appendix B for state-by-state comparison of laws). Most of these states limit campaign funds to activities that are “directly related” or “ordinary and necessary” for conducting a campaign or performing official duties. In only one instance, Alaska, does the state unequivocally allow the candidate to keep excess campaign funds as personal income.

Figure 3. States that prohibit personal use of campaign funds (dark-shaded area)



Source: Feigenbaum, E. D. and James A. Palmer (1996). *Campaign Finance Law 1996. National Clearinghouse on Election Laws*, Federal Election Commission.

Most of these states have the same problems as California in regulating personal use. State statutes appear vague, and are open to wide interpretation as to what constitutes political spending. Indeed, it is unclear what standards -- “directly related” or “ordinary and necessary” --

³⁴ Not included in this count are six states which specifically prohibit personal use expenditures for judicial candidates only. These include: Alabama, North Dakota, Pennsylvania, South Dakota, Utah and Wyoming.

guide the state regulatory agencies' interpretation. A thorough investigation of differences among states requires a comparison of case laws, advisory opinions, and enforcement decisions issued by the relevant regulatory agencies. The statutes that do identify specific prohibitions suggest wide variation among states. For instance, in California, buying certain kinds of clothes ("specialty clothes") is allowed, while buying clothing of any kind is entirely prohibited in Nebraska. While candidates in California are not permitted to draw an annual salary from the campaign fund, this practice is permitted in Arkansas and Florida.

Table 3: Personal Benefits Allowed Using Campaign Funds

	California	Arkansas	Florida	Nebraska
Certain Clothing	Yes	Yes	Yes	No
Salary	No	Yes	Yes	No
Legal Expenses	Yes	Yes	No	No
Spouse Travel	Yes	--	--	--
Security Systems	Yes	--	--	--

Source: Feigenbaum and Palmer (1996)

The differences across the states are most likely a product of history, political culture, and particular scandals that created a demand for reform. Sometimes, the rules are changed according to the whim of an individual legislator. For example, one state senator in California pushed through a bill that would allow public officials to use campaign money for home security systems after he read about several instances of threats to public figures.³⁵ California is the only state to cite home security systems as a legitimate expenditure of campaign money. Several states, like California, explicitly discuss whether travel for candidate's spouse or family can be paid for with campaign funds (it is allowed in California). Most likely, the large size of California and distances needed to travel to the state capital make this topic an important one to address in the rules.

³⁵ Mark Gladstone, "Senate Backs Rosenthal Bill on Lawmakers' Security," *Los Angeles Times*, May 28, 1993, Valley Edition, B1.

Table 4: Allowable Uses of Surplus Funds by Candidates After an Election

Type of Use	Number of states	California Pre-Prop 208	California Post- Prop 208
Give to charity	26	Allowable	Prohibited
Return to contributors	24	Allowable	Allowable
Transfer to a political party committee	21	Allowable	Allowable
Pay officeholder expenses	16	Allowable	Allowable*
Spend on a future campaign	13	Allowable	Prohibited
Transfer to the state's general revenue fund or other state funds	12	Allowable	Allowable
Transfer to another candidate's committee	11	Allowable	Prohibited
Transfer to a political committee	9	Allowable	Prohibited
Reimburse candidate for his/her contributions	3	Prohibited	Prohibited
Transfer to a political organization	2	Allowable	Prohibited
Pay for candidate salary	2	Prohibited	Prohibited
Transfer as personal income	1	Prohibited	Prohibited

Source: National Elections Clearinghouse, FEC.

* Up to \$10,000 from the campaign surplus fund may be deposited in officeholder accounts.

One area of personal use that has received considerable attention from a majority of states is disposal of campaign surpluses. Thirty states, including California, have statutes regulating the use of "surplus" funds, the amount of cash left over after a campaign. As Table 4 illustrates, many states have been quite specific about how these funds may be used. Until passage of Proposition 208, California law permitted several uses of surplus funds. The new law, effective January 1, 1997 altered several provisions of the personal use statutes.

The comparisons in Table 4 suggest an emerging consensus about regulating surplus funds of campaigns. A majority of states favor a system that permits surplus funds to be transferred to (1) charities, (2) returned to contributors, or (3) given to a political party. At the bottom of the list, we find few states permitting candidates to take campaign funds as income for a salary or a lump sum personal gift to themselves.³⁶ The three most commonly allowed uses of surplus funds seem

³⁶ The federal government no longer allows surplus funds to be used as income after retirement from office. In 1989, Congress closed a loophole that had allowed senior House members to pocket leftover campaign funds after they left Congress. The loophole had been opened by a provision of the 1979 campaign law amendments that barred personal use of surplus campaign funds except by those members who were in the House prior to January 1980. In total, these "grandfathered" members (191 were eligible though not all had significant campaign treasuries) stood to gain at least

benign from the perspective of preventing personal financial gain for the candidate. In one instance, the candidate simply gives funds back to individuals and organizations that supported him or her. As for giving money to a political party, such organizations have little institutional incentive to reward individual candidates with private benefits since they are accountable to a broad group of members who need financial resources to win elections. It remains plausible, however, that the party could reward candidates by hiring them or family members as consultants, but at least party organizations in most states are required to file campaign reports that would reveal this occurrence.

Giving to charities or other non-profits is a bit more complicated. It is quite possible that the former candidate could use surplus campaign money in a *quid pro quo* exchange. For example, the candidate or a family member might be appointed to a salaried staff position at the non-profit or receive compensation as a board member. The California statutes, in fact, address this issue. When giving surplus funds to a charity or other non-profit, “no substantial part of the proceeds will have a material financial effect on the candidate, elected officer, campaign treasurer, or any individuals with authority to approve the expenditure of campaign funds held by a committee, or member of his or her immediate family.”³⁷

California laws were fairly lenient prior to Proposition 208 with respect to use of surplus funds, even explicitly permitting transfers to other candidate political committees and organizations although few other states allow this. The possibility for a *quid pro quo* exists in such circumstances. Political reporters in one instance accused former Assemblyman Tom Bane of benefiting personally when he gave his surplus funds (\$24,000) to the “Willie Brown in ‘92 Committee” and \$100,000 to the Assembly Democrat’s Victory Fund, also controlled by Brown. The Brown campaign committee subsequently paid \$96,000 to Marlene Bane Associates, the fund raising firm of Bane’s wife.³⁸

Proposition 208 has changed the regulatory landscape considerably with respect to personal use of surplus campaign funds largely as a result of a single new provision. Political campaigns initiated since 1997 can no longer keep surplus funds. Within 90 days after a candidate withdraws, is defeated, or is elected to office, the candidate must dispose of surplus campaign funds.³⁹ The candidate may deposit up to \$10,000 of surplus funds into his or her officeholder expense account, effectively setting a ceiling for personal expenses for all officeholders.

\$862,000 in taxable income between 1980 and the beginning of 1989. (*Congressional Quarterly Almanac* 1989, p. 55.)

³⁷ California Code, Section 89515.

³⁸ Christopher H. Schmitt and Pete Carey, “How Lucky Few Pad Income: Through Their Spouses, Some Lawmakers Benefit Personally from Campaign Cash,” *San Jose Mercury News: A Mercury News Special Report*, January 8-12, 1995.

³⁹ California Code, Section 85305(c).

Conclusion

This paper illustrates the challenge of regulating personal use of campaign funds. The conceptual fuzziness enshrouding the terms "political" and "personal" make distinctions seem arbitrary when trying to decide whether an expenditure was legitimately tied to a political function. According to Lisa Rosenberg of the Center for Responsive Politics, a nonprofit government reform group: "The laws are applied so loosely it's very easy for a member to justify something as a campaign expenditure that the rest of us would view as a personal expenditure. One person's fund-raiser could be another person's lunch. The only thing you're sure of is that everyone is eating."⁴⁰

Some politicians make the reasonable argument that being an officeholder is a full-time responsibility that entails participating in activities that incur expenses related to public life, expenses not covered by public officeholder accounts. Campaign consultant Diane Fishburn notes: "Especially at the state and local level, public officials are expected to go to events and they must pay their own way. One officeholder we worked with estimates that she spends about \$6,000 per year paying to attend these events. Could she really afford to do that out of her own pocket?"⁴¹

Despite disagreement about application of the laws, several lessons emerge from the comparative review of campaign codes:

Lessons from the Federal government.

✓The federal approach emphasizes preventive regulation by using a denser, more precise list of prohibited personal use areas. Such lists are a helpful in marking out specific situations to avoid. Moreover, the Federal Code makes use of an "irrespective" clause that provides a helpful litmus test for distinguishing between personal and political. Whenever an expense is incurred irrespective of a candidate's campaign or official duties, then it counts as personal use.

Lessons from practitioners.

✓Interviews with staff at the FPPC, political consultants and journalists indicate that voluntary compliance is an important characteristic of preventing personal use of campaign funds. Campaign consultants, in particular, cite the importance of avoiding the appearance of impropriety when using campaign funds. Candidates fear the negative political consequences of being accused of misusing funds so they do their best to avoid the appearance of impropriety.

When asked if they monitor the behavior of political opponents, most said they routinely investigate the expenditures of rivals. One consultant responded:

⁴⁰ Norm Brewer, "Malleable Limits on How Senators Use Campaign Money Seen as Last of Perks," *Gannett News Service*, October 6, 1996.

⁴¹ Fishburn, 19 August 1996.

“Do I look for personal use by opponents? Absolutely! Trips, perks, junkets, paying for a limo, chauffeur, anything the average working person would find gratuitous. I look at the names of hotels. If it’s a Motel 6, we don’t use it. If it’s the Hollywood Bowl, we use it. French restaurants...anything with Le or La in it. Things that are easily understood by the public. We put this stuff in our mail, in ads or t.v.”⁴²

Federal and state regulators can take advantage of the fact that candidates fear being shamed in public. They are likely to avoid any kinds of expenditures that the political press, political opponents or public interest groups may perceive as “abuse” of funds. In this way, the desire to win office and avoid damage to political reputation prompts candidates to follow the personal use statutes.

Regulators also benefit from the fact that money is a precious political resource which is too important for winning elections than to be spent on personal items. Presumably, the candidate’s primary motivation is to win the election and scarce resources are put toward that end. This argument, however, may not apply to circumstances in which the candidate has a considerable surplus of funds or if he or she is running against insignificant political opposition.

Strengths of California Code.

✓ Given the difficulty of interpreting whether campaign expenditures are directly related to a political purpose, regulations in California astutely

pay the most attention to what happens to funds when a campaign is over. Recently adopted statutes discourage public officials from building up cash reserves beyond what they need to win an election. Prior to Proposition 208, some of these reserves went toward building political loyalties through transfers to other candidates, committees and political organizations; some were applied to office expenses. Regardless of how they were used, however, the accessibility of copious campaign funds failed to encourage candidates to spend frugally, and may have increased the risk of misuse of funds.

Proposition 208 imposed a ceiling on how much candidates can “keep” of their surplus funds. Candidates are required to eliminate excess campaign funds 90 days after an election, allowing only \$10,000 to be transferred to officeholder accounts. If we recall that just over 1/3 of state legislators had more than \$25,000 in surplus at the end of the 1994 election cycle, this new law will affect many candidates. Elected officials will not be able to use their office accounts for personal benefits if they are limited \$10,000 in surplus campaign funds. Indeed, some candidates may wonder whether they can even afford to fulfill public duties that they used to fund with campaign funds, such as attending events for local charities. As for the remaining campaign funds, regulations permit only three kinds of transfers: to political parties, to the general fund, or returned to donors.

⁴² Barry, 19 August 1996

Policy Recommendations

1. Improve disclosure of campaign records.

The FPPC relies on requests for investigations from the public, as well as tip-offs from political opponents and members of the news media. The FPPC might improve its enforcement without adding more auditors by making it easier for individuals to see reports through computerized on-line disclosure.⁴³ The availability of such information to the broader public would increase the number of “auditors” (citizens, public interest groups, journalists, etc.) who monitor the expenditures of officials. While improved rules ferret out many “bad apples,” fear of public exposure may be the greatest deterrent to illegal spending. Veteran campaign consultants have pointed out that they worry less about the laws when using campaign money than the negative consequences of public scrutiny. For this reason, we recommend improved public disclosure mechanisms for aid in the enforcement of California’s personal use rules, which are already among the most rigorous in the nation.

2. Perform “automatic” audits of any campaign that ends with a significant amount of cash.

Just over one-third of California legislators in the 1994 election cycle had campaign treasuries with more than \$25,000 after the campaign. State auditors might give special attention to how candidate committees with significant “cash-on-hand” after election day disburse these funds. The prospect of an audit might deter some from building up campaign treasuries for personal use or *quid pro quo* exchanges during the post election 90-day period in which they are obliged to dispose of campaign funds.

3. Write rules as preventive regulations.

California could do a better job designating which situations to avoid by increasing its list of prohibitions to include items listed in federal regulations. While specific prohibitions cannot guarantee ethical behavior they may at least sharpen the sensibilities of officials and candidates who recognize that their actions will be judged against the backdrop of such rules. The “irrespective” clause used by the federal government is also useful in common categories of expenditures because it provides a concrete litmus test for candidates and officeholders to consider: are these expenditures common to all civilians, or are they incurred because of my special duties in public office?

⁴³ This process appears underway. On October 11, 1997, Governor Pete Wilson signed Senate Bill 49 which mandates electronic filing of, and Internet access to California political disclosure records.

4. *Ensure that new candidates and their staff are fully informed about personal use rules.*

According to people interviewed for this study, most violations of personal use rules are incurred by newcomers to political elections. Training programs for new candidates and campaign treasurers should be mandatory and include explicit discussion of personal use rules.

5. *Create measures of success for enforcement activities.*

California, like other states, should consider what constitutes success in terms of preventing misuse of campaign funds. Currently, the FPPC lacks sufficient reporting mechanisms to determine the

extent of the problem of personal use. The agency should at least keep track of the number of complaints registered, the number of enforcement cases pursued, and the number of cases in which actions were taken or dismissed.

6. *Require that no candidate or family member may benefit financially from a transfer of funds to any organization*

In the past, California statutes explicitly prohibited family members from benefiting when a candidate donated campaign funds to a charity. Now that political parties are the only organization that can receive surplus funds from candidates, the same kind of rule should apply in this circumstance to prevent party officials from

giving special personal benefits to family members of donors.

Some Caveats

The effort to eliminate personal use of campaign funds has a critical purpose: to clear out remaining vestiges of the classic *quid pro quo* and to ensure that candidates retain the trust of donors that is essential for the integrity of the campaign finance system. That said, there are some concerns to consider about the unintended consequences of such regulation.

First, there is the potential danger of writing rules so stringent that they deter worthy people from running for office. When candidates are scrutinized for the slightest aberration in financial activities, the regulatory environment produces a “chilling effect” on would-be candidates. According to Joe Remcho, a political lawyer who advises candidates, a heavy-handed regulatory agency deters people from running even for local offices because they think their reputation will be sullied by an inadvertent mistake:

"A potential candidate might ask: 'Why should I want to run for school board? I will be subject of investigations by FPPC, because no campaign consultant worth his or her salt is going to let any opportunity go by where they can file a complaint with the FPPC and at least try to get a modest press hit...And if I have modest resources, most of my staff will be inexperienced and will make mistakes. Then I face the problem do I cop to [the FPPC's] demands or fight it?'"⁴⁴

Regulations need to be weighed against other competing goals, such as the need to have good people run for office, or the effect on morale among officeholders. Exceedingly tight restrictions on office and campaign expenditures may also discourage less affluent candidates from running for office if they believe personal out-of-pocket expenses will be significant.

Second, new rules should avoid constraining legitimate uses of political money. Although the goal of regulation is to prevent political actors from benefiting materially from campaign funds, it needs to be remembered that money is an important resource for political activity. Regulations should not be so stringent as to prevent candidates and officials from exercising their political rights as citizens and public duties as elected officials. Herb Alexander, a scholar of campaign finance, argues that lawmakers need to keep in touch with constituents. Travel, food, and even sports tickets can be a part of that process.⁴⁵ After close examination, we might find that the current level of funds in officeholder accounts are insufficient for elected officials to perform their duties.

Third, overly stringent rules might spawn independent committees designed to circumvent such rules. As regulators clamp down on expenditures by candidate committees, political entrepreneurs may find ways to serve their needs through independent committees. For instance, in 1994, the California State Democratic Party accused Governor Pete Wilson of accepting illegal donations for an apartment he and his wife stay in during visits to Los Angeles.⁴⁶ Governor Wilson has a \$4,000-a-month condominium in Century City paid for through a private charitable foundation set up by the governor's friends. In this particular circumstance, the FPPC ruled that the governor could benefit personally from a charitable foundation set up as a gift to the state. The case clearly leaves room for other such "charitable" committees to serve the personal needs of officials.

⁴⁴ Comments by Joseph Remcho, of Remcho, Johansen & Purcell at the *Travers Conference on Campaign Finance* at the University of California, Berkeley, May 1997.

⁴⁵ Alexander also argues that because of a weak party system in the United States, many candidates need to build their own personal networks and develop constituency ties on their own, without the aid of party resources. Comments taken from Keith Henderson, "Pinning Down Rules on Using Campaign Funds," *The Christian Science Monitor*, March 16, 1994, p.10.

⁴⁶ Paul Jacobs, "Democrats File Complaint Over Wilson's L. A. Condo" *Los Angeles Times*, July 31, 1994, A3. Wilson and his wife use the apartment whenever they are in Los Angeles. Wilson is not required to report the free housing on his personal income tax return nor on his annual statement of economic interest. The Democratic Party also charged that Wilson's campaign committee illegally transferred more than \$20,000 to the foundation despite the prohibitions using campaign funds for personal use. The FPPC exonerated Wilson saying the foundation continues to qualify as a charitable foundation and the leased condominium is a gift to the state. They also accepted the Governor's explanation that the transfer of money from the campaign treasury represented a repayment of funds inadvertently charged to the foundation.

Finally, the focus on personal use violations should not distract the public from other important issues in campaign finance. Preserving the integrity of the campaign finance system is important, and the personal use issue is but one aspect that deserves scrutiny. Personal use violations should be addressed with other important issues of campaign finance, such as the role of contributions in generating conflicts of interest or giving some groups greater political voice than others. Issues involving personal use get the public's attention because they are concrete instances of political actors acting like proverbial "fat cats." But other issues of campaign finance that are complex and difficult to articulate through the mass media can be overlooked even though they merit close scrutiny.

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Appendix A: California Campaign Finance Laws Relating to Expenditures

	State Law (Prior to 12/31/96)	State Law as Amended by Proposition 208 (Effective 1/1/97)															
Provision	State Law (Prior to 12/31/96)	State Law as Amended by Proposition 208 (Effective 1/1/97)															
Surplus Campaign Funds	<p>Campaign funds are considered "surplus" for an incumbent, upon leaving office, and for a defeated candidate, at the end of the first post-election report period following his or her defeat. (89519)</p> <p>Surplus funds may be used for: payment of outstanding campaign debts; pro rata repayment of contributors; donations to nonprofit tax-exempt organizations; contributions to a political party or committee (funds cannot be used for contributions supporting or opposing candidates); contributions to candidates in federal and out-of-state elections; and the payment of certain professional services for the committee. (89519)</p>	<p>Within 90 days after a candidate withdraws, is defeated, or is elected to office, the candidate must dispose of surplus campaign funds. (89519)</p> <p>The candidate may deposit up to \$10,000 of surplus funds into his or her officeholder expense account. Remaining surplus funds may be distributed to a political party, returned to contributors on a pro rata basis, or returned to the general fund. (89519)</p>															
Officeholder Account	No specific provisions regarding officeholder accounts.	Elected officeholders may establish an officeholder account for governmental expenses. Contributions in this account are limited to \$250 per contributor and \$10,000 aggregate per calendar year. (85313)															
Use of Campaign Funds to Pay Fines	Campaign funds may be used to pay attorneys fees and fines under 89513 (c)(2) and 89514.	A candidate may collect funds at any time to pay attorneys fees and fines for litigation or administrative action related to: an alleged violation of state or local campaign, disclosure, or election laws; a recent or contested election; and an audit or tax liability. The funds raised for attorneys fees or fines are subject to the contribution limits of the election to which the liability relates. (85305 (d))															
Transfers	No restrictions on transfers of funds from one candidate's committee to another candidate's committee, except in special elections or in local elections where contribution limits apply. No restrictions on transfers of funds between a candidate's own committees. (See 85304 and Service Employees International Union v. FPCC (1992) 955 F.2d 1312, cert. denied 505 U.S. 1230.)	Transfers of funds from one candidate's committee to another candidate's committee are prohibited. But a candidate may make a contribution from his or her own personal funds to another candidate for elective office. (85306)															
Spending Limits	No limits.	<p>Voluntary Spending Limits:</p> <table style="margin-left: 20px;"> <tr> <td></td> <td style="text-align: center;">Primary</td> <td style="text-align: center;">General</td> </tr> <tr> <td>Governor</td> <td style="text-align: right;">\$6,000,000</td> <td style="text-align: right;">\$8,000,000</td> </tr> <tr> <td>Statewide</td> <td style="text-align: right;">1,500,000</td> <td style="text-align: right;">2,000,000</td> </tr> <tr> <td>Senate/Bd of Eq</td> <td style="text-align: right;">300,000</td> <td style="text-align: right;">400,000</td> </tr> <tr> <td>Assembly</td> <td style="text-align: right;">150,000</td> <td style="text-align: right;">200,000</td> </tr> </table>		Primary	General	Governor	\$6,000,000	\$8,000,000	Statewide	1,500,000	2,000,000	Senate/Bd of Eq	300,000	400,000	Assembly	150,000	200,000
	Primary	General															
Governor	\$6,000,000	\$8,000,000															
Statewide	1,500,000	2,000,000															
Senate/Bd of Eq	300,000	400,000															
Assembly	150,000	200,000															
Choosing to Accept Spending Limits	Not applicable	<p>The voluntary spending limits program applies to the offices listed above. Local jurisdictions may establish voluntary spending limits not to exceed \$1 per district resident per election. (85400(a)-(c))</p> <p><i>Primary election:</i> Candidates for the offices listed above must file a statement accepting or rejecting the voluntary spending limits before they accept any contributions.</p> <p><i>General election:</i> A candidate who declined to accept the voluntary spending limits of the primary election, but who in fact did not exceed the applicable primary spending limits, may file a statement accepting the spending limits for the general election within 14 days after the primary. (85401)</p>															
Incentives for Candidates to Accept Spending Limits	Not applicable	Candidates complying with voluntary spending limits are allowed to accept double the contribution limits as permitted in 85401. Complying candidates are also provided a free statement in the ballot pamphlet sent to voters, and a designation on the ballot indicating the candidate agreed to spending limits. (85600-85602)															

Source: California Fair Political Practices Commission

Appendix B: State-by-State Comparison of Campaign Laws Relating to Personal Use

STATE	FOR CERTAIN PURPOSES	PERSONAL USE OF CANDIDATE	TO CANDIDATE'S FAMILY	SURPLUS FUNDS
Alabama		Not permitted for judges and judicial candidates Not permitted for surplus funds Surplus funds may be taken as income		Unlimited as to officeholder expenses, contributions to charity, transfers to another committee, donations to state agencies or funds, or uses for other non-personal lawful purposes Surplus funds may be given to charity, used to repay contributors, spent on a future campaign, used to repay candidate or used as income, contributed to another committee, or transferred to office allowance fund.
Alaska				
Arizona		Surplus funds may not be used for personal use of the candidate	Surplus funds may not be used for personal use of any person related to candidate by blood or marriage	Surplus funds may be retained for future campaign; returned to contributors; or donated to a party committee, certain charitable organizations, political organizations within limits
Arkansas		Unopposed candidate may not take any campaign funds for spouse or dependent children after filing deadline (or, if opposed in the primary but not in the general election, after the date of the winning nomination) except after write-in filing deadline if candidate files affidavit agreeing not to solicit further contributions.	Unopposed candidate may not take any campaign funds for spouse or dependent children after filing deadline (or, if opposed in the primary but not in the general election, after the date of the winning nomination) except after write-in filing deadline if candidate files affidavit agreeing not to solicit further contributions.	After setting aside any funds needed to pay debts, and an amount equal to the yearly salary for the office sought, surplus funds must either be turned over to the state treasurer for the benefit of the general revenue fund, to an organized political party, or to contributors to the candidate's campaign.
California	Must be directly related to political, legislative, or governmental purpose if candidate or elected officer receives substantial personal benefit.	Prohibited	Prohibited, except for certain directly related travel	Within 90 days after a candidate withdraws, is defeated, or is elected to office, the candidate must dispose of surplus campaign funds. The candidate may deposit up to \$10,000 of surplus funds into his or her officeholder account. Remaining surplus funds may be distributed to a political party, returned to contributors on a pro rata basis, or returned to the general fund.
Colorado	Must be reasonably related to an election, voter registration, or political education. May not be used to encourage another candidate's withdrawal from race.			May be contributed to a non-profit or charitable organization whose purposes are not political in nature, or to the state or a political subdivision of the state. Surplus on behalf of a partisan candidate may be given to a political party or to a candidate.
Connecticut	Polls, meeting halls, rally expense, printing and advertising, professional service fees, travel, staff salaries, rent, supplies, voter transportation, communications, petition-related expenses, and other expenses permitted by the Commission.	Prohibited	Prohibited for personal use	May be donated to another committee (except one established to further the candidates' future campaigns), distributed pro rata to contributors, or used for transition expenses.

STATE	FOR CERTAIN PURPOSES	PERSONAL USE OF CANDIDATE	TO CANDIDATE'S FAMILY	SURPLUS FUNDS
Delaware	Staff salaries, travel, expenses, filing fees, communications and printing, food, office supplies, voter lists and canvasses, poll watchers, rent, advertising, rallies, or legal counsel. Expenditures may only be used to influence the results of an election			May be contributed to a tax-exempt religious, charitable, educational, or scientific organization, volunteer fire department or to a successful committee.
Florida		Prohibited	Prohibited	May be used to reimburse a candidate for candidate's contributions; transferred to public officeholder account in various amounts dependent upon the office; returned pro rata to contributors; given to a candidate's political party; donated to a non-profit or charitable organization; or given to the state for the general fund or the election campaign financing trust fund.
Georgia	May only be used to defray ordinary and necessary expenses incurred in connection with the candidate's campaign for elective office, or the public officer's fulfillment or retention of that office.	Prohibited	Prohibited	May be donated to charitable and nonprofit organization; transferred to any future campaign for the elective office for which they were received; used for repayment of any prior obligation incurred as candidate; or transferred to any national, state, or local committee of any political party or to any candidate.
Hawaii	Must be related to a campaign purpose, including donations to community, youth, or social organizations; reports, surveys, and polls.	Prohibited		May be used for fundraising; candidate sponsored, politically related activity; ordinary and necessary officeholder expenses; donations to any community service, scientific, education, youth, recreation, charitable, or literary organization.
Idaho				
Illinois	Only for nomination, election, or retention of a person in public office, or in connection with a public policy question.			
Indiana	Must be used for campaign, for continuing political activity, activity related to service in an elected office, or contributions to party committees or other candidate committees.	Prohibited	Prohibited for personal use	May be transferred to candidate committees, political committees, State Election Commission, political parties, certain tax-exempt organizations, used for continuing political activity or officeholder expenses reasonably related to the expenses of holding elective office, or returned pro rata to contributors.
Iowa	May only be used for legitimate campaign purposes, including salaries, rent, advertising, supplies, travel, campaign paraphernalia, or for constituency services or officeholder expenses.	Prohibited	Prohibited	May not generally be used to pay civil/criminal penalties; personal debts or expenses; for personal services unrelated to the campaign; most motor vehicle leases and payments; professional organization and most service organization memberships; mortgage or rental payments for the candidate; meals, groceries, and other food not for campaign uses.
Kansas	Must be for legitimate campaign or officeholding expenses	Prohibited	Prohibited	Must be contributed to charitable organization, a party committee, to the state general fund, or returned in whole or pro rata to contributors.
Kentucky		Prohibited	Prohibited	May be returned pro rata to all contributors, transferred to candidate's party executive committee, retained for election to same office, be donated to charity, or escheat to state treasury.

STATE	FOR CERTAIN PURPOSES	PERSONAL USE OF CANDIDATE	TO CANDIDATE'S FAMILY	SURPLUS FUNDS
Louisiana	Must be related to a political campaign or holding of an office	Prohibited, except to replace items stolen, lost or damaged in connection with a campaign	Prohibited to spouse or minor children	May be returned pro rata to contributors; given to a charitable organization, spent for or against a candidate, political party or a proposition, used in future political campaigns; or activity related to a future campaign. May be returned pro rata to contributors; used for the candidate's own future campaigns; transferred to other committees; unrestricted gift to the State; gift to charitable organizations; loan repayment or debt retirement of campaign expenses; or payment for expenses incurred in performance of office to which elected.
Maine				Surplus public funds must be repaid not later than 60 days after election. Other surplus funds must be returned on a pro rata basis to contributors, paid to a party central committee; donated to a local board of education, recognized non-profit education or charitable organization; or given to higher education institution for scholarships.
Maryland	Public contributions may only be used to further the candidate's nomination or election, for legal purposes, and for expenses not incurred later than 30 days after the election.			Surplus public financing funds must be repaid within 10 days following primary or state election.
Massachusetts	Public financing funds must be spent for expenses directly related to campaign. Other candidates may make expenditures for enhancement of their political future.	Prohibited	Generally prohibited	
Michigan	Public financing funds must be spent on services, facilities, material, or other things of value to further the candidate's election during an election year.	Public funds cannot be used to pay a candidate No campaign funds may be used to personally benefit a candidate.	Public funds may not be expended to someone with the third degree of consanguinity of the candidate. Judicial candidate campaign funds may be used to pay family members for campaign work, except under certain limited conditions.	Public funds must be promptly repaid and may not be used in a subsequent election. Other funds may be transferred to another committed of same candidate (with restrictions), party, tax-exempt charitable institution or returned to contributors.
Minnesota	Limited to salaries, wages, and fees, communications, mailing, and transportation and travel; advertising and printing; office space and furnishings; supplies; and other expenses reasonable related to the election.	Prohibited		
Mississippi				
Missouri		Prohibited	Prohibited for judges	
Montana				

STATE	FOR CERTAIN PURPOSES	PERSONAL USE OF CANDIDATE	TO CANDIDATE'S FAMILY	SURPLUS FUNDS
Nebraska	A committee other than a political party may not expend or transfer funds except for goods, material, services, or facilities to assist or oppose a candidate for a ballot question.	A committee may not make expenditures for the payment of a candidate's clothes, or medical expenses; mortgage or rental payments for the candidate's permanent residence; installment payments for an auto owned by the candidate; satisfaction of personal debts (excluding reportable campaign loans); or personal services (such as legal or accounting services).	A committee may not make expenditures for the payment of a family member's clothes, or medical or dental expenses; satisfaction of personal debts (excluding reportable campaign loans); or personal services (such as legal or accounting services).	After an election, a committee may expend or transfer funds for continued operation of campaign offices; social events for workers, volunteers, and constituents; obtaining public input and opinion; repayment of campaign loans; newsletters and other political communications; gifts of acknowledgment; and officeholder-related meals, lodging and travel. After termination of a candidate committee, unexpended funds may be transferred to another candidate committee; a political party committee, a tax exempt charitable organization; the Campaign Finance Limitation Act Cash Fund; the state or certain political subdivisions or returned to contributors.
Nevada		Prohibited		Elected and defeated candidates and non-candidate officeholders are required to dispose of unspent contributions in a statutorily authorized manner, including return to contributors, contributions for political purpose, and donation to tax-exempt nonprofit entity. Elected candidates may use for present or future campaign expenses or public office expenses.
New Hampshire				May be used after general or special election for fundraising or other politically related activity sponsored by the candidate, or for donations to charitable organizations.
New Jersey	May be used for payment of campaign expenses; contributions to any charitable organization; transmittal to another candidate, candidate committee, political committee, legislative leadership committee or political party committee; payment of overhead and admin. expenses related to the operation of the candidate committee; pro rata repayment of contributors; payment of ordinary and necessary expense of holding public office.	Prohibited	Prohibited	
New Mexico		Prohibited	Prohibited	Judicial candidates must return unused funds to contributors or donate to charitable organization.
New York	Contributions may be expended for any lawful purpose.	Contributions may not be converted to personal use not related to political campaign or holding public office or party position.		May be used for any lawful purpose, including transfer to political party committee, return to donor, or holding for use in subsequent campaign.
North Carolina				

STATE	FOR CERTAIN PURPOSES	PERSONAL USE OF CANDIDATE	TO CANDIDATE'S FAMILY	SURPLUS FUNDS
North Dakota		Judicial candidates may not permit use of campaign funds for private benefit	Judicial candidates may not permit use of campaign funds for private benefit	
Ohio	Candidate expenditures must be legitimate, verifiable, ordinary and necessary.	Prohibited	Prohibited	May be disposed of by return to contributors, donation to charitable organization, retention for future campaign, deposit with the state, defense of campaign legal actions, community activity, political activity, or transfer to political party committee.
Oklahoma	Candidates may use contributions only to defray campaign expenditures or ordinary and necessary expenses incurred in connection with duties of public officeholder	Prohibited	Prohibited	May dispose of excess campaign contributions by (1) using them to defray any ordinary and necessary expenses incurred with duties as an officeholder, (2) transferring them to a political committee of a political party, (3) contributing them to a charitable organization, or (4) using them for any other lawful purpose.
Oregon				May dispose of excess campaign contributions by (1) using them to defray any ordinary and necessary expenses incurred with duties as an officeholder, (2) transferring them to a political committee of a political party, (3) contributing them to a charitable organization, or (4) using them for any other lawful purpose.
Pennsylvania	No candidate, political committee chair, or treasurer may make an expenditure except as provided by law.	Judicial candidate <i>should</i> not use contributions for private benefit.	Judicial candidate <i>should</i> not use contributions for private benefit of family.	May be used for lawful expenditures, or returned pro rata to contributors.
Rhode Island	May not be used to repay more than \$200,000 during an election cycle of any cumulative personal loans to campaign by the candidate.	Prohibited	Prohibited	May be (1) maintained in campaign accounts, (2) be donated to a candidate for public office, a political organization, or a PAC, (3) be transferred in whole or in part to a newly established PAC, (4) be donated to tax-exempt charitable organization, (5) be donated to the state, or (6) be returned to donor.
South Carolina		Prohibited	Prohibited	Disposition of excess of a candidate or committee is restricted to specific recipients and uses.
South Dakota	Necessary expenditure of money for the ordinary or usual expense of conducting a political campaign unless expressly forbidden.	Judicial candidates <i>should</i> not use for private benefit.	Judicial candidates <i>should</i> not use for private benefit of family members.	
Tennessee	Clerical/office force; dissemination of literature; public speakers; newspaper announcements of candidacy; and transportation of voters unable to go to the polls.	Prohibited	Judicial candidate <i>should</i> not use for private benefit of family members.	

STATE	FOR CERTAIN PURPOSES	PERSONAL USE OF CANDIDATE	TO CANDIDATE'S FAMILY	SURPLUS FUNDS
Texas	Use of public funds for political advertising prohibited. Payment from contributions for personal services of candidate, officeholder or family restricted. Reimbursement of personal funds for expenditures by and repayment of loans made by relatives of a candidate or officeholder limited to an aggregate of \$500,000 per election for governor and \$250,000 per election for other statewide office.	May not be converted to personal use of a candidate or officeholder. Specific purpose political committee also may not convert contribution to the personal use of a former candidate or officeholder. Expenditures from personal funds may be reimbursed from contributions.	Payment from contribution for personal services of candidate's family restricted.	
Utah	Expenditures prohibited by law may not be made.	Judicial candidates may not use contributions for candidate's private benefit.	Judicial candidates may not use contributions for private benefit of family members.	
Vermont	May be contributed and existing new debts assigned to new fund.	Prohibited	Prohibited	
Virginia		Prohibited		May be used in succeeding election; returned to contributors; donated to charitable organization; contributed to other candidates or committees, including a political party committee; used to defray unreimbursable elective office expenses of candidate.
Washington		May be transferred to personal account of candidate or expended for candidates personal use for reimbursement for loans to over lost earning while campaigning or performing services for the political committee and for direct out-of-pocket expenses, or repayment of loans made to political committee. Candidates may not be reimbursed more than \$3,000 per election for loans made to their own campaigns.		May be disposed of by return to the contributor in an amount not to exceed the original contributions, transfer to the candidate's personal account for reimbursement for lost earning during the campaign, donation to a registered charitable organization, transmittal to the state, retention or a future campaign, for the same office, transferred to a political party or caucus political committee, or payment of non-reimbursed public office-related expenses.

STATE	FOR CERTAIN PURPOSES	PERSONAL USE OF CANDIDATE	TO CANDIDATE'S FAMILY	SURPLUS FUNDS
West Virginia	Generally, lawful payments for political expenses; rent, maintenance, and furnishing of political headquarters or office; payment of support staff; political advertising and advertising-related services; public meeting-related expenses; travel, lodging and administrative expenses; nominating petition costs; prevention of unlawful registration of voters, voter transportation; and public polls; and nominal non-cash post-election expressions of appreciation. May be made for any lawful purpose.	Prohibited except for reimbursement of election. Use of excess campaign assets for personal economic benefit is prohibited. Judicial candidates may not use contributions for private benefit.		May be disposed of by transfer to new candidate committee; contribution to political party committee or candidate; or returned to contributors on a pro rata basis. May be transferred by a terminating political committee to another committee for the same candidate. May be used in connection with duties as public officeholder; contributed to charitable organization; or transferred to a political party committee.
Wisconsin	Contributions must be used for a political purpose.			May be used for any political purpose not prohibited by law, returned to donor, or donated to charitable organization or the common school fund.
Wyoming		Candidate for judicial office may not use contributions for private benefit of candidate.	Candidate for judicial office may not use contributions for private benefit of family.	

Source: Feigenbaum, E. D. and James A. Palmer (1996). *Campaign Finance Law 1996. National Clearinghouse on Election Laws*, Federal Election Commission.

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