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20 M.R.S.A. 3754
Education School Budgets

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February 25, 1977

Honorable Elizabeth H. Mitchell
House of Representatives
State House
Augusta, Maine 04330

Dear Representative Mitchell:

This letter responds to your oral request for an opinion of this office concerning interpretation of L.D. 407, AN ACT TO EXTEND THE TIME DURING WHICH SCHOOL BUDGETS MAY BE ADOPTED. Your specific question is whether the language of the first sentence of the new section 3754 of Title 20, M.R.S.A., would require all municipalities, School Administrative Districts and Community School Districts to adopt their annual budgets prior to May 1, 1977, if the budget would normally be approved after that date in individual cases. The answer to your question is negative.

The first sentence of the new section 3754 would read "Notwithstanding any provisions of statute or charter to the contrary, municipalities, School Administrative Districts and community school districts may adopt their respective annual budgets at any time prior to May 1, 1977." In order for a statute or charter provision to be "contrary" to this provisions, it would have to require adoption of the budget prior to May 1. The specific exemption, therefore, would not apply in circumstances where statute or charter provisions require adoption of the budget after May 1. In other words, the new section would be permissive in allowing municipalities and districts to delay adoption of their budget until May 1, 1977 if they would otherwise have been required to adopt the budget before this date, while municipalities and districts which otherwise would approve their budgets after this date would continue to be governed by existing charter and statutory provisions.

This interpretation is supported both by the legislative intent expressed in the emergency preamble and by other language in section 3754. The emergency preamble clearly expresses a legislative intent that municipalities and school districts be allowed additional time in which to approve their budgets in light of the fact that the Legislature will consider amendments to the school funding laws. An interpretation of the first sentence of section 3754 which would require all municipalities and districts to approve their budgets prior to May 1, 1977 even though they would normally not have to adopt the budgets prior to that date, would be clearly contrary to the expressed legislative intent. In addition, the last sentence of the new section 3754, which concerns operation of automatic budget approval provisions, states that the extension provisions of the section would apply only in the case where the automatic approval date falls prior to May 1, 1977. The extension would not apply to automatic approval dates which fall after May 1, 1977. Since the provisions of the first and last sentence of the section should be interpreted harmoniously, it follows that municipalities and districts which normally would adopt their budgets after May 1 would be allowed to do so.

Sincerely,



S. KIRK STUDSTRUP
Assistant Attorney General

SKS:jg