MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN   ●   SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING

MICHIGAN 48918

February 6, 1980

Jacquelyn A. Rice, Secretary
We The People Committee
1200 North Telegraph Road
Pontiac, Michigan   48053

Dear Ms. Rice:

This is in response to your request for a declaratory ruling concerning
the applicability of the Campaign Finance Act ("the Act"), 1976 PA 388,
as amended, to loans made to a ballot question committee by a candidate
committee.

You state We The People Committee, a ballot question committee, was loaned
approximately $2,800.00 by Citizens Supporting L. Brooks Patterson, a candi-
date committee. The loans were made between December, 1977, and March, 1978.
You indicate We The People Committee would like to repay the candidate committee
for part of the loan. You ask whether repayment under these circumstances is
permitted by the Act.

Section 2(2) of the Act (MCL 169.202(2)) restricts a ballot question committee
from receiving contributions, or making expenditures or contributions, for the
purpose of influencing or attempting to influence the action of voters for or
against the nomination or election of a candidate. This restriction is related
to the fact a corporation may make contributions to a ballot question committee
pursuant to section 54 (MCL 169.254) but under no circumstances may it contribute
to a candidate committee.

Money loaned is included in the definitions of "contribution" as provided in
section 4 (MCL 169.204), and "expenditure" as set forth in section 6 (MCL
169.206).

There is no provision in the Act prohibiting a contribution from a candidate
committee to a ballot question committee. Consequently, it appears a contribution
in the form of a loan to a ballot question committee by a candidate committee
is proper under the Act. As mentioned previously, section 2(2) does prohibit
a contribution or an expenditure, including a loan, by a ballot question committee
to or on behalf of a candidate committee.

However, repayment of a loan is treated differently by the Act. In a letter to
Senator Patrick McCollough, dated January 16, 1978, the Department stated,
"Repayment of a loan by a candidate committee does not constitute an expenditure."
The Department based its conclusion on section 26(b) (MCL 169.226(b)) which

provides, "If a loan was repaid during the period covered by the campaign statement, the amount of the repayment shall be subtracted from the total amount of contributions received." The latter provision applies to all committees, including a ballot question committee.

Accordingly, repayment of a loan by a ballot question committee constitutes neither a contribution nor an expenditure. The ballot question committee must report repayment of the loan as a deduction by itemizing the transaction as a "loan repayment" on the committee's campaign statement. The candidate committee, which made the original loan and now receives the repayment, must identify the transfer as a repayment of a previously made loan.

In order to insure a ballot question committee does not become the improper conduit of a corporate contribution to a candidate committee by calling the contribution a "repayment of a loan", the interpretation set forth in this letter applies only to repayment for a transfer by a candidate committee to a ballot question committee which was mutually considered to be a "loan" from the date of the original transfer. This interpretation does not authorize or apply to a transfer from a candidate committee to a ballot question committee, which, in fact, constitutes a contribution, and which at some time subsequent to the date of transfer is labelled or considered a loan in order that money may be directed to the candidate committee by the ballot question committee as "repayment of a loan."

This letter is informational only and does not constitute a declaratory ruling.

Very truly yours,
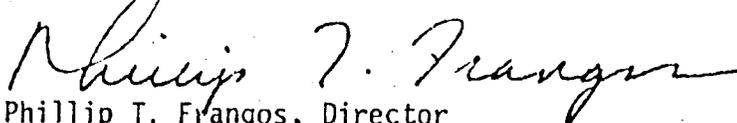
Phillip T. Frangos, Director
Office of Hearings & Legislation

PTF/jmp