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ARIZONA ATTORNEY GENERAL

July 17, 1984

J. Elliott Hibbs
Chairman, Economic Estimates Commission
c/o Arizona Department of Revenue
State Capitol Building
Phoenix, Arizona 85007

Re: I84-101 (R83-183)

Dear Mr. Hibbs:

You have asked whether funds transferred pursuant to Ch. 9, § 10, 1983 Ariz. Sess. Laws (1st Reg. Sess.) ("Chapter 9") from a school district's capital levy fund to its maintenance and operation fund are to be included in the aggregate expenditure limitation for school districts established under Ariz. Const. Art. IX § 21. For the reasons set forth below, we conclude that capital levy funds which are converted to maintenance and operation funds are included in calculating the aggregate expenditure limitation.

Chapter 9 provides in paragraph B.1 for an alternative growth rate for fiscal year 1983-1984 and allows monies to be transferred from the capital levy fund to ~~be~~ the maintenance and operation fund under certain conditions. Ariz. Const., Art. 9, § 21 prescribes the method for calculating district expenditure limitations. The aggregate expenditure limitations are based upon expenditures from local revenues. Normally, capital levy funds are not considered local revenues as this provision states:

(d) For the purpose of subsection (2) of this section [relating to the calculation of school district fiscal year aggregate expenditure limitations], the following are also excluded from local revenues:

. . . .
(ii) Any amounts received from the capital
levy as authorized by law.

However, captial levy funds that are converted to
maintenance and operation funds are different. An examination
of Article 9 which defines the term "local revenues" and
specifies twelve categories of funds which are to be excluded
from the definition reveals that maintenance and operation
funds are not excluded from the definition. "Local revenues"
are defined as including:

all monies, revenues, funds, property and
receipts of any kind whatsoever received by
or for the account of a school or community
college district or any of its agencies,
departments, offices, boards, commissions,
authorities, councils and institutions,
except [twelve specific categories not
including maintenance and operation funds].

Since the twelve categories of monies to be excluded
from the definition are described with great specificity and
detail, we must conclude that the legislature expressly
intended to omit maintenance and operation funds from the list
of exclusions. Under the maxim of statutory construction
expressio unius est exclusio alterius -- the expression of one
thing indicates intent to exclude all items of the same class
not expressed --, the only reasonable conclusion to be drawn is
that maintenance and operation funds were intended to be
included in, rather than excluded from, the definition of
"local revenues." See Pima County v. Heinfield, 134 Ariz. 133,
654 P.2d 281 (1982).

Once the monies originally budgeted for the capital
levy fund are transferred to the maintenance and operation
fund, they lose their character as capital levy funds and
become monies expended for a completely different purpose,
viz., maintenance and operation. The narrow exceptions to the
definition of "local revenues" would be wholly circumvented if
capital levy monies, after being transformed into sums to be
expended for maintenance and operation, could nonetheless be
still excluded from the definition. The extremely broad
preliminary definition of "local revenues", coupled thereafter

J. Elliott Hibbs
July 17, 1984
Page 3

with the specific enumeration of twelve particular excluded categories, compels the conclusion that sums to be expended from maintenance and operation funds, regardless of the fact that they were formerly capital levy funds, must be included as "local revenues" in the calculation of the aggregate spending limit.

Sincerely,



BOB CORBIN
Attorney General

BC:pd