

MAINE STATE LEGISLATURE

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August 9, 1965

Maynard C. Dolloff, Commissioner Agriculture
Phillip M. Kilmister, Assistant Attorney General
Investment of Maine Potato Commission funds.

QUESTION:

May excess funds in a special revenue account of the State of Maine which represent the repository of potato tax revenue be invested by the Maine Potato Commission?

ANSWER:

No.

It is not entirely accurate to refer to potato tax revenue as Maine Potato Commission funds. Money derived from the imposition of a tax on potatoes raised in the State of Maine represents public revenue and as such, may be invested only by the proper custodian of such revenue, the State Treasurer. The deposit of state funds and the limitations pertaining thereto is clearly set forth in 5 M.R.S.A. § 135, part of which is set forth below:

* * * * * When there are excess moneys in the State Treasury which are not needed to meet current obligations he [State Treasurer] may, with the concurrence of the State Controller or the Commissioner of Finance and Administration and with the consent of the Governor and council, invest such amounts in bonds, notes, certificates of indebtedness or other obligations of the United States of America which mature not more than 24 months from the date of investment. Interest earned on such investments of moneys shall be credited to the respective funds, except that interest earned on investments of special revenue funds shall be credited to the General Fund of the State * * * ."

It is entirely possible that our legislature might see fit to invest the Maine Potato Commission with investment powers now exercisable solely by the Treasurer of State. This office offers no opinion as to the wisdom of such a legislative enactment however.

Phillip M. Kilmister
Assistant Attorney General

FMB/eh