

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

SENATE BILL 939

4  
5 By: Senator Broadway

## For An Act To Be Entitled

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8  
9 AN ACT TO AMEND THE PUBLIC SCHOOL FUNDING ACT OF  
10 2003; AND FOR OTHER PURPOSES.

## Subtitle

11  
12  
13 AN ACT TO AMEND THE PUBLIC SCHOOL  
14 FUNDING ACT OF 2003.

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16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18  
19 SECTION 1. Arkansas Code § 6-20-2303 is amended to read as follows:  
20 6-20-2303. Definitions.

21 As used in this subchapter:

22 (1) "Additional education categories" means state funds  
23 distributed to school districts for alternative learning environments,  
24 English language learners, national school lunch students, and professional  
25 development, ~~and technology~~;

26 (2) "Alternative learning environment" means a student  
27 intervention program in compliance with §§ 6-18-508 and 6-18-509 that seeks  
28 to eliminate traditional barriers to learning for students;

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

35 (B) In those instances in which the average daily  
36 membership for fewer than three (3) quarters is specified, the number of days



1 used in the calculation shall be the days in the specified period of time.

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

4 (i) Students who reside within the boundaries of the  
5 school district and who are enrolled in a public school operated by the  
6 school district ~~or a private school for special education students with their~~  
7 ~~attendance resulting from a written tuition agreement approved by the~~  
8 ~~Department of Education;~~

9 (ii) Legally transferred students living outside the  
10 school district but attending a public school in the school district; and

11 (iii) Students who are eligible to attend and reside  
12 within the boundaries of a school district and who are enrolled in the  
13 Arkansas National Guard Youth Challenge Program, so long as the students are  
14 participants in the program+.

15 (D)(i) Except for those circumstances otherwise allowed by  
16 rule, any student who is absent from daily attendance for more than ten (10)  
17 consecutive school days shall be dismissed or dropped from the attendance  
18 records of the school, school district, or open-enrollment charter school.

19 (ii) Any student who fails to attend school by the  
20 tenth regular school day of the semester shall be retroactively dropped from  
21 the first day of the school semester;

22 (4) "Classroom teacher" means:

23 (A) An individual who is required to hold a teaching  
24 license from the Department of Education and who is engaged directly in  
25 instruction with students in a classroom setting for more than seventy  
26 percent (70%) of the individual's contracted time;

27 (B) A guidance counselor; or

28 (C) A librarian;

29 ~~(5) "Debt service funding" means the state financial aid~~  
30 ~~provided to qualifying school districts for the purpose of reducing existing~~  
31 ~~debt service burdens;~~

32 ~~(6)~~(5) "English language learners" means students identified by  
33 the State Board of Education as not proficient in the English language based  
34 upon approved English proficiency assessment instruments administered  
35 annually in the fall of the current school year, which assessments measure  
36 oral, reading, and writing proficiency;

1           ~~(7)~~(6) "Foundation funding" means an amount of money specified  
 2 by the General Assembly for each school year to be expended by school  
 3 districts for the provision of an adequate education for each student;

4           ~~(8)~~(7) "General facility funding" means the state financial aid  
 5 provided to each school district from funds made available for that line item  
 6 purpose;

7           ~~(9)~~(8) "Gifted and talented programs" means academic curricula,  
 8 courses, and options designed to improve educational opportunities for gifted  
 9 and talented students pursuant to guidelines adopted by the State Board of  
 10 Education in accordance with § 6-42-106;

11           ~~(10)~~(9) "Gifted and talented students" means those students who  
 12 have been identified as meeting the criteria of the gifted program approval  
 13 standards established by the State Board of Education;

14           ~~(11)~~(10) "Legal revenues" means ~~the revenues of a school~~  
 15 ~~district, including current balances, unrestricted state and local funding~~  
 16 ~~for the current school year, proceeds from a revolving loan pursuant to § 6-~~  
 17 ~~20-801 et seq., proceeds from commercial bonds pursuant to § 6-20-1201 et~~  
 18 ~~seq., and proceeds from funds received pursuant to § 6-20-402; those revenues~~  
 19 ~~received by a district and used to make payments from:~~

20                   (A) The teacher's salary fund, which means the set of  
 21 accounts used to record the receipts and expenditures for payment of salaries  
 22 for certified personnel, certified substitutes, tuition and fringe benefits  
 23 as defined by § 6-17-908. Certified personnel salaries from federal program  
 24 funds are excluded;

25                   (B) The operating fund, which means the set of accounts  
 26 used to record the receipts and expenditures for current operating expenses  
 27 other than those that relate to the purposes set out for other funds; and

28                   (C) The debt service fund, which means the set of accounts  
 29 used to record local tax receipts and expenditures for the retirement of  
 30 bonded debt;

31           ~~(12)~~(11) "Mandatory callable bonds" means a bond issue in which  
 32 all net proceeds from debt service millage used to secure the issuance of  
 33 that bond must be applied to payment of the issue and cannot be used for any  
 34 other purposes;

35           ~~(13)~~(12) "Millage rate" means the millage rate listed in the  
 36 most recent tax ordinance approved by the county quorum court under the

1 authority of § 14-14-904;

2 ~~(14)~~(13) "Miscellaneous funds" means those average funds  
 3 collected in the previous five (5) school years or previous school year,  
 4 whichever is less, from funds received by a school district from federal  
 5 forest reserves, federal grazing rights, federal mineral rights, federal  
 6 impact aid, federal flood control, wildlife refuge funds, severance taxes,  
 7 funds received by the school district in lieu of taxes, and local sales and  
 8 use taxes dedicated to education pursuant to §§ 26-74-201 et seq., 26-74-301  
 9 et seq., 26-75-301 et seq., and 14-164-301 et seq.;

10 ~~(15)~~(14)(A) "National school lunch students" means those  
 11 students, or the percentage of enrolled students, from low socioeconomic  
 12 backgrounds as indicated by eligibility for free or reduced-price meals under  
 13 the National School Lunch Act as ~~calculated~~ determined on October 1 of each  
 14 previous school year and submitted to the Department of Education, unless the  
 15 school district is identified by the Department of Education as participating  
 16 in the special assistance certification and reimbursement alternative  
 17 implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.

18 (B) If the school district is participating under 42  
 19 U.S.C. § 1759a, then for purposes of funding under § 6-20-2305(b), such a  
 20 school district's annual percentage of national school lunch students shall  
 21 be equal to the percentage submitted in the base year, which means the last  
 22 school year for which eligibility determinations were made and meal counts  
 23 were taken by type;

24 ~~(16)~~(15) "Previous school year" means the school year  
 25 immediately preceding the school year in which funds are allocated;

26 ~~(17)~~(16)(A) "Professional development" means a coordinated set  
 27 of planned learning activities for teachers and administrators that are  
 28 standards-based.

29 (B) Professional development shall result in individual,  
 30 schoolwide, and systemwide improvement designed to ensure that all students  
 31 demonstrate proficiency in the state academic standards;

32 ~~(18)~~(17) "School district" means a geographic area with an  
 33 elected board of directors that qualifies as a taxing unit for purposes of ad  
 34 valorem property taxes under title 26 of the Arkansas Code and which board  
 35 conducts the daily affairs of public schools pursuant to the supervisory  
 36 authority vested in it by the General Assembly and title 6 of the Arkansas

1 Code;

2 ~~(19)~~(18) "Secondary vocational area center" means a public  
 3 secondary vocational institution organized for the specific purpose of  
 4 educating high school students in specific occupational or vocational areas  
 5 and serving students from more than one (1) participating school district;

6 ~~(20)~~(19) "Special education catastrophic occurrences" means  
 7 individual cases where special education and related services required by the  
 8 individualized education program of a particular student with disabilities  
 9 are unduly expensive, extraordinary, or beyond the routine and normal costs  
 10 associated with special education and related services provided by a school  
 11 district and funding is pursuant to rules promulgated by the State Board of  
 12 Education;

13 ~~(21)~~(20) "State foundation funding aid" means the amount of  
 14 state financial aid provided to each school district and computed as the  
 15 difference between the foundation funding amount established by the General  
 16 Assembly and the sum of ninety-eight percent (98%) of the uniform rate of tax  
 17 multiplied by the property assessment of the school district plus seventy-  
 18 five percent (75%) of miscellaneous funds of the school district;

19 ~~(22)~~(21)(A) "Student growth funding" means the amount of state  
 20 financial aid provided to each school district from the funds made available  
 21 for that purpose.

22 (B)(i) For school year ~~2004-2005~~ 2005-2006, student growth  
 23 funding is calculated as ~~five thousand four hundred dollars (\$5,400)~~ five  
 24 thousand five hundred and one dollars (\$5,501) multiplied by the increase, if  
 25 any, in the school district's two-quarter average of the average daily  
 26 membership of the current school year over the local school district's two-  
 27 quarter average of the average daily membership for the previous school year,  
 28 excluding any increase resulting solely from consolidation or annexation with  
 29 another school district~~;~~.

30 (ii) For school year 2006-2007, student growth  
 31 funding is calculated as five thousand five hundred and seventy-eight dollars  
 32 (\$5,578) multiplied by the increase, if any, in the school district's two-  
 33 quarter average of the average daily membership of the current school year  
 34 over the local school district's two-quarter average of the average daily  
 35 membership for the previous school year, excluding any increase resulting  
 36 solely from consolidation or annexation with another school district;

1           ~~(23)~~(22) "Teachers of the gifted and talented" means individuals  
2 certified by the State Board of Education to teach identified gifted and  
3 talented students;

4           ~~(24)~~(23) "Technology" means any equipment for instructional  
5 purposes that is electronic in nature, including, but not limited to,  
6 computer hardware, computer software, Internet connectivity, and distance  
7 learning; and

8           ~~(25)~~(24) "Uniform rate of tax" means a uniform rate of ad  
9 valorem property tax of twenty-five (25) mills to be levied on the assessed  
10 value of all taxable real, personal, and utility property in the state to be  
11 used solely for the maintenance and operation of the schools as required by  
12 Arkansas Constitution, Amendment 74.

13  
14       SECTION 2. Arkansas Code § 6-20-2305 is amended to read as follows:

15       6-20-2305. School funding.

16       (a)(1) For each school year, a school district shall receive state  
17 foundation funding aid computed as the difference between the foundation  
18 funding amount pursuant to subdivision (a)(2) of this section and the sum of  
19 ninety-eight percent (98%) of the uniform rate of tax multiplied by the  
20 property assessment of the school district plus seventy-five percent (75%) of  
21 miscellaneous funds of the school district.

22       (2)(A) For the ~~2004-2005~~ 2005-2006 school year, the foundation  
23 funding amount is equal to ~~five thousand four hundred dollars (\$5,400)~~ five  
24 thousand five hundred one dollars (\$5,501) multiplied by the average daily  
25 membership of the previous school year.

26       (B) For the 2006-2007 school year, the foundation funding  
27 amount is equal to five thousand five hundred seventy eight dollars (\$5,578)  
28 multiplied by the average daily membership of the previous school year.

29       (b)(1) In addition to state foundation funding aid, each school  
30 district shall receive funding for additional education categories as  
31 provided in subdivisions (b)(2)-(6) of this section.

32       (2)(A) For the 2004-2005 school year and each school year  
33 thereafter, alternative learning ~~environmental~~ environment funding and  
34 secondary vocational area center funding shall be three thousand two hundred  
35 fifty dollars (\$3,250) multiplied times:

36           (i) The number of identified alternative learning

1 environment students enrolled during the ~~2003-2004~~ previous school year; and

2 (ii) The number of students enrolled in a secondary  
3 vocational area center during the ~~2003-2004~~ previous school year~~+~~.

4 (B) Funding for students in alternative learning  
5 environments shall be distributed based on rules promulgated by the State  
6 Board of Education.

7 (C) Funding for students in secondary vocational area  
8 centers shall be distributed based on rules promulgated by the State Board of  
9 Workforce Education and Career Opportunities.

10 (3)(A) For the 2004-2005 school year and each school year  
11 thereafter, the English-language learners funding shall be one hundred  
12 ninety-five dollars (\$195) for each identified English-language learner.

13 (B) Funding for English-language learner students shall be  
14 distributed to school districts for students who have been identified as not  
15 proficient in the English language based upon a state-approved English  
16 proficiency assessment instrument.

17 (C) Funds allocated for English language learners to  
18 school districts under this subchapter shall be expended only for eligible  
19 activities as identified in current rules promulgated by the state board.

20 (4)(A) For the 2004-2005 school year and each school year  
21 thereafter, national school lunch student funding for each identified  
22 national school lunch student shall be as follows:

23 (i) For school districts in which ninety percent  
24 (90%) or greater of the previous school year's enrolled students are national  
25 school lunch students, funding shall be one thousand four hundred forty  
26 dollars (\$1,440);

27 (ii) For school districts in which at least seventy  
28 percent (70%) but less than ninety percent (90%) of the previous school  
29 year's enrolled students are national school lunch students, funding shall be  
30 nine hundred sixty dollars (\$960); and

31 (iii) For school districts in which less than  
32 seventy percent (70%) of the previous school year's enrolled students are  
33 national school lunch students, funding shall be four hundred eighty dollars  
34 (\$480).

35 (B) Funding under this subdivision (b)(4) for national  
36 school lunch students shall be based ~~on the number of students eligible for a~~

1 ~~free or reduced price lunch program under the National School Lunch Act~~  
 2 ~~identified on the Arkansas public school computer network cycle two report on~~  
 3 ~~the percentage determined under § 6-20-2303(14)(B) multiplied by the number~~  
 4 ~~of the previous school year's enrolled students.~~

5 (C)(i) The State Board of Education shall establish by  
 6 rule a list of approved programs and purposes for which funds allocated under  
 7 this subdivision (b)(4) may be expended. School districts shall expend funds  
 8 allocated under this subdivision (b)(4) only on the approved programs or  
 9 purposes, which include, but are not limited to:

10 (a) Classroom teachers, provided that the  
 11 school district meets the minimum salary schedule in § 6-17-2403 without  
 12 using funds provided under subdivision (b)(4) of this section;

13 (b) Before-school academic programs and after-  
 14 school academic programs, including transportation to and from the programs;

15 (c) Prekindergarten programs coordinated by  
 16 the Department of Human Services;

17 (d) Tutors, teachers' aides, counselors,  
 18 social workers, nurses, and curriculum specialists;

19 (e) Parent education;

20 (f) Summer programs;

21 (g) Early intervention programs; and

22 (h) Materials, supplies, and equipment,  
 23 including technology used in approved programs or for approved purposes.

24 (ii) However, notwithstanding any other provision of  
 25 law, if the Department of Education determines that a school district's  
 26 expenditure of funds allocated under this subdivision (b)(4) would result in  
 27 the school district losing funding under any federal law, then the funds  
 28 allocated to a school district under this subdivision (b)(4) may be expended  
 29 for other academic programs or salaries.

30 (iii) The department may direct that a school  
 31 district expend available funds on specified programs under subdivision  
 32 (b)(4)(C)(i) of this section.

33 (D) By the end of each school year, each school district  
 34 shall submit to the department a report listing each program upon which funds  
 35 allocated under this subdivision (b)(4) were expended, the amount expended,  
 36 and any other information required by the department. The department shall



1 develop appropriate reporting forms for use by school districts.

2 (5)(A) Professional development funding for the 2004-2005 school  
3 year and each school year thereafter, shall be equal to fifty dollars  
4 (\$50.00) multiplied by the school district's previous school year average  
5 daily membership.

6 (B) Funding for professional development for teachers in  
7 Arkansas public schools may be used for professional development training  
8 conferences, materials, and other professional development activities as  
9 outlined in rules promulgated by the state board.

10 (c)~~(1) General facilities funding, debt service funding, isolated~~  
11 Isolated funding under § 6-20-601, student growth funding, and special  
12 education-catastrophic occurrences funding shall be allocated and funded to  
13 school districts in a line item appropriation within the Public School Fund  
14 pursuant to law or rules promulgated by the State Board of Education.

15 ~~(2) A school district shall only use general facilities funding~~  
16 ~~for:~~

17 ~~(A) The purchase of school buses, furniture, equipment,~~  
18 ~~and computer software;~~

19 ~~(B) The renovation or repairs of existing facilities; or~~

20 ~~(C) The repayment of commercial bonds or revolving loans.~~

21 (d) The sum of subsections (a)-(c) of this section shall be the total  
22 state aid allocated and funded to school districts pursuant to this section.

23 (e) Funds distributed to school districts under subsection (b) of this  
24 section shall be expended on:

25 (1) The students within each category of special needs for which  
26 the funds were allocated;

27 (2) Any students within any category of special needs under  
28 subsection (b) of this section as permitted by rules issued by the State  
29 Board of Education; or

30 (3) If the Department of Education determines that a school  
31 district's expenditure of funds allocated under subsection (b) of this  
32 section would result in the school district losing funding under any federal  
33 law, then the funds allocated to a school district under subsection (b) of  
34 this section may be expended for other academic programs or salaries as  
35 permitted by the Department of Education.

36 (f) In order for a school district to be entitled to state funds under

1 the provisions of this subchapter, each school district shall satisfy the  
2 following requirements:

3 (1) Expenditures for any fiscal year shall not exceed the legal  
4 revenues for that fiscal year;

5 (2) The school district shall maintain records and make reports  
6 relative to attendance, receipts, and disbursements and other reports as  
7 required by the department for the administration of this subchapter;

8 (3) The school district shall maintain proper financial records  
9 in accordance with the state's school accounting manual and regulations  
10 promulgated by the state board;

11 (4)(A) Each school year the school district shall file with the  
12 state board a salary schedule for its certified employees that recognizes a  
13 minimum level of training and experience.

14 (B) The schedule shall reflect the actual pay practices of  
15 the school district, including all fringe benefits.

16 (C) Salary increments for experience or education, or  
17 both, shall be identified on the schedule; and

18 (5)(A) All pupil attendance records shall be kept in their  
19 original form and shall be public records.

20 (B) The records shall be kept according to law and  
21 regulations on paper or electronic forms either furnished or approved by the  
22 department.

23 (C) Original attendance records shall be kept on file in  
24 the office of the superintendent of the school district after the school term  
25 has ended for a period of three (3) school years and shall be available for  
26 monitoring purposes during any day of the school term for the teachers or  
27 other persons designated to keep attendance.

28  
29 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
30 General Assembly of the State of Arkansas that the current funding provided  
31 for public schools is for the 2004-2005 school year; that it is necessary to  
32 fund school districts for the remainder of the biennium; and that this act is  
33 immediately necessary because changes in funding for school districts must be  
34 available for the 2005-2006 school year. Therefore, an emergency is declared  
35 to exist and this act being necessary for the preservation of the public  
36 peace, health, and safety shall become effective on July 1, 2005.