IN THE
SUPREME COURT OF ARIZONA

No. CV-21-0213-PR

Ct. App. No. 1 CA-TX 20-0001

Arizona Tax Court
No. TX2018-000737

PIMA COUNTY AND
TUCSON UNIFIED SCHOOL DISTRICT NO. 1,

Plaintiffs/Appellees,

v.

STATE OF ARIZONA, ET AL.,

Defendants/Appellants.

SUPPLEMENTAL BRIEF OF PIMA COUNTY AND TUCSON UNIFIED SCHOOL DISTRICT NO. 1

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INTRODUCTION

This case turns on the construction of A.R.S. § 15-972(E), which the Arizona Constitution mandated to implement its one-percent-of-value limit on the total amount of certain *ad valorem* taxes levied on residential properties (the "1% Limit"). The statutory plain language is clear that section 15-972(E) and the accompanying statutory definitions in A.R.S. § 15-101(20) and (25) implement the 1% Limit by distinguishing between those categories of tax subject to the 1% Limit ("primary property taxes") and those not subject to the limit ("secondary property taxes"). If the total amount of primary taxes imposed by *all* local governmental authorities exceeds the 1% Limit, the county gives the taxpayer a credit for the excess and then deducts the entire excess—regardless of which local authorities caused it—from the school district's levies. To ensure that a school district does not bear the brunt of all of the authorities' excess, section 15-972(E) requires the State to provide the school district "additional state aid for education" in the amount of *that excess*. The court of appeals undermined this simple three-step process by importing and misapplying A.R.S. § 15-910(L), which was added by a 2018 amendment to an unrelated statutory section that concerns only school districts' *budgeting of school-desegregation expenses*. That amendment has absolutely nothing to do with implementation of the 1% Limit under section 15-972(E) or additional state education aid.

The court of appeals declared that TUSD's levy for court-ordered desegregation expenses was a "secondary property tax" under section 15-

910(L) and that the State therefore did not have to include any additional state education aid to TUSD for the $8,113,188.62 aggregate homeowner credit that Pima County had deducted from TUSD's levies under section 15-972(E)—which does not mention "secondary property taxes" at all. Incongruously, the court of appeals also treated the *same* school-desegregation levy as a "primary property tax" for the majority of section 15-972(E)—particularly when it agreed that Pima County properly included that amount in totaling the primary property-tax levies subject to the 1% Limit, granted a credit to homeowners for the excess, and then deducted the entire excess from TUSD's levies. The State's repeated concession that the school-desegregation levy was a "primary property tax" subject to the 1% Limit for most of the section 15-972(E) dooms its effort to have it both ways within a single statutory paragraph.

FACTUAL AND PROCEDURAL BACKGROUND

A. The State refuses to pay the additional state education aid it owes under the statutory process for implementing the 1% Limit.

For tax year 2019, Pima County complied with the 1% Limit on property taxes by following the ministerial process required by A.R.S. § 15-972(E). It first added up all of the taxes subject to the 1% Limit that were levied by various taxing jurisdictions on residential property within TUSD's geographic boundaries. (R.15 ¶ 8.) Although TUSD's levies did not by themselves exceed the 1% Limit, the aggregate amount of levied taxes by *all*

taxing authorities exceeded the 1% Limit by $8,113,188.62. Therefore, the county issued credits in that amount to homeowners against only TUSD's levies. (R.15 ¶¶ 9–10.) Finally, because under the statute the State owed that same amount in additional state aid for education for TUSD's benefit, Pima County included that amount when it reported its state-aid calculations to the Department of Revenue, as section 15-972(F)–(G) requires. (R.15 ¶ 10.)

TUSD currently operates under a desegregation structural injunction entered in 2013 by the U.S. District Court for the District of Arizona in two consolidated class actions. (R.15 ¶ 1.) For its 2018–2019 fiscal year, TUSD's budget included $63,711,047 for its expenses of complying with the district court's injunction. (R.15 ¶ 2.) Pima County included in its 1% Limit calculation the amount of the property tax levied by TUSD for desegregation expenses because, under the statutes—section 15-972(E) and the accompanying definitions in section 15-101—TUSD's levy was a "primary property tax." It was not a "secondary property tax" under the statutory definition in A.R.S. § 15-101(25) and did not fall under the constitutional exemptions from the 1% Limit because it was neither levied pursuant to an override election nor used to pay off bonds. (R.15 ¶¶ 5, 8.)

Despite Pima County's proper calculations and processing, the State did not report for TUSD or pay *any* additional state aid for education under section 15-972(E). (R.15 ¶ 11.) The State still has not paid any of the roughly $8.1 million that Pima County credited to homeowners and deducted from TUSD's levies for fiscal year 2018–2019. (R.15 ¶ 12.)

B. The tax court correctly rules that the State breached its statutory obligations and orders the State to pay the $8.1 million in state aid for TUSD's benefit.

After the State refused to pay TUSD the aid it was obligated to pay under section 15-972(E), Pima County and TUSD filed suit in the tax court. (R.1.) On cross-motions for summary judgment, the tax court granted summary judgment for Pima County and TUSD. (R.34 at 4.) In a well-reasoned decision, the tax court held that the State was required to pay additional state aid for education in the amount of Pima County's roughly $8.1 million in taxpayer credits. (R.34 at 4.)

The tax court explained that, in implementing the Arizona Constitution's 1% Limit, A.R.S. § 15-972(E) "explicitly solved at least one potential problem—what to do if the eligible jurisdictions levied taxes in excess of 1%." (R.34 at 2.) In that situation, "three things happen" under section 15-972(E), namely, the "addition step," the "reduction step," and the "pay-back step." (*Id.*) The court concluded that TUSD's school-desegregation levy is a "primary property tax" subject to the 1% Limit and was therefore included in all three statutory steps. (*Id.* at 2–3.) As the court reasoned, "primary property taxes" is a default category that is "specifically defined" for purposes of "the implementation formula" to include only taxes that are not "secondary property taxes." (*Id.* at 2 (citing A.R.S. § 15-101(20)).) Section 15-101(25)'s definition of "secondary property taxes" does not include TUSD's desegregation levies because secondary property taxes are limited to two categories of taxes that are constitutionally exempt from the

1% Limit and plainly do not apply: (1) taxes used to pay off "any bonded indebtedness or other lawful long-term obligation issued or incurred for a specific purpose"; and (2) amounts levied pursuant to an override election. (*Id.* at 2 (quoting A.R.S. § 15-101(25)).)

The tax court rejected as "unworkable" the State's argument that A.R.S. § 15-910(L), a budgeting restriction adopted in 2018, changed this implementation formula. (*Id.* at 3.) Contrary to the State's argument in opposing review, its construction of the statute is "unworkable" because it is internally inconsistent, not because the State could not figure out how to short TUSD "*to the penny*." (Resp. Pet. Rev. 3–4.) The tax court further reasoned that the State, by including the desegregation levy in the "addition step" and "reduction step" but excluding it from the "pay-back step," would be "statutorily creat[ing]" a "fourth exemption" to article IX, section 18 of the Arizona Constitution, which recognized only three exemptions from the 1% Limit. (R.34 at 3.) "At a minimum," the court recognized, "such a system would violate the constitutionally imposed requirement that the legislature 'provide by law a system of property taxation consistent with the provisions of this section.'" (*Id.* at 3–4 (quoting Ariz. Const. art. IX, § 18(8)).)

C. The court of appeals reverses, declaring that TUSD's desegregation levies were "primary" for the first two steps but then "secondary" for the final step.

The court of appeals reversed the tax court's determination that the State owed the $8.1 million in additional state aid required to compensate

TUSD for Pima County's credits to homeowners. The court of appeals agreed that TUSD's school-desegregation levy was subject to the 1% Limit, and that Pima County therefore properly included the amount in totaling the subject levies by all local taxing authorities, calculating the excess, and granting credits to homeowners against TUSD's levies in the amount of that excess. (Op. ¶¶ 13–14.) But the court of appeals declared that "it does not follow that because desegregation expenses are subject to the one percent cap, so too must they be subject to reimbursement by the State under A.R.S. § 15-972(E)." (Op. ¶ 14.) The court concluded that Legislature had implicitly altered the definition of "secondary property taxes"—and thus, indirectly, "primary property taxes"—for purposes of section 15-972(E) when it adopted section 15-910(L), which, in the court's words, "allow[s] a school district subject to a desegregation order to exceed revenue control limits only if it budgets secondary property taxes to pay desegregation expenses." (*Id.*)

The court of appeals did not explain how a school-desegregation levy could be a "primary property tax" for purposes of the first two steps of section 15-972(E)—resulting in a reduction of TUSD's levies because of the aggregate "excess" of all levies—but yet somehow be a "secondary property tax" for purposes of the final "pay-back step" of section 15-972(E), which is designed to make a school district whole. *(See* Opp. ¶¶ 15–16.) The court referred to TUSD's desegregation costs as "non-qualifying expenses" (Op. ¶ 16), even though section 15-972(E) concerns "additional state aid for education" based on the excess of "total primary properties taxes to be levied

for all taxing jurisdictions"—*not* based on whether particular budgeted expenses are "qualifying" or "non-qualifying."

ARGUMENT

I. The court of appeals improperly rewrote A.R.S. § 15-972(E) in a failed attempt to avoid a constitutional clash with the 1% Limit that the court of appeals itself created.

A.R.S. § 15-972(E) should be applied according to its plain language, with reference to the definitions of its terms in section 15-101. The court of appeals erroneously construed section 15-972 by importing a characterization of school-desegregation levies made in section 15-910(L), an unrelated statute that addresses school-district *budgeting*, not school-district *taxing*. As the tax court recognized, this conflation of the two statutes is "unworkable" and undermines section 15-972(E)'s implementation of the 1% Limit.

Article IX, section 18 of the Arizona Constitution provides that "[t]he maximum amount of ad valorem taxes that may be collected from residential property in any tax year shall not exceed one per cent of the property's full cash value as limited." Ariz. Const. art. IX, § 18(1). Section 18 sets forth three exceptions to the 1% Limit: (a) taxes levied to pay the principal, interest, and redemption charges for "bonded indebtedness" and certain other "long-term obligations"; (b) taxes levied by certain special-purpose districts "other than … school districts"; and (c) taxes levied "pursuant to an election to exceed a budget, expenditure or tax limitation." Ariz. Const. art. IX, § 18(2). Section 18 is not self-enacting, and the Constitution explicitly requires the

Legislature to "provide by law a system of property taxation consistent with the provisions of" the 1% Limit. Ariz. Const. art. IX, § 18(8).

A.R.S. § 15-972(E) is that constitutionally mandated "system." It provides a three-step process for implementing the 1% Limit in conjunction with two key statutory definitions that track the 1% Limit. "Secondary property taxes" are defined in A.R.S. § 15-101(25) to incorporate the three constitutional exceptions to the 1% Limit: "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 or a community college district and amounts levied pursuant to an election to exceed a budget, expenditure or tax limitation." A.R.S. § 15-101(25). "Primary property taxes" are defined by default to include the taxes subject to the 1% Limit: "all ad valorem taxes except for secondary property taxes." A.R.S. § 15-101(20).

A.R.S. § 15-910(L), added in 2018, has nothing to do with the implementation of the 1% Limit and did not revise sections 15-101 or 15-972 in any way. Instead, it conditions the application of companion subsections (G) and (K), which are *budgeting* provisions unrelated to the 1% Limit implementation formula. Under subsections (G) and (K), the cost of court-ordered desegregation is exempt from the *budget limits* that otherwise apply to school districts. Subsection (L) provides that the budget-limit exemption applies *only* if the school district uses "secondary property taxes" to fund the

desegregation expenses, and those taxes "levied pursuant to this subsection do not require voter approval":

> Beginning in fiscal year 2018–2019, subsections G through K of this section apply only if the governing board uses revenues from secondary property taxes rather than primary property taxes to fund expenses of complying with or continuing to implement activities that were required or allowed by a court order of desegregation or administrative agreement with the United States department of education office for civil rights directed toward remediating alleged or proven racial discrimination that are specifically exempt in whole or in part from the revenue control limit and district additional assistance. Secondary property taxes levied pursuant to this subsection do not require voter approval, but shall be separately delineated on a property owner's property tax statement.

A.R.S. § 15-910(L).

The court of appeals read the clause "[s]econdary property taxes levied pursuant to this subsection do not require voter approval" as rewriting the statutory definition of "secondary property taxes" in section 15-101(25). Somehow, the court of appeals came to this conclusion even though the Legislature did *not* change that definition, did *not* amend the three-step implementation process in section 15-972(E), and did *not* even cross-reference the statutory definitions or implementation process. "It is well settled that where a statute expressly defines certain words and terms used in the statute the court is bound by the legislative definition in all cases where the rights of the parties litigant are based upon that statute." *Pima County v. Sch. Dist. No. One*, 78 Ariz. 250, 252 (1954). Moreover,

"modification-by-implication is disfavored by courts when construing statutes." *Pijanowski v. Yuma County*, 202 Ariz. 260, 263 ¶ 14 (App. 2002).

But the court of appeals did not even *consistently* treat TUSD's desegregation levy as a "secondary property tax" for *most* of section 15-972(E). The court of appeals, the tax court, Pima County, TUSD, and the State all agreed that TUSD's desegregation levy is subject to the 1% Limit because it does not qualify under any of the three constitutional exceptions. Therefore, to avoid a constitutional violation, it *must* be included in Pima County's adding all jurisdictions' "primary property taxes" under section 15-972(E), calculating the excess over the 1% Limit, and providing homeowner credits. Because section 15-972(E) authorizes totaling only "primary property taxes," the school-desegregation levy *must* be a "primary property tax" for purposes of the statute—not a "secondary property tax"—or else the county would have no authority to include it in the statutorily required calculation of homeowner tax credits for "the amount in excess of article IX, section 18, Constitution of Arizona." A.R.S. § 15-972(E).

Yet when the time came for the State to provide "additional state aid for education" to compensate for "*such excess amounts*"—section 15-972(E)'s reference back to the credit given in the prior sentence—the court of appeals made an about-face and declared that the same desegregation levy that it had just treated as a "primary property tax" under the prior sentences of section 15-972(E) now had to be treated as a "secondary property tax" because of A.R.S. § 15-910(L). But the court of appeals could not qualify the

desegregation levy as a "secondary property tax" under the definition of that term in section 15-101(25) because it was neither used to pay bonds nor approved by voters—which reflect the *constitutional* exceptions to the 1% Limit. This conclusion would require that the judiciary draft a statutory mechanism on behalf of the Legislature for a special override election which the school district can follow, or otherwise hold that a school district can budget expenditures, including expenditures for its court-mandated desegregation program, without a corresponding source of revenue.

Section 15-972(E) does not support this judicial revision. It does not create any exceptions to additional state aid. Unlike section 15-910(L), section 15-972(E) is not concerned with school districts' budgeting or expenses; it does not even use the term "secondary property tax." And it does not modify in any way the methodology or substance of how the county is to calculate the excess over the 1% Limit, grant credits to homeowners in that amount, and then submit for compensatory state education aid to make up for the resulting loss to school districts. The statute requires that the state aid to education be *in the amount of that excess credit*. The statute certainly does not allow the court of appeals to change a "primary property tax" included into the aggregate-levy and homeowner-credit calculations at the last minute into a "secondary property tax" that can be disregarded in the course of what should be the ministerial granting of additional state aid. This inconsistent construction of a single paragraph is untenable and should be reversed.

That section 15-972(E) does not use "secondary property tax" at all highlights the incongruity of the court of appeals' interpretation. This was not merely a case of the court of appeals' considering TUSD's levy to be a "primary property tax" for the first two parts of section 15-972(E) and then a "secondary property tax" for the third part (untenable as such a construction is), because the third step (payment of additional aid for education) is not determined based on "primary" or "secondary" tax status at all. That payment is determined based *only* on the "excess" calculated in the first two steps. Because the court of appeals and the parties all agree that TUSD's levy was appropriately included in those first two steps for calculating the excess, that same excess *must* be paid as additional state aid—there is no other comprehensible way to read the statute.

Additionally, counties have only the authority explicitly granted to them by the Arizona Constitution or by statute or powers necessarily implied from a statute granting a county authority. *State v. Payne*, 223 Ariz. 555, 561 ¶ 15 (App. 2009). Though counties are tasked with assessing property and assembling and managing the property-tax bills and collection process, those tasks are ministerial; a board of supervisors has no authority to alter the budget or property-tax levy of the other political subdivisions within the county. *Sanders v. Folsom*, 104 Ariz. 283, 290 (1969). The State's position is unworkable as well because it transforms the county's role from a ministerial one—totaling the many jurisdictions' levies, calculating the homeowners' credits, subtracting the aggregate excess from the school

district's levy, and including that amount in the calculation of state aid—into a responsibility to police the school district's budget to see how it uses its levies or spends its money. Neither the Constitution nor the Legislature has granted Pima County any legal authority to create a scheme to implement the State's interpretation, and this Court should not construe the statutes to require that unworkable end.

II. The court of appeals' construction of section 15-972(E) subverts the statutory purpose of state funding of the aggregate constitutional excess.

The court of appeals' rewriting of the statute not only contravenes its express language, but also subverts its purpose. The 1% Limit applies not to school-district levies alone, but to the total property tax burden imposed by *all* local taxing authorities on a particular property. Section 15-972(E) does not single out school districts to bear the brunt of any aggregate excess; instead, it uses school districts as a funding mechanism by which the State can compensate for the *aggregate excess attributable to all taxing jurisdictions*. In other words, section 15-972(E) uses the existing funding route of state aid for education as the State's conduit for offsetting the effect of the 1% Limit on the total excess burden imposed by all taxing authorities, whether or not any of the excess could be fairly traced to a school district in particular. Indeed, illustrating the irrationality of the State's statutory construction, the homeowner credit is "appl[ied] … against the *primary property taxes* due from

each such parcel, "A.R.S. § 15-972(E), so the additional state aid backfills the *primary levy*, not any recharacterized "secondary" desegregation levy.

The Arizona Constitution *obligated* the Legislature to "provide by law a system of property taxation consistent with the provisions of" the 1% Limit, Ariz. Const. art. IX, § 18(8), and the Legislature did so with section 15-972(E). That section is the *only* statute that resolves the dilemma created when multiple taxing authorities' individual levies add up to more than the 1% Limit. Section 15-972(E) applies any time there is an overage among the taxing authorities, not just in desegregation situations. Without it, counties would be without a fair, consistent mechanism for choosing which taxing authority's levy to reduce. Importing the budgeting considerations of section 15-910(L) into section 15-972(E) covertly turns the remedial provisions of section 15-972(E)'s "reduction step" and "pay-back step" into a punitive measure, rather than a means of implementing the 1% Limit for *all* taxing jurisdictions collectively.

Section 15-910(L) did effect an operative, nonsuperfluous change: a school district may continue to avoid *budget* limits that would otherwise apply to desegregation spending if the amounts budgeted for desegregation purposes come from a new kind of "secondary" property tax that does not require voter approval and that is a separately delineated line item on property owners' tax bills. *But whatever section 15-910(L) achieves with respect to budget limits, it must be enforced by other means.* It stands alongside, and does not trump, the statutory definitions of section 15-101 that are used by section

15-972(E) in implementing the constitutional 1% Limit on aggregate taxation. "It is the rule of statutory construction that courts will not read into a statute something which is not within the express manifest intention of the legislature as gathered from the statute itself, and similarly the court will not inflate, expand, stretch or extend the statute to matters not falling within its expressed provisions." *Patches v. Indus. Comm'n*, 220 Ariz. 179, 182 ¶ 10 (App. 2009) (quotation omitted).

The State mischaracterizes this appeal as being about whether the Legislature has to fund desegregation expenses—i.e., "a quintessentially appropriation decision by the Legislature" (Resp. Pet. Rev. 5)—or whether it has "changed characterization of desegregation *expenses* from 'primary' to 'secondary'" (*id.* at 7). The formula in section 15-972(E) is not about "expenses," much less "desegregation expenses," of a school district. It is about the constitutionally mandated implementation of the 1% Limit on the *aggregate* of all jurisdictions' property taxes. TUSD was not the source of the aggregate excess, and the State's attribution of the excess to TUSD's desegregation levy—or the school levies—was entirely arbitrary. Because school districts receive state education aid in the ordinary course when other taxing jurisdictions do not, they were simply the convenient mechanism for fronting a county's credits and receiving compensatory reimbursement from the state for the aggregate excess. If the Legislature wishes to limit a school district's ability to pay for court-ordered desegregation expenses, it should do so directly, and face any constitutional challenges that result. The Court

should not recognize any implicit effort to do so through a 1% Limit implementation formula that does not address any jurisdiction's budgeting decisions.

The State is left with relying on the principle that specific provisions trump general ones. (Resp. Pet. Rev. 7–8.) Section 15-910(L) may be the more-recent statute, but section 15-972(E) is the most-specific statute and resolves the dilemma created when multiple taxing authorities' individual levies add up to more than the 1% Limit. The definition in section 15-101(25) was adopted as part of the *specific* set of statutes that implement the 1% Limit; the provision in section 15-910(L) is specific to a budgeting limitation, and it does not address the 1% Limit. The principle that specific provisions trump general ones comes into play only when they relate to "the same subject," which is not the case here. *Peabody Coal Co. v. Navajo County*, 117 Ariz. 335, 339 (1977)*, disapproved on other* grounds, *U S W. Commc'ns, Inc. v. Ariz. Dep't of Revenue*, 199 Ariz. 101 (2000). Moreover, "[w]hen sound reason permits, we construe general and specific statutes covering the same subject matter to give effect to both." *State v. Campa*, 168 Ariz. 407, 410 (1991). There is no reason for a budgeting provision to trump the implementation formula for the 1% Limit.

III. The putative "legislative history" offered by the State does not warrant departing from section 15-972(E)'s plain language.

"In the interpretation of legislation, we aspire to be 'a nation of laws, not men.' This means (1) giving effect to the text that lawmakers have

adopted and that people are entitled to rely on, and (2) giving *no* effect to lawmakers' unenacted desires." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 29 (2012). The plain language of section 15-972(E) clearly and unambiguously requires the State to pay TUSD the corresponding additional state aid, while section 15-910(L) has no explicit language removing the State's obligation to pay TUSD the additional state aid.

Even if the plain language wasn't clear, and it is clear, the State's appeal to the "legislative history" of the budgeting restrictions in section 15-910(L) relies on the sketchiest sources possible. (*See, e.g.*, Resp. Pet. Rev. 4–6.) There is nothing approaching cognizable legislative history supporting the State's view that the Legislature intended to change the formula for implementing the constitutional 1% Limit: no legislative preamble explaining the statutory purpose, no committee report, no Senate or House fact sheet—nothing like a statement of "*all* legislators involved" that the State suggests. (Resp. Pet. Rev. 6.) The State resorts to inconclusive statements of individual legislators and post-hoc insinuations by *non-legislators* as to what some legislators may have been intending. (*Id.* at 4–5.) That is precisely the kind of "legislative history" Arizona and other courts have eschewed. Contra the State (Resp. 4), there is no race to the bottom where inconsequential stray statements are allowed to carry the day. Instead, where there is no competent legislative history, the Court is left with the plain language of the statute.

The State places much emphasis on the purported intent of certain legislators who drafted or commented on the bill that created A.R.S. § 15-910(L). (*E.g.*, Opening Br. 15–16.) These statements are irrelevant for three reasons. First, the remarks of individual legislators are of little weight in any circumstances. "The intent of the Legislature can only be determined by the language used, aided by the canons and rules of construction founded upon reason and experience." *Golder v. Dep't of Revenue*, 123 Ariz. 260, 265 (1979) (quotation omitted) (recognizing that "one member of a legislature which passes a law is not competent to testify regarding the intent of the legislature in passing that law"); *see Stein v. Sonus USA, Inc.*, 214 Ariz. 200, 204 ¶ 13 (App. 2007) (statements of individual legislators are "entitled to little, if any, weight" (quotation omitted))

The statements of *non-legislators* are even less relevant. *See Hayes v. Cont'l Ins. Co.*, 178 Ariz. 264, 269–70 (1994) ("courts normally give little or no weight to comments made … by nonlegislators," even those made at committee hearings). The State repeatedly cites a comment by a Pima County administrator about what S.B. 1529 "appears to have been an attempt" to do (Opening Br. 16, 38, 55), but the State fails to show how public speculation about what some legislators tried (and failed) to accomplish can possibly be relevant to statutory interpretation.

Second, even if certain legislators hoped to eliminate the State's obligation to provide additional aid for education with respect to desegregation levies when the 1% Limit is exceeded—which may, in fact,

have been the goal of some supporters of section 15-910(L)—the Legislature did not achieve that goal. The Legislature did not amend section 15-972(E), which mandates the situations in which additional state aid for education "shall" be provided. The Legislature also did not revise the specific definitions in section 15-101(20) and (25), on which section 15-972(E) relies. Ultimately, the Legislature did not make even a good-faith attempt to change the State's obligation to provide additional state aid when total taxes exceed the 1% Limit, even when some of those taxes are for desegregation expenses.

Third, statements about legislators' putative intent are irrelevant because it is not the Court's role to rewrite sections 15-101 and 15-972(E) to achieve the claimed but unexpressed purposes of section 15-910(L)—a provision about budget limits, not tax limits. The Court can neither "rewrite a statute under the guise of divining legislative intent" nor "amend a statute to correct … legislative oversight." *In re Martin M.*, 223 Ariz. 244, 247 ¶ 9 (App. 2009). "It is the rule of statutory construction that courts will not read into a statute something which is not within the express manifest intention of the Legislature as *gathered from the statute itself*, and similarly the court will not inflate, expand, stretch or extend the statute to matters not falling within its expressed provisions." *Patches v. Indus. Comm'n*, 220 Ariz. 179, 182 ¶ 10 (App. 2009) (emphasis added).

If the Legislature wishes to amend sections 15-101 and 15-972(E) to eliminate state funding of additional aid for education when desegregation

levies are being sacrificed to comply with the 1% Limit, the Legislature must do so—if it *can* do so constitutionally, which is to be doubted. "Any extension of the reach of the statute to achieve a desired outcome must be accomplished by the legislature, not the courts." *Patches*, 220 Ariz. at 182 ¶ 10; *see also In re Martin M.*, 223 Ariz. at 247 ¶ 9 ("[I]t is the legislature's place to correct any such oversight."). In the years since the tax court's decision, the Legislature has not attempted any such changes, despite the State's recognition that it "would probably have been better." (Opening Br. 34.) This Court cannot and should not do it.

CONCLUSION

This Court should vacate the court of appeals' decision and affirm the tax court's judgment.

NOTICE UNDER ARCAP 21(A)

Pima County and TUSD request their attorneys' fees under A.R.S. § 12-348.01.

DATED this 29th day of June, 2022.

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