

MAINE STATE LEGISLATURE

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Highway Fund (Uses, Town Roads)

Town Roads

Mc Court Cert. 9 8 19

23 M.R.S.A. 1703

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

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

June 13, 1977

Honorable Judy C. Kany
House of Representatives
State House
Augusta, Maine

Dear Representative Kany:

This responds to your request for an opinion as to whether the provisions of L.D. 1383, which identifies certain purposes for expenditure of highway revenues, violates the provisions of Article IX, Section 19 of the Maine Constitution. The provisions in question would allocate certain receipts from the Highway Trust Fund to winter maintenance, the town road improvement fund,* and summer maintenance.

Article IX, Section 19 of the Maine Constitution provides that all highway revenues shall be expended solely for the cost of highway limited activities including: "construction, reconstruction, maintenance and repair of public highways and bridges. . . . " The intended expenses specified by Section 10 (we believe it should be Section 12) of L.D. 1383 all falls within permissible categories of expenditure from the Highway Trust Fund. Accordingly, we see no inconsistency between L.D. 1383 and Article IX, Section 19 of the Maine Constitution.

* Although there have been some court opinions strictly construing the Highway Fund to limit its application to state roads, cf. Opinion of the Justices, 146 Me. 249 (1951), there never has been any serious question that town roads were included in acceptable uses for the Highway Fund. Prior to the effective date of Article IX, § 19, October 27, 1944, gas tax revenues were used for some town road improvements through use of special resolves. The Town Road Improvement Fund, 23 M.R.S.A. § 1703 was adopted in 1944, soon after the effectiveness of the constitutional amendment, P.L. 1945, c. 371. However, debate on Chapter 371 demonstrates that the Legislature intended to eliminate the special resolves for town roads and to assure distribution of some gas tax revenues generated on town roads for the maintenance and improvement of those roads, Legislative Record House, 1945, pp. 1079-1086, 1165-1170.

Hon. Judy C. Kany
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I hope this information is helpful to you.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

DGA/ec

cc: Rep. Donald A. Strout
Rep. James McBreairty