

MAINE STATE LEGISLATURE

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November 19, 1975

Honorable Jerrold B. Speers
Chairman, Legislative Council
State House
Augusta, Maine 04330

Dear Senator Speers:

On September 25, 1975, Suzanne Havens, then Chief of Legislative Assistants, wrote to this office requesting our opinion on the question of whether the Legislative Council may accept Ford Foundation grant funding for a study of the procedures used in establishing property valuation for tax purposes. The Council has chosen to assign the study to the Joint Standing Committee on Taxation, as authorized by Joint Order (S.P. 610). As noted in the letter, the Legislative Council does not have specific statutory authority to accept such grants. For this reason, the answer to the question is negative and would also be negative for any other legislative agency, such as the Office of Legislative Assistants or the Office of Legislative Research, which lacks specific authority for acceptance.

The Legislature itself has authority to accept gifts and grants for the State, as part of its inherent powers which have not been the subject of constitutional limitation. The Legislature may also delegate this authority by specific authorization, as it has done, for example, in the case of acceptance of federal grants and other grants, gifts, bequests, or conveyances for the State by the Governor and Council (2 M.R.S.A. §§ 4 and 5), acceptance of state and federal grants by counties (30 M.R.S.A. § 255), and acceptance of gifts of various types by municipalities (30 M.R.S.A. §§ 1903-1905). An even more relevant example of such delegation is the authorization to accept funds from many sources, including private foundations, which was included in the Joint Order (S.P. 610) authorizing the study in question. However, this fund acceptance authority was to be effective only if the Legislative Council established a Joint Select Committee on State Property Tax Valuation. Since the Council chose instead to utilize the Standing Committee on Taxation, the authorization is not a

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The Legislative Council is a statutorily constituted office of the Legislature, and its powers are specifically listed in 3 M.R.S.A. § 162. Joint Standing Committees are authorized by 3 M.R.S.A. § 165 and established by Joint Rule No. 1. In neither case is authority to accept funds granted, and since these powers are considered exclusive, no such authority exists at the present time. The same analysis applies to other legislative offices.

The alternatives we can suggest are: (1) legislative action to empower the Council to accept such grants, (2) acceptance of the foundation grant by the Governor and Council, or (3) a direct contract between the Ford Foundation and whatever outside professional is employed by the Joint Standing Committee on Taxation as authorized by S. P. 610.

If I may be of any further assistance, please let me know.

Sincerely,

JOSEPH E. BRENNAN
Attorney General

JEB/ec
cc: Office of Legislative Assistants