STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION By KRIS MAYES ATTORNEY GENERAL November 6, 2026	No. I26-004 (R26-004) Re: Approval of a Cash Deficit Property Levy Pursuant to A.R.S. § 15-992(G)(10)

To: James T. Giel, Gust Rosenfeld PLC, on behalf of Alhambra Elementary School District No. 68

Pursuant to A.R.S. § 15-253(B), this opinion affirms in part, revises in part, and declines to review in part the opinion that you prepared for the Alhambra Elementary School District No. 68 ("District") regarding approval of a cash deficit property levy requested under A.R.S. § 15-992(G)(10). That opinion is attached hereto as Appendix A.

Background

Each year, Arizona school districts must "fix, levy and assess the amount to be raised from primary property taxation and secondary property taxation." A.R.S. § 42-17151(A)(1). Once they have calculated the "entire amount to be raised by direct taxation for that year," each district must "fix and determine" the primary and secondary tax rates that will generate that amount. A.R.S. § 42-17151(A)(1). Primary property taxes are "all ad valorem taxes except for secondary property taxes." A.R.S. §§ 15-101(20). Secondary property taxes include "ad valorem taxes used to pay the principal of and the interest and redemption charges on any bonded indebtedness or other

lawful long-term obligation issued or incurred for a specific purpose by a school district" (i.e., bonds) and "amounts levied pursuant to an election to exceed a budget, expenditure or tax limitation," (i.e., overrides). A.R.S. § 15-101(25).

Relevant here, A.R.S § 15-992(G) permits the county school superintendent to "validate" certain "additional primary school district tax levy amount requests" from school districts. This includes validation of "a rate that would result in a levy that equals any separately stated cash deficit from the prior fiscal year resulting from an anticipated or actual deviation in the property tax roll," but only if the county board of supervisors first approves. A.R.S. § 15-992(G)(10).

The District experienced a cash deficit in fiscal year 2025 because the limited assessed property value within the District decreased between February and August 2024, causing the District to collect less tax revenue than the approved budget anticipated. *See* A.R.S. § 42-17151(A)(3) (tax rates are fixed based on property valuations "as determined by the assessor on or before February 10 of the tax year"). To remedy this shortfall, during the 2026 levy process, the District sought the Maricopa County Board of Supervisors' approval of an "additional primary school district tax levy amount" pursuant to § 15-992(G)(10). The additional levy sought to recoup the District's undercollection of both primary and secondary taxes—specifically, two voter-approved budget overrides—in the prior year. After review, the County approved an additional levy equal to the portion of the cash deficit attributable to undercollection of primary taxes only. The County concluded that § 15-992(G)(10) did not authorize an additional levy for a cash deficit arising out of secondary taxes.

Conclusion

We agree with your opinion as to its interpretation of A.R.S. § 15-992(G)(10) and its conclusion that the authorized additional primary school district tax levy amount can include "any

separately stated cash deficit" that results from a "deviation in the property tax roll" regardless of whether the deficit arose from undercollection of primary or secondary taxes. However, we disagree with your statement that subsection (G) "does not include any language limiting the [additional] levy to the immediately preceding prior fiscal year." By its plain text, subsection (G) authorizes an additional levy only for a "separately stated cash deficit *from the prior fiscal year*." A.R.S. § 15-992(G)(10) (emphasis added). Subsection (G) does not, however, require that the "deviation in the property tax roll" occur in the prior fiscal year. Subject to that clarification, we generally agree with your conclusion that "a school district may request an [additional primary tax] levy if anticipated or actual changes to the property tax roll caused a cash deficit in the prior fiscal year."

Finally, we decline to review and express no opinion regarding your subsidiary conclusion that "the Superintendent is required to recommend and the Board of Supervisors should approve the additional levy."

* * *

Kris Mayes
Attorney General

APPENDIX A

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September 9, 2026

Via E-Mail

Dr. Cecilia Maes
Superintendent
Alhambra Elementary School District No. 68
4510 N. 37th Avenue
Phoenix, Arizona 85019

Re: *Special Tax Levy for Cash Deficit*

Dear Dr. Maes:

On behalf of the Alhambra Elementary School District No. 68 of Maricopa County, Arizona (the "District"), you have posed several questions relating to a cash deficit property tax levy pursuant to A.R.S. § 15-992(G)(10) resulting from an "actual deviation in the property tax roll" as provided in the statute to recoup property tax revenue that should have been realized by the District in FY 2024-25.

This letter sets forth the legal opinion of this law firm regarding this cash deficit primary property tax levy. Pursuant to A.R.S. § 15-253(B), the District will forward this opinion to the Arizona Attorney General for formal review.

I. Question Presented

Do the Maricopa County School Superintendent and the Maricopa County Board of Supervisors have the authority, upon request of the District, to authorize an additional primary tax levy in a subsequent fiscal year in an amount equal to a cash deficit resulting from an actual deviation in the property tax roll, including amounts relating to an under levy for the District's outstanding school improvement bonds and currently authorized budget overrides.

II. Background

A.R.S. § 15-992(G)(10) permits the District to request an additional primary property tax levy to correct budgetary shortfalls using a variety of sources. That statute states, in relevant part, the following:

> G. At the time of levying taxes as provided in subsection E of this section, the county school superintendent shall annually validate any additional primary school district tax levy amount requests from each school district and levy the sum of the following amounts:
>
> . . .
>
> 10. On the recommendation of the county school superintendent and on approval by the county board of supervisors before adoption of tax rates pursuant to section 42-17151, a rate that would result in a levy that equals any separately stated cash deficit from the prior fiscal year resulting from an anticipated or actual deviation in the property tax roll, including resolutions or judgments pursuant to title 42, chapter 16, articles 5 and 6.

For purposes of analyzing the sources of authority for an additional property tax levy addressed by the statute, as it is useful to think of these sources as buckets, or portions, of a school district's overall budget.

It is also helpful to understand generally why these sources of authority exist. Much of a school district's budget is based on estimates. These estimates are then revised after the budget has been submitted. This is because the school district budget process and the county levy process move forward based on estimates, while actual amounts are often only known after the rate has been set.

A look at the required deadline spelled out in statute illustrates this issue. The County Assessor must provide taxing districts with the total net assessed values for each respective district, by February 10th of the tax year. A.R.S. § 42-17101(A). Taxing districts, including public school districts like the District, will then begin crafting their budget. Within that budget, a school district will estimate its Average Daily Membership ("ADM") (which impacts State Equalization Assistance) and Transportation Support Levels ("TSL") (which impacts the Transportation Revenue Control Limit ("TRCL")). These numbers by necessity are based on estimates, as ADM numbers from the Arizona Department of Education are not calculated until the end of fiscal year. The same goes for the TSL, which is provided to districts on July 15th. A school district's budget, however, must be submitted to the County Superintendent of Public Instruction on or before July 5th. A.R.S. § 15-905.

Furthermore, during the budget process the assessed valuation of the underlying property in the District may change as well, through appeals, error corrections, property tax judgements, and other changes to the property roll. The Board of Supervisors sets the tax rate on or before the third Monday in August, with the uncertainty outlined above as part of the school district's budget. A.R.S. § 42-3715(A).

The Arizona Legislature by statute has provided the District several avenues to correct for the errors in school district budgets inherent in creating those budgets using estimated numbers. It is not uncommon for a school district to under levy in any particular year, particularly when the August certified property values are less than the February preliminary

property values (for whatever reason) resulting in property tax rates set too low to support the approved budget amounts.[1]

The District timely requested that the County School Superintendent recommend to the County Board of Supervisors a special tax levy for such collection deficit. The request for amounts related to the District's outstanding bonds and overrides was denied on the grounds that A.R.S. § 15-992(G) does not specifically use the term "secondary tax", so the County did not believe the primary tax rate could address shortfalls associated with secondary taxes.

Given the pressing nature of this issue and the impact of this lack of funds for the District, the District is seeking a prompt legal opinion on behalf of itself and other school districts in the State that may find themselves in a similar situation through no fault of their own.

III. Legal Analysis

Although the special levy is assessed as a primary property tax, A.R.S. § 15-992(G)(10) permits a school district to levy for cash deficit resulting from a deviation in the property tax roll as a result of an under-levy of both primary and secondary property taxes. First, the statute provides no limitation to the contrary. Second, case law requires that school funding statutes be given liberal construction to avoid absurd results. And third, the largest factors in the District's cash shortfall result from its Maintenance and Operations Override ($1,244,617), District Additional Assistance Override ($586,467) and debt service on outstanding School Improvement Bonds ($344,883), all items related to the secondary tax rate.

The argument that a special tax levy on the primary tax rate may only be comprised of funding buckets based on the District's primary tax rate ignores the intent of the legislature and the language of A.R.S. § 15-992(G)(10). There is no provision in statute that prohibits override and bond assessments from being included in a special tax levy under A.R.S. § 15-992(G)(10). Reading such a limitation into the statutes is improper and would lead to absurd results.

Statutory construction requires that we "effectuate the legislature's intent as expressed in the statute's text." *Pima Cnty. v. State,* 258 Ariz. 11, 15 ¶ 23 (2024) (quoting *Silver v. Pueblo Del Sol Water Co.,* 244 Ariz. 553, 559 ¶ 22 (2018); *see also Sell v. Gama,* 231 Ariz. 323, 327, ¶ 16 (2013) ("Our goal in interpreting statutes is to give effect to the intent of the legislature."). Barring ambiguity or absurd results, statutory construction should focus on the "plain meaning of the legislature's chosen words, read within the overall statutory context." *Pima Cnty.,* 258 Ariz. at 15, ¶ 23 (internal quotations omitted).

[1] By way of background, limited assessed property value stated for FY 2024-25 for the District declined from $448,433,877 to $394,938,797 between the February 2024 preliminary values and the August 2024 certified values (a 13.50% reduction). This is a decrease of $53,495,080 against which property tax rates were set but tax revenue was not collected and resulted in a total adverse financial impact to the District of $3,105,337. Of such amount, $1,197,060: (i) may be recouped by the District through a State Aid correction process with the Arizona Department of Education, (ii) relates to debt services payments on outstanding bonds of the District and was levied in the subsequent year, or (iii) is being partially recouped by the District in the amount of $72,550 pursuant to a special tax levy requested by the District and approved by the Maricopa County Board of Supervisors, leaving a collection deficit in the amount of $1,835,727.

School funding "[s]tatutes relating to taxes should be given a liberal construction in order to effect the objects sought to be accomplished and promote justice." *Sanders v. Folsom,* 104 Ariz. 283, 286 (1969). That object is to serve the purpose of "rais[ing] the standards of education." *Id.* Finally, if a statute is susceptible to multiple interpretations, authorities should "adopt the one which is reasonable, and a construction should be avoided which would result in inconvenience or absurdity." *Isley v. Sch. Dist. No. 2 of Maricopa Cnty.*, 81 Ariz. 280, 286 (1956) (internal citations omitted).

Subsection G, under which (G)(10) quoted above falls, states: "At the time of levying taxes as provided in subsection E of this section, the county school superintendent shall annually validate any additional primary school district tax levy amount requests from each school district and levy the sum of the following amounts." A.R.S. § 15-992(G). The statute then provides ten subsections of amounts that can be levied. § 15-992(G)(1)-(10).

Two of the subsections require the County School Superintendent's "recommendation" followed by approval of the County Board of Supervisors. § 15-992(G)(8) and (10). The remaining eight subsections do not provide for any recommendation or approval process. Notably, there is no language allowing the Superintendent to withhold such recommendation. Giving effect to the Legislature's intent by following the plain meaning of the statutes, the Superintendent should validate and transmit an additional primary school district tax levy requested under § 15-992(G)(10) to the County Board of Supervisors.

Furthermore, a plain reading of subsection G does not include any language limiting the levy to the immediately preceding prior fiscal year or limiting the levy to items on the primary tax rate, as opposed to items on the secondary tax rate (such as bonds and overrides). Because the meaning of the plain language of the statute is clear, it would be inappropriate to read in limiting language that is not present. That would thwart, instead of effect, the intent of the Legislature to raise the standards of education.

In sum, a school district may request a levy if anticipated or actual changes to the property tax roll caused a cash deficit in the prior fiscal year. While these include changes from property tax appeals (article five) and property tax error corrections (article six) they are not limited to those sources.

A liberal construction is appropriate here, especially given the reality of the delay which can uncover dramatic shortfalls in the property tax roll. This reading is further supported by the plain language of the statute. Nothing therein says the cash deficit goes away if it is not requested for in a prior fiscal year. And the reality of the budget is that the cash deficit accrues from year to year. Since there is no clear language prohibiting levying an additional tax for changes to the property roll that may have accrued in a prior fiscal year, the Superintendent is required to recommend and the Board of Supervisors should approve the additional levy.

Although § 15-992(G) permits "any additional primary school district tax levy," there is nothing in the statute limiting the underlying cash deficit to only shortfalls with funding buckets based on the primary tax levy. In other words, a school district is permitted to request a special

tax levy on the primary rate for cash shortfalls associated with secondary tax rate items, such as Maintenance and Operations Overrides, District Additional Assistance Overrides and debt services on school improvement bonds. If that were not the case, school districts would be placed in the untenable position of possessing budget capacity and legal authority to spend to support its mission, while lacking the cash balance to spend to the legal limit. Further, such a shortfall in the property tax roll is not a single year problem. Such a shortfall continues into each fiscal year, thereby compounding and growing into an even larger shortfall. This leads to an absurd result. *Pima Cnty.*, 258 Ariz. at 15 ¶ 23.

IV. Conclusion

A school district's special levy request under A.R.S. § 15-992(G)(10) is meant to address cash deficit shortfalls accumulated from previous fiscal years and from under levies of both primary and secondary property taxes associated with deviations in the property tax roll. If the special levy request is not granted, or if it is granted in insufficient amounts, a school district will face the exact same problem next year. This is also a statewide problem that can occur anytime a deficit occurs through no fault of the school district.

The District can permissibly request up to $1,835,727 in an additional tax levy to account for the current cash deficit. The District's additional levy request is necessary to address accumulated cash deficits resulting from statutory timing differences and estimation variances and will serve to make the District whole for the voter-approved bonds and overrides.

Without approval, the District will continue to experience structural cash constraints that limit its ability to utilize its legally authorized budget and realize the full benefit of its voter-approved overrides. The County School Superintendent has the authority to recommend, and the Board of Supervisors has the authority to approve, the requested levy consistent with A.R.S. § 15-992.

Very truly yours,



James T. Giel
For the Firm

cc: Mary Curtin, Esq., Senior Litigation Counsel

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