

Stricken language would be deleted from and underlined language would be added to present law.
Act 105 of the 2nd Extraordinary Session

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

As Engrossed: H2/2/04
A Bill

Call Item 4

SENATE BILL 73

5 By: Senator Argue
6 By: Representative Stovall
7

8
9 **For An Act To Be Entitled**

10 AN ACT TO AMEND THE PROCEDURES TO IMPLEMENT
11 AMENDMENT 74 TO THE ARKANSAS CONSTITUTION; AND
12 FOR OTHER PURPOSES.
13

14 **Subtitle**

15 AN ACT TO AMEND THE PROCEDURES TO
16 IMPLEMENT AMENDMENT 74 TO THE ARKANSAS
17 CONSTITUTION.
18

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code §§ 26-80-301 through 26-80-306 as added by
23 Act 28 of the Second Extraordinary Session of 2003 is repealed.

24 ~~26-80-301.—Title.~~

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

28 ~~26-80-302.—Definitions.~~

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

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

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



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

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

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

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

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

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

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

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

31
32 ~~26-80-304. Calculation of compliance with the uniform rate of tax.~~

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

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

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

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

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

17
18 ~~26-80-305. Interrelationship between Amendments 59 and 74.~~

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

27
28 ~~26-80-306. Penalties.~~

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

34 ~~(b)(1) Upon the refusal or failure of any state officer to perform any~~
35 ~~duty imposed upon him or her under the provisions of this subchapter, Title~~
36 ~~26, Chapter 80, Subchapter 1, and Arkansas Constitution, Amendment 74, any~~

1 citizen of the state may, and the Attorney General of the State of Arkansas
2 shall, institute mandamus proceedings in the court of proper jurisdiction to
3 compel the state officer to perform his or her duties.

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

11
12 SECTION 2. Arkansas Code Title 26, Chapter 80 is amended to add a new
13 subchapter as follows:

14 26-80-401. Title.

15 This subchapter shall be known and may be cited as the "Amendment 74
16 Enabling Act of 2003".

17
18 26-80-402. Definitions.

19 As used in this subchapter and §§ 26-80-101 – 26-80-111:

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

23 (2) "Debt service millage" means the total number of mills voted
24 by the electors of a school district to be pledged as security for the
25 retirement of bonded indebtedness;

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

29 (4) "Maintenance and operation millage" means millage levied by
30 the electors of a local school district for the maintenance and operation of
31 the school district;

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

35 (6) "Net revenues" means actual revenues from taxes due and
36 payable after January 1, 1997, rounded to the nearest hundredth minus any

1 commission fees authorized by law to be collected or withheld for later
2 distribution by the county offices. No additional fees shall be charged for
3 transmittal or redistribution of funds by any county or state office in
4 carrying out the procedures established to comply with the requirements of
5 Arkansas Constitution, Amendment 74; and

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

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

15
16 26-80-403. Establishment of compliance.

17 Compliance with the uniform rate of tax shall be established by the
18 Department of Education in coordination with the Assessment Coordination
19 Department.

20
21 26-80-404. Calculation of compliance with the uniform rate of tax.

22 (a)(1) Within thirty (30) days of the effective date of this
23 subchapter, the Director of the Department of Education shall certify to each
24 school district whether or not that school district is currently in
25 compliance with the uniform rate of tax.

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

32 (b)(1) Within thirty (30) days of the effective date of this
33 subchapter, the Director shall certify to each quorum court whether or not
34 the school districts in its jurisdiction are in compliance with the uniform
35 rate of tax.

36 (2) The calculation of compliance under this subsection (b)

1 shall be the same as the calculation explicated in subdivision (a)(2) of this
2 section.

3 (c) On or before October 1, 2004, and each year thereafter, the
4 Department of Education, in conjunction with the Assessment Coordination
5 Department, shall monitor compliance with the uniform rate of tax.

6
7 26-80-405. Interrelationship between Amendments 59 and 74.

8 (a) Pursuant to the application of Amendment 74 of the Arkansas
9 Constitution to the rollback provisions of Amendment 59 of the Arkansas
10 Constitution for millage rates levied by the various school districts within
11 the county, the multiplier that is used to reduce the millage which is
12 determined in item number six (6) of the Base Year Millage Rollback
13 Computation and Certification Form under § 26-26-404(d) shall not be used in
14 item number seven (7) of the Base Year Millage Rollback Computation and
15 Certification Form under § 26-26-404(d) to calculate the rollback of the
16 uniform rate of tax.

17 (b) Under § 26-26-404(d), a multiplier of 1 (one) shall be applied to
18 the uniform rate of tax and the calculated multiplier shall apply to all
19 other millage above the uniform rate of tax.

20
21 26-80-406. Penalties.

22 (a)(1) Upon the refusal or failure of any state officer, to perform
23 any duty imposed upon him or her under the provisions of this subchapter,
24 Title 26, Chapter 80, Subchapter 1, and Arkansas Constitution, Amendment 74,
25 the Attorney General of the State of Arkansas shall institute mandamus
26 proceedings in the court of proper jurisdiction to compel the state officer
27 to perform his or her duties.

28 (2) Upon the refusal or failure of any county or school district
29 officer to perform any duty imposed upon him or her under the provisions of
30 this subchapter, Title 26, Chapter 80, Subchapter 1, and Arkansas
31 Constitution, Amendment 74, the prosecuting attorney of the county including
32 the school district shall institute mandamus proceedings in the court of
33 proper jurisdiction to compel the county officer to perform his duties.

34 (b) Any officer who neglects, fails, or refuses to comply with a writ
35 of mandamus obtained pursuant subsection (a) of this section, shall be
36 subject to removal from office and liable on his official bond for the

1 neglect, failure, or refusal to comply with the writ of mandamus.

2
3 SECTION 3. Arkansas Code § 6-14-114 is amended to read as follows:
4 6-14-114. Counting of votes.

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

8 (1) The number of votes cast for each person for school district
9 director;

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

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

12 (4) The number of mills for:

13 (A) The additional mills for maintenance and operation ~~of~~
14 ~~the schools;~~

15 (B) The additional mills for maintenance and operation
16 that have been designated dedicated maintenance and operation mills ~~of the~~
17 ~~school district;~~

18 (C) The debt service millage, ~~which shall include debt~~
19 ~~service millage required and excess debt service millage in the school~~
20 ~~district; and~~

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

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

25
26 SECTION 4. Arkansas Code § 6-20-1205 is amended to read as follows:
27 6-20-1205. Submission of statement prior to issuing bonds - Approval.

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

30 (1) Shall furnish to the Director of the Department of Education
31 a statement of the amount proposed to be borrowed and of the maturity of the
32 indebtedness, a financial statement of the affairs of the district, and a
33 certificate from the county clerk showing the then-assessed valuation of the
34 real, personal, and utility property in the district; and

35 (2) Shall not ~~advertise for the sale of~~ sell bonds until the
36 issue is approved by the State Board of Education or by the director, to be

1 evidenced by a writing signed by the board or the director and bearing the
2 seal of the board.

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

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

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

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

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

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

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

24

25 SECTION 5. Arkansas Code § 14-14-904(b), concerning the levy of taxes
26 by the quorum court, is amended to read as follows:

27 (b)(1) Levy of Taxes and Making of Appropriations. The quorum court at
28 its regular meeting in November of each year shall levy the county,
29 municipal, and school taxes for the current year, and before the end of each
30 fiscal year, the court shall make appropriations for the expenses of county
31 government for the following year. The Director of the Assessment
32 ~~Coordination Division of the Arkansas Public Service Commission~~ Department
33 may authorize an extension of the date for levy of taxes of up to sixty (60)
34 days upon application by the county judge and county clerk of any county for
35 good cause shown resulting from reappraisal or rollback of taxes.

36 (2) Nothing in this subsection shall prohibit the quorum court

1 from making appropriation amendments at any time during the current fiscal
2 year.

3 (3) If the levy of taxes is repealed by referendum, the county
4 may adopt a new ordinance levying taxes within thirty (30) days after the
5 referendum vote is certified.

6 (4) If a county court determines that the levy of taxes by the
7 quorum court is incorrect due to clerical errors, scrivener's errors, or
8 failure of a taxing entity to report the correct millage rate to the quorum
9 court, the county court shall issue an order directing the county clerk to
10 correct the error in order to correct the millage levy.

11 (5) If a determination is made under this subchapter, or Title
12 26, Chapter 80, Subchapter 1, that the taxes levied by the quorum court are
13 out of compliance with Arkansas Constitution, Article 14, § 3, as amended by
14 Arkansas Constitution, Amendments 11, 40, and 74, then upon notice from the
15 Director of the Department of Education the county court shall immediately
16 issue an order directing the county clerk to change the millage levy to bring
17 the taxes levied into compliance with Arkansas Constitution, Article 14, § 3,
18 as amended by Arkansas Constitution, Amendments 11, 40, and 74.

19
20 SECTION 6. Arkansas Code § 26-26-403(c) is repealed.

21 ~~(c) The clerk shall, on or before the second Monday in November of the~~
22 ~~base year, report to the governing body of each taxing unit the following~~
23 ~~completed form, accurately listing the required data on each line.~~

24
25 ~~School District Calculation~~
26 ~~to Determine Minimum Millage Required by Amendment 74~~

27 COUNTY _____ DATE _____

28 School District Name: _____

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

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

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

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

33 e. ~~Equals debt payment by school~~ _____

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

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

- 1 ~~b. Plus current year personal assessment _____~~
- 2 ~~e. Plus current year utility assessment _____~~
- 3 ~~d. Equals total new assessment _____~~
- 4 ~~3. Compute the following to find the millage required for debt:~~
- 5 ~~a. Debt payment by school _____~~
- 6 ~~b. Divided by total new assessment _____~~
- 7 ~~e. Equals school mills required for debt _____~~
- 8 ~~4. Compute the following to find the minimum millage required by Amendment~~
- 9 ~~74:~~
- 10 ~~a. M & O mills required by Amendment 74 _____~~
- 11 ~~b. Plus school mills required for debt _____~~
- 12 ~~e. Plus mills required for callable bonds _____~~
- 13 ~~d. Equals minimum millage required _____~~
- 14 ~~5. Transfer minimum millage required to "Base Year Millage Rollback~~
- 15 ~~Computation and Certification Form", Item 7.~~

16

17 SECTION 7. Arkansas Code § 26-26-410 is repealed.

18 ~~26-26-410. Assessment Coordination Division — Form revision.~~

19 ~~The Assessment Coordination Division of the Public Service Commission~~
 20 ~~shall revise the forms found in § 26-26-401 et seq. pertaining to rollback of~~
 21 ~~millage rates under Arkansas Constitution, Amendment 59, to provide for~~
 22 ~~changes required to effectuate Amendment 74 to the Arkansas Constitution. The~~
 23 ~~revised forms produced by the Assessment Coordination Division shall be~~
 24 ~~submitted to the Arkansas Legislative Council, or any subcommittee designated~~
 25 ~~by that body, for review and comment on or before August 1, 1997. Upon review~~
 26 ~~by the Arkansas Legislative Council, the Arkansas Code Revision Commission~~
 27 ~~shall incorporate such revised forms into § 26-26-401 et seq.~~

28

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

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

35 (2)(A) ~~For the 1997-98 school year, the Department of Education~~
 36 ~~shall determine which local school districts have a local revenue per student~~

1 ~~in excess of the base local revenue per student and shall calculate five~~
 2 ~~percent (5%) of such excess and multiply the result times the district's ADM~~
 3 ~~for the previous year.~~

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

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

14 ~~(3)(A) For the 1998-99 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 ten~~
 17 ~~percent (10%) 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)(3)(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)(3)(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
 30 SECTION 9. Arkansas Code § 26-80-110 is amended to read as follows:
 31 26-80-110. Dedicated maintenance and operation millage.

32 (a)(1) ~~In addition to other maintenance and operation millages, the~~
 33 The board of directors of each local school district is authorized, upon
 34 approval of a majority of the qualified voters in the school district voting
 35 in the annual school election to levy and collect a tax upon real, personal,
 36 and utility property for dedicated maintenance and operation millage for the

1 ~~local school district, to designate some of the school district's additional~~
 2 ~~maintenance and operation millage that exceeds the uniform rate of tax, as~~
 3 ~~dedicated maintenance and operation millage.~~

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

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

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

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

15 ~~(2) Purchase of furniture or equipment to support the~~
 16 ~~instructional program;~~

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

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

19 ~~(5) Repaying revolving loans for any of the purposes previously~~
 20 ~~listed.~~

21 ~~(c)(1) Local school districts which have levied a capital outlay tax~~
 22 ~~or current expenditures tax prior to the amendment of this section are~~
 23 ~~authorized to continue such levies for the terms and purposes approved by the~~
 24 ~~majority of voters at the time of their adoption.~~

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

30 ~~(3) If a school district, at the time of the adoption of the~~
 31 ~~amendment of this section, levied a capital outlay tax or current expenditure~~
 32 ~~tax greater than its additional mills for maintenance and operation, then~~
 33 ~~that millage levied as a capital outlay tax or current expenditures tax may~~
 34 ~~continue to be levied for the purposes originally approved. Although, as the~~
 35 ~~electors of a school district vote an increased levy for nondedicated~~
 36 ~~additional mills for maintenance and operation, then those additional mills~~

1 ~~will be considered the school district's dedicated maintenance and operation~~
 2 ~~millage to replace the original levies for capital outlay and current~~
 3 ~~expenditures until the additional mills for maintenance and operation exceed~~
 4 ~~the rate of tax levied for capital outlay or current expenditures at the time~~
 5 ~~of the adoption of this act. When the additional mills for maintenance and~~
 6 ~~operation equal or exceed the capital outlay or current expenditures millage~~
 7 ~~levied at the time of the adoption of this act, then they shall be treated as~~
 8 ~~provided under subdivision (2) of this subsection.~~

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

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

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

20
 21 SECTION 10. Arkansas Code § 26-80-111 is amended to read as follows:

22 26-80-111. School districts formed by consolidation, annexation, or
 23 merger.

24 (a) When a new school district is created from all or parts of two (2)
 25 or more districts or a district is dissolved and all or part of the area of
 26 the dissolved district is annexed to or consolidated with an existing
 27 district, the board of directors of the resulting district shall submit to
 28 the electors of the district at the next annual school election a proposed
 29 tax millage rate for the district. If the proposed millage rate is approved
 30 by the electors of the district, it shall be the rate for the district,
 31 provided such rate complies with the uniform rate of tax.

32 (b) If a new school district is created from all or parts of two (2)
 33 or more districts or a district is dissolved and all or part of the area of
 34 the dissolved district is annexed to or consolidated with an existing
 35 district and if the electors have failed to approve a proposed millage rate
 36 at a ~~an annual~~ school election, ~~then the millage rate for the district shall~~

1 ~~be the millage rate levied, at the last school election prior to the~~
 2 ~~consolidation, annexation or merger in the district which had the highest~~
 3 ~~average daily membership during the school year preceding the consolidation,~~
 4 ~~annexation, or merger, provided such rate complies with the uniform rate of~~
 5 ~~tax then the tax shall be collected at the rate approved in the last~~
 6 ~~preceding school election. However, if the rate last approved has been~~
 7 ~~modified pursuant to the Arkansas Constitution, Amendment 74, subsection (b)~~
 8 ~~or subdivision (c)(2), then the tax shall be collected at the modified rate~~
 9 ~~until another rate is approved.~~

10
 11 SECTION 11. Arkansas Code Title 26, Chapter 80, Subchapter 2 is
 12 repealed.

13 ~~26-80-201. Calculation of the uniform rate of tax.~~

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

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

21 ~~(B) This abstract shall show, by class of property and~~
 22 ~~value, the total assessment of each school district in the county and the~~
 23 ~~millage rate charged after all adjustments ordered by the county equalization~~
 24 ~~board and the county court have been made;~~

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

28 ~~(A) The total scheduled bonded debt payment for the~~
 29 ~~succeeding calendar year;~~

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

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

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

1 ~~(4) All data collected under this subsection shall be the final~~
2 ~~data collected for the year unless there are clerical corrections to the~~
3 ~~data.~~

4 ~~(b)(1) The initial compliance shall be calculated by taking the~~
5 ~~millage rate of the school district submitted by the county clerk minus the~~
6 ~~debt service millage required plus the millage derived from the ratio of the~~
7 ~~debt service funding supplements for the calendar year over the total~~
8 ~~assessment shown on the abstract of assessment.~~

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

11 ~~(3) If the result is greater than the uniform rate of tax, then~~
12 ~~the difference between the result and the uniform rate of tax shall be~~
13 ~~considered additional mills for maintenance and operation. Any excess debt~~
14 ~~service millage considered additional mills for maintenance and operation may~~
15 ~~be used by the district for the purpose of paying the principal and interest~~
16 ~~on indebtedness of the district and may be pledged for that purpose or any~~
17 ~~other school purpose.~~

18 ~~(c) The Director of the Department of Education shall report to the~~
19 ~~county clerks and the individual school districts by June 15 of each year the~~
20 ~~required increase, if any, in the total millage necessary to comply with the~~
21 ~~uniform rate of tax and shall designate the millage rates proposed to be used~~
22 ~~to calculate the uniform rate of tax. Whenever an increase is required, the~~
23 ~~notification shall include an explanation for the increase.~~

24 ~~(d) By November 1 of each year, the county clerk of each county in~~
25 ~~which a reappraisal of real, personal, and utility property has been~~
26 ~~completed that could initiate a rollback of millage rates or in which~~
27 ~~equalization of the real, personal, and utility millage rates has not taken~~
28 ~~place shall notify the director of the possibility of such rollback or~~
29 ~~additional rollback taking place. If a county will experience a rollback in~~
30 ~~millages due to Arkansas Constitution, Amendment 59, a new compliance~~
31 ~~calculation shall be done to reflect the effect of the rollback. However, if~~
32 ~~a county is not going to experience a rollback, then the initial calculation~~
33 ~~in subsection (b) of this section shall be the final calculation.~~

34 ~~(e) Pursuant to the application of Arkansas Constitution, Amendment 74~~
35 ~~to the rollback provisions of Arkansas Constitution, Amendment 59 for millage~~
36 ~~rates levied by the various school districts within the county, if it is~~

1 ~~determined that the adjustment or rollback of millages as provided in~~
2 ~~Arkansas Constitution, Amendment 59, will result in a tax rate available for~~
3 ~~maintenance and operation of less than the uniform rate of tax, then the~~
4 ~~millage shall be rolled back only to the uniform rate of tax plus debt~~
5 ~~service millage required and no further.~~

6
7 ~~26-80-202. Title.~~

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

10
11 ~~26-80-203. Legislative findings and intent.~~

12 ~~(a) The General Assembly finds that the citizens of the State of~~
13 ~~Arkansas have adopted Arkansas Constitution, Amendment 74, to provide for a~~
14 ~~base of equal local effort for Arkansas public schools by establishment of a~~
15 ~~uniform rate of ad valorem property tax of twenty five (25) mills to be~~
16 ~~levied on the assessed value of all taxable real, personal, and utility~~
17 ~~property in the state to be used solely for the maintenance and operation of~~
18 ~~the schools. This act is intended to effectuate the changes in the system of~~
19 ~~school funding that flow from the adoption of Arkansas Constitution,~~
20 ~~Amendment 74.~~

21 ~~(b) The General Assembly further finds that Arkansas Constitution,~~
22 ~~Amendment 74 has placed on it a duty to provide for the support of common~~
23 ~~schools by general law. In order to provide quality education, it is the goal~~
24 ~~of the state to provide a fair system for the distribution of funds. The~~
25 ~~General Assembly recognizes that, in providing such a system, some funding~~
26 ~~variations may be necessary. It further recognizes that funding variations or~~
27 ~~restrictions thereon may be necessary in order to comply with, or due to,~~
28 ~~other provisions of the Arkansas Constitution, the United States~~
29 ~~Constitution, federal laws, court orders, or other provisions enacted by the~~
30 ~~General Assembly to address specific problems as may arise from time to time.~~

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

36 ~~(d) It is further the intent of the General Assembly that the system~~

1 of collection and distribution of property taxes be disrupted as little as
 2 possible by this act, recognizing that the provisions of Arkansas
 3 Constitution, Amendment 74 will affect existing property tax structure and
 4 will, in some cases, affect the application of Arkansas Constitution,
 5 Amendment 59, and may also affect the application of other constitutional
 6 provisions.

7
 8 ~~26-80-204. Definitions.~~

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

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

13 ~~(2) "Available for maintenance and operation millages" means~~
 14 ~~millage levied for maintenance and operation, millage levied as dedicated~~
 15 ~~maintenance and operation millage, excess debt service millage, and the~~
 16 ~~millage derived from the ratio of debt service funding supplements divided by~~
 17 ~~the total assessment, which may be included in the calculation for the~~
 18 ~~uniform rate of tax as specified in this subchapter, if needed;~~

19 ~~(3)(A) "Average daily membership" means the total number of days~~
 20 ~~attended plus the total number of days absent by students in grades~~
 21 ~~kindergarten through twelve (K-12) during the first three (3) quarters of~~
 22 ~~each school year divided by the number of school days actually taught in the~~
 23 ~~district during that period of time rounded up to the nearest hundredth.~~

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

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

29 ~~(i) Students who reside within the boundaries of the~~
 30 ~~school district and are enrolled within a public school operated by the~~
 31 ~~district or a private school for special education students, with the~~
 32 ~~attendance resulting from a written tuition agreement approved by the~~
 33 ~~Department of Education;~~

34 ~~(ii) Legally transferred students living outside the~~
 35 ~~district but attending a public school in the district; and~~

36 ~~(iii) Students who reside within the boundaries of~~

1 the school district and are enrolled in the Arkansas National Guard Youth
2 Challenge Program, so long as the students are participants in the program;

3 ~~(4) "Base local revenue per student" means:~~

4 ~~(A) As applied under §§ 6-17-1001, 6-20-301, 6-20-311, 6-~~
5 ~~20-319, and 26-80-110, if Category 1 is fully funded, the local revenue per~~
6 ~~student in the local school district with the highest amount of local revenue~~
7 ~~per student.~~

8 ~~(B) If Category 1 is not fully funded, the term means the~~
9 ~~revenue per student to which the state equalizes, calculated by taking the~~
10 ~~sum of:~~

11 ~~(i) The total available state aid for state~~
12 ~~equalization funding per student;~~

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

15 ~~(iii) Seventy five percent (75%) of the average~~
16 ~~miscellaneous funds collected in the previous five (5) years or the previous~~
17 ~~year, whichever is less, and by dividing the sum by the total state average~~
18 ~~daily membership for the previous year;~~

19 ~~(5) "Debt service funding supplements" means the state financial~~
20 ~~aid provided to qualifying local school districts for the purpose of reducing~~
21 ~~existing debt service burdens and increasing the amount of local revenue~~
22 ~~available for maintenance and operation expenditures and calculated as~~
23 ~~follows: for each mill of eligible debt service millage required, the local~~
24 ~~school shall be provided a dollar amount of no less than fifteen dollars~~
25 ~~(\$15.00) per average daily membership multiplied by the state wealth index;~~

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

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

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

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

6 ~~(10) "Local revenue per student" means, as applied under §§ 6-~~
7 ~~17-1001, 6-20-301, 6-20-311, 6-20-319, and 26-80-110, in each year ninety-~~
8 ~~eight percent (98%) of the amount of revenue available, whether or not~~
9 ~~collected, in a local school district solely from the levy of the uniform~~
10 ~~rate of tax plus seventy five percent (75%) of the average miscellaneous~~
11 ~~funds collected in the previous five (5) years or the previous year,~~
12 ~~whichever is less, divided by the average daily membership of the local~~
13 ~~school district for the previous year;~~

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

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

21 ~~(13) "Miscellaneous funds" means those funds received by a local~~
22 ~~school district from federal forest reserves, federal grazing rights, federal~~
23 ~~mineral rights, federal impact aid, federal flood control, wildlife refuge~~
24 ~~funds, severance taxes, funds received by the district in lieu of taxes, and~~
25 ~~local sales and use taxes dedicated to education pursuant to §§ 26-74-201 et~~
26 ~~seq., 26-74-301 et seq., and 14-164-301 et seq.;~~

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

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

36 ~~(16) "State equalization funding per student" means, as applied~~

1 under §§ ~~6-17-1001, 6-20-301—6-20-311, 6-20-319, and 26-80-110~~, the amount
 2 of state financial aid per average daily membership for the previous year
 3 provided to each local school district calculated by subtracting the local
 4 revenue per student from the base local revenue per student;

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

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

16 ~~(A) The local school district's maintenance and operation~~
 17 ~~millage;~~

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

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

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

22
 23 ~~26-80-205. Establishment of compliance.~~

24 ~~Compliance with the uniform rate of tax shall be established by the~~
 25 ~~Department of Education in coordination with the Assessment Coordination~~
 26 ~~Department.~~

27
 28 ~~26-80-206. Security and coverage of bond issues.~~

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

32 ~~(b) Any school district that voted a debt service millage tax levy above~~
 33 ~~the levy required to service the debt, shall continue to show that additional~~
 34 ~~millage on its ballot for the length of time initially approved or extended~~
 35 ~~by the electors of the school district. The additional mills pledged to the~~
 36 ~~security of the bond that had been voted in the past may be considered~~

1 additional mills for maintenance and operation or as part of the uniform rate
2 of tax, whichever is applicable. Any excess debt service millage considered
3 additional mills for maintenance and operation may be used by the district
4 for the purpose of paying the principal and interest on bonds of the district
5 and may be pledged for that purpose, provided that the district is in
6 compliance with the uniform rate of tax.

7 (c) ~~Any school district, with approval of the electors of that~~
8 ~~district at the annual school election, when voting for a new tax for the~~
9 ~~retirement of debt may request a tax levy that includes mills greater than~~
10 ~~the amount required to service the debt. Excess debt service millage in the~~
11 ~~new tax levy for the retirement of debt may be used in calculations, as~~
12 ~~specified in Title 26, Chapter 80, of the uniform rate of tax or available~~
13 ~~for maintenance and operation. Any excess debt service millage considered~~
14 ~~additional mills for maintenance and operation may be used by the district~~
15 ~~for the purpose of paying the principal and interest on bonds of the district~~
16 ~~and may be pledged for that purpose, provided that the district is in~~
17 ~~compliance with the uniform rate of tax.~~

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

21
22 ~~26-80-207. Penalties.~~

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

28 (b)(1) ~~Upon the refusal or failure of any state officer to perform any~~
29 ~~duty imposed upon him under the provisions of this subchapter and subchapter~~
30 ~~1 of this chapter, any citizen of the state may, and the Attorney General of~~
31 ~~the State of Arkansas shall, institute in the proper court mandamus~~
32 ~~proceedings to compel the state officer to perform his duties.~~

33 (2) ~~Upon the refusal or failure of any county officer to perform~~
34 ~~any duty imposed upon him under the provisions of this subchapter and~~
35 ~~subchapter 1 of this chapter, any citizen of the county may, and the~~
36 ~~prosecuting attorney of the district including such county shall, institute~~

1 ~~in the proper court mandamus proceedings to compel the county officer to~~
2 ~~perform his duties.~~

3
4 SECTION 12. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that the Arkansas Supreme Court has
6 declared that the current method that the state uses to determine compliance
7 with Amendment 74 to be unconstitutional and has instructed the General
8 Assembly to take action before the termination of the court's stay of its
9 mandate. It has also found that the people must be informed as early as
10 possible of the impact of the court's ruling on the property taxes that they
11 pay for education. Therefore, an emergency is declared to exist and this act
12 being immediately necessary for the preservation of the public peace, health,
13 and safety shall become effective on:

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

15 (2) If the bill is neither approved nor vetoed by the Governor,
16 the expiration of the period of time during which the Governor may veto the
17 bill; or

18 (3) If the bill is vetoed by the Governor and the veto is
19 overridden, the date the last house overrides the veto.

20
21 /s/ Argue

22
23
24 APPROVED: 2/10/2004