

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Thicksten**

# A Bill

**HOUSE BILL 1166**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §§ 6-20-401 AND 6-20-402 TO  
9 AUTHORIZE THE STATE BOARD OF EDUCATION TO WITHHOLD STATE  
10 AID FROM SCHOOL DISTRICTS THAT ARE DELINQUENT IN PAYING  
11 CURRENT INDEBTEDNESS OR POSTDATED WARRANTS; TO DECLARE AN  
12 EMERGENCY; AND FOR OTHER PURPOSES."

## Subtitle

14 "TO AUTHORIZE THE STATE BOARD OF EDUCATION TO WITHHOLD  
15 STATE AID FROM SCHOOL DISTRICTS THAT ARE DELINQUENT ON  
16 CURRENT INDEBTEDNESS."  
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18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code § 6-20-401 is hereby amended to read as  
22 follows:

23 "6-20-401. Definitions.

24 As used in this subchapter, unless the context otherwise requires:

25 (1) Revenue receipts of a school district means those receipts that  
26 do not result in increasing school indebtedness or in depleting school  
27 property. Specifically, revenue receipts of a school district for any fiscal  
28 year shall consist of the following funds:

29 (A) Net cash balance on hand at the beginning of the school  
30 fiscal year, July 1;

31 (B) The remaining net proceeds of local taxes collected in the  
32 calendar year in which the school fiscal year started plus forty percent (40%)  
33 of the proceeds of the local taxes which are not pledged to secure bonded  
34 indebtedness collected in the succeeding calendar year. This forty percent  
35 (40%) shall be determined by applying the following formula: Assessed

1 valuation multiplied by the tax rate which is not pledged to secure bonded  
2 indebtedness multiplied by forty percent (40%);

3 (C) The net proceeds of all other funds accrued or placed to the  
4 credit of the district during the fiscal year from regular revenue sources  
5 including, but not limited to, state and federal funding.

6 (2) Nonrevenue receipts of a school district means those receipts  
7 which either incur an obligation which must be met at some future date or  
8 which change the form of an asset from property to cash. Specifically, they  
9 consist of the proceeds of a bond sale, payment of losses on an insurance  
10 policy, the receipts from the sale of property, etc.

11 (3) Current indebtedness means a debt obligation incurred by a school  
12 district for the purpose of paying maintenance or general operation expenses  
13 for the fiscal year in which the debt is incurred or for a purpose for which a  
14 postdated warrant, installment contract, or lease purchase agreement may be  
15 issued."

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17 SECTION 2. Arkansas Code § 6-20-402 is hereby amended to read as  
18 follows:

19 "6-20-402. Limitation on current indebtedness - Postdated warrants and  
20 installment contracts - Liability.

21 (a) The amount of obligations incurred by a school district for any  
22 school fiscal year shall not be in excess of the revenue receipts of the  
23 district for that year except as provided herein and in Subchapters 8 and 12  
24 of Chapter 20 of Title 6 of the Arkansas Code of 1987 Annotated. School  
25 districts may issue postdated warrants or enter into installment contracts or  
26 lease purchase agreements for the following purposes:

27 (1) Purchase of school buses;

28 (2) Payment of premiums of insurance policies on school  
29 buildings, facilities, and equipment in instances where the insurance coverage  
30 extends three (3) years or longer;

31 (3) Purchase of equipment;

32 (4) Repair and renovation of school facilities;

33 (5) Purchase of school sites; and

34 (6) Payment of the district's pro rata part of employing  
35 professional appraisers as authorized by laws providing for the appraisal, or

1 reappraisal, and assessment of property for ad valorem tax purposes.

2           (b)(1) Postdated warrants, lease purchase agreements, and installment  
3 contracts must be paid within six (6) years of the date of issuance of the  
4 postdated warrant or the execution of the written lease purchase agreement or  
5 installment contract, as the case may be. Postdated warrants, lease purchase  
6 agreements, and installment contracts must be registered, on forms provided by  
7 the State Board of Education, with the treasurer of the district and the State  
8 Board of Education.

9           (2) Lease purchase agreements and installment contracts must have  
10 attached thereto a schedule of the rent or installments to be paid showing:

11                   (A) The payee and any assignee;

12                   (B) The school district;

13                   (C) The purpose of the purchase or payment;

14                   (D) The due date of each installment;

15                   (E) The amount of principal and interest of each

16 installment and the fiscal year in which such installment is to be paid. A  
17 copy of each such contract and of the schedule of payments thereon shall be  
18 filed with the treasurer of the district and the State Board of Education, and  
19 when so filed each installment may be paid as it becomes due.

20           (3) The unpaid principal amount of postdated warrants issued and  
21 installment contracts and lease purchase agreements entered into shall be a  
22 part of the total debt of the district as limited by §§ 6-20-803 and  
23 6-20-1202, as amended, with the district fiscal officer and his surety liable  
24 for exceeding such limitations.

25           (4) Payments by a school district pursuant to postdated warrants,  
26 installment contracts and lease purchase agreements shall be charged against  
27 the budget of the school fiscal year in which they become due and shall be  
28 paid out of the revenue receipts for that fiscal year.

29           (5) All warrants issued or installment contracts and lease  
30 purchase agreements entered into in excess of the revenue of a school district  
31 for a school fiscal year, except as herein provided, are null and void.

32           (6) It shall be the duty of the school fiscal officer to indicate  
33 on each school district warrant or on the schedule of payments attached to a  
34 written installment contract or lease purchase agreement, the school year's  
35 revenues against which the obligation was incurred and is to be paid, and it

1 shall be unlawful for the school fiscal officer to issue a school district  
2 warrant or enter into an installment contract or lease purchase agreement, the  
3 installments for which are to be charged against the revenues of a school year  
4 if the obligation thereof was incurred in a different school year, except as  
5 otherwise authorized herein.

6           (7) The school fiscal officer may comply with the provisions  
7 hereof by indicating on each warrant or schedule of payments attached to any  
8 installment contract or lease purchase agreement the school year's revenues  
9 against which each payment is to be charged, or he may use a warrant of a  
10 distinct color for a particular year and shall advise the county treasurer in  
11 writing of the color of warrant being used for credit against the revenues of  
12 a particular year.

13           (8) The county treasurer and his surety shall be jointly liable  
14 with the school fiscal officer and his surety for the payment of any school  
15 warrant or payment on a contract or agreement which is charged against the  
16 revenues of a school year if the amount thereof is in excess of the revenue  
17 receipts of the district for the school year against which the school fiscal  
18 officer has indicated the payment is to be charged, or where he approved the  
19 payment with knowledge that the payment is being charged by the school fiscal  
20 officer against the revenues of another school year in violation of this  
21 section.

22           (9) It is the purpose and intent of this section to place primary  
23 responsibility on the school fiscal officer and his surety for compliance with  
24 the provisions of this section, and to make the county treasurer and his  
25 surety liable for any payment on a warrant, contract, or agreement drawn in  
26 violation of this section where the amount of the payment exceeds the revenue  
27 receipts of the district for the school year against which it is charged as  
28 indicated on the warrant, contract, or agreement or where the county treasurer  
29 approves a payment with the knowledge that it is in payment of an obligation  
30 of a different school year as prohibited in this section.

31           (c) A school district may incur current indebtedness and issue its  
32 notes or other evidence thereof as provided in this subsection.

33           (1) All current indebtedness incurred in a fiscal year shall  
34 mature on or before December 31 of the calendar year in which the fiscal year  
35 ends.

1           (2) Current indebtedness is not included in the term bonded  
2 indebtedness and shall not be considered a part of the total debt of a  
3 district as limited by §§ 6-20-803 and 6-20-1202, as amended.

4           (3) Current indebtedness shall be payable from, and may be  
5 secured by a pledge of all or any part of the revenue receipts of the issuing  
6 district for the fiscal year in which the debt is incurred.

7           (4) The amount of obligations incurred by a school district for  
8 any school fiscal year, including current indebtedness, shall not, except as  
9 expressly authorized in subsection (a), be in excess of the revenue receipts  
10 of the district for that year.

11           (d) As additional security for the payment of any postdated warrant or  
12 current indebtedness of a school district, the district may authorize the  
13 State Board of Education to cure any delinquencies in payment by withholding  
14 state aid due the district under Subchapter 3 of Chapter 20, Title 6, of the  
15 Arkansas Code of 1987 Annotated. Such authorization shall be given at the  
16 time the warrant is issued or the current indebtedness is incurred, and shall  
17 be given in such manner and in such form as the State Board of Education shall  
18 prescribe. If the debtor district has authorized withholding of state aid,  
19 whenever the payee or the designated paying agent for receipt of the  
20 district's payments does not receive a payment when due pursuant to the  
21 authorizing documents, the payee or paying agent will be entitled to payment  
22 from the withheld state aid in an amount sufficient to cure the payment  
23 deficiency upon notifying the Director of General Education and the  
24 superintendent of the district by telephone, facsimile, or other similar  
25 communication, followed by written verification. Unless the Director  
26 determines that payment has been made by the district and there is no longer a  
27 payment deficiency, the Director shall withhold from the next distribution of  
28 state aid and remit to the payee or paying agent an amount sufficient to cure  
29 the deficiency. In the event the amount next due to be distributed to the  
30 delinquent district is not sufficient to cure the delinquency, the Director  
31 shall continue to withhold state aid as due and remit it to the payee or  
32 paying agent until the payment deficiency has been cured. If the Director is  
33 notified that a district is delinquent on two (2) or more obligations for  
34 which a district has authorized withholding of state aid to cure a  
35 delinquency, the Director shall make payment to payees or paying agents in the

1 order of receipt of notices of the delinquency.

2       (e) *Provided, however, that the entitlement created in subsection (d)*  
3 *shall be applicable only to that portion of Minimum Foundation Program Aid*  
4 *that the debtor district would otherwise receive in the absence of any debt*  
5 *created pursuant to this section; and provided further that any duties*  
6 *required of any officer of the state pursuant to subsection (d) shall be only*  
7 *ministerial in nature and shall in no way transfer any liability of the debtor*  
8 *district to the state, any agency or any officer thereof.*

9       (f) The rate of interest on postdated warrants, installment contracts,  
10 lease purchase agreements and current indebtedness shall not exceed the  
11 maximum interest rate for school bonds as determined under § 6-20-1206."

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13       SECTION 3. All provisions of this act of a general and permanent nature  
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
15 Revision Commission shall incorporate the same in the Code.

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17       SECTION 4. If any provision of this act or the application thereof to  
18 any person or circumstance is held invalid, such invalidity shall not affect  
19 other provisions or applications of the act which can be given effect without  
20 the invalid provision or application, and to this end the provisions of this  
21 act are declared to be severable.

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23       SECTION 5. All laws and parts of laws in conflict with this act are  
24 hereby repealed.

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26       SECTION 6. EMERGENCY. The General Assembly hereby defines and  
27 determines that the authorization herein for the withholding of state aid to  
28 cure payment deficiencies by school districts will permit Arkansas school  
29 districts to borrow money for current needs on favorable terms without  
30 providing letters of credit or other credit enhancement, and that this  
31 legislation must be in effect in order to permit these benefits to school  
32 districts participating in the pooled cash flow program for the 1993-94 school  
33 year. Therefore, an emergency is declared to exist and this Act, being  
34 necessary for the preservation of the public peace, health and safety, shall  
35 be in full force and effect immediately upon its adoption and approval.

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/s/E. Thicksten