

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

April 7, 1976

Senator Walter W. Hichens
Senate Chairman, Health & Institutional Services Committee
and
Representative Harland C. Goodwin, Jr.
House Chairman, Health & Institutional Services Committee
State House
Augusta, Maine

Dear Senator Hichens and Representative Goodwin:

You have requested the opinion of this office as to whether subsection 4 of Section 3172-A of Title 22, as it appears in section 1 of L.D. 2238, H.P. 2068, violates the separation of powers provisions of sections 1 and 2 of Article III of the Maine Constitution. This is to advise that it is the opinion of this office that the provision in question is not violative of the separation of powers provisions of the Maine Constitution. We do not see in this legislation an encroachment by the Legislature into the executive branch of government. The legislature has merely retained an appropriate legislative power by its requirement that the Department of Human Services and the Department of Mental Health and Corrections submit a plan for expenditure of monies from the Mental Health and Mental Retardation Program Improvement Fund for approval by the legislature. The authority exemplified by this legislation appears in a variety of forms in legislative enactments historically undertaken by the legislature or presently operative.

Very truly yours,

Joseph E. Brennan
Joseph E. Brennan
Attorney General

JEB/a