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13 Attorneys for Plaintiff Pima County

14 IN THE SUPERIOR COURT OF ARIZONA  
15 ARIZONA TAX COURT

16 Pima County, a duly authorized political  
subdivision of the State of Arizona; and  
17 Tucson Unified School District No. 1, a  
duly authorized school district within Pima  
18 County, Arizona,

19 Plaintiffs,

20 vs.

21 State of Arizona, the Arizona Department  
of Revenue, the Arizona State Board of  
22 Education, and the Arizona Superintendent  
of Public Instruction,  
23

24 Defendants.

No.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

25 For its complaint herein, plaintiffs Pima County and Tucson Unified School  
26 District No. 1 ("TUSD") allege as follows:  
27  
28

1 **PARTIES, JURISDICTION AND VENUE**

2 1. Pima County is a duly organized county under the laws of the State of  
3 Arizona.

4 2. TUSD is a unified school district organized and operating pursuant to the  
5 laws of the State of Arizona, with its boundaries within Pima County, Arizona.

6 3. Defendant State of Arizona is a state of the United States of America.

7 4. Defendant Arizona Department of Revenue (“ADOR”) is an executive  
8 department of the State of Arizona that administers Title 42 of the Arizona Revised  
9 Statutes, including property taxes. A.R.S. § 42-1004.

10 5. Defendant Arizona State Board of Education is a public governing board  
11 of the State of Arizona that determines the policies of the Arizona Department of  
12 Education (A.R.S. § 15-231(B)(1)) and may “sue or be sued” (A.R.S. § 15-203(B)(2)).

13 6. Defendant Superintendent of Public Instruction is an elected official of the  
14 State of Arizona in whom is vested the “executive, administrative and ministerial  
15 functions” of the Arizona Department of Education. § 15-231(B)(2).

16 7. This action is a dispute between state agencies or political subdivisions  
17 relating to the application of the constitution and state statutes to a TUSD property tax  
18 levy for expenses incurred to comply with a desegregation decree pursuant to A.R.S.  
19 §15-910(G) and (L). Jurisdiction and venue in this court are proper. A.R.S. § 12-163(A).

20 **ALLEGATIONS COMMON TO BOTH CLAIMS FOR RELIEF**

21 8. Article IX, Section 18 of the Arizona Constitution limits the amount of ad  
22 valorem taxes that may be levied on residential property to 1% of full cash value, as  
23 determined by the county assessor for the county in which the property is located (the  
24 “**1% constitutional limitation**”). The only ad valorem taxes that are exempt from the  
25 1% constitutional limitation are taxes (a) levied to pay debt service on bonds or other  
26 types of indebtedness; (b) levied by a special-purpose district (e.g., improvement  
27 districts, flood control districts, etc.); and (c) authorized by an override election. Ariz.  
28 Const. art. IX, § 18(2).

1           9.     Each county is responsible for calculating the various levies on each item  
2 of property within the county, and billing and collecting ad valorem tax levies from the  
3 various taxing jurisdictions within the county in such a manner as not to violate the 1%  
4 constitutional limitation. A.R.S. § 42-17152 (county board of supervisors assesses and  
5 prepares bills for all the property taxes levied, but may not assess taxes in an amount  
6 that would violate the 1% constitutional limitation).

7           10.    When the ad valorem taxes levied on any parcel of residential property  
8 within a county, taken together, exceed the 1% constitutional limitation, A.R.S. 15-  
9 972(E) governs how the county must resolve the conflict among the various levies  
10 subject to the 1% constitutional limitation. That statute directs the board of supervisors  
11 to credit or reduce the total amount taxed to such property by an amount necessary to  
12 bring the total of the levies within the 1% constitutional limitation (the “**Subsection E**  
13 **Tax Reduction**”). Under the statute, the Subsection E Tax Reduction is apportioned  
14 entirely to the levy or levies of the school district within which the property is located,  
15 reducing the school district levy or levies by enough to bring the total of all levies, from  
16 all applicable jurisdictions, within the 1% constitutional limitation (the “**Subsection E**  
17 **Levy Reduction**”).

18           11.    Section 15-972(E) provides that an amount equal to any Subsection E  
19 Levy Reduction must be paid by the State to the county for the benefit of the school  
20 district as “additional state aid for education” (“**Subsection E Additional State Aid**”).<sup>1</sup>  
21 “Additional state aid for education” under § 15-972 (which includes amounts in addition  
22 to the Subsection E Additional State Aid; see footnote 1 above), along with state  
23 equalization assistance under A.R.S. § 15-971, is apportioned by the State Board of  
24

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25           <sup>1</sup> In addition to the “additional state aid for education” under § 15-972(E),  
26 qualifying school districts in Arizona receive “additional state aid for education” under §  
27 15-972(B), which—under § 15-972(D)—also reduces the tax bill for residential property  
28 owners. In fact, the subsection E calculations are applied to the residential-property-tax  
bills as already reduced under subsection D. The subsection B and subsection E amounts  
are both “additional state aid for education,” but Plaintiffs are here concerned  
specifically with what they will refer to as the “Subsection E Additional State Aid.”

1 Education and the Superintendent of Public Instruction under A.R.S. § 15-973; each  
2 county treasurer receives a monthly payment that it allocates among the school district  
3 in the county based on the State's apportionment report.

4 12. In addition to levies authorized by other statutes, § 15-910(G) permits  
5 school districts in Arizona to levy an ad valorem tax to cover expenses for activities  
6 undertaken to comply with a desegregation decree issued by a federal court (the  
7 "910(G) levy"). For FY 2018-19, TUSD properly budgeted and levied the amount of  
8 \$63,711,047 pursuant to § 15-910(G).

9 13. Although § 15-910(L) designates the 910(G) levy as a "secondary" tax,<sup>2</sup> a  
10 910(G) levy does not require voter approval, nor is it a debt-service levy.<sup>3</sup> The 910(G)  
11 levy is an ad valorem tax subject to the 1% constitutional limitation, and therefore must  
12 be included in the calculation of any Subsection E Tax Reduction and the corresponding  
13 Subsection E Levy Reduction and Subsection E Additional State Aid.

14 14. For FY 2018-19, Pima County determined that the total ad valorem levies  
15 subject to the 1% constitutional limitation on residential property within the boundaries  
16 of TUSD exceeded the 1% constitutional limitation by \$8,113,188.62. It therefore  
17 reduced the TUSD FY 2018-19 levies by that amount, and reduced TUSD homeowners'  
18 tax bills, as required by § 15-972(E). It also included that \$8,113,188.62 in the total  
19 TUSD "additional state aid for education" amount that it reported to ADOR under § 15-  
20 972(F).

21 15. On October 12, 2018, as required by § 15-972(H), ADOR reported its  
22 "additional state aid for education" calculations to the State Board of Education. The  
23 amount reported for TUSD does not include the \$8,113,188.62 of Subsection E  
24 Additional State Aid because ADOR incorrectly recalculated the total ad valorem tax  
25 levies subject to the 1% constitutional limitation *without including the 910(G) levy*.

26 <sup>2</sup> The language in subsection L was added to § 15-910 in the last Legislative  
27 session. 2016 Ariz. Sess. Laws, ch. 283.

28 <sup>3</sup> It also does not fall within the definition of a "secondary" property tax under  
A.R.S. §§ 42-11001(15) and 15-101(25).

1           16. As a result of the Subsection E Tax Reduction it calculated and applied to  
2 TUSD-homeowner tax bills, Pima County will not collect tax revenue from TUSD  
3 taxpayers in the full amount of TUSD's FY 2018-19 tax levies. And, because of  
4 ADOR's incorrect calculations, TUSD will not receive the shortfall from the State in the  
5 form of Subsection E Additional State Aid. It therefore will not have sufficient funds to  
6 cover the expenses it properly budgeted and is authorized to incur for FY 2018-19.

7           17. The State has wrongfully failed to pay amounts due to Pima County for  
8 the benefit of TUSD as Subsection E Additional State Aid.

9   **FIRST CLAIM FOR RELIEF: DECLARATORY JUDGMENT**

10           18. Plaintiffs incorporate herein by reference the allegations of paragraphs 1  
11 through 17 of this complaint, as if set out in full.

12           19. There exists an actual and justiciable controversy between Plaintiffs and  
13 Defendant.

14           20. Plaintiffs are entitled to a declaration that:

15                   (a) the 910(G) levy is subject to the 1% constitutional limitation, and  
16 must be included in the calculation of amounts exceeding the 1%  
17 constitutional limitation, and "additional state aid for education"  
18 under § 15-972(E).

19                   (b) The State is obligated to pay \$8,113,188.62 to Pima County for the  
20 benefit of TUSD as "additional state aid for education" under § 15-  
21 972(E) for FY 2018-19.

22   **SECOND CLAIM FOR RELIEF: INJUNCTION**

23           21. Plaintiffs incorporate herein by reference the allegations of paragraphs 1  
24 through 17 of this complaint, as if set out in full.

25           22. Unless this Court enjoins Defendants as set out below, Plaintiffs will  
26 suffer irreparable injury.

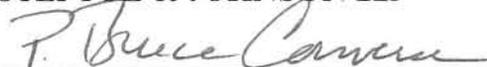
27           23. Plaintiffs are entitled to a preliminary and permanent injunction ordering  
28 the Defendants to correct the state-aid apportionment and pay an additional

1 \$8,113,188.62 to Pima County for the benefit of TUSD as “additional state aid to  
2 education” under § 15-972(E) for FY 2018-19.

3 WHEREFORE, Plaintiffs pray for a declaration of their rights as set forth herein;  
4 for an injunction ordering the State to pay an additional \$8,113,188.62 to Pima County  
5 for the benefit of TUSD as “additional state aid for education” for FY 2018-19; for their  
6 costs and attorneys’ fees incurred herein pursuant to applicable law, including A.R.S. §  
7 12-348.01; and for such other and further relief as may be just and proper.

8 DATED this 24th day of December, 2018.

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