

OFFICIAL OPINION NO. 76-10, Applicability of the January 30 filing deadline imposed by the State Ethics Commission for political committees and candidates

January 27, 1978

Senator Homer Harding
State Capitol Building
Pierre, South Dakota 57501

OFFICIAL OPINION NO. 76-10

Applicability of the January 30 filing deadline imposed by the State Ethics Commission for political committees and candidates

Dear Senator Harding:

You have requested an opinion from this office as to whether or not a report of receipts and expenditures for a political committee and candidate is required to be filed for a nonelection year.

The provisions of SDCL 12-25 are not very clear with respect to what the proper procedure is to follow in filing reports of receipts and expenditures. In SDCL 12-25-1, the definition of "election expenses" is so broad as to imply that it is not only the expenditure of money in the election year which is covered by the Act, but all expenditures of money for other valuable things in furtherance of the nomination of a candidate. This broad language, however, is not used in the context of the statutes relating to the actual filing of receipt and expenditure statements.

SDCL 12-25-13 provides that certain filings are necessary on or before the seventh day prior to any election and that further statements are required within thirty days of the close of such calendar year. SDCL 12-25-13.1 requires additional statements to be filed in regard to certain large contributions. Both of the sections, however, are specifically tied to definite times closely surrounding the election date. Nowhere is there a provision that clearly requires the filing of expenditure statements on a yearly basis. The reference in 12-25-13.2 to "annual audits" refers specifically to the statements required by sections 13 and 13.1, which, as noted above, are tied to specific times.

In view of the above considerations in SDCL 12-25, I am led to the conclusion that there is not a requirement in that chapter for filing receipt and expenditure statements in a nonelection year. It is my understanding that there is legislation before the 1976 Legislature to remedy the lack of clarity in the law on this matter. The clarification is needed to avoid unnecessary confusion and potential subversion of the intent of the Campaign Financing Act.

Respectfully submitted,

WILLIAM J. JANKLOW
ATTORNEY GENERAL

WJJ: DOC: dh