

MAINE STATE LEGISLATURE

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Budget: Material To Be Included
5 M.R.S.A. 1664-1666
Budget: Treatment of Repeal proposals

30 M.R.S.A. 5056
Taxation: Inventories

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February 15, 1977

Honorable Richard J. Carey
House of Representatives
State House
Augusta, Maine

Dear Representative Carey:

This responds to your recent request for an opinion on the question of inclusion of certain funds in the Governor's budget.

FACTS:

Statutory Background:

In 1973 the 106th Legislature exempted inventory from property taxation. 36 M.R.S.A. § 655(1) A, B, C, and D (Supp. 1973). The Legislature, however, also imposed an additional state property tax on inventory for a three year period beginning April 1, 1974, and terminating March 31, 1977. 36 M.R.S.A. § 455 (Supp. 1973). Finally, the Legislature adopted a reimbursement program, 30 M.R.S.A. § 5056 (Supp. 1973), in which the Treasurer was required to reimburse municipalities for a sum equaling the amount of revenue derived from the 1973 tax on inventory less revenues derived from the tax imposed by § 455. Because the tax imposed by § 455 terminates as of March 30, 1977, the reimbursements for the tax year beginning April 1, 1977, would equal the full tax levied by a municipality on inventory in 1973.

Governor's Budget Document:

In his 1978-79 budget document, the Governor proposes a budget which does not include expenditures for reimbursements to municipalities under 30 M.R.S.A. § 3056 (Supp. 1973). Budget Document, 1978-79, vol. , p. . It should be noted, however, that the Governor also proposes the repeal of 30 M.R.S.A. § 5056 (Supp. 1973) in his Budget Document. Budget Document, 1978-79, vol. 1, p. 1-150.

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QUESTION:

Is the Governor required to include within his 178-79 Budget Document an amount of money necessary to reimburse municipalities pursuant to 30 M.R.S.A. § 5056 (Supp. 1973)?

ANSWER:

The Governor is not required to include within his 1978-79 Budget Document an amount of money necessary to reimburse municipalities pursuant to 30 M.R.S.A. § 5056 (Supp. 1973).

REASONING:

Pursuant to 5 M.R.S.A. § 1664 et seq. (Supp. 1976), the Governor is required to propose and submit to the Legislature a budget document. The budget document must set forth in detail both "proposed expenditures" and "anticipated revenues." Section 1664 et seq, however, does not limit the Governor in the types of expenditures which he may propose, except by the requirement that expenditures and revenues must balance. More specifically, § 1664 et seq does not require the Governor to include in his budget all expenditures required by existing statutes. Such a requirement, by obligating the Governor to recommend funding of all existing legislation, would severely restrict the Governor in establishing his own programs and priorities. It would unduly strain both the language of and any reasonable policy supporting § 1664 et seq to suggest that the Governor is required to propose in his budget the continued funding of all existing legislation. Moreover, a conclusion that the Governor is bound by prior legislation would have no practical effect, since the Legislature, which is not so bound, has the ultimate responsibility for passing an appropriations bill. The Supreme Judicial Court has held that "[o]ne legislature cannot impose a legal obligation to appropriate money on succeeding legislatures." Opinion of the Justices, 146 Me. 183, 189 (1951)." Maine State Housing Authority v. Depositors Trust Co., 278 A.2d 699, 707 (Me., 1971). Thus, the current Legislature would neither be bound by prior legislation nor by the Governor's budget document. The Legislature can itself repeal legislation requiring the expenditure of funds, and amend portions of the Governor's appropriation bill.

Sincerely,

JOSEPH E. BRENNAN
Attorney General

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