

MEMORANDUM

To: Interested Parties

From: Kyle Hupfer, Treasurer
Eric Holcomb for Indiana

Background

On July 22-24, 2018, and November 27-29, 2018, Governor Eric Holcomb traveled to Republican Governors Association (RGA) meetings in Aspen, Colorado, and Scottsdale, Arizona, respectively. In each of these cases, the flights were in-kind contributions to the RGA from Rod Ratcliff, previously of Centaur Gaming and now with Spectacle Entertainment, or his affiliated organizations (as these were not an in-kind to the governor's campaign we cannot confirm contribution information, whether monetary or in-kind, and refer related questions to the RGA itself). Additionally, in each of these cases, Mr. Ratcliff was a round trip passenger aboard the flight on the aforementioned dates.

Facts Regarding In-Kind Travel

Governors regularly utilize donated flights from private pilots or organizations, frequently referred to as in-kind contributions, in order to expedite travel to and from political fundraising events and party/campaign functions. In most cases, this travel is on behalf of the Eric Holcomb for Indiana campaign or Team Holcomb, the joint fundraising committee of the Eric Holcomb for Indiana campaign and the Indiana Republican Party. In those instances, as the donated travel is a contribution that directly benefits those organizations or entities, the in-kind contribution is disclosed on the respective finance report. The terms "contribution" and "in-kind" are both defined by IC 3-5-2-15 (see Appendix A) and used here accordingly.

However, in the case of travel arranged by the RGA for travel to RGA meetings, Governor Holcomb is asked by the RGA to attend those meetings and events as their guest to support their fundraising and policy efforts. Therefore, as his attendance directly benefits the RGA rather than Eric Holcomb for Indiana or Team Holcomb, those flights are considered an in-kind contribution to the RGA and are reported accordingly along with the corresponding expense.

To be clear, it is perfectly legal and customary for the RGA to arrange travel for their members, in this case the Governor of Indiana, to attend their meetings.

For the record, while this is customary, it is not the only method of transportation utilized by the governor when attending RGA meetings. In fact, trips taken on February 23-25, 2018, and February 21-25, 2019, to RGA meetings in Washington, D.C., were commercial and paid for by Eric Holcomb for Indiana because part of the trip also included attendance at National Governors Association meetings (with dual official travel/political travel events such as this, we err on the side of caution and pay for the travel from the political side). All travel decisions are made on a case by case basis depending on whether or not the governor receives an invitation to travel from the RGA, what events he is attending and which entity directly benefits and/or the governor's scheduling and logistical constraints.

Disclosure of In-Kind Travel

The burden of disclosure is on the organization or entity benefitting from the activity. For instance, if a mayoral campaign in one of the far corners of the state invited the governor to headline a fundraiser and offered to arrange travel, that would be reported by the mayoral campaign and not by the governor's campaign as the activity benefits the candidate's campaign for mayor.

Therefore, in the two instances of in-kind flights described above, the burden of disclosure was on the RGA and not on Eric Holcomb for Indiana.

Additionally, it is worth noting that the in-kind contributions in question cannot conceivably be considered earmarks as no direct contribution was made to Eric Holcomb for Indiana. By pure definition, there can be no earmark.

Traveling

While I was on all the flights referenced above - both in-kind flights and the commercial flights - I cannot speak directly to the context of conversations the governor may or may not have had with passengers on board the aircraft as I was not necessarily involved in each and every discussion or interaction. However, it is important to note that in his capacity as Governor of Indiana, Eric Holcomb meets with job creators and private sector leaders, including those in the gaming industry, regularly. It is a prudent use of his time to engage with these individuals, just as he engages with leaders in manufacturing, health care, information technology, education and other sectors that provide jobs and enhance our state's economy.

Conclusion

The travel arrangements outlined above are perfectly legal and customary and have been employed by not only our current governor, but previous governors in Indiana and across the country as well given the time constraints of their many responsibilities. We always endeavor to promptly and accurately report campaign contributions, whether monetary or in-kind, consistent with the laws of the State of Indiana. In these cases, as the travel did not directly benefit Eric Holcomb for Indiana, no disclosure was required on our end.

to fill a vacant office under IC 3-13-5 or IC 3-13-11.

HISTORY:
P.L.3-1997, § 5.

3-5-2-8. Central committee.

"Central committee" means a state committee, congressional district committee, county committee, city committee, or town committee of a political party.

HISTORY:
P.L.5-1986, § 1.

3-5-2-8.7. [Repealed.]

3-5-2-9. Chairman.

"Chairman" refers to the chairman of a central committee as follows:

- (1) State chairman, chairman of a state committee.
- (2) District chairman, chairman of a congressional district committee.
- (3) County chairman, chairman of a county committee.
- (4) City chairman, chairman of a city committee.
- (5) Town chairman, chairman of a town committee.

HISTORY:
P.L.5-1986, § 1.

3-5-2-10. Chute.

"Chute" means the area or pathway that extends fifty (50) feet in length, measured from the entrance to the polls. If the property line of the polling place is less than fifty (50) feet from the door or entrance to the polling place, the chute is measured from the exterior door or entrance to the polling place to one-half (½) the distance to the property line of the polling place nearest to the entrance to the polls. Whenever there are two (2) or more doors or entrances to the polls, the inspector of the precinct shall designate one (1) door or entrance as the door for voters to enter for the purpose of voting.

HISTORY:
P.L.5-1986, § 1; P.L.69-2003, § 1; P.L.14-2004, § 1.

3-5-2-11. City.

"City" means a first class city, second class city, or third class city as classified under IC 36-4-1-1. The term does not include towns.

HISTORY:
P.L.5-1986, § 1.

3-5-2-11.5. Commission.

"Commission" refers to the Indiana election commission established by IC 3-6-4.1-1.

HISTORY:
P.L.8-1995, § 3.

3-5-2-12. Consolidated city.

"Consolidated city" refers to a first class city that has become a consolidated city under IC 36-3-1.

HISTORY:
P.L.5-1986, § 1.

3-5-2-13. Contestee.

"Contestee" means a candidate whose nomination or election is being contested by a contestor.

HISTORY:
P.L.5-1986, § 1.

3-5-2-14. Contestor.

"Contestor" means a person who initiates a proceeding to contest the result of an election.

HISTORY:
P.L.5-1986, § 1.

3-5-2-15. Contribution.

(a) "Contribution" means a donation (whether characterized as an advance, a deposit, a gift, a loan, a subscription, or a contract or promise to make a donation) of property (as defined in IC 35-31.5-2-253) that satisfies both of the following:

(1) The donation is made for the purpose of influencing any of the following:

- (A) The nomination or election to office of a candidate.
- (B) The election of delegates to a state constitutional convention.
- (C) The outcome of a public question.

(2) The donation is accepted by any of the following:

- (A) A candidate.
- (B) A candidate's committee.
- (C) A regular party committee.
- (D) A political action committee.
- (E) A legislative caucus committee.

(b) Whenever funds are transferred from one (1) committee to another, the accepting committee is considered to be receiving a contribution in the amount of the funds transferred.

(c) Whenever a candidate or a committee accepts the personal services of a person whose compensation is being paid by a third person, the candidate or committee is considered to be receiving a contribution from the third person in the amount of the compensation paid.

(d) Notwithstanding subsection (a), whenever a candidate or a committee accepts the personal services of a volunteer who is not being compensated, the candidate or committee is not considered to be receiving a contribution.

(e) Notwithstanding subsection (a), whenever a political action committee accepts a donation of:

- (1) rent;
- (2) office expenses;
- (3) management fees;
- (4) costs of solicitations of contributions;

or

- (5) other administrative costs;

the committee is not considered to be receiving a contribution.

HISTORY:

P.L.5-1986, § 1; P.L.3-1987, § 4; P.L.5-1989, § 2; P.L.3-1997, § 6; P.L.114-2012, § 2, eff. July 1, 2012.

3-5-2-16. Convention.

“Convention” means an organized body of delegates assembled for the purpose of selecting their political party’s nominees for elected offices.

HISTORY:

P.L.5-1986, § 1.

3-5-2-16.2. County voter registration office.

“County voter registration office” means the following:

- (1) A board of registration established under IC 3-7-12.
- (2) A board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4.
- (3) The office of the circuit court clerk, in a county in which a board has not been established under subdivision (1) or (2).

HISTORY:

P.L.3-1997, § 7; P.L.144-2001, § 1; P.L.225-2011, § 3,

emergency eff. July 1, 2011; P.L.74-2017, § 1, effective July 1, 2017.

3-5-2-16.3. Requirements for “de minimis change” in voting system’s hardware.

(a) “De minimis change”, with respect to a certified voting system’s hardware, refers to a change to the hardware, the nature of which will not materially alter the system’s reliability, functionality, capability, or operation.

(b) For a hardware change to qualify as a de minimis change, the change must:

(1) maintain, unaltered, the reliability, functionality, capability, and operability of a system; and

(2) ensure that when hardware is replaced, the original hardware and the replacement hardware are electronically and mechanically interchangeable and have identical functionality and tolerances.

(c) The following are not de minimis changes:

(1) Software and firmware modifications.

(2) The change has reasonable and identifiable potential to affect the system’s operation and compliance with applicable voting system standards.

HISTORY:

P.L.76-2014, § 1, emergency eff. April 1, 2014.

3-5-2-16.4. Domicile.

“Domicile” means residence, as determined under IC 3-5-5.

HISTORY:

P.L.258-2013, § 1, emergency eff. July 1, 2013.

3-5-2-16.5. Elderly.

“Elderly” means a voter who is at least sixty-five (65) years of age.

HISTORY:

P.L.4-1991, § 2.

3-5-2-17. Elected office.

“Elected office” means a federal office, state office, legislative office, school board office, or local office. Political party offices (such as precinct committeeman and state convention delegate) are not considered to be elected offices.

HISTORY:

P.L.5-1986, § 1.