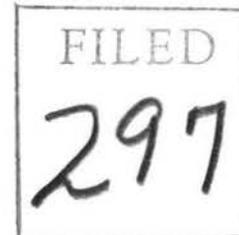


JUN 19 1968

OPINION NO. 297
Answered by Letter
(Peterson)



Honorable J. Anthony Dill
Representative--44th District
8011 Grandvista Avenue
Affton, Missouri 63123

Dear Representative Dill:

In your recent opinion request you, in part, stated:

"Art. 9 Sec. 3 (b) of the Constitution of 1945 requires that twenty-five percent of the 'state revenue', exclusive of interest and sinking fund be applied annually to the support of free public schools.

Art. 4 Sec. 30 (b) of the Constitution of 1945 appropriates without legislative action all 'state revenue' derived from highway users to highway purposes.

I respectfully request your opinion as to whether the term 'state revenue' as used in Art. 9 Sec. 3 (b) includes that state revenue derived from highway users to which Art. 4 Sec. 30 (b) applies."

Honorable J. Anthony Dill

The meaning of the word "state revenue" as it is employed in Article IX, Section 3 (b)*, has been well settled since 1915. That year, the Missouri Supreme Court construed the word "state revenue" found in Article XI, Section 7, Missouri Constitution, 1875, predecessor of the present Article IX, Section 3 (b), in State ex rel. Gass v. Gordon, Mo. Supp., 181 S.W. 1016.

The court in the Gass case, supra, defined "state revenue" as being ". . . the annual and current income of the state, however derived, which is subject to appropriation for general public use". (l.c. 1020). The court then continued to state:

"This excludes such income as the constitution . . . may specifically devote to a special purpose . . . or which is not required to be paid into the state revenue fund, but into a special fund, e.g... the money derived from license fees on motor vehicles . . ." (l.c. 1020)

Article IV, Section 30 (b), specifically directs that all state revenue derived from highway users as an incident to the use or right to use the highways of the state, less certain specified costs and certain refunds, shall be credited to a special fund and stand appropriated without legislative action for certain purposes.

Therefore, it would appear abundantly clear that funds derived from highway users pursuant to the authority of Article IV, Section 30 (b), supra, are state revenue but such revenue is to be credited to a special fund and therefore would not become subject to appropriations for public schools or any other general public use.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

WAP:jlf:fb

*All references herein to the Constitution are to the Missouri Constitution of 1945, as amended, unless otherwise noted.