

MAINE STATE LEGISLATURE

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September 12, 1944

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To J. A. Mossman, Commissioner of Finance
From Abraham Breitbard, Deputy Attorney General

By your oral request after conference with me, participated in by the State Controller, with relation to Chapter 275 of the Public Laws of 1939, you ask whether, under the present method of handling federal funds, a report is necessary to be filed with the Controller. That section provides:

"The governor and every state officer and department head who shall be entrusted with the expenditure of federal funds in the State of Maine shall file in the office of the state controller a detailed report of all disbursements, including the purposes for which such disbursements were made and the persons to whom any money was paid, supported by proper vouchers, said report to be filed from time to time as such disbursements are made, and the final report to be filed within 30 days after the entire fund has been disbursed."

You called to my attention the fact that since this law was enacted no such report has ever been filed with the State Controller by any of the persons enumerated. In the course of this discussion it developed that since you have been in office no Governor, department head, or any other State officer has ever had the actual possession of any federal money, nor disbursed the same in his individual capacity; that all federal funds were deposited to the account of the Treasurer of State, and checks drawn thereon are supported by a voucher which gives the name of the person to whom payment is to be made, a statement showing for what payment is made, and this voucher is approved for payment by the State official or department head and filed with the Controller before the check is drawn by the Treasurer of State.

Your inquiry then was, in view of these facts, whether it would still be necessary for the State officer or department head to file a report with the Controller. It is quite obvious that such a report would not give the Controller any information which he did not already have, nor would it furnish or create a record which was not already in existence. This report, it would seem, would be a useless duplication of considerable detail which could serve no useful purpose.

I understand, however, that there is one exception and that is with relation to the Unemployment Compensation Commission. While the federal funds appropriated are deposited with the Treasurer of State, the checks are drawn by that office and the vouchers approving payment therefor are on file in that office. These vouchers show to whom payment is made and the purpose for which payment is made.

I am told that, prior to the time this law was enacted, federal funds were deposited by public officials to their own account or to a special account over which they had absolute control and from which they disbursed the fund without rendering an account therefor to the State government; and their position was that they were not accountable to the State government. Thus the State was not possessed of records or any information showing the expenditure of these moneys, nor was it able to obtain the same. This legislation was then enacted to remedy and take care of this situation.

Under the present set-up, as already noted, all moneys are deposited with the Treasurer of State, all checks are drawn upon a voucher giving all the information which the statute requires, and approved by the department head or public official having supervision over the expenditure. The records thus produced are the records of the State and not the records of any particular individual. These records are available as a public record to any person who is interested and who may desire to inspect the same.

While a literal reading of the statute would require the report, I don't believe that, in view of this method of disbursing these funds, it was the intent of the legislature that this duplication of the details in the way of report should be mandatory. I would suggest, however, that this law be clarified so as to except from its operation the cases where the fund is deposited with the Treasurer of State and any disbursement is drawn by check on the Treasury and supported by a voucher as hereinbefore described and approved for payment.

Abraham Breitbard
Deputy Attorney General

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