

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

**ATTORNEY GENERAL**

for the calender years

1965 - 1966

David H. Stevens, Chairman

July 1, 1965  
Highway

Carrying or Lapsing of Funds.

**FACTS:**

Chapter 306 of the Public Laws of 1963 authorizes the construction of access roads to ski areas. The Act provides, inter alia, that: "The cost of construction shall be paid 50 per cent from the General Highway Fund, 25 per cent from the municipality and county if the road is located in whole or in part in unorganized township or townships, and 25 per cent from the owner or owners of the ski area involved." (The Act appears in 23 M.R.S.A. § 703.)

The Private and Special Laws passed by the 101st Legislature allocated \$25,000 for each of the fiscal years ending June 30, 1964 and June 30, 1965, for the construction of: "access roads-ski areas"; placing such sums in the Department of "Highway and Bridges". *P. & S., 1963, c. 167*. It is provided in the Maine Statutes that unexpended balances of the General Highway Fund which were set up for general construction and maintenance of highways and bridges shall be deemed non-lapsing carrying accounts.

"Such unexpended balances of the General Highway Fund as have been set up for general construction and maintenance of highways and bridges shall be deemed non-lapsing carrying accounts. All other unexpended balances shall lapse into the General Highway Fund at the end of such fiscal period but shall not lapse or be transferred to the general fund in the Treasury." *23 M.R.S.A. § 1652*.

**QUESTION:**

Is the allocation for "Access Roads-Ski Areas" a lapsing or carrying account?

**ANSWER:**

It is a non-lapsing carrying account.

**REASON:**

At the outset, we note that the 102nd Legislature amended P. L., 1963, c. 306 (now appearing in 23 M.R.S.A. § 703, as amended) by enlarging said provision so that the same also includes authorization for the construction of access roads to public industrial development areas. *P. L., 1965, c. 388*. Further, the same session of the Legislature also allocated a sum of \$25,000 for the fiscal years ending June 30, 1966 and June 30, 1967 for the purpose of meeting the expenses incident to the construction of; "access roads-ski and industrial areas." *P. & S., 1965, c. 152*. Thus, although the Legislature added a further expense factor, i.e. access roads to industrial areas, the amount of the allocation for the next two fiscal years was established at the same figure allocated for the past two fiscal years.

We view any unexpended balances of the General Highway Fund, which the Legislature has established for the purpose of constructing access roads to ski areas, as non-lapsing carrying accounts; and do establish the reference position upon *23 M.R.S.A. § 1652* (quoted above in part).

JOHN W. BENOIT  
Assistant Attorney General