

MAINE STATE LEGISLATURE

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July 18, 1978

To: James M. Bowie, Commission on Governmental Ethics
and Election Practices

From: Steven Wright, Assistant Attorney General

Re: Political Campaign Contributions - Limits

This is in response to your June 18, 1978, request for the opinion of this office as to whether a person or political committee may, after a primary election, legally make contributions to a successful candidate in excess of the limitations set out in 21 M.R.S.A. § 1395, if the amount exceeding the limitation is utilized to defray primary election deficits.

21 M.R.S.A. § 1395 limits the amounts that may be contributed in support of the candidacy of one person in any election to \$1000 from an individual or \$5000 from a committee, corporation or association. "Election," as the term is used in 21 M.R.S.A. C. 35 is defined to include "any primary, general or special election for state or county offices," 21 M.R.S.A. § 1392, sub-§ 3. The primary and general elections and their corresponding campaigns are, therefore, separate and distinct from one another. (It should be noted that this distinction between the elections is emphasized throughout Title 21, with different laws governing such things as political activity and even eligibility to vote.)

The limitations on contributions set out in 21 M.R.S.A. § 1395 pertain to the amounts a person or committee may contribute in any election. The fact that an individual has contributed \$1000 to a candidate, or in support of the candidacy of one person, prior to the primary election in no way precludes that same individual from contributing up to another \$1000 to the same candidate (now a nominee) for the upcoming general election.

Your question goes more particularly to the legality of contributing an amount in excess of the \$ 1395 limitations to a successful candidate after the primary election, with only an amount within the limitation being designated for each of the elections. It is our opinion that a person may also contribute funds after a primary election for the purpose of extinguishing a candidate's primary election campaign debts or deficits, up to the \$ 1395 limitations, without diminishing his capability to contribute to that candidate's general election campaign.

21 M.R.S.A. § 1397, sub-§ 3, F. and sub-§ 4, D. require that campaign finance reports be continuously filed until surplus is disposed of or the deficit is liquidated. Both sections expressly refer to "contributions for the purpose of liquidating the deficit." Unsuccessful candidates must file these reports quarterly until their books are balanced, and successful primary candidates must incorporate this same information into their general election campaign finance reports. The language of these sections assumes that candidates probably will not have balanced their finances by election day or even by the date of their 35-day post-election report. These sections also assume that candidates and their committees will seek "contributions for the purpose of liquidating the deficit." Therefore, if a contributor donates money to a campaign solely for the purpose of extinguishing a candidate's post-primary election campaign debts, that contribution should not lessen his limitation for the contributions to that same candidate's general election.

It should be noted that whenever a person or committee contributes to a campaign, the limitations on aggregate contributions of \$ 1395 still apply and effect a ceiling on the amount that may be contributed for any particular election. That is, under no circumstances may a person contribute more than an aggregate of \$1000 nor may a committee, corporation or association contribute more than an aggregate of \$5000 with respect to any single election. For example, if John Doe had contributed \$500 to X's campaign prior to the primary election, he may not contribute over \$500 for the purpose of satisfying X's primary deficit after the primary election.

The candidates or their treasurers and the treasurers of the political committees authorized by the candidate should take especial care in all of their reports to segregate contributions received for the purpose of extinguishing primary election campaign deficits from the contributions received for the upcoming general election. 21 M.R.S.A. § 1397, sub-§ 3, F. and sub-§ 4, D. mandate that campaign "reports set forth any contributions for the purpose of liquidating the deficit." A contributor's aggregate totals are going to have to be watched very closely by the treasurers so

as to prevent the appearance of an illegal contribution in excess of the statutory limitation. Further, each such contribution received by a committee "for the purpose of liquidating the deficit" left by the primary campaign should result in a concomitant, i.e., dollar for dollar, reduction of the amount of the deficit. After this deficit is liquidated, no contributions can be accepted by the candidate or his committee for any purpose related to the primary election.



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