

*As Engrossed: 3/2/94*

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **First Extraordinary Session, 1994**  
4 **By: Representative Thicksten**

Call Item **2**  
**ACT 1 OF 1994**  
**HOUSE BILL 1007**

## **A Bill**

### **For An Act To Be Entitled**

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 6-20-302, 6-  
9 20-306, 6-20-314(b), 6-20-310(a), AND 6-20-313 TO PROVIDE  
10 THAT STATE MINIMUM FOUNDATION PROGRAM AID TO LOCAL SCHOOL  
11 DISTRICTS SHALL BE BASED ON ACTUAL ASSESSMENT FIGURES  
12 REPORTED FOR REAL PROPERTY, PERSONAL PROPERTY, AND  
13 UTILITIES AND REGULATED CARRIERS; AND TO DECLARE AN  
14 EMERGENCY AND FOR OTHER PURPOSES."

### **Subtitle**

16  
17 "TO PROVIDE THAT STATE AID TO SCHOOL  
18 DISTRICTS SHALL BE BASED ON ACTUAL  
19 ASSESSMENT FIGURES"

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

22  
23 SECTION 1. Arkansas Code § 6-20-302 is hereby amended to read as  
24 follows:

25 "6-20-302. Definitions.

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

27 (1) Average daily membership or ADM means the total number of days  
28 attended plus the total number of days absent by students in grades  
29 kindergarten through twelve (K-12) during the first three (3) quarters of each  
30 school year, divided by the number of school days actually taught in the  
31 district during that period of time. For aid purposes, the average daily  
32 membership of growing school districts shall be the average daily membership  
33 of the previous year plus the total average daily membership increase for the  
34 first three (3) quarters of the current year. The initial aid computation for  
35 all districts shall be made using the average daily membership of the previous  
36 year. At the end of the first quarter, an adjustment shall be made in the aid

1 using the ratio of the previous year's first-quarter average daily membership  
2 to the previous year's three-quarter average average daily membership to  
3 project the three-quarter average average daily membership for the current  
4 year using the first-quarter actual average daily membership of the current  
5 year as follows:

6       Previous year's first-quarter average daily membership+previous year's  
7 three-quarter average average daily membership = current year's first-quarter  
8 actual average daily membership+projected three-quarter average average daily  
9 membership for the current year.

10       The aid will be adjusted only if the projection shows an increase of one  
11 (1) average daily membership or more over the actual three-quarter average  
12 average daily membership of the previous year. For all school districts that  
13 have grown by one (1) average daily membership or more during the current  
14 year, the aid shall be adjusted at the end of the first three (3) quarters of  
15 the year in which the aid is distributed to include the actual growth of the  
16 affected districts for the current year. Such adjustments shall be determined  
17 by recalculating individually the aid due each affected district and shall be  
18 made before the end of the year in which the aid is distributed. No such  
19 adjustment, however, shall result in any school district's average daily  
20 membership for aid purposes in any year being less than that shown for the  
21 district in the first three (3) quarters of the previous year. For aid  
22 purposes, the average daily membership of school districts that are losing  
23 average daily membership shall be the average daily membership of the previous  
24 year or the average of the average daily membership for the three (3) previous  
25 years, i.e., the first three-quarter average for each of the three (3) years  
26 prior to the year in which the aid is distributed, whichever is larger.  
27 Provided, that the use of the three-year average average daily membership  
28 shall be phased in beginning in 1993-94 as follows:

29       If the previous year's average daily membership is larger than the  
30 average average daily membership of the three (3) previous years, no  
31 adjustment is necessary. If the previous year's average daily membership is  
32 smaller than the average average daily membership of the three (3) previous  
33 years, the difference shall be multiplied by the fraction where the numerator  
34 is the increase in Minimum Foundation Program Aid, cumulative from year to  
35 year, over the amount distributed in 1992-93, and the denominator is sixty

1 million dollars (\$60,000,000). The result, rounded to two (2) decimal places,  
2 shall be added to the average daily membership of the previous year and used  
3 as the average daily membership for calculating Minimum Foundation Program  
4 Aid.

5 When the numerator of the fraction reaches sixty million dollars  
6 (\$60,000,000), the phase-in of the three-year average for use in calculating  
7 the Minimum Foundation Program Aid for districts losing average daily  
8 membership will have been completed. The average daily membership for any  
9 year is defined to be the average average daily membership for the first three  
10 (3) quarters of the year.

11 (A) As applied to this subchapter, students who may be counted  
12 for average daily membership are:

13 (i) Students who reside within the boundaries of the school  
14 district and are enrolled either within a public school operated by the  
15 district or in a public school operated by another district or a private  
16 school for special education students, with such attendance in both instances  
17 resulting from a written tuition agreement approved by the Department of  
18 Education; and

19 (ii) Legally transferred students living outside the  
20 district but attending a public school in the district.

21 (B) For purposes of this subchapter, kindergarten students  
22 enrolled in half-day programs shall be counted as half-time students;

23 (2) Weighted average daily membership means the average daily  
24 membership plus the add-on weights for special education, vocational  
25 education, gifted and talented education, isolation, and consolidation.

26 (A) Students evaluated as special education students in  
27 accordance with regulations promulgated by the Department of Education shall  
28 be given add-on weights in the following amounts for each type of setting in  
29 which services are required:

30	Itinerant	.40
31	Resource Room	.85
32	Self-contained (Ratio of 1-15)	.70
33	Self-contained (Ratio of 1-10)	1.10
34	Self-contained (Ratio of 1-6)	2.00
35	Special school, Day	2.35

1 (B) Vocational programs shall be divided into four (4) groups.  
2 Group 1 shall include career orientation and cooperative programs except those  
3 involving handicapped students. Group 2 shall include coordinated career  
4 education, consumer and homemaking education, and exploratory programs in all  
5 occupational areas. Group 3 shall include skill training programs in all  
6 occupational areas. Group 4 shall include exceptionally high-cost skill  
7 training programs limited to electronics, welding, machine shop, industrial  
8 equipment mechanics, and metal trades. Weighting for programs approved by the  
9 Vocational and Technical Education Division of the Department of Education  
10 shall be as follows:

11	SERVICE HOUR	FULL-TIME EQUIVALENT
12 Group 1	.067	.40
13 Group 2	.083	.50
14 Group 3	.100	.60
15 Group 4	.150	.90

16 (C) When a home district sends students to an approved vocational  
17 center, funds shall be transmitted by the home district to the vocational  
18 center during the year instruction is provided on the same schedule through  
19 which the home district receives its Minimum Foundation Program Aid from the  
20 Department of Education or on some alternate schedule approved by the  
21 Vocational and Technical Education Division. For school years after 1986-87,  
22 the tuition shall be determined by the State Board of Vocational Education  
23 after an analysis of the impact of charging tuition on vocational centers'  
24 enrollments. Each school district participating in a vocational center shall  
25 submit to the Vocational and Technical Education Division by April 10 of each  
26 year the number of students enrolled in the current school year. The  
27 Vocational and Technical Education Division shall use current enrollments to  
28 determine the number of add-ons to be certified, by April 25 of each year, to  
29 the General Education Division which is used for the computation of state aid.

30 (D) School districts which operate, either individually or as a  
31 part of a cooperative of districts, an approved educational program for gifted  
32 and talented students shall receive funds for the operation of the program  
33 based on an add-on weight of twenty-five hundredths (.25) for each of its  
34 students identified as being gifted or talented under guidelines and criteria  
35 approved by the State Board of Education, up to a number equal to five percent

1 (5%) of its average daily membership for the previous year;

2 (3) Previous year means the school year immediately preceding the  
3 school year in which funds authorized by this subchapter are allocated;

4 (4) Assessed valuation means the total valuation for tax purposes of  
5 the real, personal, and utility and carrier property, including mineral  
6 leases, as certified by the county clerk or the county board of education to  
7 the Department of Education;

8 (5) Total local resources means the sum of the charges levied against  
9 each school district's assessed valuation, seventy-five percent (75%) of its  
10 miscellaneous funds, and the sum of the previous fiscal year's local sales and  
11 use taxes collected and distributed to a school district pursuant to §  
12 26-73-114;

13 (6) Net local resources means the total local resources minus the  
14 master's degree credit allowance;

15 (7) Credit allowance means an allowance toward each school district's  
16 local charge made for all certified personnel holding a master's or higher  
17 degree, excluding those occupying supervisory or administrative positions.  
18 Only those personnel paid from a combination of state and local funds may be  
19 counted for this purpose, except that an employee who divides his or her time  
20 between federally funded and regular programs may be counted for the  
21 proportional time that is devoted to regular programs. The credit allowance  
22 per unit shall be an amount equal to one thousand two hundred dollars (\$1,200)  
23 minus each district's local resource rate per weighted average daily  
24 membership. The actual credit allowance shall then be that difference  
25 multiplied by the district's number of qualifying personnel;

26 (8) Adjusted local resource rate per weighted average daily  
27 membership means the net local resources of a school district divided by the  
28 weighted average daily membership for the previous year of the respective  
29 school district;

30 (9) Local resource rate per weighted average daily membership means  
31 each school district's total local resources divided by the district's  
32 weighted average daily membership of the previous year;

33 (10) State base equalization rate per weighted average daily  
34 membership means an amount determined when the sum of the net local resources  
35 of all districts in the state and the total state aid available for

1 distribution is divided by the state's total weighted average daily membership  
2 of the previous year. In making this computation, the net local resources and  
3 the weighted average daily membership of the districts whose adjusted local  
4 resource rate per weighted average daily membership are above the state base  
5 equalization rate per weighted average daily membership shall be removed prior  
6 to the final computation;

7       (11) (A) Miscellaneous funds charge means the charge of seventy-five  
8 percent (75%) of the funds received by the district during the current year  
9 which are classified as miscellaneous. Such funds shall include those  
10 received from federal forest reserves, federal grazing rights, federal mineral  
11 rights, federal flood control, wildlife refuge funds, funds received by the  
12 district in lieu of taxes, and severance taxes.

13       (B) When Arkansas meets the federal definition of equity, school  
14 assistance in federally affected areas shall also be included in the  
15 miscellaneous funds category.

16       (i) In making initial state aid allocations, each district  
17 shall be charged seventy-five percent (75%) of the lesser of the amount of  
18 miscellaneous funds it received the previous year or the amount which equals  
19 the average of the previous four (4) years excluding the highest year and the  
20 lowest year.

21       (ii) Upon determination of total miscellaneous funds for  
22 the current year, the Department of Education shall immediately determine  
23 whether any school districts have experienced an increase or a decrease in  
24 Minimum Foundation Program Aid as a result of the miscellaneous funds charge  
25 being computed as set forth in subdivision (11) (B) (i) of this section.  
26 Adjustments for increases and decreases shall be made in the distribution of  
27 Minimum Foundation Program Aid for those districts. The Department of  
28 Education shall withhold sufficient funds to make those adjustments;

29       (12) State aid table rate per weighted average daily membership means  
30 the difference between the state base equalization rate and the adjusted local  
31 resource rate per weighted average daily membership; and

32       (13) (A) Local sales and use tax means any local sales and use tax  
33 adopted pursuant to § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-201 et  
34 seq., § 26-75-301 et seq., and § 14-164-301 et seq., or any other local sales  
35 and use tax administered in the same manner as the state sales and use tax.

1           (B) (i) Upon determination of the total collected sales and use  
2 taxes for the current year, the Department of Education shall make a current  
3 year adjustment in state aid.

4           (ii) Adjustments for increases and decreases shall be made  
5 in the distribution of Minimum Foundation Program Aid for those districts.

6           (iii) The Department of Education shall withhold sufficient  
7 funds to make those adjustments."

8

9           SECTION 2. Arkansas Code § 6-20-306 is hereby amended to read as  
10 follows:

11           "6-20-306. Computation of state aid for allocation to school districts.

12           (a) (1) A charge shall be levied against each district's assessed  
13 valuation , as defined in § 6-20-302(4) at the rate of 25 mills.

14           (2) The charge level as provided by this subsection shall be  
15 increased by one-tenth (1/10) mill for each two million five hundred thousand  
16 dollar (\$2,500,000) increase in funding by the state for Minimum Foundation  
17 Program Aid. The charge level shall not be increased to an amount greater  
18 than the average millage voted by school districts in the State of Arkansas in  
19 the second previous year to the year in which the aid is distributed.

20           (3) Any school district which in the second annual school  
21 election after an increase is made in the state's charged millage levy votes a  
22 millage levy on its assessment that is more than three (3) mills below the  
23 state's charge levy shall lose all add-on weights for which it qualifies under  
24 § 6-20-302(2) (B), (C), and (D), except that if the salaries paid to certified  
25 personnel in any school district the previous year are in the top ten percent  
26 (10%) when compared to salaries paid to certified personnel in other school  
27 districts in Arkansas, no minimum millage will be required to be voted, and  
28 except that the maximum millage required to be voted will be twenty-two (22)  
29 mills. Add-on weights lost under this provision shall be restored in the  
30 school year following the annual school election in which the voters of the  
31 district approve a tax levy on its charged assessment which is within three  
32 (3) mills of the state's charged levy, or the voters approve a tax levy of  
33 twenty-two (22) mills, or the salaries paid to certified personnel in the  
34 school district the previous year are in the top ten percent (10%) when  
35 compared to salaries paid to certified personnel in other school districts in

1 Arkansas.

2 (b) Each district's state aid allocation shall be an amount determined  
3 when its adjusted local resource rate per weighted average daily membership is  
4 subtracted from the state base equalization rate per weighted average daily  
5 membership and the difference is multiplied by its weighted average daily  
6 membership of the previous year.

7 (c) The charge level set forth in this section shall be applied to all  
8 distributions of Minimum Foundation Program Aid made after February 1, 1994.  
9 If any distribution made after February 1, 1994, is not made in accordance  
10 with this section, the same shall be adjusted to the correct amount."

11

12 SECTION 3. Arkansas Code § 6-20-314(b) is hereby amended to read as  
13 follows:

14

15 "(b) To determine the qualifying districts for this funding, the school  
16 districts in the state shall be arranged in descending order by school  
17 districts according to the local resource rate per weighted average daily  
18 membership, as defined in § 6-20-302. In order to be eligible for second-tier  
19 funding, school districts must have voted a millage the previous year at least  
20 equal to the millage charge for the year in which the aid is distributed."

21

22 SECTION 4. Arkansas Code § 6-20-310(a) is hereby amended to read as  
23 follows:

24 "(a) Funds shall be set aside from the total funds available for  
25 allocation under the provisions of this subchapter for adjustments in aid  
26 allocation to any district whose actual assessment, when certified by the  
27 county clerk or the county board, or the board's designee, has decreased by  
28 more than five percent (5%) from the projected amount used in determining the  
29 aid for the district."

30

31 SECTION 5. Arkansas Code § 6-20-313 is hereby amended to read as  
32 follows:

33 "6-20-313. Other set-aside funds.

34 Other set-aside funds shall be as follows:

35 (1) Funds required for the Arkansas Department of Correction School

1 District;

2       (2) Two hundred fifty thousand dollars (\$250,000) annually for  
3 contingency aid to school districts undergoing hardships or emergencies  
4 identified by criteria approved by the State Board of Education and with an  
5 amount not to exceed fifteen thousand dollars (\$15,000) being awarded to any  
6 one (1) school district;

7       (3) One hundred seventy-five thousand dollars (\$175,000) for those  
8 districts identified as isolated by criteria approved by the State Board of  
9 Education, provided that any school district receiving such aid shall have  
10 voted at the previous school election a millage levy equal to at least the  
11 state millage charge, as set forth in § 6-20-306(a);

12       (4) Funds sufficient to pay the school employee liability insurance  
13 required by § 6-17-1113 and funds necessary to pay the amounts required by §§  
14 6-20-302(13), 6-20-306(d) [repealed], and 6-20-309;

15       (5) Funds shall also be set aside to pay for:

16           (A) The educational costs of children without disabilities who  
17 have been placed in approved residential treatment facilities, as defined by  
18 the Department of Education, Special Education Section, up to an amount equal  
19 to the product of the regular average daily membership count plus an add-on  
20 weight of three and one-tenth (3.1) for residential placement and the state  
21 base equalization rate; and

22           (B) The educational costs of children without disabilities in  
23 school districts not qualifying for any Minimum Foundation Program Aid who  
24 have been placed in approved residential treatment facilities as defined by  
25 the Department of Education, Special Education Section, up to an amount equal  
26 to the product of the regular average daily membership count plus an add-on  
27 weight of three and one-tenth (3.1) for residential placement and the state  
28 base equalization rate; and

29       (6) Funds shall also be set aside to pay for the educational  
30 costs of children with disabilities, including those in school districts not  
31 qualifying for any Minimum Foundation Program Aid, who have been placed in  
32 approved residential treatment facilities, as defined by the Department of  
33 Education, Special Education Section, up to an amount equal to the product of  
34 the regular average daily membership count plus an add-on weight of three and  
35 one-tenth (3.1) and the state base equalization rate, regardless of the

1 setting in which the education is provided. An add-on weight of three and  
2 one-tenth (3.1) is to be used if the student must receive his or her  
3 educational program in a special residential school. An add-on weight of two  
4 and thirty-five one hundredths (2.35) and the state base equalization rate is  
5 to be used if the student must receive his education in a special day school.  
6 Educational costs funded under this subsection are specifically covered by §  
7 6-20-316(b)."

8  
9       SECTION 6. Arkansas Code §6-14-102 is hereby amended by adding a new  
10 subsection (e) to read as follows:

11       "(e) The board of directors of any school district that will lose state  
12 aid because of a court decision or legislation enacted by the General Assembly  
13 shall have authority, no less than sixty (60) days after the court's decision  
14 or effective date of the legislation, to change the date of the annual school  
15 election to consider a millage increase."

16  
17       SECTION 7. The provisions of this act become effective retroactive to  
18 February 1, 1994.

19  
20       SECTION 8. All provisions of this act of a general and permanent nature  
21 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
22 Revision Commission shall incorporate the same in the Code.

23  
24       SECTION 9. If any provision of this act or the application thereof to  
25 any person or circumstance is held invalid, such invalidity shall not affect  
26 other provisions or applications of the act which can be given effect without  
27 the invalid provision or application, and to this end the provisions of this  
28 act are declared to be severable.

29  
30       SECTION 10. All laws and parts of laws in conflict with this act are  
31 hereby repealed.

32  
33       SECTION 11. EMERGENCY. It is hereby found and determined by the  
34 Seventy-Ninth General Assembly that application of the current formula used in  
35 the computation of Minimum Foundation Program Aid for allocation to local

1 school districts will result in significant inequities among the school  
2 districts; that this Act will require the formula to utilize a charged  
3 assessment levied against each district\_s assessed valuation based on actual  
4 assessment figures; that failure to implement this Act immediately will cause  
5 undue hardships to schools. Therefore, an emergency is hereby declared to  
6 exist and this Act, being necessary for the preservation of the public peace,  
7 health, and safety shall be in full force and effect retroactive to  
8 February 1, 1994.

9 */s/Edward F. Thicksten*

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