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April 7, 1988

OPINION LETTER NO. 106-88

The Honorable Frank Bild
Senator, District 15
State Capitol Building, Room 331A
Jefferson City, Missouri 65101

Dear Senator Bild:

This letter is in response to your questions concerning the selection of delegates to the Republican National Convention. We have been informed that based on the popular vote in the recent presidential primary, George Bush is entitled to nineteen delegates to the Republican National Convention, Bob Dole is entitled to nineteen delegates to the Republican National Convention, and nine delegates are to be uncommitted. We have further been informed that Bob Dole has now formally withdrawn as a candidate for President of the United States. You have asked:

At time of selection as national convention delegates, must the congressional district and state conventions select delegates committed to Senator Dole in proportion to the popular vote cast in the Presidential Primary? How will the delegates committed to Senator Dole be distributed? Will they be delegated for Vice President George Bush or uncommitted?

The questions you have posed involve construing Section 115.776, RSMo 1986 and Section 115.780, RSMo 1986. A copy of Section 115.776 is attached hereto as "Appendix I" and a copy of Section 115.780 is attached hereto as "Appendix II". The primary rule of statutory construction is to ascertain the intent of the lawmakers from the language used, to give effect to that intent if possible, and to consider words used in a statute in their plain and ordinary meaning. Metro Auto Auction v. Director of Revenue, 707 S.W.2d 397 (Mo. banc 1986).

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Subsection 6 of Section 115.776 specifically provides that congressional district delegates and alternates shall be selected so that the proportion of the total district delegates and alternates that are committed to each candidate or are uncommitted equals as nearly as possible the proportion of the popular vote cast in the presidential primary selection in that district for each candidate and for the uncommitted position with certain exceptions. Subsection 7 of Section 115.776 provides a comparable provision for the selection of at-large delegates and alternates. Subsection 8 of Section 115.776 sets forth the specific procedure to determine the number of delegates and alternates awarded to each candidate and as uncommitted delegates and alternates. Subsection 9 of Section 115.776 provides that the delegates and alternates shall be selected and allocated as provided in Section 115.776 with certain exceptions which are not relevant to your question.¹ There is no provision in Section 115.776 which indicates that Bob Dole, even though he has withdrawn as a candidate, is not to be awarded the delegates and alternates to which he is entitled based on the results of the presidential primary.

Section 115.780 addresses how long a delegate or alternate is bound to the candidate for whom he designated commitment. Upon the withdrawal of the candidate, the delegate or alternate is no longer bound to that candidate. This section contains no provision regarding the selection of delegates or alternates, but addresses the length of time the delegate or alternate is bound to a candidate.

Reading Section 115.776 and Section 115.780 together, we conclude that in accordance with Section 115.776, delegates committed to Bob Dole should be selected in accordance with the results of the presidential primary. Based on the information we have been provided, nineteen delegates who are committed to Bob Dole should be selected. After the selection of the nineteen delegates committed to Bob Dole, under the provisions of Section 115.780, those delegates selected as being committed to Bob Dole are no longer bound to vote for that candidate.

Very truly yours,


WILLIAM L. WEBSTER
Attorney General

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¹We have not reviewed the national committee rules that may apply to the selection and allocation of delegates and alternates. We have been informed that there are no national committee rules that apply to the matter about which you are concerned.

115.776. National convention delegates and alternates, selection.—1. The state party organization which is the state organization recognized by the national organization of that established political party shall, after the primary and before the national convention, conduct a series of caucuses culminating in congressional and state conventions. Delegates to the national conventions shall be chosen at the congressional district and state conventions pursuant to rules established by the political parties; provided, however, that rules so established require that national delegates * be pledged to support presidential candidates as provided by sections 115.123, 115.625, and 115.750 to 115.785. The delegates and alternates shall be selected as provided in this section; except that, if the rules of the national committee of the established political party are in conflict with the provisions of this section, then the national committee rules shall govern the selection of delegates where in conflict with this section.

2. Not less than three-fourths of the convention delegates from the state to the national convention shall be allocated equally to the state congressional districts. Those delegates not allotted to congressional districts must be allotted to the state as at-large delegates. Additional at-large delegates allocated to a state under national party rules shall not be included in the calculation of the proportion of the state's delegates allocated to congressional districts and at large.

3. Following the state presidential primary, anyone seeking to be selected as national convention delegate or alternate must designate whether or not he is committed, and, if committed, to which candidate he is committed.

4. To qualify as a delegate from a congressional district, a person must be a registered voter of the congressional district from which he seeks to be a delegate. To qualify as an at-large delegate, a person must be a registered voter of this state.

5. If a delegate or alternate dies, withdraws or becomes disqualified after he has been selected and before the national convention for which he is selected has begun, he shall be replaced by a qualified person committed to the same preference and selected by the party's congressional district committee or state committee, as the case may be.

6. Congressional district delegates and alternates shall be selected so that the proportion of the total district delegates and alternates that are committed to each candidate or are uncommitted equals as nearly as possible the proportion of the popular vote cast in the presidential primary selection in that district for each candidate and for the uncommitted position; except that votes for a candidate or for the uncommitted position which total less than fifteen percent of the district total shall be counted as uncommitted in determining proportions of district delegates awarded if the sum of all such votes exceeds fifteen percent of the district total.

7. At-large delegates and alternates shall be selected in numerical order from each state so that the proportion of the total at-large delegates and alternates that is uncommitted or committed to each candidate equals as nearly as possible the proportion of the popular vote for that established political party that was cast as uncommitted and for each candidate in the state at large; except that, votes for a candidate or uncommitted listing that total less than fifteen percent of the total shall be counted as uncommitted in determining proportions of district delegates awarded if the sum of all such votes exceeds fifteen percent of the state total.

8. In determining the number of delegates and alternates to be awarded to each candidate and as the uncommitted delegates and alternates, the percentage of the vote received by each candidate and the percentage of the uncommitted vote in each congressional district or the state at large, as the case may be, shall be multiplied by the total number of delegates allotted to the congressional district or the state at large, as the case may be. The product arrived at for each candidate or the uncommitted vote shall be rounded off to the nearest whole number to arrive at the number of delegates to be awarded to a particular candidate or the uncommitted vote. The percentage of the vote received by each candidate and for uncommitted shall be determined in accordance with the provisions of this section and shall not take into consideration the votes for any candidate or uncommitted listing that total less than fifteen percent of the district total or the state at large, as the case may be.

9. The delegates and alternates shall be selected and allocated as provided in this section; except that, if the rules of the national committee of the established political party are in conflict with the provisions of this section, then the national committee rules shall govern the selection and allocation of delegates where in conflict with this section.

115.780. Delegates bound for two ballots, exceptions—pledge requirements.—1. Each national convention delegate and alternate shall be bound to vote for the candidate for whom he designated commitment, if any, when he was selected as a delegate or alternate until that or another candidate received the party's nomination, two ballots have been taken or that candidate withdraws, suspends his campaign, releases his delegates, or receives less than fifteen percent of the votes cast on the first ballot, whichever first occurs.

2. Each delegate and alternate, within ten days after accepting selection as a delegate or alternate, shall file with the secretary of state his sworn pledge that he will abide by the provisions of sections 115.750 to 115.785.

3. If the rules of the national committee of an established political party prohibit any delegate from being bound to cast his or her vote for a candidate, then the provisions of the national committee rules shall govern.