



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

(501) 371-2007

OPINION NO. 86-10

January 22, 1986

The Honorable James C. Scott
Senator, 34th District
Route 1, Box 82-A
Warren, Arkansas 71671-9705

Dear Senator Scott:

This is in response to your opinion request wherein you presented the following facts and attendant question:

In making adjustments in school aid allocations to various school districts in which the actual real property assessed value is above or below the projected assessment for the districts, the Department of Education is adjusting the actual assessed values to a level of five percent either above or below the actual assessed value and is making additional allocations to the districts or requiring the districts to repay a portion of the allocation they received based on that computation.

In those districts in which the projected assessment was higher than the actual assessment, the districts received a smaller initial allocation of State aid than the district would have received had the allocation been based on actual assessed value and since the Department is making adjustments in allocations to those districts based on adjustment of the assessed value only to the five percent level, those districts will still not receive all the State aid they would have received if the allocation had been based on actual assessed property values in the district. In fact, some districts have experienced significant losses in MFPA because of the high assessment projections.

I would appreciate your official opinion as to whether the method used by the Department in computing aid allocation adjustments to districts is required by Act 34 or whether under the language of the last paragraph

of subsection (b) of Section 6 of that Act, the Department has the authority to make reasonable rules and regulations which would permit those districts which experience significant losses to recover all the funds lost by the district as a result of the error in assessment projections.

Subsection (b) of Section 6 of Act 34 of the First Extraordinary Session of 1983 as amended, Ark. Stat. Ann. §80-850.15 (Supp. 1985), provides as follows:

General Education. Funds shall be set aside from the total funds available for allocation under the provisions of this Act for adjustments in aid allocation to any district whose actual real property assessment, when certified by the county clerk and/or the county school supervisor, has increased or decreased by more than five percent (5%) from the projected amount used in determining the aid for the district. The Department of Education shall make adjustments to the five percent (5%) level in the following manner:

(1) For school districts that complete the reappraisal and roll back the millage in 1984 (4th group of counties), adjustments shall be made in the 1984-85 school year for errors in the real property projections that were used to compute the MFPA in 1983-84 and 1984-85.

(2) For school districts that complete the reappraisal and roll back the millage in 1985 (5th group of counties), adjustments shall be made in the 1985-86 school year for errors in the real property projections that were used to compute the MFPA in 1983-84, 1984-85 and 1985-86.

In instances where school districts experience significant losses in MFPA because of errors in the real property assessment projections, the Department of Education may make reasonable rules and regulations not inconsistent with this Act that would permit a recovery of the funds over a two-year period. (Emphasis added.)

In response to your inquiry, it is the opinion of this Office that Act 34 as amended by Act 674 of 1985 limits the allowable adjustment "to the five percent (5%) level" as the Department of Education is currently doing. The last paragraph of subsection (b) simply allows that such losses may be recovered "over a two-year period."

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The foregoing opinion, which I hereby approve, was
prepared by Assistant Attorney General C. Randy McNair, III.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steve Clark". The signature is fluid and cursive, with a large initial "S" and a stylized "C".

STEVE CLARK
Attorney General

JSC:CRM:jk