

Stricken language would be deleted from and underlined language would be added to present law.
Act 28 of the 2nd Extraordinary Session

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

As Engrossed: S12/18/03
A Bill

Call Item 4

SENATE BILL 36

5 By: Senator Argue
6
7

For An Act To Be Entitled

9 AN ACT TO IMPLEMENT AMENDMENT 74 TO THE ARKANSAS
10 CONSTITUTION; TO AMEND CERTAIN SECTIONS OF THE
11 ARKANSAS CODE TO COMPLY WITH AMENDMENT 74; TO
12 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT TO IMPLEMENT AMENDMENT 74 TO THE
15 ARKANSAS CONSTITUTION; TO AMEND CERTAIN
16 SECTIONS OF THE ARKANSAS CODE TO COMPLY
17 WITH AMENDMENT 74.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 26, Chapter 80 is amended to add a new
24 subchapter as follows:

25 26-80-301. Title.

26 This subchapter shall be known and may be cited as the "Amendment 74
27 Enabling Act of 2003."
28

29 26-80-302. Definitions.

30 As used in this subchapter and §§ 26-80-101 through 26-80-111 of the
31 Arkansas Code:

32 (1) "Additional maintenance and operation millage" means millage
33 levied by the electors of a local school district for maintenance and
34 operation in excess of those required by the uniform rate of tax;

35 (2) "Debt service millage" means the total number of mills voted
36 by the electors of a school district to be pledged as security for the



1 retirement of bonded indebtedness;

2 (3) "Dedicated maintenance and operation millage" means millage
3 levied by the electors of a local school district and used for those purposes
4 set forth under § 26-80-110;

5 (4) "Maintenance and operation millage" means millage levied by
6 the electors of a local school district for the maintenance and operation of
7 the school district;

8 (5) "Millage rate" means the millage rate listed in the most
9 recent tax ordinance approved by the county quorum court under the authority
10 of § 14-14-904;

11 (6) "Net revenues" means actual revenues from taxes due and
12 payable after January 1, 1997, rounded to the nearest hundredth minus any
13 commission fees authorized by law to be collected or withheld for later
14 distribution by the county offices. No additional fees shall be charged for
15 transmittal or redistribution of funds by any county or state office in
16 carrying out the procedures established to comply with the requirements of
17 Arkansas Constitution, Amendment 74; and

18 (7)(A) "Uniform rate of tax" means a uniform rate of ad valorem
19 property tax of twenty-five (25) mills to be levied on the assessed value of
20 all taxable real, personal, and utility property in the state to be used
21 solely for maintenance and operation of the schools.

22 (B) In calculating compliance with the uniform rate of tax
23 imposed by Arkansas Constitution, Article 14, § 3, as amended by Arkansas
24 Constitution, Amendments 11, 40, and 74, only those mills voted for
25 maintenance and operation shall be used, and dedicated maintenance and
26 operation millage shall not be included in the calculation.

27
28 26-80-303. Establishment of compliance.

29 Compliance with the uniform rate of tax shall be established by the
30 Department of Education in coordination with the Assessment Coordination
31 Department.

32
33 26-80-304. Calculation of compliance with the uniform rate of tax.

34 (a)(1) Within thirty (30) days of the effective date of this act, the
35 Director of the Department of Education shall certify to each school district
36 whether or not that school district is currently in compliance with the

1 uniform rate of tax.

2 (2) Compliance shall be determined by analyzing the millage rate
3 levied for maintenance and operation millage from the most recent school
4 election in which the ad valorem tax rate was voted upon. If the millage
5 rate is equal to or greater than twenty-five (25) mills, then the school
6 district shall be deemed to be in compliance with Arkansas Constitution,
7 Amendment 74.

8 (b)(1) Within thirty (30) days of the effective date of this act, the
9 Director of the Department of Education shall certify to each quorum court
10 whether or not the school districts in its jurisdiction are in compliance
11 with the uniform rate of tax.

12 (2) The calculation of compliance under this subsection (b)
13 shall be the same as the calculation explicated in subdivision (a)(2) of this
14 section.

15 (c) On or before November 1, 2005, and each year thereafter, the
16 Department of Education, in conjunction with the Assessment Coordination
17 Department, shall monitor compliance with the uniform rate of tax.

18
19 26-80-305. Interrelationship between Amendments 59 and 74.

20 Pursuant to the application of Arkansas Constitution, Amendment 74 to
21 the rollback provisions of Arkansas Constitution, Amendment 59 for millage
22 rates levied by the various school districts within the county, if it is
23 determined that the adjustment or rollback of millages as provided in
24 Arkansas Constitution, Amendment 59 will result in a tax rate for maintenance
25 and operation of less than the uniform rate of tax, then the millage shall be
26 rolled back only to the uniform rate of tax plus the debt service millage
27 adjusted under Amendment 59 and no further.

28
29 26-80-306. Penalties.

30 (a) All duties imposed by this subchapter and Title 26, Chapter 80,
31 Subchapter 1 on all state, county, and school district officers are declared
32 to be mandatory, and any officer who neglects, fails, or refuses to perform
33 any of the duties shall be subject to removal from office and liable on his
34 official bond for the neglect, failure, or refusal.

35 (b)(1) Upon the refusal or failure of any state officer to perform any
36 duty imposed upon him or her under the provisions of this subchapter, Title

1 26, Chapter 80, Subchapter 1, and Arkansas Constitution, Amendment 74, any
 2 citizen of the state may, and the Attorney General of the State of Arkansas
 3 shall, institute mandamus proceedings in the court of proper jurisdiction to
 4 compel the state officer to perform his or her duties.

5 (2) Upon the refusal or failure of any county or school district
 6 officer to perform any duty imposed upon him or her under the provisions of
 7 this subchapter, Title 26, Chapter 80, Subchapter 1, and Arkansas
 8 Constitution, Amendment 74, any citizen of the county may, and the
 9 prosecuting attorney of the county including the school district shall,
 10 institute mandamus proceedings in the court of proper jurisdiction to compel
 11 the county officer to perform his duties.

12
 13 SECTION 2. Arkansas Code § 6-14-114 is amended to read as follows:

14 6-14-114. Counting of votes.

15 When the polls of each election are closed, the election officials
 16 shall immediately proceed to count the results, and make returns thereof to
 17 the county clerk showing:

18 (1) The number of votes cast for each person for school district
 19 director;

20 (2) The number of votes cast for the school tax;

21 (3) The number of votes cast against the school tax;

22 (4) The number of mills for:

23 (A) The additional mills for maintenance and operation ~~of~~
 24 ~~the schools;~~

25 (B) The additional mills for maintenance and operation
 26 that have been designated dedicated maintenance and operation mills ~~of the~~
 27 ~~school district;~~

28 (C) The debt service millage, ~~which shall include debt~~
 29 ~~service millage required and excess debt service millage in the school~~
 30 ~~district; and~~

31 (D) The total millage rate levied for all purposes in the
 32 school district in excess of the uniform rate of tax; and

33 (5) The number of votes cast for and against any other question
 34 submitted at the election.

35
 36 SECTION 3. Arkansas Code § 6-20-1205 is amended to read as follows:

1 6-20-1205. Submission of statement prior to issuing bonds - Approval.

2 (a) When any school district board of directors desires to issue bonds
3 for the purposes described in § 6-20-1201, it:

4 (1) Shall furnish to the Director of the Department of Education
5 a statement of the amount proposed to be borrowed and of the maturity of the
6 indebtedness, a financial statement of the affairs of the district, and a
7 certificate from the county clerk showing the then-assessed valuation of the
8 real, personal, and utility property in the district; and

9 (2) Shall not ~~advertise for the sale of~~ sell bonds until the
10 issue is approved by the State Board of Education or by the director, to be
11 evidenced by a writing signed by the board or the director and bearing the
12 seal of the board.

13 (b) In addition to other reasons for disapproval of a bond issue
14 provided under law or by regulation, neither the board nor the director shall
15 approve the sale of bonds for the purposes described in § 6-20-1201 if that
16 ~~sale~~

17 ~~(1) Would~~ would cause an increase in the millage levy without a
18 vote of the electors of that school district ~~in order to maintain the uniform~~
19 ~~rate of tax; or~~

20 ~~(2) Would cause the Department of Education to be out of~~
21 ~~compliance with any school finance equity test adopted by an appropriate~~
22 ~~court.~~

23 ~~(c)(1) In order to maintain the calculated basis for the uniform rate~~
24 ~~of tax, as specified in § 26-80-101 et seq., a bond approved by the board or~~
25 ~~the director must be issued by the following May 30.~~

26 ~~(2) If the bond is not issued by the following May 30, the~~
27 ~~school district must reapply for approval prior to the issuance of the bonds.~~

28 ~~(d)(c)~~ The department shall not provide a local school district that
29 issues second-lien bonds more additional base funding for which it would
30 otherwise qualify excluding the issuance of the second-lien bonds except as
31 authorized under § 6-20-1229.

32 ~~(e)(d)~~ The department is authorized to adopt procedural rules and
33 regulations to enforce the provisions of this section.

34
35 SECTION 4. Arkansas Code § 26-26-403(c) is repealed.

36 ~~(e) The clerk shall, on or before the second Monday in November of the~~

1 base year, report to the governing body of each taxing unit the following
2 completed form, accurately listing the required data on each line.

3
4 ~~School District Calculation~~
5 ~~to Determine Minimum Millage Required by Amendment 74~~

6 COUNTY _____ DATE _____

7 School District Name: _____

8 1. ~~Compute the following to find the debt payment by school:~~

9 ~~*Debt payment figures are supplied by the Arkansas Department of Education.~~

10 a. ~~*Required debt payment~~ _____

11 b. ~~*Less debt service supplement~~ _____

12 c. ~~Equals debt payment by school~~ _____

13 2. ~~Compute the following to find the total new assessment (including fringe~~
14 ~~counties):~~

15 a. ~~Current year real assessment~~ _____

16 b. ~~Plus current year personal assessment~~ _____

17 c. ~~Plus current year utility assessment~~ _____

18 d. ~~Equals total new assessment~~ _____

19 3. ~~Compute the following to find the millage required for debt:~~

20 a. ~~Debt payment by school~~ _____

21 b. ~~Divided by total new assessment~~ _____

22 c. ~~Equals school mills required for debt~~ _____

23 4. ~~Compute the following to find the minimum millage required by Amendment~~
24 ~~74:~~

25 a. ~~M & O mills required by Amendment 74~~ _____

26 b. ~~Plus school mills required for debt~~ _____

27 c. ~~Plus mills required for callable bonds~~ _____

28 d. ~~Equals minimum millage required~~ _____

29 5. ~~Transfer minimum millage required to "Base Year Millage Rollback~~
30 ~~Computation and Certification Form", Item 7.~~

31
32 SECTION 5. Arkansas Code § 26-26-410 is repealed.

33 ~~26-26-410. Assessment Coordination Division Form revision.~~

34 The Assessment Coordination Division of the Public Service Commission
35 shall revise the forms found in § 26-26-401 et seq. pertaining to rollback of
36 millage rates under Arkansas Constitution, Amendment 59, to provide for

1 ~~changes required to effectuate Amendment 74 to the Arkansas Constitution. The~~
2 ~~revised forms produced by the Assessment Coordination Division shall be~~
3 ~~submitted to the Arkansas Legislative Council, or any subcommittee designated~~
4 ~~by that body, for review and comment on or before August 1, 1997. Upon review~~
5 ~~by the Arkansas Legislative Council, the Arkansas Code Revision Commission~~
6 ~~shall incorporate such revised forms into § 26-26-401 et seq.~~

7
8 SECTION 6. Arkansas Code § 26-80-101(c), pertaining to the
9 distribution of the uniform rate of tax, is amended to read as follows:

10 (c)~~(1)~~ For the 1996-97 school year and each year thereafter, each
11 county treasurer shall remit the net revenues from the uniform rate of tax to
12 each local school district from which the revenues were derived, ~~unless~~
13 ~~otherwise specified in subdivisions (c)(2) and (c)(3) of this section.~~

14 ~~(2)(A) For the 1997-98 school year, the Department of Education~~
15 ~~shall determine which local school districts have a local revenue per student~~
16 ~~in excess of the base local revenue per student and shall calculate five~~
17 ~~percent (5%) of such excess and multiply the result times the district's ADM~~
18 ~~for the previous year.~~

19 ~~(B) The Department of Education shall certify, to any~~
20 ~~affected county treasurer, the local school district identified as having an~~
21 ~~excess and the amount calculated in subdivision (c)(2)(A) of this section by~~
22 ~~August 1 of each school year.~~

23 ~~(C) Any county treasurer receiving certification from the~~
24 ~~Department of Education under subdivision (c)(2)(B) of this section shall~~
25 ~~remit the amount certified to the State Treasury for the credit of the Public~~
26 ~~School Fund and redistribute the difference between the net revenues from the~~
27 ~~uniform rate of tax and the amount certified to the affected local school~~
28 ~~district.~~

29 ~~(3)(A) For the 1998-99 school year, the Department of Education~~
30 ~~shall determine which local school districts have a local revenue per student~~
31 ~~in excess of the base local revenue per student and shall calculate ten~~
32 ~~percent (10%) of such excess and multiply the result times the district's ADM~~
33 ~~for the previous year.~~

34 ~~(B) The Department of Education shall certify, to any~~
35 ~~affected county treasurer, the local school district identified as having an~~
36 ~~excess and the amount calculated in subdivision (c)(3)(A) of this section by~~

1 ~~August 1 of each school year.~~

2 ~~(C) Any county treasurer receiving certification from the~~
 3 ~~Department of Education under subdivision (c)(3)(B) of this section shall~~
 4 ~~remit the amount certified to the State Treasury for the credit of the Public~~
 5 ~~School Fund and redistribute the difference between the net revenues from the~~
 6 ~~uniform rate of tax and the amount certified to the affected local school~~
 7 ~~district.~~

8
 9 SECTION 7. Arkansas Code § 26-80-110 is amended to read as follows:

10 26-80-110. Dedicated maintenance and operation millage.

11 ~~(a)(1) In addition to other maintenance and operation millages, the~~
 12 The board of directors of each local school district is authorized, upon
 13 approval of a majority of the qualified voters in the school district voting
 14 in the annual school election to levy and collect a tax upon real, personal,
 15 and utility property for dedicated maintenance and operation millage for the
 16 local school district, to designate some of the school district's additional
 17 maintenance and operation millage that exceeds the uniform rate of tax, as
 18 dedicated maintenance and operation millage.

19 (2) The approved tax shall be assessed, levied, and collected as
 20 provided by law for other school taxes.

21 (3) The approved tax may be considered part of the school
 22 district's uniform rate of tax as calculated by the State Department of
 23 Education under Arkansas Constitution, Amendment 74.

24 (b) Any funds received from the collection of a dedicated maintenance
 25 and operations tax shall only be used for ~~the following~~ maintenance and
 26 operation purposes+ specifically approved by the majority of the qualified
 27 voters of the school district voting in the school election, and for no other
 28 purpose than those that were stated on the ballot.

29 ~~(1) Purchase of school buses;~~

30 ~~(2) Purchase of furniture or equipment to support the~~
 31 ~~instructional program;~~

32 ~~(3) Purchase of computer software;~~

33 ~~(4) Renovation or repair of existing facilities; or~~

34 ~~(5) Repaying revolving loans for any of the purposes previously~~
 35 ~~listed.~~

36 (c)(1) ~~Local school districts which have levied a capital outlay tax~~

1 ~~or current expenditures tax prior to the amendment of this section are~~
2 ~~authorized to continue such levies for the terms and purposes approved by the~~
3 ~~majority of voters at the time of their adoption.~~

4 ~~(2) If a school district, at the time of the adoption of the~~
5 ~~amendment of this section, levied a capital outlay tax or current expenditure~~
6 ~~tax less than or equal to its additional mills for maintenance and operation,~~
7 ~~then that millage levied as a capital outlay tax or current expenditures tax~~
8 ~~shall be considered as a dedicated maintenance and operation millage.~~

9 ~~(3) If a school district, at the time of the adoption of the~~
10 ~~amendment of this section, levied a capital outlay tax or current expenditure~~
11 ~~tax greater than its additional mills for maintenance and operation, then~~
12 ~~that millage levied as a capital outlay tax or current expenditures tax may~~
13 ~~continue to be levied for the purposes originally approved. Although, as the~~
14 ~~electors of a school district vote an increased levy for nondedicated~~
15 ~~additional mills for maintenance and operation, then those additional mills~~
16 ~~will be considered the school district's dedicated maintenance and operation~~
17 ~~millage to replace the original levies for capital outlay and current~~
18 ~~expenditures until the additional mills for maintenance and operation exceed~~
19 ~~the rate of tax levied for capital outlay or current expenditures at the time~~
20 ~~of the adoption of this act. When the additional mills for maintenance and~~
21 ~~operation equal or exceed the capital outlay or current expenditures millage~~
22 ~~levied at the time of the adoption of this act, then they shall be treated as~~
23 ~~provided under subdivision (2) of this subsection.~~

24 ~~(d) Any levy of a dedicated maintenance and operation millage proposed~~
25 ~~subsequent to the adoption of this section shall be limited as set forth in~~
26 ~~subsection (b) of this section and, when combined with capital outlay or~~
27 ~~current expenditure levies approved prior to the adoption of this section and~~
28 ~~still in effect, shall not exceed five percent (5%) of current expense or~~
29 ~~three (3) mills, whichever is less.~~

30 ~~(e) (d) Any levy of a dedicated maintenance and operation millage must~~
31 ~~be specified on the ballot, and that specification must list the purpose for~~
32 ~~which the dedicated maintenance and operation millage is levied.~~

33 (e) Dedicated maintenance and operation millage may not be used by a
34 district to comply with the uniform rate of tax levy.

35
36 SECTION 8. Arkansas Code § 26-80-111 is amended to read as follows:

1 26-80-111. School districts formed by consolidation, annexation, or
2 merger.

3 (a) When a new school district is created from all or parts of two (2)
4 or more districts or a district is dissolved and all or part of the area of
5 the dissolved district is annexed to or consolidated with an existing
6 district, the board of directors of the resulting district shall submit to
7 the electors of the district at the next annual school election a proposed
8 tax millage rate for the district. If the proposed millage rate is approved
9 by the electors of the district, it shall be the rate for the district,
10 provided such rate complies with the uniform rate of tax.

11 (b) If a new school district is created from all or parts of two (2)
12 or more districts or a district is dissolved and all or part of the area of
13 the dissolved district is annexed to or consolidated with an existing
14 district and if the electors have failed to approve a proposed millage rate
15 at a an annual school election, then the millage rate for the district shall
16 be the millage rate levied, at the last school election prior to the
17 consolidation, annexation or merger in the district which had the highest
18 average daily membership during the school year preceding the consolidation,
19 annexation, or merger, provided such rate complies with the uniform rate of
20 tax then the tax shall be collected at the rate approved in the last
21 preceding school election. However, if the rate last approved has been
22 modified pursuant to the Arkansas Constitution, Amendment 74, subsection (b)
23 or subdivision (c)(2), then the tax shall be collected at the modified rate
24 until another rate is approved.

25
26 SECTION 9. Arkansas Code Title 26, Chapter 80, Subchapter 2 is
27 repealed.

28 ~~26-80-201. Calculation of the uniform rate of tax.~~

29 ~~(a) Beginning with calendar year 1997, and each year thereafter,~~
30 ~~compliance with the uniform rate of tax shall be computed using the following~~
31 ~~method:~~

32 ~~(1)(A) By March 15 in each calendar year, the county clerk of~~
33 ~~each county shall transmit to the Department of Education the abstract of~~
34 ~~assessment for the previous calendar year's assessments for collection in the~~
35 ~~current year.~~

36 ~~(B) This abstract shall show, by class of property and~~

1 value, the total assessment of each school district in the county and the
2 millage rate charged after all adjustments ordered by the county equalization
3 board and the county court have been made;

4 (2) By May 30 of each year, the Department of Education shall
5 certify scheduled bonded debt payments for each school district in the
6 following three (3) categories:

7 (A) The total scheduled bonded debt payment for the
8 succeeding calendar year;

9 (B) The total scheduled bonded debt payment for the
10 succeeding calendar year on bonds issued prior to May 30 of each year; and

11 (C) The total number of mills in categories (A) and (B),
12 as set forth in subdivisions (a)(2)(A) and (a)(2)(B) of this section,
13 dedicated to mandatory callable bonds;

14 (3) By May 30 of each year, the Department of Education shall
15 certify average daily membership for the current school year; and

16 (4) All data collected under this subsection shall be the final
17 data collected for the year unless there are clerical corrections to the
18 data.

19 (b)(1) The initial compliance shall be calculated by taking the
20 millage rate of the school district submitted by the county clerk minus the
21 debt service millage required plus the millage derived from the ratio of the
22 debt service funding supplements for the calendar year over the total
23 assessment shown on the abstract of assessment.

24 (2) If the result is less than the uniform rate of tax, then the
25 result shall be adjusted up to the uniform rate of tax.

26 (3) If the result is greater than the uniform rate of tax, then
27 the difference between the result and the uniform rate of tax shall be
28 considered additional mills for maintenance and operation. Any excess debt
29 service millage considered additional mills for maintenance and operation may
30 be used by the district for the purpose of paying the principal and interest
31 on indebtedness of the district and may be pledged for that purpose or any
32 other school purpose.

33 (c) The Director of the Department of Education shall report to the
34 county clerks and the individual school districts by June 15 of each year the
35 required increase, if any, in the total millage necessary to comply with the
36 uniform rate of tax and shall designate the millage rates proposed to be used

1 to calculate the uniform rate of tax. Whenever an increase is required, the
2 notification shall include an explanation for the increase.

3 (d) ~~By November 1 of each year, the county clerk of each county in~~
4 ~~which a reappraisal of real, personal, and utility property has been~~
5 ~~completed that could initiate a rollback of millage rates or in which~~
6 ~~equalization of the real, personal, and utility millage rates has not taken~~
7 ~~place shall notify the director of the possibility of such rollback or~~
8 ~~additional rollback taking place. If a county will experience a rollback in~~
9 ~~millages due to Arkansas Constitution, Amendment 59, a new compliance~~
10 ~~calculation shall be done to reflect the effect of the rollback. However, if~~
11 ~~a county is not going to experience a rollback, then the initial calculation~~
12 ~~in subsection (b) of this section shall be the final calculation.~~

13 (e) ~~Pursuant to the application of Arkansas Constitution, Amendment 74~~
14 ~~to the rollback provisions of Arkansas Constitution, Amendment 59 for millage~~
15 ~~rates levied by the various school districts within the county, if it is~~
16 ~~determined that the adjustment or rollback of millages as provided in~~
17 ~~Arkansas Constitution, Amendment 59, will result in a tax rate available for~~
18 ~~maintenance and operation of less than the uniform rate of tax, then the~~
19 ~~millage shall be rolled back only to the uniform rate of tax plus debt~~
20 ~~service millage required and no further.~~

21
22 ~~26-80-202. Title.~~

23 ~~This act shall be known and may be cited as "The Amendment No. 74~~
24 ~~Enabling Act of 1997."~~

25
26 ~~26-80-203. Legislative findings and intent.~~

27 (a) ~~The General Assembly finds that the citizens of the State of~~
28 ~~Arkansas have adopted Arkansas Constitution, Amendment 74, to provide for a~~
29 ~~base of equal local effort for Arkansas public schools by establishment of a~~
30 ~~uniform rate of ad valorem property tax of twenty five (25) mills to be~~
31 ~~levied on the assessed value of all taxable real, personal, and utility~~
32 ~~property in the state to be used solely for the maintenance and operation of~~
33 ~~the schools. This act is intended to effectuate the changes in the system of~~
34 ~~school funding that flow from the adoption of Arkansas Constitution,~~
35 ~~Amendment 74.~~

36 (b) ~~The General Assembly further finds that Arkansas Constitution,~~

1 ~~Amendment 74 has placed on it a duty to provide for the support of common~~
 2 ~~schools by general law. In order to provide quality education, it is the goal~~
 3 ~~of the state to provide a fair system for the distribution of funds. The~~
 4 ~~General Assembly recognizes that, in providing such a system, some funding~~
 5 ~~variations may be necessary. It further recognizes that funding variations or~~
 6 ~~restrictions thereon may be necessary in order to comply with, or due to,~~
 7 ~~other provisions of the Arkansas Constitution, the United States~~
 8 ~~Constitution, federal laws, court orders, or other provisions enacted by the~~
 9 ~~General Assembly to address specific problems as may arise from time to time.~~

10 ~~(c) It is the intent of the General Assembly to limit the amount of~~
 11 ~~time in which the revenues from the uniform rate of tax are in the control of~~
 12 ~~the state and, to this end, the General Assembly will provide, as much as~~
 13 ~~possible, that the funds will remain in local depositories and under the~~
 14 ~~control of local officials.~~

15 ~~(d) It is further the intent of the General Assembly that the system~~
 16 ~~of collection and distribution of property taxes be disrupted as little as~~
 17 ~~possible by this act, recognizing that the provisions of Arkansas~~
 18 ~~Constitution, Amendment 74 will affect existing property tax structure and~~
 19 ~~will, in some cases, affect the application of Arkansas Constitution,~~
 20 ~~Amendment 59, and may also affect the application of other constitutional~~
 21 ~~provisions.~~

22
 23 ~~26-80-204. Definitions.~~

24 ~~As used in this subchapter and subchapter 1 of this chapter:~~

25 ~~(1) "Additional mills for maintenance and operation" means~~
 26 ~~millage levied by the electors of a local school district for maintenance and~~
 27 ~~operation in excess of those allocated to the uniform rate of tax;~~

28 ~~(2) "Available for maintenance and operation millages" means~~
 29 ~~millage levied for maintenance and operation, millage levied as dedicated~~
 30 ~~maintenance and operation millage, excess debt service millage, and the~~
 31 ~~millage derived from the ratio of debt service funding supplements divided by~~
 32 ~~the total assessment, which may be included in the calculation for the~~
 33 ~~uniform rate of tax as specified in this subchapter, if needed;~~

34 ~~(3)(A) "Average daily membership" means the total number of days~~
 35 ~~attended plus the total number of days absent by students in grades~~
 36 ~~kindergarten through twelve (K-12) during the first three (3) quarters of~~

1 each school year divided by the number of school days actually taught in the
2 district during that period of time rounded up to the nearest hundredth.

3 (B) In those instances in which the average daily
4 membership for less than three (3) quarters is specified, the number of days
5 used in the calculation shall be the days in the specified period of time.

6 (C) As applied to this subchapter, students who may be
7 counted for average daily membership are:

8 (i) Students who reside within the boundaries of the
9 school district and are enrolled within a public school operated by the
10 district or a private school for special education students, with the
11 attendance resulting from a written tuition agreement approved by the
12 Department of Education;

13 (ii) Legally transferred students living outside the
14 district but attending a public school in the district; and

15 (iii) Students who reside within the boundaries of
16 the school district and are enrolled in the Arkansas National Guard Youth
17 Challenge Program, so long as the students are participants in the program;

18 (4) "Base local revenue per student" means:

19 (A) As applied under §§ 6-17-1001, 6-20-301, 6-20-311, 6-
20 20-319, and 26-80-110, if Category 1 is fully funded, the local revenue per
21 student in the local school district with the highest amount of local revenue
22 per student.

23 (B) If Category 1 is not fully funded, the term means the
24 revenue per student to which the state equalizes, calculated by taking the
25 sum of:

26 (i) The total available state aid for state
27 equalization funding per student;

28 (ii) Ninety eight percent (98%) of the uniform rate
29 of tax times the total state assessed valuation; and

30 (iii) Seventy five percent (75%) of the average
31 miscellaneous funds collected in the previous five (5) years or the previous
32 year, whichever is less, and by dividing the sum by the total state average
33 daily membership for the previous year;

34 (5) "Debt service funding supplements" means the state financial
35 aid provided to qualifying local school districts for the purpose of reducing
36 existing debt service burdens and increasing the amount of local revenue

1 available for maintenance and operation expenditures and calculated as
2 follows; for each mill of eligible debt service millage required, the local
3 school shall be provided a dollar amount of no less than fifteen dollars
4 (\$15.00) per average daily membership multiplied by the state wealth index;

5 (6) "~~Debt service millage~~" means the total number of mills voted
6 by the electors of a school district to be pledged as security for the
7 retirement of bonded indebtedness;

8 (7) "~~Debt service millage required~~" means the calculated millage
9 rate equal to the amount of millage pledged to mandatory callable bonds plus
10 the result of the scheduled calendar year bonded debt payment divided by the
11 total assessed value of real, personal, and utility property in the local
12 school district;

13 (8) "~~Eligible debt service millage required~~" means, in the
14 computation of the debt service funding supplement, the debt service millage
15 required for bonds issued before May 30 of each year;

16 (9) "~~Excess debt service millage~~" means the difference between
17 the debt service millage levied and the debt service millage required. This
18 amount shall be presumed to be available for maintenance and operation but
19 may be used for other school purposes, provided that the district is in
20 compliance with the uniform rate of tax;

21 (10) "~~Local revenue per student~~" means, as applied under §§ 6-
22 17-1001, 6-20-301, 6-20-311, 6-20-319, and 26-80-110, in each year ninety-
23 eight percent (98%) of the amount of revenue available, whether or not
24 collected, in a local school district solely from the levy of the uniform
25 rate of tax plus seventy five percent (75%) of the average miscellaneous
26 funds collected in the previous five (5) years or the previous year,
27 whichever is less, divided by the average daily membership of the local
28 school district for the previous year;

29 (11) "~~Mandatory callable bonds~~" means a bond issue in which all
30 net proceeds from debt service millage used to secure the issuance of that
31 bond must apply to payment of the issue and cannot be used for any other
32 purpose;

33 (12) "~~Millage rate~~" means the millage rate listed in the most
34 recent tax ordinance approved by the county quorum court under the authority
35 of § 14-14-904;

36 (13) "~~Miscellaneous funds~~" means those funds received by a local

1 ~~school district from federal forest reserves, federal grazing rights, federal~~
 2 ~~mineral rights, federal impact aid, federal flood control, wildlife refuge~~
 3 ~~funds, severance taxes, funds received by the district in lieu of taxes, and~~
 4 ~~local sales and use taxes dedicated to education pursuant to §§ 26-74-201 et~~
 5 ~~seq., 26-74-301 et seq., and 14-164-301 et seq.;~~

6 ~~(14) "Net revenues" means actual revenues from taxes due and~~
 7 ~~owing after January 1, 1997, rounded to the nearest hundredth minus any~~
 8 ~~commission fees authorized by law to be collected or withheld for later~~
 9 ~~distribution by the county offices. No additional fees shall be charged for~~
 10 ~~transmittal or redistribution of funds by any county or state office in~~
 11 ~~carrying out the procedures established to comply with the requirements of~~
 12 ~~Arkansas Constitution, Amendment 74;~~

13 ~~(15) "Previous year" means the school year immediately preceding~~
 14 ~~the school year in which funds are allocated;~~

15 ~~(16) "State equalization funding per student" means, as applied~~
 16 ~~under §§ 6-17-1001, 6-20-301—6-20-311, 6-20-319, and 26-80-110, the amount~~
 17 ~~of state financial aid per average daily membership for the previous year~~
 18 ~~provided to each local school district calculated by subtracting the local~~
 19 ~~revenue per student from the base local revenue per student;~~

20 ~~(17) "State wealth index" means the result of one (1) minus the~~
 21 ~~ratio of local revenue per student divided by state equalization funding per~~
 22 ~~student; and~~

23 ~~(18) "Uniform rate of tax" means a uniform rate of ad valorem~~
 24 ~~property tax of twenty five (25) mills to be levied on the assessed value of~~
 25 ~~all taxable real, personal, and utility property in the state to be used~~
 26 ~~solely for maintenance and operation of the schools. In calculating the~~
 27 ~~uniform rate of tax imposed by Arkansas Constitution, Article 14, § 3, as~~
 28 ~~amended by Arkansas Constitution, Amendments 11, 40, and 74, the following~~
 29 ~~categories of millage may be utilized to meet the minimum millage~~
 30 ~~requirement:~~

31 ~~(A) The local school district's maintenance and operation~~
 32 ~~millage;~~

33 ~~(B) The dedicated maintenance and operation millage;~~

34 ~~(C) Excess debt service millage; and~~

35 ~~(D) The millage derived from the ratio of the debt service~~
 36 ~~funding supplements divided by the total assessment.~~

1
2 ~~26-80-205. Establishment of compliance.~~

3 ~~Compliance with the uniform rate of tax shall be established by the~~
4 ~~Department of Education in coordination with the Assessment Coordination~~
5 ~~Department.~~

6
7 ~~26-80-206. Security and coverage of bond issues.~~

8 ~~(a) Nothing in this act shall be construed as to eliminate or to~~
9 ~~discourage the practice of levying additional mills above those necessary to~~
10 ~~service the debt for the purpose of security.~~

11 ~~(b) Any school district that voted a debt service millage tax levy above~~
12 ~~the levy required to service the debt, shall continue to show that additional~~
13 ~~millage on its ballot for the length of time initially approved or extended~~
14 ~~by the electors of the school district. The additional mills pledged to the~~
15 ~~security of the bond that had been voted in the past may be considered~~
16 ~~additional mills for maintenance and operation or as part of the uniform rate~~
17 ~~of tax, whichever is applicable. Any excess debt service millage considered~~
18 ~~additional mills for maintenance and operation may be used by the district~~
19 ~~for the purpose of paying the principal and interest on bonds of the district~~
20 ~~and may be pledged for that purpose, provided that the district is in~~
21 ~~compliance with the uniform rate of tax.~~

22 ~~(c) Any school district, with approval of the electors of that~~
23 ~~district at the annual school election, when voting for a new tax for the~~
24 ~~retirement of debt may request a tax levy that includes mills greater than~~
25 ~~the amount required to service the debt. Excess debt service millage in the~~
26 ~~new tax levy for the retirement of debt may be used in calculations, as~~
27 ~~specified in Title 26, Chapter 80, of the uniform rate of tax or available~~
28 ~~for maintenance and operation. Any excess debt service millage considered~~
29 ~~additional mills for maintenance and operation may be used by the district~~
30 ~~for the purpose of paying the principal and interest on bonds of the district~~
31 ~~and may be pledged for that purpose, provided that the district is in~~
32 ~~compliance with the uniform rate of tax.~~

33 ~~(d) Holders of bonds of the school district shall have a first and~~
34 ~~prior right and security interest in the revenue produced by the debt service~~
35 ~~millage pledged by the school district to the payment of its bonds.~~

36

1 ~~26-80-207. Penalties.~~

2 ~~(a) All duties imposed by this subchapter and subchapter 1 of this~~
3 ~~chapter on all state and county officers are declared to be mandatory, and~~
4 ~~any officer who neglects, fails, or refuses to perform any such duty shall be~~
5 ~~subject to removal from office and liable on his official bond for such~~
6 ~~neglect, failure, or refusal.~~

7 ~~(b)(1) Upon the refusal or failure of any state officer to perform any~~
8 ~~duty imposed upon him under the provisions of this subchapter and subchapter~~
9 ~~1 of this chapter, any citizen of the state may, and the Attorney General of~~
10 ~~the State of Arkansas shall, institute in the proper court mandamus~~
11 ~~proceedings to compel the state officer to perform his duties.~~

12 ~~(2) Upon the refusal or failure of any county officer to perform~~
13 ~~any duty imposed upon him under the provisions of this subchapter and~~
14 ~~subchapter 1 of this chapter, any citizen of the county may, and the~~
15 ~~prosecuting attorney of the district including such county shall, institute~~
16 ~~in the proper court mandamus proceedings to compel the county officer to~~
17 ~~perform his duties.~~

18 **EMERGENCY CLAUSE FAILED TO PASS**

19 ~~SECTION 10. EMERGENCY CLAUSE. It is found and determined by the~~
20 ~~General Assembly of the State of Arkansas that the Arkansas Supreme Court has~~
21 ~~declared that the current method that the state uses to determine compliance~~
22 ~~with Amendment 74 to be unconstitutional and has instructed the General~~
23 ~~Assembly to take action before the termination of the court's stay of its~~
24 ~~mandate. It is also found that the people must be informed as early as~~
25 ~~possible the impact of the court's ruling on the property taxes that they pay~~
26 ~~for education. Therefore, an emergency is declared to exist and this act~~
27 ~~being immediately necessary for the preservation of the public peace, health,~~
28 ~~and safety shall become effective on:~~

29 ~~(1) The date of its approval by the Governor;~~

30 ~~(2) If the bill is neither approved nor vetoed by the Governor,~~
31 ~~the expiration of the period of time during which the Governor may veto the~~
32 ~~bill; or~~

33 ~~(3) If the bill is vetoed by the Governor and the veto is~~
34 ~~overridden, the date the last house overrides the veto.~~

35
36 /s/ Argue

APPROVED: 12/31/2003