Election Laws re Candidates
21 MRSA 1392
21 MRSA 1395
21 MRSA §1395-6

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To: David Bussey, Commission on Governmental Ethics and Election Practices

From: Donald G. Alexander, Deputy Attorney General

Re: Reporting of Loans and Loan Repayments.

This responds to your request for an opinion as to the proper method for reporting of loans made by a candidate to a political committee. Specifically, you have asked:

1. How does a candidate report a loan made by him to his own committee?

2. How does the committee report the loan?

3. How is the loan reported when it is paid off?

DISCUSSION:

The question of making loans to candidates through committees may arise because of provisions of the campaign reporting and financing law which exempt loans to candidates, but not loans to committees from a definition of "contribution." 21 M.R.S.A. § 1392-2-A.* Because of this provision, banks may be reluctant to make loans to candidates which are in excess of the specified corporate contribution limits, 21 M.R.S.A. § 1395-2. Accordingly, candidates seeking loans from banks in amounts in excess of $5,000 may be expected to seek the loan in their status as candidates

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* This occurs because the definition of "candidate" specified at 21 M.R.S.A. § 1-4-A appears to limit the definition to a person running for office and excludes committees in support of that person. The election law further appears to recognize a distinction between candidates and committees at 21 M.R.S.A. § 1393, sub-§ 1 (relating to candidates) and sub-§ 2 (relating to candidates' authorized committees).

as that term is defined at 21 M.R.S.A. § 1-4-A and then turn the proceeds of the loan over to their political committee for actual use.

With this background, the responses to your questions follow:

1. A candidate should report a loan made by the candidate to an authorized political committee of the candidate as an expenditure. The term "expenditure," 21 M.R.S.A. § 1392-4, is defined to include loans except loans made directly from a financial institution to a candidate. (Parenthetically, it should be noted that the candidate would have to report the loan in a personal report filed by the candidate as the loan would be in excess of $500 and thus required to be reported by 21 M.R.S.A. § 1397-6.)

2. The committee would report the loan as a loan from the candidate. It would report this in the same manner as it would report any other contribution, including loans. 21 M.R.S.A. § 1392-2-A.

3. The committee, when the loan is paid off, would report repayment of the loan to the candidate. The direct purpose of the repayment of the loan to the candidate should be specified, it may be construed as an expenditure, § 1392-4-A, or a transfer of funds, § 1392-4-C. As long as the statement is clear that a loan from a candidate is being repaid, the characterization under either one of those categories would appear to make little difference.

The candidate on receipt of funds from the political committee would then repay the loan to the financial institution in question and report such payment in the candidate's own filing with the Commission on Governmental Ethics and Election Practices.

The same principles as discussed above for loans from financial institutions would apply to loans from individuals or corporations. However, it must be emphasized that loans from individuals or corporations would be governed by the contribution limits specified at 21 M.R.S.A. § 1395, as such loans, unlike loans from financial institutions directly to candidates, are within the definition of contributions.

I hope this information is helpful.

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Deputy Attorney General

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