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STATE CAPITOL  
PHOENIX, ARIZONA

April 23, 1969

DEPARTMENT OF LAW OPINION NO. 69-13 (R-29)

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REQUESTED BY: DR. JOHN T. CONDON, Executive Director  
Board of Directors for Junior Colleges

QUESTION: May the Central Arizona Junior College District Board direct the Pinal County Treasurer to transfer the earned interest from the investment of bond proceeds and state aid contribution for capital outlay as monies available toward the payment of principal or interest as assets to be accumulated in the District's sinking fund?

ANSWER: Yes.

Prior to the enactment of Chapter 119, Laws of 1960, establishing our present state-wide system, the Junior Colleges in the state were either private schools, a part of a high school district, as authorized by A.R.S. § 15-601, et seq., or a County Junior College District, as provided by A.R.S. § 15-611, et seq. The law relating to school district boards was applicable to them. A.R.S. § 15-603.B. When the new law was enacted in 1960, it specifically provided for the issuance of district bonds by A.R.S. § 15-686 and A.R.S. § 15-696, et seq., but failed to provide for a sinking fund.

In early opinions by this office, issued after the enactment of Chapter 119, Laws 1960, we interpreted the new state-wide system as the exclusive state system available in Arizona to create a Junior College District, repealing by implication the old A.R.S. § 15-601, et seq. This position was overruled by the Arizona Supreme Court in Arizona State Board of Directors v. Phoenix Union High School District, 102 Ariz. 69, 424 P.2d 819. The Court's clarification of the law is helpful, for it permits the use of certain other sections of the Education Code, which were applicable to Junior Colleges before the 1960 law was enacted.

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One such section was A.R.S. § 15-1323, as amended, which reads as follows:

"A. The board of trustees of a school district, with the consent of the board of supervisors, may invest all money belonging or credited to the district as a sinking fund. The investment shall be made for the best interests of the district.

"B. The funds may be invested by the purchase of readily negotiable interest-bearing United States, state, county, school district or municipal bonds, or in farm loan bonds, consolidated farm loan bonds, debentures, consolidated debentures and other obligations issued by federal land banks or by federal intermediate credit banks under the authority of the federal farm loan act approved July 17, 1916, as now or hereafter amended (Title 12, U.S.C., §§ 636-1012 and §§ 1021-1129) or in bonds, debentures, consolidated debentures and other obligations issued by banks for cooperatives under the authority of the farm credit act of 1933, as now or hereafter amended (Title 12, U.S.C., §§ 1131-1138F) all of which, except United States bonds, shall have been issued within the state, on which the payment of interest has not been deferred. The purchase of the securities shall be made by the county treasurer upon authority of a resolution of the board of trustees, approved by the board of supervisors. The county treasurer shall be the custodian of all securities so purchased. The bonds may be sold upon an order of the board of trustees with the consent of the board of supervisors.

"C. All money earned as interest or otherwise derived by virtue of the provisions of this section shall be credited to the sinking fund."

Although this statute specifically applies to "the board of trustees of a school district. . .", it is our opinion that it includes a junior college district governing board (A.R.S.

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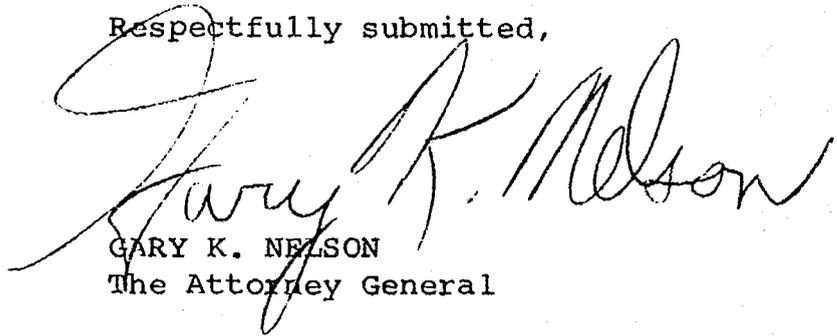
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§ 15-676.01) through the authority contained in A.R.S. § 15-603.B, which incorporates the common school board system through A.R.S. § 15-548, all as now authorized by the Phoenix Union case, supra.

The investment of the sinking fund, which could properly include the state aid contribution for capital outlay, is proper, and the interest earned can be applied toward payment of principal or interest due on outstanding bonds in the same manner as common school bonds.

Respectfully submitted,

A large, stylized handwritten signature in cursive script, appearing to read "Gary K. Nelson".

GARY K. NELSON  
The Attorney General

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