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*Ms. Court Act 9 sec 14
Debt Limits
Revenue Bonds*

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June 22, 1977

Honorable Lawrence P. Greenlaw, Jr.
House of Representatives
State House
Augusta, Maine 04333

Re: Revenue Bonding Authority

Dear Representative Greenlaw:

This responds to your request for an opinion as to whether it would be possible under Article IX, Section 14 of the Maine Constitution to adopt a statute authorizing issuance of revenue bonds to finance portions of the highway program currently maintained by the Maine Turnpike Authority.

Response to this request requires interpretation of Article IX, Section 14 which provides in pertinent part

"The credit of the State shall not be directly or indirectly loaned in any case, except as provided in Sections 14-A, 14-B, 14-C, 14-D, and 14-E."

Thus, it must be determined whether a statute which authorized issuance of revenue bonds and which expressly provided that, in issuance of those bonds, the credit of the State was not being pledged, would be constitutional. We conclude that it would be.

Article IX, Section 15 of the Maine Constitution, prior to its amendment in November of 1973, prohibited cities and towns from creating debts above certain set limits. In interpreting this prior language of Section 15, the Maine Supreme Judicial Court held that revenue obligations of municipalities, authorized pursuant to state law, did not constitute debt obligations of the municipalities, Northeast Shoe Co. v. Industrial and Recreational Finance Approval Board, 223 A.2d 432 (Me., 1966);* Opinion of the Justices, 210 A.2d 683 (Me., 1965)*. Presumably the same analysis which applied in these


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cases would apply to a similar statute relating to state revenue bonds which explicitly did not pledge the credit of the State.

In an analogous situation where repayment of bonds which did not pledge the credit of the State was contingent upon appropriations, the Court sustained a state law as not violative of the provisions of Article IX, Section 14, Maine State Housing Authority v. Depositors Trust Company, 278 A.2d 699 (Me., 1971).^{*} There the Court sustained what were, in effect, moral obligation bonds contingent on legislative appropriations. The suggested revenue bonding approach would be similar in effect. It would be a statute committing certain future revenues for certain specified purposes and governed by the doctrine that one Legislature could not bind a subsequent Legislature, Opinion of the Justices, 146 Me. 183 (1951). However, this doctrine does not affect the capacity of the Legislature to enact legislation pledging certain revenues to certain purposes where the legislation explicitly indicates that those purposes, for future years, do not constitute obligations of the State. The doctrine merely prohibits the enforceability of the commitment upon future legislatures.

In rendering this opinion we note that we comment solely on the constitutionality and legality of the steps suggested. We can provide no advice on such issues as marketability or other matters which might be affected by the lack of pledge of the State's credit and the standing doctrine that one Legislature cannot bind another with regard to statutory provisions and disposition of revenues.

Sincerely,



DONALD G. ALEXANDER
Deputy Attorney General

DGA:jg

* We should note that all of these cited cases involve issuance of bonds or notes by an authority independent of the State or a municipality, none involve direct issuance of bonds by the State or municipal government.