

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

Call Item 2

A Bill

HOUSE BILL 1007

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

1 year. At the end of the first quarter, an adjustment shall be made in the aid
2 using the ratio of the previous year's first-quarter average daily membership
3 to the previous year's three-quarter average average daily membership to
4 project the three-quarter average average daily membership for the current
5 year using the first-quarter actual average daily membership of the current
6 year as follows:

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

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

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

1 year, over the amount distributed in 1992-93, and the denominator is sixty million dollars (\$60,000,000). The result, rounded to two (2) decimal places, shall be added to the average daily membership of the previous year and used as the average daily membership for calculating Minimum Foundation Program Aid.

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

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

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

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

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

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

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

Itinerant	.40
Resource Room	.85
Self-contained (Ratio of 1-15)	.70
Self-contained (Ratio of 1-10)	1.10
Self-contained (Ratio of 1-6)	2.00

1 Special school, Day 2.35

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

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

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

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

1 approved by the State Board of Education, up to a number equal to five percent
2 (5%) of its average daily membership for the previous year;

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

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

9 (5) Total local resources means the sum of the charges levied against
10 each school district's assessed valuation, seventy-five percent (75%) of its
11 miscellaneous funds, and the sum of the previous fiscal year's local sales and
12 use taxes collected and distributed to a school district pursuant to §
13 26-73-114;

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

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

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

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

34 (10) State base equalization rate per weighted average daily
35 membership means an amount determined when the sum of the net local resources

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

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

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

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

22 (ii) Upon determination of total miscellaneous funds for
23 the current year, the Department of Education shall immediately determine
24 whether any school districts have experienced an increase or a decrease in
25 Minimum Foundation Program Aid as a result of the miscellaneous funds charge
26 being computed as set forth in subdivision (11) (B) (i) of this section.

27 Adjustments for increases and decreases shall be made in the distribution of
28 Minimum Foundation Program Aid for those districts. The Department of
29 Education shall withhold sufficient funds to make those adjustments;

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

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

1 and use tax administered in the same manner as the state sales and use tax.

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

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

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

9

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

12 "6-20-306. Computation of state aid for allocation to school districts.

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

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

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

1 compared to salaries paid to certified personnel in other school districts in
2 Arkansas.

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

8 (c) The charge level set forth in this section shall be applied to all
9 distributions of Minimum Foundation Program Aid made after February 1, 1994.
10 If any distribution made after February 1, 1994, is not made in accordance
11 with this section, the same shall be adjusted to the correct amount."
12

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

15
16 "(b) To determine the qualifying districts for this funding, the school
17 districts in the state shall be arranged in descending order by school
18 districts according to the local resource rate per weighted average daily
19 membership, as defined in § 6-20-302. In order to be eligible for second-tier
20 funding, school districts must have voted a millage the previous year at least
21 equal to the millage charge for the year in which the aid is distributed."
22

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

25 "(a) Funds shall be set aside from the total funds available for
26 allocation under the provisions of this subchapter for adjustments in aid
27 allocation to any district whose actual assessment, when certified by the
28 county clerk or the county board, or the board's designee, has decreased by
29 more than five percent (5%) from the projected amount used in determining the
30 aid for the district."
31

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

34 "6-20-313. Other set-aside funds.

35 Other set-aside funds shall be as follows:

1 (1) Funds required for the Arkansas Department of Correction School
2 District;

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

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

13 (4) Funds sufficient to pay the school employee liability insurance
14 required by § 6-17-1113 and funds necessary to pay the amounts required by §§
15 6-20-302(13), 6-20-306(d) [repealed], and 6-20-309;

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

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

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

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

1 one-tenth (3.1) and the state base equalization rate, regardless of the
2 setting in which the education is provided. An add-on weight of three and
3 one-tenth (3.1) is to be used if the student must receive his or her
4 educational program in a special residential school. An add-on weight of two
5 and thirty-five one hundredths (2.35) and the state base equalization rate is
6 to be used if the student must receive his education in a special day school.
7 Educational costs funded under this subsection are specifically covered by §
8 6-20-316(b)."

9

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

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

17

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

20

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

24

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

30

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

33

34 SECTION 11. EMERGENCY. It is hereby found and determined by the
35 Seventy-Ninth General Assembly that application of the current formula used in

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

10

/s/Edward F. Thicksten