

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  
4

As Engrossed: S4/1/05

# A Bill

SENATE BILL 939

5 By: Senator Broadway  
6  
7

## For An Act To Be Entitled

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

### Subtitle

11 AN ACT TO AMEND THE PUBLIC SCHOOL  
12 FUNDING ACT OF 2003.  
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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)(A) *“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 (B) *The State Board of Education shall promulgate rules*  
30 *that explicate not only which alternative learning environment programs shall*  
31 *qualify for funding, but also the characteristics of students who qualify for*  
32 *funding because they have been placed in an alternative learning environment*  
33 *program;*

34 (3)(A) *“Average daily membership” means the total number of days*  
35 *of school attended plus the total number of days absent by students in grades*  
36 *kindergarten through twelve (K-12) during the first three (3) quarters of*



1 each school year divided by the number of school days actually taught in the  
2 school district during that period of time rounded up to the nearest  
3 hundredth.

4 (B) In those instances in which the average daily  
5 membership for fewer than three (3) quarters is specified, the number of days  
6 used in the calculation shall be the days in the specified period of time.

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

9 (i) Students who reside within the boundaries of the  
10 school district and who are enrolled in a public school operated by the  
11 school district ~~or a private school for special education students with their~~  
12 ~~attendance resulting from a written tuition agreement approved by the~~  
13 ~~Department of Education;~~

14 (ii) Legally transferred students living outside the  
15 school district but attending a public school in the school district under a  
16 provision of the Arkansas Code; and

17 (iii) Students who are eligible to attend and reside  
18 within the boundaries of a school district and who are enrolled in the  
19 Arkansas National Guard Youth Challenge Program, so long as the students are  
20 participants in the program.

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

25 (ii) Any student who fails to attend school by the  
26 tenth regular school day of the semester shall be retroactively dropped from  
27 the first day of the school semester.

28 (E)(i) Except as otherwise provided by law, a public  
29 school district or open-enrollment charter school that teaches a distance  
30 learning course to one (1) or more home school or private school students  
31 shall be eligible for an amount equal to one-sixth (1/6) of the state  
32 foundation funding amount per distance learning course for each private  
33 school student or home school student who is:

34 (a) Residing within the school district where  
35 the public school or open-enrollment charter school is located; and

36 (b) Physically attending the distance learning

1 course or courses on the campus of the public school district or open-  
 2 enrollment charter school.

3 (ii) However, under no circumstances shall a public  
 4 school district or open-enrollment charter school be entitled to more than  
 5 the equivalent of state foundation funding for one (1) average daily  
 6 membership regardless of the number of distance learning courses received by  
 7 a particular home school or private school student;

8 (4) "Classroom teacher" means:

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

13 (B) A guidance counselor; or

14 (C) A librarian;

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

18 ~~(6)~~(5) "English language learners" means students identified by  
 19 the State Board of Education as not proficient in the English language based  
 20 upon approved English proficiency assessment instruments administered  
 21 annually in the fall of the current school year, which assessments measure  
 22 oral, reading, and writing proficiency;

23 ~~(7)~~(6) "Foundation funding" means an amount of money specified  
 24 by the General Assembly for each school year to be expended by school  
 25 districts for the provisions of an adequate education for each student;

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

29 ~~(9)~~(7) "Gifted and talented programs" means academic curricula,  
 30 courses, and options designed to improve educational opportunities for gifted  
 31 and talented students pursuant to guidelines adopted by the State Board of  
 32 Education in accordance with § 6-42-106;

33 ~~(10)~~(8) "Gifted and talented students" means those students who  
 34 have been identified as meeting the criteria of the gifted program approval  
 35 standards established by the State Board of Education;

36 ~~(11)~~(9) "Legal revenues" means ~~the revenues of a school~~

1 ~~district, including current balances, unrestricted state and local funding~~  
 2 ~~for the current school year, proceeds from a revolving loan pursuant to § 6-~~  
 3 ~~20-801 et seq., proceeds from commercial bonds pursuant to § 6-20-1201 et~~  
 4 ~~seq., and proceeds from funds received pursuant to § 6-20-402; those revenues~~  
 5 received or cash balances carried forward by a school district and used to  
 6 make payments from:

7 (A) The teacher's salary fund, which means the set of  
 8 accounts used to record the receipts and expenditures for payment of salaries  
 9 for certified personnel, certified substitutes, tuition, and fringe benefits  
 10 as defined by § 6-17-908. Certified personnel salaries from federal programs  
 11 are excluded;

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

15 (C) The debt service fund, which means the set of accounts  
 16 used to record local tax receipts and expenditures for the retirement of  
 17 commercially bonded debt;

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

22 ~~(13)~~(10) "Millage rate" means the millage rate listed in the  
 23 most recent tax ordinance approved by the county quorum court under the  
 24 authority of § 14-14-904;

25 ~~(14)~~(11) "Miscellaneous funds" means those ~~average~~ funds  
 26 collected either in the average of the previous five (5) school years or the  
 27 previous school year, whichever is less, from funds received by a school  
 28 district from federal forest reserves, federal grazing rights, federal  
 29 mineral rights, federal impact aid, federal flood control, wildlife refuge  
 30 funds, severance taxes, funds received by the school district in lieu of  
 31 taxes, and local sales and use taxes dedicated to education pursuant to §§  
 32 26-74-201 et seq., 26-74-301 et seq., 26-75-301 et seq., and 14-164-301 et  
 33 seq.;

34 ~~(15)~~(12)(A) "National school lunch students" means those  
 35 students or the percentage of enrolled students from low socioeconomic  
 36 backgrounds as indicated by eligibility for free or reduced-priced meals

1 under the National School Lunch Act as ~~calculated~~ determined on October 1 of  
 2 each previous school year and submitted to the Department of Education,  
 3 unless the school district is identified by the Department of Education as  
 4 participating in the special assistance certification and reimbursement  
 5 alternative implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. §  
 6 245.9.

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

13 ~~(16)~~(13) "Previous year" or "previous school year" means the  
 14 school year immediately preceding the school year or fiscal year in which  
 15 funds are allocated;

16 ~~(17)~~(14)(A) "Professional development" means a coordinated set  
 17 of planned learning activities for teachers and administrators that are  
 18 standards-based.

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

22 ~~(18)~~(15) "School district" means a geographic area with an  
 23 elected board of directors that qualifies as a taxing unit for purposes of ad  
 24 valorem property taxes under title 26 of the Arkansas Code and which board  
 25 conducts the daily affairs of public schools pursuant to the supervisory  
 26 authority vested in it by the General Assembly and title 6 of the Arkansas  
 27 Code;

28 ~~(19)~~(16) "Secondary vocational area center" means a public  
 29 secondary vocational institution organized for the specific purpose of  
 30 educating high school students in specific occupational or vocational areas  
 31 and serving students from more than one (1) participating school district;

32 ~~(20)~~(17) "Special education catastrophic occurrences" means  
 33 individual cases where special education and related services required by the  
 34 individualized education program of a particular student with disabilities  
 35 are unduly expensive, extraordinary, or beyond the routine and normal costs  
 36 associated with special education and related services provided by a school

1 district and funding is pursuant to rules promulgated by the State Board of  
2 Education;

3 ~~(21)~~(18) "State foundation funding aid" means the amount of  
4 state financial aid provided to each school district and computed as the  
5 difference between the foundation funding amount established by the General  
6 Assembly and the sum of ninety-eight percent (98%) of the uniform rate of tax  
7 multiplied by the property assessment of the school district plus seventy-  
8 five percent (75%) of the miscellaneous funds of the school district;

9 ~~(22)~~(19)(A) "Student growth funding" means the amount of state  
10 financial aid provided to each school district from funds made available for  
11 that purpose.

12 (B) For school year 2004-2005, and each year thereafter,  
13 student growth funding is calculated as five thousand four hundred dollars  
14 (\$5,400) multiplied by the increase, if any, in the school district's two-  
15 quarter average of the average daily membership of the current school year  
16 over the local school district's two-quarter average of the average daily  
17 membership for the previous school year, excluding any increase resulting  
18 solely from consolidation or annexation with another school district;

19 ~~(23)~~(20) "Teachers of the gifted and talented" means individuals  
20 certified by the State Board of Education to teach identified gifted and  
21 talented students;

22 ~~(24)~~(21) "Technology" means any equipment for instructional  
23 purposes that is electronic in nature, including, but not limited to,  
24 computer hardware, computer software, Internet connectivity, and distance  
25 learning; and

26 ~~(25)~~(22) "Uniform rate of tax" means a uniform rate of ad  
27 valorem property tax of twenty-five (25) mills to be levied on the assessed  
28 value of all taxable real, personal, and utility and regulated carrier  
29 property in the state to be used solely for the maintenance and operation of  
30 the public schools as required by Arkansas Constitution, ~~Amendment 74~~ Article  
31 14, Section 3 (as amended by Amendments 11, 40, and 74).

32

33 SECTION 2. Arkansas Code § 6-20-2305 is amended to read as follows:  
34 6-20-2305. School funding.

35 (a)(1) For each school year, a school district shall receive state  
36 foundation funding aid computed as the difference between the foundation

1 funding amount pursuant to subdivision (a)(2) of this section and the sum of  
 2 ninety-eight percent (98%) of the uniform rate of tax multiplied by the  
 3 property assessment of the school district plus seventy-five percent (75%) of  
 4 miscellaneous funds of the school district.

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

8 (B) For the 2006-2007 school year, the foundation funding  
 9 amount is equal to five thousand four hundred ninety seven dollars (\$5,497)  
 10 multiplied by the average daily membership of the previous school year.

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

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

18 (i) The number of identified alternative learning  
 19 environment students enrolled during the ~~2003-2004~~ previous school year; and

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

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

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

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

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

35 (C) Funds allocated for English language learners to  
 36 school districts under this subchapter shall be expended only for eligible

1 activities as identified in current rules promulgated by the state board.

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

5 (i) For school districts in which ninety percent  
 6 (90%) or greater of the previous school year's enrolled students are national  
 7 school lunch students, funding shall be one thousand four hundred forty  
 8 dollars (\$1,440);

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

13 (iii) For school districts in which less than  
 14 seventy percent (70%) of the previous school year's enrolled students are  
 15 national school lunch students, funding shall be four hundred eighty dollars  
 16 (\$480).

17 (B) Funding under this subdivision (b)(4) for national  
 18 school lunch students shall be based on the number of students eligible for a  
 19 free or reduced price lunch program under the National School Lunch Act  
 20 identified on the Arkansas public school computer network cycle two report on  
 21 the percentage determined under § 6-20-2303(12)(A) multiplied by the number  
 22 of the previous school year's enrolled students.

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

28 (a) Classroom teachers, provided that the  
 29 school district meets the minimum salary schedule in § 6-17-2403 without  
 30 using funds provided under subdivision (b)(4) of this section and those  
 31 teachers are used for the purposes delineated in subdivision (b)(4) of this  
 32 section;

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

35 (c) Prekindergarten programs coordinated by  
 36 the Department of Human Services;



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

3 (e) Parent education;

4 (f) Summer programs;

5 (g) Early intervention programs; and

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

8 (ii) However, notwithstanding any other provision of  
9 law, if the Department of Education determines that a school district's  
10 expenditure of funds allocated under this subdivision (b)(4) would result in  
11 the school district losing funding under any federal law, then the funds  
12 allocated to a school district under this subdivision (b)(4) may be expended  
13 for other academic programs or salaries.

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

17 (D) By the end of each school year, each school district  
18 shall submit to the department a report listing each program upon which funds  
19 allocated under this subdivision (b)(4) were expended, the amount expended,  
20 and any other information required by the department. The department shall  
21 develop appropriate reporting forms for use by school districts.

22 (5)(A) Professional development funding for the 2004-2005 school  
23 year and each school year thereafter shall be equal to an amount of up to  
24 fifty dollars (\$50.00) multiplied by the school district's previous school  
25 year average daily membership.

26 (B) Funding for professional development for teachers in  
27 Arkansas public schools ~~may~~ shall be used for professional development  
28 training conferences, materials, and other professional development  
29 activities as outlined in rules promulgated by the state board.

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

35 ~~(2) A school district shall only use general facilities funding~~  
36 ~~for:~~

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

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

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

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

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

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

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

14                   (3) If the Department of Education determines that a school  
15 district's expenditure of funds allocated under subsection (b) of this  
16 section would result in the school district losing funding under any federal  
17 law, then the funds allocated to a school district under subsection (b) of  
18 this section may be expended for other academic programs or salaries as  
19 permitted by the Department of Education.

20           (f) In order for a school district to be entitled to state funds under  
21 the provisions of this subchapter, each school district shall satisfy the  
22 following requirements:

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

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

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

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

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

36                               (C) Salary increments for experience or education, or

1 both, shall be identified on the schedule; and

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

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

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

12 (g) By the end of each school year, each school district shall submit  
13 to the department a report listing each program upon which funds allocated  
14 under subsection (b) of this section were expended, the amount expended, and  
15 any other information required by the department. The department shall  
16 develop appropriate reporting forms for use by school districts.

17  
18 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
19 General Assembly of the State of Arkansas that the current funding provided  
20 for public schools is for the 2004-2005 school year; that it is necessary to  
21 fund school districts for the remainder of the biennium; and that this act is  
22 immediately necessary because changes in funding for school districts must be  
23 available for the 2005-2006 school year. Therefore, an emergency is declared  
24 to exist and this act being necessary for the preservation of the public  
25 peace, health, and safety shall become effective on July 1, 2005.

26  
27 /s/ Broadway  
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