

MAINE STATE LEGISLATURE

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October 1, 1957

To: Roland M. Berry, Budget Officer, Finance & Administration Dept.

Subj: Lapsing of Funds Transferred to Continuous Carrying Account

We have your request for an opinion as to the legal status of certain funds in the amount of \$7,150 which were transferred within the Department of Industry and Commerce, now the Department of Economic Development, from Appropriation #3920 to Appropriation #7715, by Council Order No. 343, dated June 28, 1957.

Appropriation #3920 was the amount of money allotted for the general operation of the Department. Appropriation #7715 was, at the time of transfer, a so-called continuous carrying account made up of funds received from municipalities in this State and federal matching funds, these funds to be used for Urban Planning and Renewal. Appropriation #7715 did not contain any State funds at the time of transfer, as no money had been appropriated for this purpose by the 97th Legislature.

Assuming, without deciding, that at the time of transfer there was legislative authority for using moneys appropriated for the Department of Industry and Commerce for such purpose, i.e. Urban Planning and Renewal on a matching-fund basis, this authority was limited to the transfer of money to be expended in the fiscal year ending June 30, 1957. No part of this sum was expended in that fiscal year, nor was it encumbered within the meaning of that term. See Opinion of Attorney General to Raymond C. Mudge, July 10, 1953, re Encumbrances, and by virtue of the Appropriation Act, Chapter 181 of the Private and Special Laws of 1955, this sum lapsed to the Unappropriated Surplus.

The fact that this sum was transferred to a continuous carrying account does not prevent the sum from lapsing. To hold otherwise would mean that an administrative transfer to a continuous carrying account would overcome the direct and positive mandate of the Legislature expressed in the appropriation act.

rap/m

Roger A. Putnam
Assistant Attorney General

cc: Governor Edmund S. Muskie
H. H. Harris, State Controller
Frederick Clough, Commissioner of Dept. of Economic Development
Sulo Tani, Director of Research & Planning Division