

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas As Engrossed: S2/13/97 S2/14/97 S2/17/97 S2/27/97 S3/3/97 S3/4/97 S3/20/97 H4/1/97

2 81st General Assembly

A Bill

3 Regular Session, 1997

SENATE BILL 393

4

5 By: Senators Malone, Beebe, Harriman, Bell, Edwards, Hopkins, Mahony, and Argue

6 By: Representatives Thicksten, McGinnis and Choate

7

8

For An Act To Be Entitled

9 "AN ACT TO IMPLEMENT AMENDMENT 74 TO THE ARKANSAS
10 CONSTITUTION; TO AMEND CERTAIN SECTIONS OF THE ARKANSAS
11 CODE ANNOTATED SO AS TO BE IN COMPLIANCE WITH AMENDMENT
12 74; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

13

14

Subtitle

15 "AN ACT TO IMPLEMENT AMENDMENT 74 TO THE
16 ARKANSAS CONSTITUTION."

17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19

20 SECTION 1. Title.

21 This act shall be known and may be cited as "The Amendment No. 74
22 Enabling Act of 1997."

23

24 SECTION 2. Legislative Findings and Intent.

25 (a) The General Assembly finds that the citizens of the state of
26 Arkansas have adopted Amendment No. 74 to the Arkansas Constitution to provide
27 for a base of equal local effort for Arkansas public schools by establishment
28 of a uniform rate of ad valorem property tax of twenty-five (25) mills to be
29 levied on the assessed value of all taxable real, personal, and utility
30 property in the state to be used solely for the maintenance and operation of
31 the schools. This act is intended to effectuate the changes in the system of
32 school funding that flow from the adoption of Amendment No. 74.

33 (b) The General Assembly further finds that Amendment No. 74 has placed
34 on it a duty to provide for the support of common schools by general law. In
35 order to provide quality education, it is the goal of the State to provide a
36 fair system for the distribution of funds. The General Assembly recognizes

1 that, in providing such a system, some funding variations may be necessary. It
2 further recognizes that funding variations or restrictions thereon may be
3 necessary in order to comply with, or due to, other provisions of the Arkansas
4 Constitution, the United States Constitution, federal laws, court orders, or
5 other provisions enacted by the General Assembly to address specific problems
6 as may arise from time to time.

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

12 (d) It is further the intent of the General Assembly that the system of
13 collection and distribution of property taxes be disrupted as little as
14 possible by this act, recognizing that the provisions of Amendment No. 74 will
15 affect existing property tax structure and will, in some cases, affect the
16 application of Amendment No. 59 to the Arkansas Constitution and may also
17 affect the application of other constitutional provisions.

18

19 SECTION 3. Definitions.

20 As used in this act:

21 (1) "Additional mills for maintenance and operation" means millage
22 levied by the electors of a local school district for maintenance and
23 operation in excess of those allocated to the uniform rate of tax.

24 (2) "Available for maintenance and operation millages" means millage
25 levied for maintenance and operation, millage levied as dedicated maintenance
26 and operation millage, excess debt service millage, and the millage derived
27 from the ratio of debt service funding supplements divided by the total
28 assessment, which may be included in the calculation for the uniform rate of
29 tax as specified in § 26-80-201(5), if needed.

30 (3) "Average daily membership (ADM)" means the total number of days
31 attended plus the total number of days absent by students in grades
32 kindergarten through twelve (K-12) during the first three (3) quarters of
33 each school year divided by the number of school days actually taught in the
34 district during that period of time rounded up to the nearest hundredth.

35 (4) "Base local revenue per student (BLRPS)" means: As applied under
36 Act 917 of 1995, as such may be amended from time to time, if Category 1 is

1 fully funded, the local revenue per student in the local school district with
2 the highest amount of local revenue per student. If Category 1 is not fully
3 funded, the revenue per student to which the state equalizes calculated by
4 taking the sum of:

5 (A) The total available state aid for state equalization funding
6 per student;

7 (B) Ninety-eight percent (98%) of the uniform rate of tax times
8 the total state assessed valuation; and

9 (C) Seventy-five percent (75%) of the average miscellaneous funds
10 collected in the previous five (5) years or the previous year, whichever is
11 less; and
12 by dividing the sum by the total state ADM for the previous year.

13 (5) "Debt service funding supplements (DSFS)" means the state financial
14 aid provided to qualifying local school districts for the purpose of reducing
15 existing debt service burdens and increasing the amount of local revenue
16 available for maintenance and operation expenditures and calculated as
17 follows: for each mill of eligible debt service millage required, the local
18 school shall be provided fifteen dollars (\$15.00) per ADM times the state
19 wealth index.

20 (6) "Debt service millage" means the total number of mills voted by the
21 electors of a school district to be pledged as security for the retirement of
22 bonded indebtedness.

23 (7) "Debt service millage required (DSMR)" means the calculated millage
24 rate equal to the amount of millage pledged to mandatory callable bonds plus
25 the result of the scheduled calendar year bonded debt payment divided by the
26 total assessed value of real, personal, and utility property in the local
27 school district.

28 (8) "Eligible debt service millage required" means, in the computation
29 of the debt service funding supplement, the debt service millage required for
30 bonds issued on or before May 30, 1997, or bonds issued to refund bonds issued
31 on or before May 30, 1997, provided that such millage was approved in a school
32 election held on or before February 22, 1995.

33 (9) "Excess debt service millage" means the difference between the debt
34 service millage levied and the debt service millage required. This amount
35 shall be presumed to be available for maintenance and operation, but may be
36 used for other school purposes, provided that the district is in compliance

1 with the uniform rate of tax.

2 (10) "Local revenue per student (LRPS)" means: As applied under Act 917
3 of 1995, as such may be amended from time to time, in each year ninety-eight
4 percent (98%) of the amount of revenue available, whether or not collected, in
5 a local school district, solely from the levy of the uniform rate of tax plus
6 seventy-five percent (75%) of the average miscellaneous funds collected in the
7 previous five (5) years or the previous year, whichever is less, divided by
8 the ADM of such local school district for the previous year.

9 (11) "Mandatory callable bonds (MCB)" means a bond issue in which all
10 net proceeds from debt service millage used to secure the issuance of that
11 bond must apply to payment of the issue and cannot be used for any other
12 purpose.

13 (12) "Miscellaneous funds" means those funds received by a local school
14 district from federal forest reserves, federal grazing rights, federal mineral
15 rights, federal impact aid, federal flood control, wildlife refuge funds,
16 severance taxes, funds received by the district in lieu of taxes, and local
17 sales and use tax dedicated to education pursuant to § 26-74-201 et seq., §
18 26-74-301 et seq., and § 14-164-301 et seq.

19 (13) "Net revenues" means actual revenues from taxes due and owing after
20 January 1, 1997, rounded to the nearest one hundredth minus any commission fees
21 authorized by law to be collected or withheld for later distribution by the
22 county offices. No additional fees shall be charged for transmittal or
23 redistribution of funds by any county or state office in carrying out the
24 procedures established to comply with the requirements of Amendment No. 74.

25 (14) "Previous year" means the school year immediately preceding the
26 school year in which funds are allocated.

27 (15) "State equalization funding per student (SEFPS)" means: As applied
28 under Act 917 of 1995, as such may be amended from time to time, the amount of
29 state financial aid per ADM for the previous year provided to each local
30 school district calculated by subtracting the local revenue per student from
31 the base local revenue per student.

32 (16) "State wealth index" means the result of one (1) minus the ratio of
33 local revenue per student divided by state equalization funding per student.

34 (17) "Uniform rate of tax" means a uniform rate of ad valorem property
35 tax of twenty-five (25) mills to be levied on the assessed value of all
36 taxable real, personal, and utility property in the state to be used solely

1 for maintenance and operation of the schools. In calculating the uniform rate
2 of tax imposed by Article 14, § 3 of the Arkansas Constitution, as amended by
3 Amendment Nos. 11, 40, and 74, the following categories of millage may be
4 utilized to meet the minimum base millage requirement:

- 5 (A) The local school district's maintenance and operation millage;
- 6 (B) The dedicated maintenance and operation millage;
- 7 (C) Excess debt service millage;
- 8 (D) The millage derived from the ratio of the debt service funding
9 supplements divided by the total assessment

10

11 (17) "Weighted average millage rate (WAMR)" means a millage rate
12 calculated by taking the sum of:

- 13 (A) The millage levied on real property times the real property
14 assessment base; plus
- 15 (B) The millage levied on personal property times the personal
16 property assessment base; plus
- 17 (C) The millage levied on utility property times the utility
18 property assessment base; and
19 dividing by the total assessed value on taxable real, personal, and utility
20 property.

21

22 SECTION 4. Establishment of compliance.

23 Compliance with the uniform rate of tax shall be established by the
24 Arkansas Department of Education in coordination with the Assessment
25 Coordination Division of the Arkansas Public Service Commission.

26

27 SECTION 5. Title 26, Chapter 80 of the Arkansas Code Annotated is
28 amended by adding a Subchapter 2 to read as follows:

29 "26-80-201. Calculation of the uniform rate of tax.

30 Beginning with Calendar Year 1997, and each year thereafter, compliance
31 with the uniform rate of tax shall be computed using the following method:

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

36 (2) This abstract shall show, by class of property and value, the total

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

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

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

9 (B) The total scheduled bonded debt payment for the succeeding
10 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) dedicated
12 to mandatory callable bonds.

13 (4) By May 30 of each year, the State Department of Education shall
14 certify average daily membership for the current school year.

15 (5) The initial compliance shall be calculated by taking the weighted
16 average millage rate of the school district submitted by the county clerk
17 minus the debt service millage required plus the millage derived from the
18 ratio of the debt service funding supplements for the calendar year over the
19 total assessment shown on the abstract of assessment.

20 (A) If the result is less than the uniform rate of tax, then the
21 result shall be adjusted up to the uniform rate of tax.

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

29 (6) The Director of the State Department of Education, General
30 Education Division, shall report to the county clerks and the individual
31 school districts by June 15 of each year the required increase, if any, in
32 total millage necessary to comply with the uniform rate of tax and shall
33 designate the millage rates proposed to be used to calculate the uniform rate
34 of tax. Whenever an increase is required, the notification shall include an
35 explanation for the increase.

36 (7) By November 1 of each year, the county clerk of each county in

1 which a reappraisal of real, personal, and utility property has been completed
2 that could initiate a rollback of millage rates, or in which equalization of
3 the real, personal, and utility millage rates has not taken place, shall
4 notify the Director of the State Department of Education, General Education
5 Division, of the possibility of such rollback or additional rollback taking
6 place.

7 (8) Pursuant to the application of Amendment No. 74 to the rollback
8 provisions of Amendment No. 59, for millage rates levied by the various school
9 districts within the county, if it is determined that the adjustment or
10 rollback of millages as provided in Amendment No. 59 will result in a tax rate
11 available for maintenance and operation of less than the uniform rate of tax,
12 then the millage shall be rolled back only to the uniform rate of tax plus
13 debt service millage required and no further."

14

15 SECTION 6. Arkansas Code Annotated § 26-80-101 is amended to read as
16 follows:

17 "26-80-101. ~~Poll tax~~ Uniform Rate of Tax.

18 ~~— (a) There shall be levied annually one dollar (\$1.00) per capita on~~
19 ~~each inhabitant of the state over twenty-one (21) years of age for the public~~
20 ~~schools.~~

21 ~~— (b) All moneys received from the per capita tax shall be retained in~~
22 ~~the county where collected and credited to the general school fund of the~~
23 ~~county.~~

24 (a) There is established a uniform rate of ad valorem property tax of
25 twenty-five (25) mills to be levied on the assessed value of all taxable real,
26 personal, and utility property in the state to be used solely by school
27 districts to which it may be distributed according to law for maintenance and
28 operation of the schools.

29 (b) The uniform rate of tax shall be assessed and collected in the same
30 manner as other school property taxes, but the net revenues from the uniform
31 rate of tax shall be remitted to the Treasurer of State and distributed by the
32 State to the county treasurer of each county for distribution to the school
33 districts in that county as provided by subsection (c) of this section. No
34 portion of the revenues from the uniform rate of tax shall be retained by the
35 State but shall be distributed back to the school district from which the
36 revenues were received or to other school districts pursuant to subsection (c)

1 of this section. No additional fees or charges shall be assessed at the local
2 level for transmission and redistribution of these funds. The revenues so
3 distributed shall be used by the school districts solely for maintenance and
4 operation of schools.

5 (1) The Treasurer of State shall establish procedures, forms, and
6 documentation requirements for the certification of net revenues produced by
7 the uniform rate of tax to be deposited with the Treasurer of State and
8 redistributed as provided by law. Further, the Treasurer of State shall
9 establish procedures, forms, and documentation requirements for the actual
10 deposit and redistribution of the net revenues produced by the uniform rate of
11 tax.

12 (2) Each county treasurer shall execute an electronic funds
13 transfer agreement with the Treasurer of State to effectuate the
14 contemporaneous transmittal of funds to the Treasurer of State and the
15 redistribution as provided by law of the net revenues produced by the uniform
16 rate of tax.

17 (3) The Treasurer of State shall process the necessary
18 documentation to certify the amount to be receipted and redistributed to each
19 county treasurer twice each month, with no interim distributions.
20 Documentation received and certified on the second and fourth Tuesday of each
21 month by the time deadlines established by the Treasurer of State shall be
22 processed for execution of the electronic funds transfer of deposit and
23 redistribution, as provided by law, of the net revenues produced by the
24 uniform rate of tax on the following day. When banking holidays occur, the
25 Treasurer of State shall notify the county treasurers of the revised deadline
26 which shall minimize delay in the receipt and redistribution, as provided by
27 law, of the net revenues of the uniform rate of tax.

28 (4) Each county official involved in the process established by
29 the Treasurer of State for receipt and redistribution of the net revenues of
30 the uniform rate of tax shall take all actions and do all things necessary to
31 ensure that the process established is carried out in an efficient and prudent
32 manner.

33 (5) It is the intention of the General Assembly to have the
34 collection and distribution of tax revenues modified as little as possible by
35 this process. The General Assembly specifically acknowledges that, under
36 other law, county treasurers distribute revenues monthly on a pro rata basis

1 to the various taxing units, with a reconciliation of actual revenues produced
2 by each levy of each taxing unit in the county taking place only in the final
3 settlement produced for each tax year. This process is not intended to affect
4 the monthly distribution or final settlement process except that there will be
5 the twice-monthly process set out above."

6
7 (c)(1) For the 1996-97 school year and each year thereafter, each
8 county treasurer shall remit the net revenues from the uniform rate of tax to
9 each local school district from which the revenues were derived, unless
10 otherwise specified in subdivisions (2) and (3) of this subsection.

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

16 (B) The State Department of Education shall certify, to any affected
17 county treasurer, the local school district identified as having an excess and
18 the amount calculated in subdivision (2)(A) of this subsection by August 1 of
19 each school year.

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

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

31 (B) The State Department of Education shall certify, to any affected
32 county treasurer, the local school district identified as having an excess and
33 the amount calculated in subdivision (3)(A) of this subsection by August 1 of
34 each school year.

35 (C) Any county treasurer receiving certification from the State
36 Department of Education under subdivision (3)(B) of this subsection shall

1 remit the amount certified to the State Treasury for the credit of the Public
2 School fund and redistribute the difference between the net revenues from the
3 uniform rate of tax and the amount certified to the affected local school
4 district.

5

6 SECTION 7. Arkansas Code Annotated § 26-80-102 is amended to read as
7 follows:

8 "26-80-102. Approval of tax at elections.

9 ~~—— (a) The electors of each school district in this state shall have the~~
10 ~~power at the annual school election, or at a special election authorized by~~
11 ~~law to be called for that purpose, to vote such rate of tax as they may deem~~
12 ~~necessary for the support of the schools in the district during the ensuing~~
13 ~~year. The suggested rate to be voted on may be placed on the ballot on order~~
14 ~~of the school directors or representatives of the district. The ballots may~~
15 ~~show the portion of the tax to be voted in the building fund as is provided by~~
16 ~~law, and the vote on the tax in the building fund may be for successive years~~
17 ~~as provided by law. The rate of tax receiving the greatest number of votes at~~
18 ~~the school election shall be the tax to be levied in the district.~~

19 ~~—— (b) If no annual election shall be held in any district in the state~~
20 ~~at the appointed time, the board of directors of the district may call a~~
21 ~~special election for the purpose of voting on the district tax and for school~~
22 ~~directors. Members of the county board shall not be voted on at the special~~
23 ~~elections. The special elections shall be held in such manner and after the~~
24 ~~notice provided by law for special elections for school districts.~~

25 (a) In addition to the uniform rate of tax as provided in § 26-80-101,
26 school districts are authorized to levy, by a vote of the qualified electors
27 respectively thereof, an annual ad valorem property tax on the assessed value
28 of taxable real, personal, and utility property for the maintenance and
29 operation of schools and the retirement of indebtedness. The board of
30 directors of each school district shall prepare, approve and make public not
31 less than sixty (60) days in advance of the annual school election a proposed
32 budget of expenditures deemed necessary to provide for the foregoing purposes,
33 together with a rate of tax levy sufficient to provide the funds therefor,
34 including the rate under any continuing levy for the retirement of
35 indebtedness. The board of directors shall submit the tax at the annual
36 school election or at such other time as may be provided by law. If a

1 majority of the qualified voters in the school district voting in the school
2 election approve the rate of tax proposed by the board of directors, then the
3 tax at the rate approved shall be collected as provided by law. In the event
4 a majority of the qualified electors voting in the school election disapprove
5 the proposed rate of tax, then the tax shall be collected at the rate approved
6 at the last preceding school election. However, if the rate approved has been
7 modified pursuant to the uniform rate of tax calculated by the State
8 Department of Education, then the tax shall be collected at the modified rate
9 until another rate is approved.

10 (b) No tax levied pursuant to subsection (a) of this section shall be
11 appropriated to any other district than that for which it is levied."

12

13 SECTION 8. Arkansas Code Annotated § 26-80-103 is repealed.

14 ~~"26-80-103 Continuing building fund tax of varying rates.~~

15 ~~—— (a) Any school district may submit to its electors at any annual school~~
16 ~~election the question of setting up a continuing building fund tax of~~
17 ~~different rates in different years according to the needs of the district and~~
18 ~~the maturities of its obligations.~~

19 ~~—— (b) In the event a district has submitted to the electors and they have~~
20 ~~approved a proposal to levy a continuing building fund tax of varying rates of~~
21 ~~millage and money has been borrowed payable out of the tax so voted, the~~
22 ~~contract for the repayment of the money shall constitute valid and binding~~
23 ~~obligations of the district."~~

24

25 SECTION 9. Arkansas Code Annotated § 26-80-104 is amended to read as
26 follows:

27 "26-80-104. Collection and separation of proceeds.

28 (a) Rates voted for different funds of district school tax shall not be
29 shown separately on the county tax books but shall be shown there only in the
30 total amount of district tax to be levied.

31 (b) The school tax shall be collected in the same manner as county
32 taxes are collected, at the same time and by the same person, and be paid into
33 the county treasury.

34 (c) The county treasurer shall separate the proceeds of these taxes
35 into the several funds as is provided by law, or by the county board of
36 education as has been stated, or the school directors as is authorized by law.

1 (d) The county treasurer in the collecting county shall separate the
2 proceeds from the uniform rate of tax by multiplying the ratio of the uniform
3 rate of tax divided by the total rate of tax for the school district times the
4 net revenues from the total rate of tax for the school district. These
5 proceeds shall be remitted to the Treasurer of State and shall be
6 redistributed to the county treasurer as provided by § 26-80-101."

7

8 SECTION 10. Arkansas Code Annotate § 26-80-105 is repealed.

9 "~~6-80-105 Extension and collection of assessed real property taxes.~~

10 ~~—— (a) In any school district of this state embracing territory in more~~
11 ~~than one (1) county, if one or more, but not all, of the counties in which the~~
12 ~~school district is located have been certified by the Assessment Coordination~~
13 ~~Division of the Arkansas Public Service Commission as meeting the requirements~~
14 ~~of § 26-26-301 et seq., then, upon resolution of the school district board,~~
15 ~~school taxes on real property in that portion of the school district located~~
16 ~~in any county so certified as having met the requirements of these statutes~~
17 ~~shall be extended and collected on assessment of real property as certified by~~
18 ~~the county equalization board for the year immediately preceding the year in~~
19 ~~which the county was certified as having met the requirements of these~~
20 ~~statutes.~~

21 ~~—— (b) Whenever all counties in which territory of any such school~~
22 ~~district may be located have been certified as meeting the requirements of~~
23 ~~these statutes, the provisions of this section shall no longer be applicable~~
24 ~~to that school district."~~

25

26 SECTION 11. Arkansas Code Annotated § 26-80-106 is amended to read as
27 follows:

28 "26-80-106 Use of surplus for other purposes.

29 Because of consolidations of school districts and for other reasons, the
30 ~~continuing debt service~~ millage voted by a school district for the payment of
31 its outstanding indebtedness frequently provided a substantial surplus over
32 the amount of the annual principal and interest requirements. This surplus
33 may be used by the district for the purpose of paying the principal and
34 interest of subsequent indebtedness incurred by it and may be pledged for that
35 purpose or any other school purpose, provided that the district is in
36 compliance with the uniform rate of tax."

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SECTION 12. Arkansas Code Annotated § 26-80-107 is repealed.

~~"26-80-107. Raising of additional voluntary tax.~~

~~(a) Whenever the directors in any single or special school district in a city or town, the population of which as shown by the last federal census exceeds forty thousand (40,000) inhabitants, after careful investigation have ascertained that more than a majority of the property owners in the district favor the raising of a contribution or voluntary tax in addition to the usual school district tax, for the purpose of supporting the common schools in the district, and having certified their finding showing the rate of the voluntary tax to the tax collectors of the county in which the district is situated, it shall be the duty of the collector to assist in the collection of the voluntary tax by showing the amount thereof in dollars and cents on the tax list of each property owner in the school district and, if paid by the property owner to the collector, to include in his receipt for taxes the amount of the contribution or voluntary tax paid by the taxpayer.~~

~~(b) The collector shall be paid expenses for his service, which amount shall be fixed by the school directors."~~

SECTION 13. Arkansas Code Annotated § 26-80-108 is repealed.

~~"26-80-108. Settlement of voluntary taxes --- Refunds.~~

~~(a) It shall be the duty of the collector to pay into the treasury of the school district, within thirty (30) days after his final settlement, as provided by law, all collections made by him of the contribution or voluntary tax and, at the same time, to furnish the school directors with a list containing the names and assessed valuations of those property owners who refuse to pay the voluntary tax.~~

~~(b) If the collector shall collect any such tax from any person who has not voluntarily subscribed to it, he may refund it to the proper parties applying therefor before his settlement with the school directors. The person shall apply to the school board for refund, and the collector shall not be liable therefor."~~

SECTION 14. Arkansas Code Annotated § 26-80-109 is repealed.

~~"6-80-109 Tax pledges enforceable.~~

~~Any pledge to pay a voluntary tax made in writing and signed by a~~

1 ~~property owner, or his agent, agreeing to pay the voluntary tax shall be~~
2 ~~deemed executed for a sufficient consideration and shall be enforceable."~~

3

4 SECTION 15. Arkansas Code Annotated § 26-80-110 is amended to read as
5 follows:

6 "26-80-110. ~~Current expenditures tax~~ Dedicated maintenance and
7 operation millage.

8 (a)(1) ~~The~~ In addition to other maintenance and operation millages, the
9 board of directors of each local school district is authorized, upon approval
10 of a majority of the qualified voters in the school district voting in the
11 annual school election to levy and collect a tax upon real, personal, and
12 utility property for ~~of~~ dedicated maintenance and operation millage for the
13 local school district.

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

16 (3) The approved tax may be considered part of the school district's
17 uniform rate of tax as calculated by the State Department of Education under
18 Amendment 74 to the Arkansas Constitution.

19 (b) Any funds received from the collection of a ~~current expenditures~~
20 dedicated maintenance and operations tax shall only be used for the following
21 purposes:

22 (1) Purchase of school buses;

23 (2) Purchase of furniture or equipment to support the instructional
24 program;

25 (3) Purchase of computer software;

26 (4) Renovation or repair of existing facilities; or

27 (5) Repaying revolving loans for any of the purposes previously listed.

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

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

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

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

22 (e) Any levy of a dedicated maintenance and operation millage must be
23 specified on the ballot, and that specification must list the purpose for
24 which the dedicated maintenance and operation millage is levied."

25

26 SECTION 16. Arkansas Code Annotated § 26-80-111 is amended to read as
27 follows:

28 "26-80-111. School districts formed by consolidation, annexation or
29 merger.

30 (a) When a new school district is created from all or parts of two (2)
31 or more districts or a district is dissolved and all or part of the area of
32 the dissolved district is annexed to or consolidated with an existing
33 district, the board of directors of the resulting district shall submit to the
34 electors of the district at the next annual school election a proposed tax
35 millage rate for the district. If the proposed millage rate is approved by
36 the electors of the district, it shall be the rate for the district, provided

1 such rate complies with the uniform rate of tax.

2 (b) If a new school district is created from all or parts of two (2) or
3 more districts or a district is dissolved and all or part of the area of the
4 dissolved district is annexed to or consolidated with an existing district and
5 if the electors have failed to approve a proposed millage rate at an annual
6 school election, then the millage rate for the district shall be the millage
7 rate levied, at the last school election prior to the consolidation,
8 annexation or merger in the district which had the highest average daily
9 membership during the school year preceding the consolidation, annexation, or
10 merger, provided such rate complies with the uniform rate of tax."

11

12 SECTION 17. Arkansas Code Annotated § 6-20-1204 is amended to read as
13 follows:

14 "6-20-1204. Form of bonds -- Security -- Signatures.

15 (a) School bonds shall be issued by a school district in such form as
16 the directors of the district shall prescribe.

17 (b) ~~They~~ School bonds may be secured by ~~a pledge of the building fund~~
18 ~~and any and all other income of the district~~ debt service millage.

19 ~~— (c) Bonds sold prior to February 18, 1975, may be further secured by a~~
20 ~~mortgage on any or all of the real and personal property of the district, but~~
21 ~~no school district shall mortgage or otherwise encumber any of its real or~~
22 ~~personal property as security for any of its bonds sold on or after February~~
23 ~~18, 1975.~~

24 (c)(1) As additional security for the payment of any bond of a school
25 district, the State Board of Education shall cure any delinquencies in payment
26 by withholding state aid due the district. Whenever the designated paying
27 agent for receipt of the district's payments does not receive a payment when
28 due pursuant to the authorizing documents, the paying agent will be entitled
29 to payment from withheld state aid in any amount sufficient to cure the
30 payment deficiency upon notifying the Director of the State Department of
31 Education, General Education Division, and the superintendent of the district
32 by telephone, facsimile, or other similar communication, followed by written
33 verification.

34 (2) Unless the director determines that payment has been made by the
35 district and there is no longer a payment deficiency, the director shall
36 withhold from the next distribution of state aid and remit to the paying agent

1 an amount sufficient to cure the deficiency. In the event the amount next due
2 to be distributed to the delinquent district is not sufficient to cure the
3 delinquency, the director shall continue to withhold state aid as due and
4 remit it to the paying agent until the payment deficiency has been cured. If
5 the director is notified that a district is delinquent on two (2) or more
6 obligations, the director shall make payment to paying agents in the order of
7 receipt of notices of the delinquency.

8 ~~—— (d) School bonds shall be executed on behalf of the district by the~~
9 ~~president and secretary of its board of directors, with either the facsimile~~
10 ~~or manual signature of the president, but with the manual signature of the~~
11 ~~secretary, and in case any of the officers whose signatures appear on the~~
12 ~~bonds or on coupons attached thereto shall cease to be officers before the~~
13 ~~delivery of the bonds or coupons, the signatures shall nevertheless, be valid~~
14 ~~and sufficient for all purposes.~~

15 ~~—— (e) Coupons attached to the bonds may be executed by the facsimile~~
16 ~~signature of the president of the board of directors."~~

17

18 SECTION 18. Arkansas Code Annotated § 6-20-1205 is amended to read as
19 follows:

20 "6-20-1205. Submission of statement prior to borrowing money or issuing
21 bonds -- Approval.

22 (a) When any school district board of directors desires to borrow money
23 or issue bonds, it:

24 (1) Shall furnish to the Director of the State Department of Education,
25 General Education Division, a statement of the amount proposed to be borrowed,
26 the maturity of the indebtedness, ~~a description of the property to be~~
27 ~~mortgaged as security therefor,~~ a financial statement of the affairs of the
28 district, a certificate from the county clerk showing the then-assessed
29 valuation of the real, ~~and~~ personal, and utility property in the district;
30 and-

31 (2) Shall not advertise for sale of bonds until the issue is approved
32 by the State Board of Education or by the Director of the State Department of
33 Education, General Education Division, to be evidenced by a writing signed by
34 the State Board of Education or the ~~Director of General Education~~ director,
35 and bearing the seal of the State Board of Education.

36 (b) In addition to other reasons for disapproval of a bond issue

1 provided under law or by regulation, neither the State Board of Education nor
2 the Director of the State Department of Education, General Education Division,
3 shall approve the sale of a bond if that sale:

4 (1) Would cause an increase in the millage levy without a vote of
5 the electors of that school district in order to maintain the uniform rate of
6 tax; or

7 (2) Would cause the Department of Education to be out of
8 compliance with any school finance equity test adopted by an appropriate
9 court.

10 (c) In order to maintain the calculated basis for the uniform rate of
11 tax, as specified in § 26-80-201(5), a bond approved by the State Board of
12 Education or the Director the State Department of Education, General Education
13 Division, must be issued by the following May 30. If the bond is not issued
14 by the following May 30, the school district must reapply for approval prior
15 to the issuance of the bonds.

16 (d) The Department of Education shall not provide a local school
17 district that issues second lien bonds more additional base funding for which
18 it would otherwise qualify excluding the issuance of the second lien bonds.

19 (e) The Department of Education is authorized to adopt procedural rules
20 and regulations to enforce the provisions of this section."

21

22

23 SECTION 19. Arkansas Code Annotated § 6-20-1212 is amended to read as
24 follows:

25 "6-20-1212. Resolution setting priority in case of default.

26 On the issuance of any bonds, the school district board of directors may
27 provide by resolution, which shall be a contract with the holders of the
28 bonds, that should there be a default in the payment of any installment of
29 principal or interest when due, the first moneys coming to the district from
30 any source ~~whatever~~, other than the uniform rate of tax, shall be paid into
31 the building fund and applied on past due principal or interest on the bonds
32 until paid in full."

33

34 SECTION 20. Arkansas Code Annotated § 6-14-114 shall be amended to read
35 as follows:

36 "6-14-114. Counting of votes.

1 When the polls of each election are closed, the judges shall immediately
2 proceed to count the results, and make returns thereof to the county clerk
3 showing:

4 (1) The number of votes cast for each person for school district
5 director;

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

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

8 (4) ~~In case of a division of the millage to be levied as school tax,~~
9 ~~the~~ The number of mills for:

10 (A) ~~The current~~ additional mills for maintenance and operation
11 of the schools;

12 (B) ~~The erection and equipment of school buildings~~ The
13 dedicated maintenance and operation mills of the school district;

14 (C) ~~The retirement of existing indebtedness;~~ The debt service
15 millage, which shall include debt service millage required and excess debt
16 service millage in the school district; and

17 (D) The total millage rate levied for all purposes in the school
18 district.

19 (5) The number of votes cast for and against any other question
20 submitted at the election."
21

22 SECTION 21. Security and overage of bond issues.

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

26 (b) Any school district that voted a debt service millage tax levy
27 above the levy required to service the debt, shall continue to show that
28 additional millage on its ballot for the length of time initially approved or
29 extended by the electors of the school district. The additional mills pledged
30 to the security of the bond that had been voted in the past may be considered
31 additional mills for maintenance and operation or as part of the uniform rate
32 of tax, whichever is applicable. Any excess debt service millage considered
33 additional mills for maintenance and operation may be used by the district for
34 the purpose of paying the principal and interest on bonds of the district and
35 may be pledged for that purpose, provided that the district is in compliance
36 with the uniform rate of tax.

1 (c) Any school district, with approval of the electors of that district
2 at the annual school election, when voting for a new tax for the retirement of
3 debt, may request a tax levy that includes mills greater than the amount
4 required to service the debt. Excess debt service millage in the new tax levy
5 for the retirement of debt may be used in calculations as specified in § 26-
6 80-201(5) of the uniform rate of tax or available for maintenance and
7 operation. Any excess debt service millage considered additional mills for
8 maintenance and operation may be used by the district for the purpose of
9 paying the principal and interest on bonds of the district and may be pledged
10 for that purpose, provided that the district is in compliance with the uniform
11 rate of tax.

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

15

16 SECTION 22. Arkansas Code Annotated § 26-26-402, pertaining to the
17 procedure for adjustment of taxes after reappraisal or reassessment of
18 property, is amended by adding a new subsection to read as follows:

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

27

28 SECTION 23. Assessment Coordination Division - Form revision.

29 The Assessment Coordination Division of the Public Service Commission
30 shall revise the forms found in §§ 26-26-401 et seq. pertaining to rollback of
31 millage rates under Amendment No. 59, Arkansas Constitution, to provide for
32 changes required to effectuate Amendment No. 74 to the Arkansas Constitution.
33 The revised forms produced by the Assessment Coordination Division shall be
34 submitted to the Arkansas Legislative Council, or any subcommittee designated
35 by that body, for review and comment on or before August 1, 1997. Upon review
36 by the Arkansas Legislative Council, the Arkansas Code Revision Commission

1 shall incorporate such revised forms into §§ 26-26-401 et seq.

2

3 SECTION 24. Arkansas Code Annotated § 14-14-904(b) is amended to read as
4 follows:

5 "~~(b) Levy of Taxes and Making of Appropriations.~~ (1) The quorum
6 court, at its regular meeting in November of each year shall levy the county,
7 municipal and school taxes for the current year, and before the end of each
8 fiscal year, the court shall make appropriations for the expenses of county
9 government for the following year. The Director of the Assessment
10 Coordination Division of the Public Service Commission may authorize an
11 extension of the date for levy of taxes of up to sixty (60) days upon
12 application by the county judge and county clerk of any county for good cause
13 shown resulting from reappraisal or rollback of taxes.

14 (2) Nothing in this subsection, shall prohibit the quorum court from
15 making appropriation amendments at any time during the current fiscal year.

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

19

20 SECTION 25. Penalties.

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

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

30 (2) Upon the refusal or failure of any county officer to perform any
31 duty imposed upon him under the provisions of this act, any citizen of the
32 county may, and the prosecuting attorney of the district including such county
33 shall, institute in the proper court mandamus proceedings to compel the county
34 officer to perform his duties.

35

36 SECTION 26. All provisions of this act of a general and permanent nature

1 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
2 Revision Commission shall incorporate the same in the Code.

3

4 SECTION 27. If any provision of this act or the application thereof to
5 any person or circumstance is held invalid, such invalidity shall not affect
6 other provisions or application, and to this end the provisions of this act
7 are declared severable.

8

9 SECTION 28. General Repealer. All laws and parts of laws in conflict
10 with this Act are hereby repealed.

11

12 SECTION 29. EMERGENCY. It is found and determined by the General
13 Assembly that Amendment No. 74 to the Arkansas Constitution was adopted by the
14 electors of this state on November 5, 1996; that Amendment No. 74 became
15 effective on adoption and applies to ad valorem property taxes due in 1997;
16 that the tax books of each county will open for collection of taxes in the
17 near future and that local officials and school districts must have direction
18 on procedures and effects of the various actions required. The General
19 Assembly further finds that Amendment No. 74 requires enactment of legislation
20 to implement the provisions thereof and that this act provides such
21 implementation and should be given effect immediately to accomplish the
22 purposes of Amendment No. 74 in an orderly, effective and efficient manner.
23 Therefore, an emergency is declared to exist and this act being immediately
24 necessary for the preservation of the public peace, health and safety shall
25 become effective on the date of its approval by the Governor. If the bill is
26 neither approved nor vetoed by the Governor, it shall become effective on the
27 expiration of the period of time during which the Governor may veto the bill.
28 If the bill is vetoed by the Governor and the veto is overridden, it shall
29 become effective on the date the last house overrides the veto.

30

/s/Malone et al

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