

1978 S.C. Op. Atty. Gen. 151 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-118, 1978 WL 22587

Office of the Attorney General

State of South Carolina

Opinion No. 78-118

June 20, 1978

***1 SUBJECT: Definition Of ‘Impact Aid Revenue’ As Used In The Education Finance Act.**

The term ‘impact aid revenue’ includes only those receipts received pursuant to [20 U.S.C.A. 236](#) (Public Law 81–874). It does not include receipts received by virtue of [20 U.S.C.A. 631](#) through [645](#) (Public Law 81–815), (construction), [16 U.S.C.A. 500](#) (federal forests) or [§ 48–23–260 of the South Carolina Code](#) (state forests).

To: Mr. Ray W. Burnette
Deputy Superintendent
Department of Education

QUESTION:

What receipts are included in the term ‘impact aid revenue’ as used in Section 3(3) of the Education Finance Act?

STATUTE:

[Section 59–20–20\(3\) of the Code](#) (Section 3(3) of the Education Finance Act).

DISCUSSION:

The Education Finance Act attempts to insure a uniform quality educational program (referred to as the foundation program), for all students in this State, regardless of the relative wealth of particular school districts. To accomplish this result, the Act requires local districts to fund their education program in relation to the assessed value of property located in the particular district. Wealthy districts (districts with high property tax bases) are required to pay more toward the cost of the education program than are poorer districts. State funds make up the balance of the cost of the foundation program. In this way, poorer districts receive more state funds than do wealthier districts. The relative wealth of the district is measured by an ‘index of taxpaying ability’.

See [Section 59–20–40\(1\)\(e\) of the Code](#). The index, expressed as a fraction, is the assessed value of taxable property in any given district divided by the assessed value of all taxable property in the state. See [§ 59–20–20\(3\) of the Code](#). In addition to the actual assessed value of property in a district, the Finance Act provides for the use in the index of taxpaying ability of an imputed value. The Act uses the following language, the meaning of which is in question:

‘The index shall include an imputed value for the property tax base implicitly generating impact aid revenue. The property tax base shall be imputed at * * *.’ (Emphasis added).

Specifically, the question is what receipts are to be included in ‘impact aid revenue’.

The Report of the Governor's Committee on the Finance Act recognized that districts receive certain types of funds which could properly be classified as ‘in lieu of local property tax’. Four basic sources of such funds were noted as follows:

(1) Federal revenue provided under [20 U.S.C.A. 236](#) through [244](#) (Public Law 81–874). The subchapter under which this revenue is provided is entitled ‘Assistance for Local Educational Agencies in Areas Affected by Federal Activity.’

(2) Federal revenue provided under [20 U.S.C.A. 631](#) through [645](#) (Public Law 81–815). The chapter under which this revenue is provided is entitled ‘School Construction in Areas Affected By Federal Activities’.

***2** (3) Federal revenue provided under [16 U.S.C.A. 500](#) which provides for the payment to states of one-fourth of the receipts from national forests located in those states. These payments are earmarked for public education and public roads.

(4) State funds provided by [Section 48–23–260 of the South Carolina Code](#), which requires the state treasurer to pay a portion of the funds received from state forests (timber cutting, etc.) to the counties in which the forests lie.

The Governor's Report states that a district's local ability (wealth) should theoretically include all of the aforementioned receipts and classifies them as ‘in lieu of local property taxes’. However, the report warns that the federal regulations prohibit the use of the first two classes of revenue mentioned above in measuring a district's wealth until the funding of education in a particular state is substantially equalized. Undoubtedly, for this reason the original Bill did not impute a value for any receipts ‘in lieu of local property taxes’ and made no mention of ‘impact aid revenue’.

The phrase in question ‘impact aid revenue’ was added by a floor amendment made in the Senate. See 1977 Journal of the Senate at 1354. There is no printed discussion on the meaning of the term.

Although no reference has been found to the term ‘impact aid’, reference has been found to the term ‘impacted area’. Such an area is one in which federal activities have had an impact on local school districts and relates to funds paid a district pursuant to [20 U.S.C.A. 236](#) through [244](#) (Public Law 81–874). A complete discussion of ‘impacted areas’ is found at 68 Am.Jur. 2d, [Schools](#), Section 110. In general, the funds are provided to (1) compensate school districts for loss of funds because of the reduction of the district's taxable property tax base as a result of acquisition of property by the United States and to (2) aid the local district in funding education for children of military and federal employees.

Although the term ‘impacted area’ might include an area receiving the type of funds described in class (2) above, the Finance Act does not fund school construction. Construction is specifically excluded from the foundation program under [Section 59–20–20\(3\)\(2\)\(b\) of the Code](#). Because the Finance Act does not fund construction, it is our belief that federal funds earmarked for construction should not be included in imputing a value for the index.

It is our opinion that the term ‘impact aid revenue’ refers only to receipts received pursuant to [20 U.S.C.A. 236](#) through [244](#) (Public Law 81–874) as ‘Assistance for Local Educational Agencies in Areas Affected by Federal Activity.’ The term ‘impact aid’ is, in our judgment, specific enough to exclude other forms of assistance which might be included in a more broad term such as ‘in lieu of property tax’.

CONCLUSION:

The term ‘impact aid revenue’ includes only those receipts received pursuant to [20 U.S.C.A. 236](#) (Public Law 81–874). It does not include receipts received by virtue of [20 U.S.C.A. 631](#) through [645](#) (Public Law 81–815), (construction), [16 U.S.C.A. 500](#) (federal forests) or [Section 48–23–260 of the South Carolina Code](#) (state forests).

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