



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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## Arizona State Democratic Committee

1509 North Central Avenue  
Suite 100  
Phoenix, AZ 85004  
Tel. 602-257-9136  
Fax 602-257-8268

Chairman  
Steve Owens

Executive Director  
Melodee Jackson

March 4, 1993

Lawrence E. Noble, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

### Complaint Against Representative Jon Kyl and The Jon Kyl Re-Election Committee

Dear Mr. Noble:

The Arizona Democratic Party files this complaint against Representative Jon Kyl and the Jon Kyl Re-election Committee and requests that the Federal Election Commission investigate improper fundraising activities by Representative Kyl and his Re-Election Committee to determine whether there have been violations of the Federal Election Campaign Act. Numerous media accounts about Representative Kyl's recent campaign activities leave no doubt that he is preparing to be a candidate for the United States Senate in 1994. Nevertheless, he continues to raise funds through his House Re-election Committee and as such fundamentally misleads contributors about how their funds ultimately will be used. Moreover, Mr. Kyl's actions undermine the "testing-the-waters" regulations specifically adopted by the Commission to regulate this type of activity. We ask that Representative Kyl be prohibited from using funds raised through his Re-election Committee for his Senate campaign.

### Factual Background

Articles appearing in several Arizona newspapers confirm that Representative Kyl is preparing his campaign for the Senate seat now held by Senator Dennis DeConcini. Exhibits A-F. Representative Kyl has said publicly that he "will be running for U.S. Senate." Exhibit A. Republican Party officials already are committing large amounts of money and resources to the race. Exhibit B. Former HUD Secretary Jack Kemp will be the first of many prominent Republicans to appear in Arizona at a fundraiser

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later this month to benefit Representative Kyl's Senate campaign. Exhibits A-B. Senator John McCain already has accompanied Representative Kyl on a trip through the state described by one newspaper as "[Kyl's] first southern Arizona campaign swing." Exhibit B.

In an effort to finance his Senate campaign activity, Representative Kyl continues to raise funds through his House Re-election Committee--with the apparent intent to spend them on his Senate race. By letter dated February 11, 1993, he has invited members of the Washington, D.C. PAC community to a fundraiser on March 10 to benefit his House Re-election Committee. Exhibit C. By Representative Kyl's own account, his first major fundraising event will be the March 19 event with Jack Kemp in Phoenix. Exhibit A. Although clearly aimed to fund his Senate bid, both events involve fundraising with his House Re-election Committee.

Contributors are being asked to give to the House Re-election Committee when Representative Kyl has no apparent intention to run for re-election. Contributors, though supportive of his re-election, may object for any number of reasons to assisting Representative Kyl's bid for the Senate. Nevertheless, because of this subterfuge, Representative Kyl will have their money, raised essentially under false pretenses, to devote to his Senate race.

**Representative Kyl's Fundraising Activities  
Violate Requirements for Contributor Intent**

Ascertaining and honoring contributor intent is a fundamental tenet of federal campaign finance laws reflected in the governing federal regulations and Commission rulings. See 11 C.F.R. § 102.5 (contributor intent must be determined in financing political activity in connection with federal and nonfederal elections); 11 C.F.R. § 102.17 (contributor intent in joint fundraising activity in joint fundraising activity: "Designated contributions which exceed the contributor's limit to the designated participant under 11 C.F.R. part 110 may not be reallocated by the fundraising representative absent the prior permission of the contributor."); 11 C.F.R. §§ 103.3 and 110.1 (contributor's written approval required for redesignation or reattribution of a contribution); 11 C.F.R. §§ 110.1 and 110.2 (contributor's designation must be honored).

In Advisory Opinion 1990-30, the Commission ruled that unless a contribution is made with a clear written designation that the contributor intended the contribution to be used for another election, that contribution is considered to be made with respect to the next upcoming election. The Commission rejected, as inadequate to determine contributor intent, any procedures by the

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recipient committee to simply inform contributors that their contributions would be used to pay a previous election debt. Only written designations were sufficient to honor contributor intent.

In order to confirm donor intent. . . the regulations require that the contributor's signature appear on the same document that contains the words of designation, i.e. the check or the contribution slip.

1 Fed. Election Camp. Fin. Guide ¶ 6006 (Feb. 11, 1991); see also Explanation and Justification, Federal Election Commission Regulation, 52 Fed. Reg. 763 (Jan. 9, 1987); Advisory Opinion 1989-26, 1 Fed. Election Camp. Fin. Guide ¶ 5974 (December 1, 1989); Advisory Opinion 1984-32, 1 Fed. Election Camp. Fin. Guide ¶ 5777 (Aug. 17, 1984). Indeed, the Commission recently reiterated its steadfast concern with ascertaining and honoring contributor intent with regard to the use of campaign funds. See Notice of Proposed Rulemaking, 57 Fed. Reg. 36,023 (Aug. 12, 1992).

It is thoroughly inconsistent with the regulations and Commission rulings on determining contributor intent to permit an incumbent Representative to raise funds for his Senate race under the guise of a House re-election campaign. Contributors have many different reasons for supporting particular candidates. Contributors may wholeheartedly support Representative Kyl's House candidacy, but they may not wish to finance his election to the Senate. Nevertheless, their contributions will be used for precisely this purpose contrary to their presumed intent.

**Representative Kyl's Activities Evade the  
Regulations Specifically Designed for  
Exploratory Efforts**

Representative Kyl's current fundraising and campaign activities totally undermine the rules expressly designed to regulate exactly the type of activity in which he is engaged. The Commission went to great trouble to construct, through regulations and Advisory Opinions, elaborate rules for financing pre-candidacy exploratory activities. The regulations and Advisory Opinions allow an individual considering a federal candidacy to raise and expend money for this purpose without incurring public registration and reporting obligations until a final decision is made to run for office. The exploratory committee mechanism enables contributors clearly to understand the purpose for which they are giving funds, however, and, when public disclosure ultimately is made, expenditures for the campaign are clearly delineated.

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There are compelling public policy reasons to have the activities in which Representative Kyl is engaged regulated under an exploratory committee structure, rather than allowing them to proceed under the guise of a re-election committee. Indeed, such an approach is consistent with principles of statutory and regulatory construction. Where application of a particular provision may be unclear, the public policy behind a statute or regulation should be advanced. See e.g., Lorstangelli v. Critelli, 853 F.2d 186 (3d Cir. 1988); Montana Power Co. v. Federal Power Commission, 445 F.2d 739 (D.C. Cir. 1970).

Here, as noted above, Representative Kyl's use of his re-election committee undermines the tantamount policy objectives of ascertaining and honoring contributor intent and accurate public disclosure. Use of an exploratory committee achieves these goals. If Representative Kyl established and raised funds for his Senate bid through an exploratory committee, contributors would be on notice that their money would likely be used for activities related to a Senate, not House, election campaign.

Moreover, if Representative Kyl ultimately decides to run for the Senate, as he appears sure to do, he would be required to disclose his activities as being specifically related to his Senate race. Under his current approach, Representative Kyl is able to obscure the expenditures for his Senate race by reporting them through his House Re-election Committee. The public will have no opportunity to understand exactly what activities he has undertaken to advance his Senate bid. If Representative Kyl conducts a poll or amasses statewide mailing lists for direct mail purposes, the public will never be informed that Mr. Kyl is undertaking such activities for his Senate election. These efforts will be disclosed simply as "re-election" expenses indistinguishable from other Re-election Committee activities.

If the Commission condones the approach taken by Mr. Kyl, the exploratory committee structure under 11 C.F.R. §§ 100.7(b)(1) and 100.8(b)(1) will be meaningless except as it might be used by non-incumbents. Here, there is a specific regulatory structure designed expressly to be used in the case of exploratory activities such as those in which Representative Kyl is engaged. He should be required to operate under those rules.

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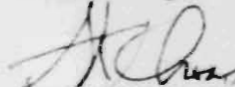
Lawrence E. Noble, Esq.

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March 4, 1993

We urge the Commission to conduct a thorough investigation of this matter to determine whether Representative Kyl and the Jon Kyl Re-election Committee have violated the Federal Election Campaign Act and applicable regulations. If so, Representative Kyl should be prohibited from using those improperly obtained funds for his Senate campaign.

Sincerely,



Steve Owens

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# green valley news

## and Sun

Green Valley, Arizona

YOUR COMMUNITY NEWSPAPER

Wednesday, February 17, 1994

## Kyl visits GV Republicans to announce bid for Senate

By Robert Will  
Green Valley News

The annual meeting of the Green Valley Republican Club last Saturday became a surprise springboard for the embryo campaign of Congressman Jon Kyl to unseat U.S. Sen. Dennis DeConcini.

Kyl, a Phoenix Republican, paid an unannounced visit to the GOP Club luncheon meeting at Canoa Hills Recreation Center.

Clayton Swartz, club president, introduced Kyl ahead of the regular agenda so he could make a brief political speech and continue on to another Republican gathering in Nogales, Ariz.

Earlier he had made several similar appearances in Tucson, including a radio talk show, to advance his upcoming Senate candidacy.

Although not yet formally announced as a candidate for the U.S. Senate, Kyl made no secret of his plans to run for the seat currently occupied by Dennis DeConcini, a Democrat from Tucson.

"I will be running for the U. S. Senate," he told more than 100 GOP partisans who attended the meeting.

He advised the assembled Green Valley Republicans to focus on defeating McCain in 1994 and then regaining the White House in 1996.

"We've got to retire DeConcini

next time," he said.

"Twenty four years is much too long in Washington," he added, "for someone who represents 'business as usual' and pork barrel politics."

He urged Arizona Republicans to support their GOP contingent in the U. S. Congress, which includes himself, U. S. Sen. John McCain, and Congressmen Jim Kolbe and Bob Stump.

"For the present, at least," he said, "we constitute the loyal opposition in Washington."

Kyl said his first major fundraising event will be March 19 in Phoenix, with Jack Kemp, former housing secretary and GOP presidential hopeful for 1996, as the key speaker.

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ARIZONA PRESS CLIPPING  
BUREAU - Phoenix

# DeConcini top target for GOP in '94

The Arizona Daily Star

It's official. Arizona's U.S. Senate race will be the Republican Party's top priority in 1994.

The National Republican Senatorial Committee has decided that Sen. Dennis DeConcini, D-Ariz., is the most vulnerable incumbent seeking re-election in 1994. They will pour money into the state to defeat DeConcini and try to capture control of the Senate.

The word comes from Sen. John McCain, R-Ariz., who says that Sen. Phil Gramm, R-Texas, head of the senatorial committee, has made DeConcini's bid for a fourth term "the No. 1 race" in 1994.

What does that mean? Lots of money for Rep. Jon Kyl, the Scottsdale Republican who probably will challenge DeConcini, and a parade of high-profile GOP dignitaries coming through the state to trash DeConcini and praise Kyl.

The first big name arrives March 19, when Jack Kemp, the former housing secretary and likely presidential candidate in 1996, appears at a Phoenix fund-raiser.

It also means you can look for nasty anti-DeConcini ads, sponsored by "independent groups," on your local television stations starting next year.

Speaking of McCain, where was he on Wednesday? That's when the Senate Select Committee on Indian Affairs held hearings in Flagstaff on a plan to settle a century-old Navajo-Hopi land dispute.

McCain, the committee's vice chairman, didn't attend, citing a prior commitment. He was in Tucson and Nogales, helping Kyl conduct what amounts to his first Southern Arizona campaign swing. The congressmen met with local journalists, appeared on John C. Scott's radio talk show and attended a Lincoln Day dinner put on by the Santa Cruz County GOP.

McCain has joined Gov. Fife Symington, a Republican, in questioning the proposed settlement, which would give the Navajos some privately owned land near Flagstaff.

McCain staff members dismiss the hearings as an attempt by DeConcini to grab some headlines, and that it was "a major breach of protocol" for Sen. Daniel K. Inouye, D-Hawaii, the committee chairman, to schedule the hearings over McCain's objections.



Steve  
Meissner

DeConcini staff members say the hearings were appropriate, given the strong objections voiced by Flagstaff residents — and by Symington — to the proposal.

When he gets back to Washington, DeConcini will play a crucial role in the confirmation process for Janet Reno, the Miami, Fla., chief prosecutor nominated to become U.S. attorney general.

And he plans to use that role to help Rosanne Bacon, a Phoenix attorney and the first woman president of the Arizona Bar Association, to become commissioner of the Immigration and Naturalization Service.

DeConcini calls Reno "an excellent choice," but hasn't formally endorsed her — not yet, anyway.

Reno will visit with DeConcini in early March, since he is a member of the Senate Judiciary Committee, which will hold hearings before deciding whether she should be confirmed.

DeConcini will give her an earful about Bacon's qualifications to head the INS, which falls under her jurisdiction.

Sources said Bacon "is already on the short list" of White House picks to head the INS. Despite some fears that Reno may favor a fellow Floridian, Bacon supporters say they're confident, because President Clinton is dictating most of the sub-Cabinet picks.

When DeConcini does run in 1994, he will face a growing number of registered independents, and a shrinking gap between Republicans and Democrats.

Figures released by Secretary of State Dick Mahoney show that 12.2 percent of the state's voters reject both major parties, up from 11.3 percent in August.

Republicans still are top dogs in Arizona, commanding the allegiance of 45.1 percent of the electorate. That's down from 45.9 percent in August. The Democrats now have 42.4 percent of the vote, down from 42.5 percent, but the gulf between them and the Republicans narrowed from 62,000 voters in August to 34,000 in January.

Mahoney is using those figures to push for "open primaries," ones that would allow anyone to vote in September, when parties pick their nominees.

He might have an ulterior motive. He continues to explore a challenge to DeConcini for the 1994 Senate nomination. Several Pima County Democrats say they were asked last week whether they would support Mahoney in such a race.

Mahoney's spokesman confirmed that they're talking to people, and won't say when they hope to make a decision.

Meissner covers politics for The Arizona Daily Star.

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**Jon Kyl**  
**US CONGRESS**

February 11, 1993

Mr. Morris Amitay  
Washington PAC  
444 North Capitol Street, NW, Suite 712  
Washington, DC 20001

Dear Morris:

With the new administration pushing its agenda, there is a lot for all of us to talk about. I've put together an opportunity to do that at a fundraiser on Wednesday, March 10th at the Capital Hill Club.

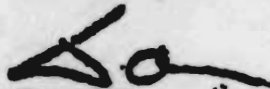
I appreciate that some of the proposals of the administration are cause for serious concern to you. I'd like to visit with you about these concerns as well as my future plans.

Events on March 10th commence with a reception from 5:30 until 7:00 p.m., followed by a dinner at 7:15 p.m. We are asking \$500 per person for the reception and \$750 for both the reception and dinner.

Please call Carol at (703) 802-3218 to let me know if you can attend.

I hope you will take this opportunity to join me and our other guests. Thank you.

Sincerely,



**JON KYL**  
Member of Congress

P.O. Box 10246 • Phoenix, Arizona 85064-0246 • (602) 391-8860

Paid for by the Jon Kyl Re-election Committee.  
Contributions are not deductible as charitable contributions for Federal income tax purposes.

# Kyl gearing up for race against DeConcini in '94

Nasty, expensive campaign  
likely to have national impact

By Steve Meisner  
The Arizona Daily Star

Rep. Jon Kyl faced down House leaders last March, forcing them to disclose the names of 325 current and former congressmen who wrote bad checks on the House bank.

One result was a huge freshman class of 121 congressional members this year, many of them replacing incumbents who appeared on that bad-checks list.

Now Kyl, 50, a Scottsdale Republican with seven years in the House, hopes to unseat Sen. Dennis DeConcini, D-Ariz., who will seek a fourth term in 1994.

The race is expected to draw national attention, and catapult Kyl into prominence if he wins. If he loses, Kyl is likely to tumble into political obscurity.

But the significance of Arizona's Senate race goes far beyond the careers of two Arizona politicians. It could help determine control of the Senate and make it harder for President Clinton to complete a successful first term in office.

• • •

The Kyl family is a familiar name among congressional Republicans. His father, who spelled his first name Jean, was an Iowa congressman from 1950 to 1973. He also served as an assistant secretary of the Interior during the Nixon administration. He lives in Phoenix.

Jon Kyl didn't participate much in his father's political career, but he was busy building his own future.

He was a champion high school debater in Iowa and won a string of honors from the University of Arizona, where he picked up his bachelor's and law degrees.

He moved to Phoenix and became an attorney and lobbyist for some of Arizona's most powerful institutions, including the Salt River Project, the Phoenix Chamber of Commerce and the Arizona Farm Bureau.

He made a few headlines with lawsuits challenging legislation to protect farm workers and forcing water issues into state court instead of the federal court system.

He joined with James Watt, then the director of the Mountain States Legal Foundation and later interior secretary in the Reagan administration, to oppose legislation to ban motorized boats and rafts on the Colorado River in the Grand Canyon.

That association with Watt won Kyl some notoriety in 1986, when he first ran for Congress, and beat former Rep. John Coughlin, in a GOP primary.

Watt, who by then had completed his controversial stint at the Interior Department, came to Phoenix for a \$500-a-plate Kyl fund-raiser in 1986.

Kyl easily won that campaign with support from then-Sen. Barry Goldwater, Rep. Jim Kolbe and a host of Phoenix business leaders, but had to fend off attacks from environmentalists because of his backing from Watt.

Since then, Kyl has been one of the GOP gadflies who make life miserable for Democrats.

• • •

In 1992, Kyl found himself at the center of the check-writing controversy as a member of the House Committee on Standards of Official Conduct, better

See KYL, Page 3A

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# Kyl

Continued from Page One  
known as the ethics committee.

Kyl wanted to reveal the names of 325 members and former members who wrote checks on the House bank that were larger than their balances.

Democratic leaders wanted to name only the top 25 check writers.

Kyl was called to a meeting in the office of House Speaker Thomas S. Foley, D-Wash., and was asked not to offer a resolution to reveal all the names.

Kyl refused, and the House leaders relented. Foley and House Majority Leader Richard Gephardt, D-Mo., even co-sponsored Kyl's resolution.

Many in Congress say that resolution had a direct impact on hundreds of congressional races, Republican and Democratic.

One casualty of the check list may have been Rep. Jay Rhodes, an Arizona Republican who was ousted by Democrat Sam Coppersmith in 1992. Rhodes wrote 32 bad checks on the House bank, and it became an issue in his race.

Another was Rep. Mickey Edwards, R-Okla., one of Kyl's close friends, who lost a GOP primary.

"There is no question that Jon is responsible for bringing that problem to light," said House Minority Whip Newt Gingrich, R-Ga.

Gingrich, leader of a conservative group that embarrasses the Democratic leadership at every opportunity, describes himself as Kyl's good friend. If Kyl does move to the Senate, "it will be an enormous loss to the House," Gingrich said.

Kyl said the defeat of some Republicans proves that his motives were non-partisan. "It just so happened that 22 of the first 25 names on the list were Democrats," he said. But about half the next 25 were Republicans.

Kyl is a member of the House

Armed Services Committee, where he advocates a strong military and more funding for the Strategic Defense Initiative, also known as "Star Wars."

Critics, including some Arizona lobbyists, said Kyl is abrasive. He uses confrontation too much, they said, angering colleagues needlessly and costing him support.

They also said his focus is on national issues, often at the expense of legislation affecting Arizona.

Kyl bristled at those suggestions, saying he helped the University of Arizona secure an agreement to hire Russian scientists to help in some "Star Wars" research. He also sided with the university in its fight against opponents of the Mount Graham telescopes.

Kyl lists a number of bills affecting the northeast Phoenix area among his accomplishments. He said a bill that allowed a local school district to lease-purchase a federal building was the first bill sponsored by any of the U.S. representatives elected in 1984 to become law.

Still, these lobbyists — who would only criticize a congressman anonymously — said he often was hard to reach in the past and ignored their requests for meetings.

Supporters of DeConcini also like to point out that Kyl voted in 1991 for a controversial congressional pay raise, which DeConcini opposed.

Kyl defended that vote, calling it a trade-off for the ban on payments for speeches, known as honoraria. And he said he now is trying to cut the congressional salary of \$133,644 a year by \$25,000.

He also noted that, while DeConcini said he rejected his pay raise, DeConcini recently accepted a \$4,100 cost-of-living adjustment.

DeConcini press spokesman Bob Maynes said DeConcini donates his pay raises to charity.

DeConcini and Kyl both said they refused honoraria before those payments were banned.

These skirmishes are expected to be important next year, because Kyl



Jon Kyl is expected to get high-level GOP support in '94 Senate run

and his GOP supporters are expected to attack DeConcini for his actions on behalf of Charles H. Keating Jr., the convicted ex-banker and developer. DeConcini, three other Democratic senators and Sen. John McCain, R-Ariz., tried to intervene

with federal banking regulators on Keating's behalf.

DeConcini has always insisted that he did nothing improper for Keating, though a Senate Ethics Committee investigation criticized all five senators for their efforts. De-

Concini also returned \$81,000 in Keating campaign contributions.

DeConcini strategists like to note that Kyl also took \$22,000 from Keating.

Kyl turned over that money to the U.S. Treasury and said that, unlike DeConcini, he never tried to intervene with banking regulators on Keating's behalf.

DeConcini's backers also plan to use Kyl's admission that he and his wife failed to pay Social Security taxes for a part-time housekeeper. Kyl said that he's proud of his honesty, and that he's not even sure the payments were required.

The housekeeper was hired through a local church and may have been an independent contractor. That would mean Kyl didn't have to pay Social Security. "We're still researching that," he said.

All this is a prelude to a Senate race next year that is expected to be nasty — and expensive. DeConcini is planning to raise and spend \$3.5 million in 1994. Kyl is budgeting \$2.5 million, though another \$1 million may also be spent on the race by Republican interests who want DeConcini defeated.

Democrats hold a 57-43 majority in the Senate. The GOP hopes to win control next year, when Clinton's tax increases are expected to become a campaign issue and his Democratic allies will have to answer to voters.

DeConcini heads the GOP list of vulnerable Democrats, and Kyl plans to paint DeConcini as a big-spending moderate.

Actually, Kyl and DeConcini take similar stands on fiscal issues. Both want deeper spending cuts — but disagree on where to cut.

Both back a constitutional amendment mandating a balanced budget.

Kyl thinks the president should be allowed to issue line-item vetoes of some spending measures. DeConcini said it would give too much power to

the White House.

It is on social issues where the two disagree most. Kyl opposed the family-leave legislation and the federal "motor voter" act, so named because new voters could register at the same time that they renew their driver's licenses or register a vehicle.

Kyl joined Republicans in arguing that the act makes it too easy to commit vote fraud.

Both oppose abortion.

Kyl offered no apologies for that position. DeConcini, who was hammered by fellow Democrats for opposing abortions and supporting the confirmation of Clarence Thomas to the U.S. Supreme Court, has been reaching out to feminists.

DeConcini nominated several women for key positions in the Clinton administration and to local political appointments within Arizona.

Still, Republicans in Washington think DeConcini is ripe for defeat, due in part to the talent of Keating.

Democrats appear to be sticking with DeConcini, and his GOP supporters are standing by him as well. One prominent Republican who admits to "a tough choice" in 1994 is D. Michael Rappaport, a Washington lobbyist and a vice president of the Salt River Project, one of Kyl's former clients.

Although describing Kyl as "a brilliant public servant who did a fine job" as a lobbyist for the project, Rappaport said he is backing DeConcini.

Kyl is already promised support by some of the biggest names in GOP politics, including Senate Minority Leader Bob Dole of Kansas and two possible presidential candidates — Texas Sen. Phil Gramm, leader of the National Republican Senatorial Committee; and Jack Kemp, former secretary of the U.S. Department of Housing and Urban Development.

# GOP ambitions right on the buttons

If you had any doubt that Republican Rep. Jon Kyl intends to run against Democratic Sen. Dennis DeConcini next year, discard it.

"Jon Kyl U.S. Senate" buttons popped up Saturday at the state Republican convention in downtown Phoenix. Everybody from Gov. Fife Symington to non-voting party hangers-on was sporting them.

There also were stickers for Attorney General Grant Woods, who hasn't revealed whether he plans to run for governor next year or for re-election as AG. The stickers simply said "Woods."

Guess we're to fill in the appropriate office later.

Imagine sharks circling their prey and you get an idea what it was like at the back of the cavernous Civic Plaza hall where the GOP delegates met for five hours last weekend.

Wanna-be candidates for state and federal offices trolled the waters for support. Everybody from KTSP-TV (Channel 10) sportscaster J.D. Hayworth (Congress?) to former state House Speaker Jane Hull (Arizona secretary of state?) seemed to be schmoozing with political ambitions in mind.

Regardless, the biggest challenge newly elected party Chairwoman Dodie Londen is likely to face will



**KEVEN WILLEY**

Republic Political Columnist

be fund raising. Outgoing Chairman Jerry Davis bequeathed her a party about \$100,000 in the hole. Davis had to lend the party \$6,000 last fall just to make payroll.

Forget the argument over whether to keep Barry Goldwater's name on the headquarters building. Repubs should focus on keeping the building.

Another person whose name is familiar to Arizonans is said to be under consideration for a post in the Clinton administration.

Who? Peterson Zah, president of the Navajo Nation. The position? Assistant secretary for Indian affairs at the Interior Department.

Interior officials were unavailable for comment Wednesday, and Zah was touring storm-damaged areas of

the reservation. But Zah spokesman Duane Beyer confirmed that Interior Secretary Bruce Babbitt solicited Zah's resume last week, which the tribal leader immediately faxed to Washington.

The assistant secretary directs policy for the Bureau of Indian Affairs, the largest agency in Interior with about 14,500 employees.

Zah would seem to have several things going for him. First, his reputation as a sharp, reform-minded and widely respected Native American leader. Second, his previous work with Babbitt. Third, his friendship with Hillary Rodham Clinton.

Remember last September when Hillary came to Arizona? Her only appearance was at the Navajo Nation Fair. Turns out Zah and Clinton have known each other for decades. They first met in the 1970s, according to Beyer, when Zah worked in a local office of People's Legal Services and Hillary was a member of the organization's national board.

But Zah likely would have to recuse himself from at least one major issue facing Interior — settlement of the Navajo-Hopi land dispute. Babbitt, whose family controls much of the ranchland involved in a proposed settlement,

already has said he will recuse himself from consideration of the issue. Such a conflict could lengthen the odds of Zah's appointment.

Also, Babbitt has indicated a reluctance to establish an "Arizona mafia" at Interior. If you count Zah as an Arizonan, such geographic considerations could work against him. Technically, however, Zah can argue he's not an Arizonan. He belongs to a sovereign nation.

Also reportedly under consideration is University of Wisconsin-Madison lecturer and social worker Ada Deer, who ran unsuccessfully for Congress last year and was born on Wisconsin's Menominee Reservation.

Some things never change. For the past several years, Bruce and Hattie Babbitt have practiced with different law firms in Phoenix, but their offices have been in the same midtown high-rise.

Now, both are in the Clinton administration, Bruce as Interior secretary and Hattie as about-to-be-confirmed U.S. ambassador to the Organization of American States.

And guess what?

Their buildings are next door to each other in Washington. According to an OAS spokeswoman, there's even a tunnel connecting them.

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# Poll pits governor, hopefuls

## Puts him behind Goddard in race

By Ed Foster  
The Arizona Republic

Republican Gov. Fife Symington and Sen. Dennis DeConcini, D-Ariz., face tough races against prospective foes in 1994 elections, according to a poll released Thursday.

The survey, conducted for KAET-TV (Channel 8), had Symington trailing former Phoenix Mayor Terry Goddard 41 percent to 45 percent, with 14 percent undecided. Symington narrowly defeated Goddard in a runoff election in 1991.

Symington shows more strength against Phoenix Mayor Paul Johnson, leading 41 percent to 39 percent in the poll. Twenty percent were undecided.

Meanwhile, the survey reported that DeConcini trailed Rep. Jon Kyl, R-Ariz., 39 percent to 44 percent. Seventeen percent had no opinion.

Goddard and Johnson, both Democrats, are considered potential opponents of Symington. Kyl is gearing up to take on DeConcini.

The poll had a margin of error of plus or minus 5 percentage points.

Kyl said the poll results do not mean a lot, because the election is so far away.

"I'm gratified that that many people would consider voting for me for the United States Senate, but I wouldn't put a lot of stock in it this far out," he said.

Barry M. Aarons, Symington's legislative liaison, said the fact that Symington drew 41 percent is heartening.

Aarons said Goddard holds the edge in a potential rematch of the governor's race because Symington has had dips and rises in his popularity because of his actions as governor while Goddard's popularity has remained stable.

Symington defeated Goddard in 1991 after neither got enough votes to win in the 1990 general election.

Goddard laughed Thursday night when he heard the numbers.

"I've been out of politics two years, and the numbers are getting better," he said. "Maybe there's a lesson here."

The former mayor said it's too early to speculate on a race.

"But it (the poll) does make a good birthday present," he said. Goddard turned 46 today.

The poll also showed that 68 percent of respondents approved of the job Symington is doing. Only 32 percent disapproved.

The governor's approval rating has risen sharply since August, when it stood at 43 percent.

"The governor's tough stance on holding down state spending and the lack of negative news on his personal finances appear to have helped him restore a sense of confidence among the voters in his performance," pollster Bruce Merrill said.

DeConcini's approval rating fell sharply as he came under fire a few years ago for his intervention with federal thrift regulators in behalf of Charles H. Keating Jr. Keating has been convicted of fraud.

The KAET poll said that DeConcini's approval rating was 57 percent, compared with 89 percent for Secretary of State Dick Mahoney, a potential primary challenger.

The telephone poll of 368 registered voters was conducted Jan. 23-24.

Contributing to this article was Mary Jo Pitzl of The Arizona Republic.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 9, 1993

Steve Owens, Chairman  
Arizona State Democratic Committee  
1509 North Central Avenue  
Suite 100  
Phoenix, AZ 85004

Dear Mr. Owens:

This is to acknowledge receipt on March 5, 1993, of your letter dated March 4, 1993. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter did not contain a notarization on your signature and was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this \_\_\_\_ day of \_\_\_\_, 19\_\_." A statement by the notary that the complaint was sworn to and subscribed before him/her also will be sufficient. We are sorry for the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission.

If you have any questions concerning this matter, please contact me at (202) 219-3410.

Sincerely,

*Retha Dixon*

Retha Dixon  
Docket Chief

Enclosure

cc: Jon Kyl Re-Election Committee

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COMMISSION  
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Arizona State Democratic Committee

MUR 3747

1509 North Central Avenue  
Suite 100  
Phoenix, AZ 85004  
Tel. 602-257-9136  
Fax 602-257-8268

Chairman  
Steve Owens

Executive Director  
Melodee Jackson

March 10, 1993

Maura Callaway  
Special Assistant to the  
Associate General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RECEIVED  
FEDERAL ELECTION COMMISSION  
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Complaint Against Representative Jon Kyl  
and The Jon Kyl Re-Election Committee

Dear Maura:

As we discussed yesterday, enclosed please find three copies of the Arizona Democratic Party's complaint against Representative Jon Kyl and the Jon Kyl Re-Election Committee containing a corrected notarized signature page. As I related, the notarization was omitted inadvertently from the original complaint filed last week. It is my understanding that this corrected complaint will be substituted for the original complaint and that no notice of the non-notarization will be sent by your office to the Arizona Democratic Party and the potential respondents.

Thank you for your assistance in this matter.

Sincerely,

Steve Owens

Enclosures

FEDERAL EXPRESS

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COPY

RECEIVED

Democrats

93 MAR 18 PM 3:58

## Arizona State Democratic Committee

1509 North Central Avenue  
Suite 100  
Phoenix, AZ 85004  
Tel. 602-257-9136  
Fax 602-257-8268

Chairman  
Steve Owens

Executive Director  
Melodee Jackson

MUR 3747

**SENSITIVE**

March 4, 1993

Lawrence E. Noble, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

### Complaint Against Representative Jon Kyl and The Jon Kyl Re-Election Committee

Dear Mr. Noble:

The Arizona Democratic Party files this complaint against Representative Jon Kyl and the Jon Kyl Re-election Committee and requests that the Federal Election Commission investigate improper fundraising activities by Representative Kyl and his Re-Election Committee to determine whether there have been violations of the Federal Election Campaign Act. Numerous media accounts about Representative Kyl's recent campaign activities leave no doubt that he is preparing to be a candidate for the United States Senate in 1994. Nevertheless, he continues to raise funds through his House Re-election Committee and as such fundamentally misleads contributors about how their funds ultimately will be used. Moreover, Mr. Kyl's actions undermine the "testing-the-waters" regulations specifically adopted by the Commission to regulate this type of activity. We ask that Representative Kyl be prohibited from using funds raised through his Re-election Committee for his Senate campaign.

### Factual Background

Articles appearing in several Arizona newspapers confirm that Representative Kyl is preparing his campaign for the Senate seat now held by Senator Dennis DeConcini. Exhibits A-F. Representative Kyl has said publicly that he "will be running for U.S. Senate." Exhibit A. Republican Party officials already are committing large amounts of money and resources to the race. Exhibit B. Former HUD Secretary Jack Kemp will be the first of many prominent Republicans to appear in Arizona at a fundraiser

later this month to benefit Representative Kyl's Senate campaign. Exhibits A-B. Senator John McCain already has accompanied Representative Kyl on a trip through the state described by one newspaper as "[Kyl's] first southern Arizona campaign swing." Exhibit B.

In an effort to finance his Senate campaign activity, Representative Kyl continues to raise funds through his House Re-election Committee--with the apparent intent to spend them on his Senate race. By letter dated February 11, 1993, he has invited members of the Washington, D.C. PAC community to a fundraiser on March 10 to benefit his House Re-election Committee. Exhibit C. By Representative Kyl's own account, his first major fundraising event will be the March 19 event with Jack Kemp in Phoenix. Exhibit A. Although clearly aimed to fund his Senate bid, both events involve fundraising with his House Re-election Committee.

Contributors are being asked to give to the House Re-election Committee when Representative Kyl has no apparent intention to run for re-election. Contributors, though supportive of his re-election, may object for any number of reasons to assisting Representative Kyl's bid for the Senate. Nevertheless, because of this subterfuge, Representative Kyl will have their money, raised essentially under false pretenses, to devote to his Senate race.

**Representative Kyl's Fundraising Activities  
Violate Requirements for Contributor Intent**

Ascertaining and honoring contributor intent is a fundamental tenet of federal campaign finance laws reflected in the governing federal regulations and Commission rulings. See 11 C.F.R. § 102.5 (contributor intent must be determined in financing political activity in connection with federal and nonfederal elections); 11 C.F.R. § 102.17 (contributor intent in joint fundraising activity in joint fundraising activity: "Designated contributions which exceed the contributor's limit to the designated participant under 11 C.F.R. part 110 may not be reallocated by the fundraising representative absent the prior permission of the contributor."); 11 C.F.R. §§ 103.3 and 110.1 (contributor's written approval required for redesignation or reattribution of a contribution); 11 C.F.R. §§ 110.1 and 110.2 (contributor's designation must be honored).

In Advisory Opinion 1990-30, the Commission ruled that unless a contribution is made with a clear written designation that the contributor intended the contribution to be used for another election, that contribution is considered to be made with respect to the next upcoming election. The Commission rejected, as inadequate to determine contributor intent, any procedures by the

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March 4, 1993

recipient committee to simply inform contributors that their contributions would be used to pay a previous election debt. Only written designations were sufficient to honor contributor intent.

In order to confirm donor intent. . . the regulations require that the contributor's signature appear on the same document that contains the words of designation, i.e. the check or the contribution slip.

1 Fed. Election Camp. Fin. Guide ¶ 6006 (Feb. 11, 1991); see also Explanation and Justification, Federal Election Commission Regulation, 52 Fed. Reg. 763 (Jan. 9, 1987); Advisory Opinion 1989-26, 1 Fed. Election Camp. Fin. Guide ¶ 5974 (December 1, 1989); Advisory Opinion 1984-32, 1 Fed. Election Camp. Fin. Guide ¶ 5777 (Aug. 17, 1984). Indeed, the Commission recently reiterated its steadfast concern with ascertaining and honoring contributor intent with regard to the use of campaign funds. See Notice of Proposed Rulemaking, 57 Fed. Reg. 36,023 (Aug. 12, 1992).

It is thoroughly inconsistent with the regulations and Commission rulings on determining contributor intent to permit an incumbent Representative to raise funds for his Senate race under the guise of a House re-election campaign. Contributors have many different reasons for supporting particular candidates. Contributors may wholeheartedly support Representative Kyl's House candidacy, but they may not wish to finance his election to the Senate. Nevertheless, their contributions will be used for precisely this purpose contrary to their presumed intent.

**Representative Kyl's Activities Evade the  
Regulations Specifically Designed for  
Exploratory Efforts**

Representative Kyl's current fundraising and campaign activities totally undermine the rules expressly designed to regulate exactly the type of activity in which he is engaged. The Commission went to great trouble to construct, through regulations and Advisory Opinions, elaborate rules for financing pre-candidacy exploratory activities. The regulations and Advisory Opinions allow an individual considering a federal candidacy to raise and expend money for this purpose without incurring public registration and reporting obligations until a final decision is made to run for office. The exploratory committee mechanism enables contributors clearly to understand the purpose for which they are giving funds, however, and, when public disclosure ultimately is made, expenditures for the campaign are clearly delineated.

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There are compelling public policy reasons to have the activities in which Representative Kyl is engaged regulated under an exploratory committee structure, rather than allowing them to proceed under the guise of a re-election committee. Indeed, such an approach is consistent with principles of statutory and regulatory construction. Where application of a particular provision may be unclear, the public policy behind a statute or regulation should be advanced. See e.g., Lorstangelli v. Critelli, 853 F.2d 186 (3d Cir. 1988); Montana Power Co. v. Federal Power Commission, 445 F.2d 739 (D.C. Cir. 1970).

Here, as noted above, Representative Kyl's use of his re-election committee undermines the tantamount policy objectives of ascertaining and honoring contributor intent and accurate public disclosure. Use of an exploratory committee achieves these goals. If Representative Kyl established and raised funds for his Senate bid through an exploratory committee, contributors would be on notice that their money would likely be used for activities related to a Senate, not House, election campaign.

Moreover, if Representative Kyl ultimately decides to run for the Senate, as he appears sure to do, he would be required to disclose his activities as being specifically related to his Senate race. Under his current approach, Representative Kyl is able to obscure the expenditures for his Senate race by reporting them through his House Re-election Committee. The public will have no opportunity to understand exactly what activities he has undertaken to advance his Senate bid. If Representative Kyl conducts a poll or amasses statewide mailing lists for direct mail purposes, the public will never be informed that Mr. Kyl is undertaking such activities for his Senate election. These efforts will be disclosed simply as "re-election" expenses indistinguishable from other Re-election Committee activities.

If the Commission condones the approach taken by Mr. Kyl, the exploratory committee structure under 11 C.F.R. §§ 100.7(b)(1) and 100.8(b)(1) will be meaningless except as it might be used by non-incumbents. Here, there is a specific regulatory structure designed expressly to be used in the case of exploratory activities such as those in which Representative Kyl is engaged. He should be required to operate under those rules.

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March 4, 1993

We urge the Commission to conduct a thorough investigation of this matter to determine whether Representative Kyl and the Jon Kyl Re-election Committee have violated the Federal Election Campaign Act and applicable regulations. If so, Representative Kyl should be prohibited from using those improperly obtained funds for his Senate campaign.

Sincerely,

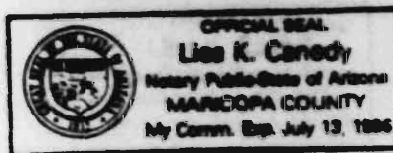
  
Steve Owens

STATE OF ARIZONA     )  
                              ) ss.  
County of Maricopa    )

SUBSCRIBED AND SWORN TO before me this 10<sup>th</sup> day of March, 1993, by Steve Owens.

  
Notary Public

My Commission Expires:

July 13, 1996

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# green valley news

## and Sun

Green Valley, Arizona YOUR COMMUNITY NEWSPAPER Wednesday, February 17, 1993

### Kyl visits GV Republicans to announce bid for Senate

By Robert Will  
Green Valley News

The annual meeting of the Green Valley Republican Club last Saturday became a surprise springboard for the embryo campaign of Congressman Jon Kyl to unseat U.S. Sen. Dennis DeConcini.

Kyl, a Phoenix Republican, paid an unannounced visit to the GOP Club luncheon meeting at Canoa Hills Recreation Center.

Clayton Swartz, club president, introduced Kyl ahead of the regular agenda so he could make a brief political speech and continue on to another Republican gathering in Nogales, Ariz.

Earlier he had made several similar appearances in Tucson, including a radio talk show, to advance his upcoming Senate candidacy.

Although not yet formally announced as a candidate for the U.S. Senate, Kyl made no secret of his plans to run for the seat currently occupied by Dennis DeConcini, a Democrat from Tucson.

"I will be running for the U. S. Senate," he told more than 100 GOP partisans who attended the meeting.

He advised the assembled Green Valley Republicans to focus on defeating McCain in 1994 and then regaining the White House in 1996.

"We've got to retire DeConcini

next time," he said.

"Twenty four years is much too long in Washington," he added, "for someone who represents 'business as usual' and pork barrel politics."

He urged Arizona Republicans to support their GOP contingent in the U. S. Congress, which includes himself, U. S. Sen. John McCain, and Congressmen Jim Kolbe and Bob Stump.

"For the present, at least," he said, "we constitute the loyal opposition in Washington."

Kyl said his first major fundraising event will be March 19 in Phoenix, with Jack Kemp, former housing secretary and GOP presidential hopeful for 1996, as the key speaker.

(D)

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ARIZONA PRESS CLIPPING  
BUREAU Phoenix

(B)

# DeConcini top target for GOP in '94

The Arizona Daily Star

It's official. Arizona's U.S. Senate race will be the Republican Party's top priority in 1994.

The National Republican Senatorial Committee has decided that Sen. Dennis DeConcini, D-Ariz., is the most vulnerable incumbent seeking re-election in 1994. They will pour money into the state to defeat DeConcini and try to capture control of the Senate.



Steve Meissner

The word comes from Sen. John McCain, R-Ariz., who says that Sen. Phil Gramm, R-Texas, head of the senatorial committee, has made DeConcini's bid for a fourth term "the No. 1 race" in 1994.

What does that mean? Lots of money for Rep. Jon Kyl, the Scottsdale Republican, who probably will challenge DeConcini, and a parade of high-profile GOP dignitaries coming through the state to trash DeConcini and praise Kyl.

The first big name arrives March 19, when Jack Kemp, the former housing secretary and likely presidential candidate in 1996, appears at a Phoenix fund-raiser.

It also means you can look for nasty anti-DeConcini ads, sponsored by "independent groups," on your local television stations starting next year.

Speaking of McCain, where was he on Wednesday? That's when the Senate Select Committee on Indian Affairs held hearings in Flagstaff on a plan to settle a century-old Navajo-Nez Perce land dispute.

McCain, the committee's vice chairman, didn't attend, citing a prior commitment.

He was in Tucson and Nogales, helping Kyl conduct what amounts to his first Southern Arizona campaign swing. The congressman met with local journalists, appeared on John C. Scott's radio talk show and attended a Lincoln Day dinner put on by the Santa Cruz County GOP.

McCain has joined Gov. Fife Symington, a Republican, in questioning the proposed settlement, which would give the Navajos some privately owned land near Flagstaff.

McCain staff members dismiss the hearings as an attempt by DeConcini to grab some headlines, and that it was "a major breach of protocol" for Sen. Daniel K. Inouye, D-Hawaii, the committee chairman, to schedule the hearings over McCain's objections.

DeConcini staff members say the hearings were appropriate, given the strong objections voiced by Flagstaff residents — and by Symington — to the proposal.

When he gets back to Washington, DeConcini will play a crucial role in the confirmation process for Janet Reno, the Miami, Fla., chief prosecutor nominated to become U.S. attorney general.

And he plans to use that role to help Rosanne Bacon, a Phoenix attorney and the first woman president of the Arizona Bar Association, to become commissioner of the Immigration and Naturalization Service.

DeConcini calls Reno "an excellent choice," but hasn't formally endorsed her — not yet, anyway.

Reno will visit with DeConcini in early March, since he is a member of the Senate Judiciary Committee, which will hold hearings before deciding whether she should be confirmed.

DeConcini will give her an earful about Bacon's qualifications to head the INS, which falls under her jurisdiction.

Sources said Bacon "is already on the short list" of White House picks to head the INS. Despite some fears that Reno may favor a fellow Floridian, Bacon supporters say they're confident, because President Clinton is dictating most of the sub-Cabinet picks.

When DeConcini does run in 1994, he will face a growing number of registered independents, and a shrinking gap between Republicans and Democrats.

Figures released by Secretary of State Dick Mahoney show that 12.3 percent of the state's voters reject both major parties, up from 11.3 percent in August.

Republicans still are top dogs in Arizona, commanding the allegiance of 46.1 percent of the electorate. That's down from 48.9 percent in August. The Democrats now have 42.4 percent of the vote, down from 42.5 percent, but the gulf between them and the Republicans narrowed from 62,000 voters in August to 54,000 in January.

Mahoney is using those figures to push for "open primaries," ones that would allow anyone to vote in September, when parties pick their nominees.

He might have an ulterior motive. He continues to explore a challenge to DeConcini for the 1994 Senate nomination. Several Pima County Democrats say they were asked last week whether they would support Mahoney in such a race.

Mahoney's spokesman confirmed that they're talking to people, and won't say when they hope to make a decision.

Meissner covers politics for The Arizona Daily Star.

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**Jon Kyl**  
**US CONGRESS**

(C)

February 11, 1993

Mr. Morris Amitay  
Washington PAC  
444 North Capitol Street, NW, Suite 712  
Washington, DC 20001

Dear Morris:

With the new administration pushing its agenda, there is a lot for all of us to talk about. I've put together an opportunity to do that at a fundraiser on Wednesday, March 10th at the Capital Hill Club.

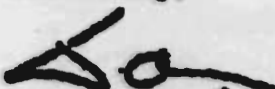
I appreciate that some of the proposals of the administration are cause for serious concern to you. I'd like to visit with you about these concerns as well as my future plans.

Events on March 10th commence with a reception from 5:30 until 7:00 p.m., followed by a dinner at 7:15 p.m. We are asking \$500 per person for the reception and \$750 for both the reception and dinner.

Please call Carol at (703) 802-3218 to let me know if you can attend.

I hope you will take this opportunity to join me and our other guests. Thank you.

Sincerely,



JON KYL  
Member of Congress

P.O. Box 10248 • Phoenix, Arizona 85064-0248 • (602) 361-8830

Paid for by the Jon Kyl Re-election Committee.  
Contributions are not deductible as charitable contributions for Federal income tax purposes.

(D)

# Kyl gearing up for race against DeConcini in '94

Nasty, expensive campaign  
likely to have national impact

By Steve Meisner  
The Arizona Daily Star

Rep. Jon Kyl faced down House leaders last March, forcing them to disclose the names of 325 current and former congressmen who wrote bad checks on the House bank.

One result was a huge freshman class of 121 congressional members this year, many of them replacing incumbents who appeared on that bad-checks list.

Now Kyl, 50, a Scottsdale Republican with seven years in the House, hopes to unseat Sen. Dennis DeConcini, D-Ariz., who will seek a fourth term in 1994.

The race is expected to draw national attention, and catapult Kyl into prominence if he wins. If he loses, Kyl is likely to tumble into political obscurity.

But the significance of Arizona's Senate race goes far beyond the careers of two Arizona politicians. It could help determine control of the Senate and make it harder for President Clinton to complete a successful first term in office.

• • •

The Kyl family is a familiar name among congressional Republicans. His father, who spelled his first name John, was an Iowa congressman from 1950 to 1973. He also served as an assistant secretary of the interior during the Nixon administration. He lives in Phoenix.

Jon Kyl didn't participate much in his father's political career, but he was busy building his own future.

He was a champion high school debater in Iowa and won a string of honors from the University of Arizona, where he picked up his bachelor's and law degrees.

He moved to Phoenix and became an attorney and lobbyist for some of Arizona's most powerful institutions, including the Salt River Project, the Phoenix Chamber of Commerce and the Arizona Farm Bureau.

He made a few headlines with lawsuits challenging legislation to protect farm workers and forcing water issues into state court instead of the federal court system.

He joined with James Watt, then the director of the Mountain States Legal Foundation and later interior secretary in the Reagan administration, to oppose legislation for log motorized boats and rafts on the Colorado River in the Grand Canyon.

That association with Watt won Kyl some notoriety in 1988, when he first ran for Congress, and beat former Rep. John Coughlin, in a GOP primary.

Watt, who by then had completed his controversial stint at the Interior Department, came to Phoenix for a \$500-a-plate Kyl fund-raiser in 1988.

Kyl easily won that campaign with support from then-Sen. Barry Goldwater, Rep. Jim Kolbe and a host of Phoenix business leaders, but had to fend off attacks from environmentalists because of his backing from Watt.

Since then, Kyl has been one of the GOP gadflies who make life miserable for Democrats.

• • •

In 1992, Kyl found himself at the center of the check-writing controversy as a member of the House Committee on Standards of Official Conduct, better

See KYL, Page 3A

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# Kyl

Continued from Page One  
known as the ethics committee.

Kyl wanted to reveal the names of 325 members and former members who wrote checks on the House bank that were larger than their balances.

Democratic leaders wanted to name only the top 25 check writers.

Kyl was called to a meeting in the office of House Speaker Thomas S. Foley, D-Wash., and was asked not to offer a resolution to reveal all the names.

Kyl refused, and the House leaders relented. Foley and House Majority Leader Richard Gephardt, D-Mo., even co-sponsored Kyl's resolution.

Many in Congress say that resolution had a direct impact on hundreds of congressional races, Republican and Democratic.

One casualty of the check list may have been Rep. Jay Rhodes, an Arizona Republican who was ousted by Democrat Sam Coppersmith in 1992. Rhodes wrote 32 bad checks on the House bank, and it became an issue in his race.

Another was Rep. Mickey Edwards, R-Okla., one of Kyl's close friends, who lost a GOP primary.

"There is no question that Jon is responsible for bringing that problem to light," said House Minority Whip Newt Gingrich, R-Ga.

Gingrich, leader of a conservative bloc that embarrasses the Democratic leadership at every opportunity, describes himself as Kyl's good friend. If Kyl does move to the Senate, "it will be an enormous loss to the House," Gingrich said.

Kyl said the defeat of some Republicans proves that his motives were non-partisan. "It just so happened that 22 of the first 25 names on the list were Democrats," he said. But about half the next 25 were Republicans.

Kyl is a member of the House

Armed Services Committee, where he advocates a strong military and more funding for the Strategic Defense Initiative, also known as "Star Wars."

Critics, including some Arizona lobbyists, said Kyl is abrasive. He uses confrontation too much, they said, angering colleagues needlessly and costing him support.

They also said his focus is on national issues, often at the expense of legislation affecting Arizona.

Kyl bristled at those suggestions, saying he helped the University of Arizona secure an agreement to hire Russian scientists to help in some "Star Wars" research. He also sided with the university in its fight against opponents of the Mount Graham telescopes.

Kyl lists a number of bills affecting the northeast Phoenix area among his accomplishments. He said a bill that allowed a local school district to lease-purchase a federal building was the first bill sponsored by any of the U.S. representatives elected in 1984 to become law.

Still, these lobbyists — who would only criticize a congressman anonymously — said he often was hard to reach in the past and ignored their requests for meetings.

Supporters of DeConcini also like to point out that Kyl voted in 1991 for a controversial congressional pay raise, which DeConcini opposed.

Kyl defended that vote, calling it a trade-off for the ban on payments for speeches, known as honoraria. And he said he now is trying to cut the congressional salary of \$133,644 a year by \$25,000.

He also noted that, while DeConcini said he rejected his pay raise, DeConcini recently accepted a \$4,100 cost-of-living adjustment.

DeConcini press spokesman Bob Maynes said DeConcini donates his pay raises to charity.

DeConcini and Kyl both said they refused honoraria before those payments were banned.

These skirmishes are expected to be important next year, because Kyl



Jon Kyl is expected to get high-level GOP support in '94 Senate run

and his GOP supporters are expected to attack DeConcini for his actions on behalf of Charles H. Keating Jr., the convicted ex-banker and developer. DeConcini, three other Democratic senators and Sen. John McCain, R-Ariz., tried to intervene

with federal banking regulators on Keating's behalf.

DeConcini has always insisted that he did nothing improper for Keating, though a Senate Ethics Committee investigation criticized all five senators for their efforts. De-

Concini also returned \$81,000 in Keating campaign contributions.

DeConcini strategists like to note that Kyl also took \$22,000 from Keating.

Kyl turned over that money to the U.S. Treasury and said that, unlike DeConcini, he never tried to intervene with banking regulators on Keating's behalf.

DeConcini's backers also plan to use Kyl's admission that he and his wife failed to pay Social Security taxes for a part-time housekeeper. Kyl said that he's proud of his honesty, and that he's not even sure the payments were required.

The housekeeper was hired through a local church and may have been an independent contractor. That would mean Kyl didn't have to pay Social Security. "We're still researching that," he said.

All this is a prelude to a Senate race next year that is expected to be nasty — and expensive. DeConcini is planning to raise and spend \$3.5 million in 1994. Kyl is budgeting \$2.5 million, though another \$1 million may also be spent on the race by Republican interests who want DeConcini defeated.

Democrats hold a 57-43 majority in the Senate. The GOP hopes to win control next year, when Clinton's tax increases are expected to become a campaign issue and his Democratic allies will have to answer to voters.

DeConcini heads the GOP list of vulnerable Democrats, and Kyl plans to paint DeConcini as a big-spending moderate.

Actually, Kyl and DeConcini take similar stands on fiscal issues. Both want deeper spending cuts — but disagree on where to cut.

Both back a constitutional amendment mandating a balanced budget.

Kyl thinks the president should be allowed to issue line-item vetoes of some spending measures. DeConcini said it would give too much power to

the White House.

It is on social issues where the two disagree most. Kyl opposed the family-leave legislation and the federal "motor voter" act, so named because new voters could register at the same time that they renew their driver's licenses or register a vehicle.

Kyl joined Republicans in arguing that the act makes it too easy to commit vote fraud.

Both oppose abortion.

Kyl offered no apologies for that position. DeConcini, who was humiliated by fellow Democrats for opposing abortions and supporting confirmation of Clarence Thomas to the U.S. Supreme Court, has been reaching out to feminists.

DeConcini nominated several women for key positions in the Clinton administration and to local political appointments within Arizona.

Still, Republicans in Washington think DeConcini is ripe for defeat, due in part to the talent of Keating.

Democrats appear to be sticking with DeConcini, and his GOP supporters are standing by him as well. One prominent Republican who admits to "a tough choice" in 1994 is D. Michael Rappaport, a Washington lobbyist and a vice president of the Salt River Project, one of Kyl's former clients.

Although describing Kyl as "a brilliant public servant who did a fine job" as a lobbyist for the project, Rappaport said he is backing DeConcini.

Kyl is already promised support by some of the biggest names in GOP politics, including Senate Minority Leader Bob Dole of Kansas and two possible presidential candidates — Texas Sen. Phil Gramm, leader of the National Republican Senatorial Committee; and Jack Kemp, former secretary of the U.S. Department of Housing and Urban Development.

# GOP ambitions right on the buttons

If you had any doubt that Republican Rep. Jon Kyl intends to run against Democratic Sen. Dennis DeConcini next year, discard it.

"Jon Kyl U.S. Senate" buttons popped up Saturday at the state Republican convention in downtown Phoenix. Everybody from Gov. Fife Symington to non-voting party hangers-on was sporting them.

There also were stickers for Attorney General Grant Woods, who hasn't revealed whether he plans to run for governor next year or for re-election as AG. The stickers simply said "Woods."

Guess we're to fill in the appropriate office later.

Imagine sharks circling their prey and you get an idea what it was like at the back of the cavernous Civic Plaza hall where the GOP delegates met for five hours last weekend.

Wanna-be candidates for state and federal offices trolled the waters for support. Everybody from KTSP-TV (Channel 10) sportscaster J.D. Hayworth (Congress?) to former state House Speaker Jane Hull (Arizona secretary of state?) seemed to be schmoozing with political ambitions in mind.

Regardless, the biggest challenge newly elected party Chairwoman Dodie Londen is likely to face will



KEVEN WILLEY

Republic Political Columnist

be fund raising. Outgoing Chairman Jerry Davis bequeathed her a party about \$100,000 in the hole. Davis had to lend the party \$6,000 last fall just to make payroll.

Forget the argument over whether to keep Barry Goldwater's name on the headquarters building. Repubs should focus on keeping the building.

Another person whose name is familiar to Arizonans is said to be under consideration for a post in the Clinton administration.

Who? Peterson Zah, president of the Navajo Nation. The position? Assistant secretary for Indian affairs at the Interior Department.

Interior officials were unavailable for comment Wednesday, and Zah was touring storm-damaged areas of

the reservation. But Zah spokesman Duane Beyal confirmed that Interior Secretary Bruce Babbitt solicited Zah's resume last week, which the tribal leader immediately faxed to Washington.

The assistant secretary directs policy for the Bureau of Indian Affairs, the largest agency in Interior with about 14,500 employees.

Zah would seem to have several things going for him. First, his reputation as a sharp, reform-minded and widely respected Native American leader. Second, his previous work with Babbitt. Third, his friendship with Hillary Rodham Clinton.

Remember last September when Hillary came to Arizona? Her only appearance was at the Navajo Nation Fair. Turns out Zah and Clinton have known each other for decades. They first met in the 1970s, according to Beyal, when Zah worked in a local office of People's Legal Services and Hillary was a member of the organization's national board.

But Zah likely would have to recuse himself from at least one major issue facing Interior — settlement of the Navajo-Hopi land dispute. Babbitt, whose family controls much of the ranchland involved in a proposed settlement,

already has said he will recuse himself from consideration of the issue. Such a conflict could lengthen the odds of Zah's appointment.

Also, Babbitt has indicated a reluctance to establish an "Arizona mafia" at Interior. If you count Zah as an Arizonan, such geographic considerations could work against him. Technically, however, Zah can argue he's not an Arizonan. He belongs to a sovereign nation.

Also reportedly under consideration is University of Wisconsin-Madison lecturer and social worker Ada Deer, who ran unsuccessfully for Congress last year and was born on Wisconsin's Menominee Reservation.

Some things never change. For the past several years, Bruce and Hattie Babbitt have practiced with different law firms in Phoenix, but their offices have been in the same midtown high-rise.

Now, both are in the Clinton administration, Bruce as Interior secretary and Hattie as about-to-be-confirmed U.S. ambassador to the Organization of American States.

And guess what?

Their buildings are next door to each other in Washington. According to an OAS spokeswoman, there's even a tunnel connecting them.

77

F

# Poll pits governor, hopefuls

## Puts him behind Goddard in race

By Ed Foster  
The Arizona Republic

Republican Gov. Fife Symington and Sen. Dennis DeConcini, D-Ariz., face tough races against prospective foes in 1994 elections, according to a poll released Thursday.

The survey, conducted for KAET-TV (Channel 8), had Symington trailing former Phoenix Mayor Terry Goddard 41 percent to 45 percent, with 14 percent undecided. Symington narrowly defeated Goddard in a runoff election in 1991.

Symington shows more strength against Phoenix Mayor Paul Johnson, leading 41 percent to 39 percent in the poll. Twenty percent were undecided.

Meanwhile, the survey reported that DeConcini trailed Rep. Jon Kyl, R-Ariz., 39 percent to 44 percent. Seventeen percent had no opinion.

Goddard and Johnson, both Democrats, are considered potential opponents of Symington. Kyl is gearing up to take on DeConcini.

The poll had a margin of error of plus or minus 5 percentage points.

Kyl said the poll results do not mean a lot, because the election is so far away.

"I'm gratified that that many people would consider voting for me for the United States Senate, but I wouldn't put a lot of stock in it this far out," he said.

Barry M. Aarons, Symington's legislative liaison, said the fact that Symington drew 41 percent is heartening.

Aarons said Goddard holds the edge in a potential rematch of the governor's race because Symington has had dips and rises in his popularity because of his actions as governor while Goddard's popularity has remained stable.

Symington defeated Goddard in 1991 after neither got enough votes to win in the 1990 general election.

Goddard laughed Thursday night when he heard the numbers.

"I've been out of politics two years, and the numbers are getting better," he said. "Maybe there's a lesson here."

The former mayor said it's too early to speculate on a race.

"But it (the poll) does make a good birthday present," he said. Goddard turned 46 today.

The poll also showed that 68 percent of respondents approved of the job Symington is doing. Only 32 percent disapproved.

The governor's approval rating has risen sharply since August, when it stood at 43 percent.

"The governor's tough stance on holding down state spending and the lack of negative news on his personal finances appear to have helped him restore a sense of confidence among the voters in his performance," pollster Bruce Merrill said.

DeConcini's approval rating fell sharply as he came under fire a few years ago for his intervention with federal thrift regulators in behalf of Charles H. Keating Jr. Keating has been convicted of fraud.

The KAET poll said that DeConcini's approval rating was 57 percent, compared with 89 percent for Secretary of State Dick Mahoney, a potential primary challenger.

The telephone poll of 368 registered voters was conducted Jan. 23-24.

Contributing to this article was Mary Jo Pitzl of The Arizona Republic.

94043522973



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 18, 1993

Steve Owens, Chairman  
Arizona State Democratic Committee  
1509 North Central Avenue  
Suite 100  
Phoenix, AZ 85004

RE: MUR 3747

Dear Mr. Owens:

This letter acknowledges receipt on March 11, 1993, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Honorable Jon Kyl, the Jon Kyl Re-election Committee and Clarence A. Delong, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3747. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in cursive script, appearing to read "Abigail A. Shaine".

Abigail A. Shaine  
Assistant General Counsel

Enclosure  
Procedures

94043522974



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 18, 1993

Clarence A. Delong, Treasurer  
Jon Kyl Re-election Committee  
P.O. Box 10246  
Phoenix, AZ 85064

RE: MUR 3747

Dear Mr. Delong:

The Federal Election Commission received a complaint which indicates that Jon Kyl Re-election Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3747. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

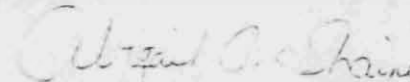
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

94043522975

Clarence A. Delong, Treasurer  
Jon Kyl Re-election Committee  
Page 2

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Abigail A. Shaine  
Assistant General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

940435222976



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 18, 1993

The Honorable Jon Kyl  
4442 E. Camelback Road  
#160  
Phoenix, AZ 85018

RE: MUR 3747

Dear Mr. Kyl:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3747. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

94043522977

The Honorable Jon Kyl  
Page 2

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Abigail A. Shaine*

Abigail A. Shaine  
Assistant General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

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RECEIVED  
FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL

93 APR 12 PM 3:31

**Jon Kyl**  
U.S. SENATOR

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FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

APR 12 11 49 AM '93

April 7, 1993

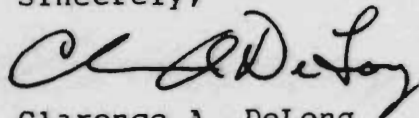
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 3747

Dear Sir:

Enclosed please find our Answer to the Complaint in the  
above-cited matter.

Sincerely,



Clarence A. DeLong  
Treasurer

Enclosure

BEFORE THE FEDERAL ELECTION COMMISSION  
OF THE UNITED STATES OF AMERICA

In the matter of:

Jon Kyl Re-Election Committee and  
Representative Jon Kyl

RE: MUR 3747

ANSWER TO THE COMPLAINT OF THE ARIZONA DEMOCRATIC COMMITTEE

NOW COMES, Clarence A. DeLong, treasurer of the Jon Kyl Re-Election ("Re-Election Committee") and submits the following Answer to the Complaint filed by the Arizona State Democratic Committee regarding certain campaign activity of the Jon Kyl Re-Election Committee.

Allegations

The Complainant maintains the activities of Representative Jon Kyl and the Re-Election Committee are violative of the Federal Election Campaign Act of 1971, as amended ("Act"), for two reasons:

1. Representative Jon Kyl has not employed the exploratory procedures established by the Act for purposes of conducting his pre-election activities with regard to the U.S. Senate. Representative Kyl is using his Re-Election Committee to support his election to the U.S. Senate. See Complaint p.3.
2. Representative Kyl is prohibited from transferring funds from the Re-Election Committee to the Friends of Jon Kyl Committee ("Friends Committee") because the donors to the Re-Election Committee did not intend to support his election activities with regard to the U.S. Senate.

Response to Allegation #1

The Complainant alleges Jon Kyl has not employed the exploratory procedures established by the Act for purposes of conducting his Senate election activities. Further, the Complaint proffers allegations of improper expenditures by the Re-Election Committee on behalf of the Senate candidacy without any offer of proof of any specific wrongful act.

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The Respondent offers the following factual information and supporting exhibits:

1. Pursuant to the provisions of 2 U.S.C. 431(2)(A), Jon Kyl is a candidate for nomination or election to two federal offices for the 1994 election cycle.
2. Jon Kyl Re-Election Committee is the principal campaign committee of Jon Kyl, incumbent member of the U.S. House of Representatives from the 4th District of Arizona.
3. On January 19, 1993, Jon Kyl filed a letter with the Secretary of the Senate announcing his U.S. Senate exploratory effort. The letter was accompanied by a completed FEC Form 1, Statement of Organization, establishing Friends of Jon Kyl Committee as his principal campaign committee. See Exhibit A.
4. On February 25, 1993, FEC Form 2, Statement of Candidacy, was filed with the FEC. An amended FEC Form 1 was also filed. See Exhibit B.

In light of the above information and documentation, it is clear Representative Kyl has complied with the exploratory committee procedures advocated by the Complainant. Not only had he complied with the exploratory committee procedures, he also registered the committee prior to his decision to become a candidate and has since converted his exploratory status to that of full candidacy.

It appears that the Complainant was not aware that Jon Kyl had filed his exploratory committee with the FEC and the Arizona Secretary of State. It does not appear that the Complainant was aware that Jon Kyl had also subsequently filed his Statement of Candidacy prior to the filing of this Complaint.

The Friends Committee has acted, pursuant to 2 U.S.C. 110.1(f), as the separate entity through which Senate campaign activity has been conducted. To directly refute the claims that funds raised were being improperly raised on behalf of the Senate effort, the following information and supporting exhibits are offered:

1. The Re-Election Committee has conducted fundraising activities subsequent to the November 3, 1992, general election. The revenue from those activities exceeded \$5,000. All expenses with that activity were paid from the Re-Election Committee.

2. All funds deposited to the Re-Election Committee were received as a result of solicitations made specifically on behalf of that committee. All solicitations included the language as required by 11 C.F.R. 110.11, indicating that the communication was paid for by the "Jon Kyl Re-Election Committee." All checks were directed to the "Jon Kyl Re-Election Committee." The invitation identified as Exhibit C in the Complaint supports this statement.
3. The Friends Committee has conducted fundraising activity on behalf of the candidacy of Jon Kyl for the U.S. Senate. All expenses associated with that activity were paid from the Friends Committee.
4. All funds deposited to the Friends Committee were received as a result of solicitations made specifically on behalf of that committee. Four solicitations have been used. All four have included the specific language required by 11 C.F.R. 110.11 in the solicitation and all checks have been directed to the "Friends of Jon Kyl Committee." One solicitation, already brought to the attention of the FEC with regard to the inadvertent omission of a disclaimer, was corrected upon discovery.
5. All receipts and expenditures for both committees will be fully disclosed on each committee's 1993 Mid-Year Report.

#### Response to Allegation #2

The Complainant also alleges that funds raised and deposited to the Re-Election Committee cannot be transferred to the Friends Committee because the donors did not intend to support Representative Kyl's candidacy for the U.S. Senate. The Complainant cites a number of provisions of the Act requiring evidence of donor intent. Specifically cited are re-designation of excessive contributions, designation of joint fundraising contributions as between participants and evidence of intent with regard to federal and non-federal election financing. Not one of the situations cited above is the same set of circumstances as those at issue in this Complaint.

Many of our elected officials become candidates and are elected while serving in another public office. The Act recognizes and expressly permits such concurrent candidacies in the provisions of 11 C.F.R. 110.2(f). The Act also permits the transfer of funds between federal committees of a candidate if the provisions of 11 C.F.R. 110.3(c) are met. The restrictions imposed under that section do not turn upon the original intent of the donor.

The FEC has recently considered this exact issue in its rulemaking process. The Commission on August 12, 1992, issued proposed changes to the Act requiring evidence of donor intent prior to the transfer of funds between federal committees of the same candidate. The Complainant has erroneously cited those proposed rules as authority for its position that evidence of donor intent controls the transfer of funds.

The FEC clearly stated its position regarding current law and the desired effect of the proposed changes:

Current regulations allow certain transfers between the federal campaign committees of candidates. Under 110.3(c)(4), transfers are permitted between a candidate's authorized committee for a past election and his or her authorized committee for a future election . . .

Under the proposed amendments, the transferring committee would be required to inform the contributors of the funds to be transferred of its intention to make the transfer, and exclude from the transfer the contributions of any contributor who does not provide written authorization for the transfer.

57 Fed. Reg. 36023

On December 10, 1992, the FEC declined to adopt the proposed rules. The decision not to adopt these changes was a result of the recommendation made by the General Counsel to the Commission, stating "the Commission should defer to Congress in this rulemaking proceeding." Document prepared by the General Counsel dated 11-10-92. The action by the FEC leaves the current provisions intact, which unequivocally permit the transfer of funds between federal committees of the same candidate without consideration of donor intent.

2 4 0 4 3 5 2 2 9 8 4

To the extent that excess campaign funds from the pre-November 4 period have been or will be transferred to the Friends Committee, all provisions governing such transfers will be strictly observed. Funds received by the Re-Election Committee on or after November 4, 1992, will only be transferred if 1994 contribution limitations permit such transfer. A program is in place to ensure that no donor to both the Re-Election Committee and the Friends Committee exceeds the appropriate contribution limit of \$1,000 or \$5,000 per election. All funds transferred will be fully disclosed.

There have not been any requests for refunds from the Re-Election Committee as a result of Representative Kyl's candidacy for the U.S. Senate. If any such request for a refund should be received, it will be immediately honored even though such action is not legally required.

Request to Find No Reason to Believe

Respondent respectfully requests the Federal Election Commission find no reason to believe a violation of the Act has occurred for the following reasons:

1. Pursuant to the provisions of the Act, Jon Kyl is a candidate for nomination or election to more than one federal office as specifically permitted by 2 U.S.C. 441(a)(5) 11 C.F.R. 110.3(c)(5).
2. In establishing and registering the "Friends of Jon Kyl Committee" with the FEC on January 19, 1993, Jon Kyl satisfied the requirements of 11 C.F.R. 110.1(f) to operate a separate committee for purposes of conducting election activities with regard to his candidacy for the United States Senate.
3. On December 10, 1992, the FEC specifically rejected the proposed rules cited by the Complainant in its March 4, 1993, Complaint. The Commission's failure to adopt the proposed rules maintains the current policy to permit the transfer of funds between federal committees of the same candidate without regard to donor intent.

The above statements are true and correct to the best of my knowledge, information and belief.

Respectfully submitted,

Clarence A. DeLong  
Clarence A. DeLong, Treasurer  
Jon Kyl Re-Election Committee

Subscribed and Sworn before me this 7th day of April, 1993.

JEROME R. JONES, Notary Public  
MARICOPA COUNTY, STATE OF ARIZONA  
MY COMMISSION EXPIRES 05-31-95

Jerome R. Jones  
Notary Public

94043522985

**Jon Kyl**

*Exhibit A*  
*(p1 of 2)*

January 19, 1993

Secretary of the Senate  
Office of Public Records  
232 Hart Senate Office Building  
Washington, DC 20510-7116

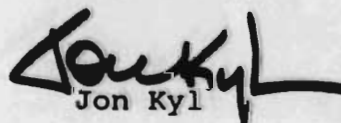
Dear Mr. Secretary:

I am contemplating a run for the United States Senate as a Republican from the State of Arizona in 1994, and I believe I will raise and spend more than \$5,000.00 for my exploratory effort. While I have not yet decided to place my name on the ballot as an official candidate, I do wish to comply with the Federal Election Campaign Act's definition of "candidacy." In order to do so, I am filing this letter out of an abundance of caution in lieu of FEC Form 2.

I am doing so as an advocate of full disclosure in order to comply not only with the letter but also with the spirit of the federal election laws. However, this should not be viewed as an announcement of my candidacy for the U.S. Senate.

In the event that I do, in fact, decide to run for the Senate in 1994, the Friends of Jon Kyl Committee, P.O. Box 10246, Phoenix, AZ 85064-0246 is designated my principal campaign committee. The statement of organization for this committee is attached.

Sincerely,

  
Jon Kyl

Inclosure

94043522986

# STATEMENT OF ORGANIZATION

(See reverse side for instructions)

Exhibit A  
(p 2 of 2)

1. (a) NAME OF COMMITTEE IN FULL Friends of Jon Kyl Committee	<input type="checkbox"/> (Check if name is changed)	2. DATE January 19, 1993
(b) Number and Street Address Post Office Box 10246	<input type="checkbox"/> (Check if address is changed)	3. FEC IDENTIFICATION NUMBER
(c) City, State and ZIP Code Phoenix, AZ 85064-0246		4. IS THIS STATEMENT AN AMENDMENT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

## 5. TYPE OF COMMITTEE (Check one)

- ☒ (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- ☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- |                                 |   |                              |                           |
|---------------------------------|---|------------------------------|---------------------------|
| Name of Candidate<br>Jon L. Kyl | Candidate Party Affiliation<br>Republican | Office Sought<br>U.S. Senate | State/District<br>Arizona |
|---------------------------------|---|------------------------------|---------------------------|
- ☐ (c) This committee supports/opposes only one candidate \_\_\_\_\_ and is NOT an authorized committee.  
(name of candidate)
- ☐ (d) This committee is a \_\_\_\_\_ committee of the \_\_\_\_\_ Party.  
(National, State or subordinate) (Democratic, Republican, etc.)
- ☐ (e) This committee is a separate segregated fund.
- ☐ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship

### Type of Connected Organization

☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Cooperative

## 7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name	Mailing Address	Title or Position
Clarence A. DeLong	3811 E. Solano Drive, Paradise Valley, AZ 85253 (602) 956-7832	Treasurer

## 8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name	Mailing Address	Title or Position
Clarence A. DeLong	3811 E. Solano Drive, Paradise Valley, AZ 85253 (602) 956-7832	Treasurer
Terry B. Sarvas	3101 N. Central Ave., #1100, Phoenix, AZ 85012 (602) 241-1200	Asst. Treas.

## 9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.	Mailing Address and ZIP Code
First Interstate Bank of Arizona	5151 N. 44th Street, Phoenix, AZ 85018

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

TYPE OR PRINT NAME OF TREASURER Clarence A. DeLong	SIGNATURE OF TREASURER <i>Clarence A. DeLong</i>	DATE 1-19-93
---	---	-----------------

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

				For further information contact: Federal Election Commission Toll-free 800-424-9530 Local 202-376-3120
--	--	--	--	---

FEC FORM 1  
(revised 4/87)

94043522987

# STATEMENT OF CANDIDACY

(see reverse side for instructions)

Exhibit B  
(p 1 of 3)

1. (a) Name of Candidate (in full) Jon L. Kyl			2. Identification Number C00279521 (S4AZ00030)
(b) Address (number and street) <input type="checkbox"/> Check if address changed 4442 E. Camelback Road, #160			
(c) City, State, and ZIP Code Phoenix, AZ 85018			
3. Party Affiliation Republican	4. Office Sought U.S. Senate	5. State & District of Candidate Arizona	

## DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1994 election(s).  
(year of election)

NOTE: This designation should be filed with the appropriate office listed below.

(a) Name of Committee (in full) Friends of Jon Kyl Committee	C00279521
(b) Address (number and street) Post Office Box 10246	
(c) City, State and ZIP Code Phoenix, AZ 85064-0246	

## DESIGNATION OF OTHER AUTHORIZED COMMITTEES

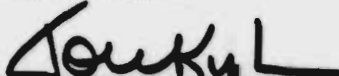
(Including Joint Fundraising Representatives)

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)
(b) Address (number and street)
(c) City, State and ZIP Code

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

Signature of Candidate 	Date 2-25-93
---	-----------------

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g

### CANDIDATES FOR THE OFFICE OF:

<b>President mail to:</b>	<b>U.S. Senate mail to:</b>	<b>U.S. House of Representatives mail to:</b>	<b>For further information contact:</b>
Federal Election Commission 999 E Street, N.W. Washington, DC 20463	Secretary of the Senate Office of Public Records 232 Hart Senate Office Bldg. Washington, DC 20510-7116	Clerk of the House of Representatives Office of Records and Registration 1036 Longworth Office Bldg. Washington, DC 20515-6612	Federal Election Commission Toll-free 800/424-9530 Local 202/376-3120

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94043522988

# STATEMENT OF ORGANIZATION

(See reverse side for instructions)

Exhibit B  
(p 2 of 3)

1. (a) NAME OF COMMITTEE IN FULL Friends of Jon Kyl Committee	<input type="checkbox"/> (Check if name is changed)	2. DATE February 26, 1993
(b) Number and Street Address Post Office Box 10246	<input type="checkbox"/> (Check if address is changed)	3. FEC IDENTIFICATION NUMBER C00279521
(c) City, State and ZIP Code Phoenix, AZ 85064-0246		4. IS THIS STATEMENT AN AMENDMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

## 5. TYPE OF COMMITTEE (Check one)

- ☒ (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- ☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- |                                 |   |                              |                           |
|---------------------------------|---|------------------------------|---------------------------|
| Name of Candidate<br>Jon L. Kyl | Candidate Party Affiliation<br>Republican | Office Sought<br>U.S. Senate | State/District<br>Arizona |
|---------------------------------|---|------------------------------|---------------------------|
- ☐ (c) This committee supports/opposes only one candidate \_\_\_\_\_ and is NOT an authorized committee (name of candidate)
- ☐ (d) This committee is a \_\_\_\_\_ committee of the \_\_\_\_\_ Party (National, State or subordinate) (Democratic, Republican, etc.)
- ☐ (e) This committee is a separate segregated fund.
- ☐ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship
Jon Kyl Re-Election Committee C00197137	Post Office Box 10246 Phoenix, AZ 85064-0246	Affiliated

### Type of Connected Organization

☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Cooperative

## 7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name	Mailing Address	Title or Position
Clarence A. DeLong	3811 E. Solano Drive, Paradise Valley, AZ 85253 (602) 956-7832	Treasurer

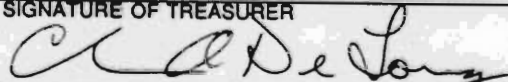
## 8. Treasurer: List the name and address (phone number -- optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name	Mailing Address	Title or Position
Clarence A. DeLong	3811 E. Solano Drive, Paradise Valley, AZ 85253 (602) 956-7832	Treasurer
Terry B. Sarvas	3101 N. Central Ave., #1100, Phoenix, AZ 85012	Asst. Treas.

## 9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc.	Mailing Address and ZIP Code
See attached sheet.	

I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.

TYPE OR PRINT NAME OF TREASURER Clarence A. DeLong	SIGNATURE OF TREASURER 	DATE Feb. 26, 1993
---	--	-----------------------

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

				For further information contact: Federal Election Commission Toll-free 800-424-9530 Local 202-376-3120
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FEC FORM 1  
(revised 4/87)

94043522989

Attachment to FEC Form 1

Block 9. Banks or Other Depositories:

First Interstate Bank of Arizona  
5151 N. 44th Street  
Phoenix, AZ 85018

Valley National Bank  
44th Street & Camelback  
Phoenix, AZ 85018

Bank of America, Arizona  
4402 E. Camelback  
Phoenix, AZ 85018

Great American Bank  
3200 E. Camelback  
Phoenix, AZ 85018

Biltmore Investors Bank  
2425 E. Camelback, Ste. 100  
Phoenix, AZ 85016

Rio Salado Bank  
1400 E. Southern Avenue  
Tempe, AZ 85282

Primerit Bank  
1846 E. Camelback  
Phoenix, AZ 85016

Norwest Bank, Arizona  
5090 N. 40th Street  
Phoenix, AZ 85018

94043522990

RECEIVED  
FEDERAL ELECTION COMMISSION  
93 APR - 1 PM 3:53

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3747

NAME OF COUNSEL: Sue Wadel

ADDRESS: 320 1st Street, SE  
Washington, DC 20003

TELEPHONE: ( 202 ) 479-7025

The above-named individual is hereby designated as my --  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf  
before the Commission.

March 25, 1993  
Date

Clarence A. DeLong  
Signature

RESPONDENT'S NAME: Clarence A. DeLong, Treasurer

ADDRESS: Jon Kyl Re-Election Committee  
P.O. Box 10246  
Phoenix, AZ 85064

TELEPHONE: HOME ( 602 ) 956-7832

BUSINESS (  ) N/A

94043522991

GENERAL COUNSEL'S REPORT, DATED APRIL 5, 1994,  
AND CERTIFICATION OF COMMISSION VOTE, DATED MAY 5, 1994,  
ARE FILED AT THE FOLLOWING MICROFILM LOCATION:

MUR ROLL: 352

FRAMES: 2832-2847

94043522992



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 6, 1994

Steve Owens, Chairman  
Arizona State Democratic Committee  
1509 North Central Avenue  
Suite 100  
Phoenix, AZ 85004

RE: MUR 3747

Dear Mr. Owens:

On March 11, 1993, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on June 3, 1994. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

94043522993

MUR 3747

JON KYL RE-ELECTION COMMITTEE

The Arizona State Democratic Committee filed a complaint alleging that Congressman Jon Kyl was a candidate for Senate and had failed to register an exploratory committee or an authorized campaign committee for his Senate candidacy. The complaint alleges that the Jon Kyl Re-election Committee was raising funds for Mr. Kyl's Congressional re-election with the intent to later transfer the funds to his Senatorial committee and that the Congressional re-election committee failed to give contributors written notice of its intent to use their contributions for the Senate race.

In response to the complaint, the Committee indicates that on January 18, 1993, Congressman Kyl filed a Statement of Organization and letter announcing his exploratory effort with the Secretary of the Senate and on February 25, 1993, Congressman Kyl filed a Statement of Candidacy and amended Statement of Organization establishing the Friends of Jon Kyl as his principal campaign committee. The Committee states that Congressman Kyl met all necessary requirements by registering his Senatorial committee prior to his decision to become a candidate and later converting his exploratory status to that of a full candidate. The Committee also states that Commission regulations allow concurrent candidacies and the transfer of funds between federal committees of the same candidate without evidence of donor intent.

There is no evidence that the activity at issue had a significant impact on the process and there is no indication of serious intent to violate FECA.

9404352294



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

June 6, 1994

Sue Wadel, Esq.  
320 First Street, SE  
Washington, DC 20003

RE: MUR 3747  
Jon Kyl Re-Election Committee and  
Clarence A. Delong, as Treasurer

Dear Ms. Wadel:

On March 18, 1993, the Federal Election Commission notified your clients, the Jon Kyl Re-Election Committee ("Committee") and Clarence A. Delong, as treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your clients. See attached narrative. Accordingly, the Commission closed its file in this matter on June 3, 1994.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

94043522995

Sue Wadel, Esq.  
MUR 3747  
Page 2

If you have any questions, please contact Joan McEnery at  
(202) 219-3690.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

94043522996

MUR 3747

JON KYL RE-ELECTION COMMITTEE

The Arizona State Democratic Committee filed a complaint alleging that Congressman Jon Kyl was a candidate for Senate and had failed to register an exploratory committee or an authorized campaign committee for his Senate candidacy. The complaint alleges that the Jon Kyl Re-election Committee was raising funds for Mr. Kyl's Congressional re-election with the intent to later transfer the funds to his Senatorial committee and that the Congressional re-election committee failed to give contributors written notice of its intent to use their contributions for the Senate race.

In response to the complaint, the Committee indicates that on January 18, 1993, Congressman Kyl filed a Statement of Organization and letter announcing his exploratory effort with the Secretary of the Senate and on February 25, 1993, Congressman Kyl filed a Statement of Candidacy and amended Statement of Organization establishing the Friends of Jon Kyl as his principal campaign committee. The Committee states that Congressman Kyl met all necessary requirements by registering his Senatorial committee prior to his decision to become a candidate and later converting his exploratory status to that of a full candidate. The Committee also states that Commission regulations allow concurrent candidacies and the transfer of funds between federal committees of the same candidate without evidence of donor intent.

There is no evidence that the activity at issue had a significant impact on the process and there is no indication of serious intent to violate FECA.

94043522997



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 6, 1994

The Honorable Jon Kyl  
House of Representatives  
Washington, DC 20515

RE: MUR 3747

Dear Mr. Kyl:

On March 18, 1993, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on June 3, 1994.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Joan McEnery at (202) 219-3690.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

94043522998

MUR 3747

JON KYL RE-ELECTION COMMITTEE

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There is no evidence that the activity at issue had a significant impact on the process and there is no indication of serious intent to violate FECA.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3747

DATE FILMED 6-14-94 CAMERA NO. 2

CAMERAMAN JM/16

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