

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**R E P O R T**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1949 - 1950**

From a careful reading of the statute it becomes evident why you should ask this question, since it appears that the statute could be construed in that light. Of course, the procedure contemplated in your question could not be followed, if pursuant to Section 92-A, the town in taking action on the articles prescribed by that section had excluded the phrase "exclusive of refundings" in its third article.

Any comment that this office may have to make in the way of an interpretation of the meaning of the phrase is largely academic, since I can conceive of no circumstance under which, in this connection, an opinion from this office would have any official persuasive authority. Our reasons for this thought are that the point of law, if it arises, is bound to arise between the community school district trustees and the financial institution or institutions contemplating a loan to the district or the purchase of the district's bonds, whereupon as a practical rather than an academic matter the decision or interpretation will be reached by the attorneys for the financial organizations interested.

May I point out that the history of legislation in Maine, as well as court decisions, both with respect to municipalities and with respect to borrowings for State highways, is nearly uniformly along the line of placing limits on the borrowing authority and that unless the intention is clearly expressed to have no limit or loose limits, I should personally favor a construction resulting in a limit upon borrowing authority.

JOHN S. S. FESSENDEN  
Deputy Attorney General

May 29, 1950

To Honorable Frederick G. Payne, Governor of Maine  
Re: National Highway Safety

I have your memo of May 19th asking me to go over a letter which you had addressed to John M. Gleason, Chairman, State and Local Officials' National Highway Safety Committee, in answer to his letter of May 17th.

It is my opinion after reading his letter and your reply thereto that your statement is legally correct, that it would require legislative action, as we have no specific appropriation for the purpose in question.

While I feel that this is a meritorious service which the National Highway Safety Committee is performing, yet if the Governor and Council dip into the contingent fund to carry on private enterprises outside the State, even though they are meritorious and indirectly benefit the State, there would be no end of calls upon you from similar organizations to finance their support. However, in the seventh paragraph of Mr. Gleason's letter he states, "The Committee has been assured that such subscriptions by the States will be matched by Federal funds available for certain types of highway safety work in cooperation with the States. Full control of policies and activities, however, will be retained by representative State and local officials who compose the Committee."

Our statute is in reverse in regard to authorization for the State to accept Federal grants. Section 14 of Chapter 12 provides that the Governor and Council can accept Federal funds or any equipment, supplies or materials

apportioned under the provisions of Federal law. I understand that this association is private and not Federal. The Governor and Council are further authorized to direct departments of the State to which are allocated the duties involved in carrying out such State laws as are necessary to comply with the terms of the Federal Act authorizing the grants of Federal funds, supplies or equipment, and expend such sums of money and do such acts as are necessary to meet such Federal requirements. This activity, worthy though it is, does not come within the purview of our statute. If the Federal funds were available to our Highway Safety Division and we had to spend a little money to match said Federal funds or equipment, supplies and material, it could be done through our Highway Safety Director; but the way this is set up, the Federal Government is going to match the subscriptions of the States to private funds for the carrying out of this work of National and State Traffic Safety Conferences. . . .

RALPH W. FARRIS  
Attorney General

May 29, 1950

To Maurice G. Pressey, Chairman, Merit Award Board  
Re: Chapter 357, P. L. 1949

I have your communication of May 23rd, giving the history of the Merit Award Board legislation and calling my attention to Section 8 of the Act relating to the appropriation to carry out the provisions of the Act. You ask me if the unexpended appropriation balance on June 30, 1950, should lapse because of the provision in Section 23, Chapter 14, R. S. 1944.

You state that the Board has been operating under the impression that, since no specific amounts were designated for each of the fiscal years, the \$10,000 appropriation was to finance its activities for both years of the biennium, or until the next legislature provided it with regular appropriations; and should the unexpended balance be lapsed on June 30, 1950, the Board would be without funds for 1950-51 and the purpose of the Act would be defeated.

Chapter 357, P. L. 1949, which amended Chapter 59 of the Revised Statutes by adding four new sections to be numbered 6-A to 6-D, provided an appropriation from the general fund of the State in the sum of \$10,000 to carry out the provisions of Sections 6-A to 6-C, inclusive, of Chapter 59 of the Revised Statutes.

It is my opinion that it was the intent of the legislature that this appropriation, not having been set up in the general appropriation Act on a fiscal year basis, is for the purpose of carrying out the provisions and purposes of the Act and that no part of the \$10,000 should lapse so as to defeat the apparent intent of the legislature in carrying on this work which is set forth in said Chapter 357, P. L. 1949.

RALPH W. FARRIS  
Attorney General