

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 S4/7/05 H4/12/05

# 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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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)(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)(i) 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 except for the 2005-2006 school year as explicated in  
 13 subdivision (12)(B)(ii).

14 (ii) If a school district received funding for  
 15 national school lunch students in the 2004-2005 school year as though one  
 16 hundred percent (100%) of its students were eligible for free meals because  
 17 of the school district's participation under 42 U.S.C. § 1759a, then that  
 18 school district shall be funded for the 2005-2006 school year based upon the  
 19 October 1, 2005, submission by a school district to the Department of  
 20 Education if the school district has completed a new student eligibility  
 21 determination and submitted that new eligibility determination to the  
 22 Department of Education by October 1, 2005;

23  
 24 ~~(16)~~(13) "Previous year" or "previous school year" means the  
 25 school year immediately preceding the school year or fiscal year in which  
 26 funds are allocated;

27 ~~(17)~~(14)(A) "Professional development" means a coordinated set  
 28 of planned learning activities for teachers and administrators that are  
 29 standards-based.

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

33 ~~(18)~~(15) "School district" means a geographic area with an  
 34 elected board of directors that qualifies as a taxing unit for purposes of ad  
 35 valorem property taxes under title 26 of the Arkansas Code and which board  
 36 conducts the daily affairs of public schools pursuant to the supervisory

1 authority vested in it by the General Assembly and title 6 of the Arkansas  
2 Code;

3 ~~(19)~~(16) "Secondary vocational area center" means a public  
4 secondary vocational institution organized for the specific purpose of  
5 educating high school students in specific occupational or vocational areas  
6 and serving students from more than one (1) participating school district;

7 ~~(20)~~(17) "Special education catastrophic occurrences" means  
8 individual cases where special education and related services required by the  
9 individualized education program of a particular student with disabilities  
10 are unduly expensive, extraordinary, or beyond the routine and normal costs  
11 associated with special education and related services provided by a school  
12 district and funding is pursuant to rules promulgated by the State Board of  
13 Education;

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

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

23 (B) For school year ~~2004-2005~~ years 2005-2006 and 2006-  
24 2007, student growth funding is calculated as five thousand four hundred  
25 dollars (\$5,400) multiplied by the increase, if any, in the school district's  
26 two-quarter average of the average daily membership of the current school  
27 year over the local school district's two-quarter average of the average  
28 daily membership for the previous school year, excluding any increase  
29 resulting solely from consolidation or annexation with another school  
30 district;

31 ~~(23)~~(20) "Teachers of the gifted and talented" means individuals  
32 certified by the State Board of Education to teach identified gifted and  
33 talented students;

34 ~~(24)~~(21) "Technology" means any equipment for instructional  
35 purposes that is electronic in nature, including, but not limited to,  
36 computer hardware, computer software, Internet connectivity, and distance

1 learning; and

2 ~~(25)~~(22) "Uniform rate of tax" means a uniform rate of ad  
3 valorem property tax of twenty-five (25) mills to be levied on the assessed  
4 value of all taxable real, personal, and utility and regulated carrier  
5 property in the state to be used solely for the maintenance and operation of  
6 the public schools as required by Arkansas Constitution, ~~Amendment 74~~ Article  
7 14, Section 3 (as amended by Amendments 11, 40, and 74).

8  
9 SECTION 2. Arkansas Code § 6-20-2305 is amended to read as follows:  
10 6-20-2305. School funding.

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

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

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

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

26 (2)(A) For ~~the 2004-2005 school year~~ school years 2005-2006 and  
27 2006-2007, alternative learning ~~environmental~~ environment funding and  
28 secondary vocational area center funding shall be three thousand two hundred  
29 fifty dollars (\$3,250) multiplied times:

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

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

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

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

4 (3)(A) For ~~the 2004-2005 school year~~ school years 2005-2006 and  
5 2006-2007, the English-language learners funding shall be one hundred ninety-  
6 five dollars (\$195) for each identified English-language learner.

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

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

14 (4)(A) For ~~the 2004-2005 school year~~ school years 2005-2006 and  
15 2006-2007, national school lunch student funding for each identified national  
16 school lunch student shall be as follows:

17 (i) For school districts in which ninety percent  
18 (90%) or greater of the previous school year's enrolled students are national  
19 school lunch students, funding shall be one thousand four hundred forty  
20 dollars (\$1,440);

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

25 (iii) For school districts in which less than  
26 seventy percent (70%) of the previous school year's enrolled students are  
27 national school lunch students, funding shall be four hundred eighty dollars  
28 (\$480).

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

35 (ii)(a) A school district that has experienced a  
36 significant growth in enrolled students in the previous three (3) years shall



1 receive funding for the expected increase in the number of national school  
2 lunch students based on the expected increase in enrolled students based on  
3 the levels of funding provided in this section for national school lunch  
4 students.

5 (b) The State Board of Education shall  
6 establish rules to be used by the Department of Education to determine:

7 (1) The amount of growth necessary to  
8 qualify as significant growth;

9 (2) The expected increase in the number  
10 of national school lunch students based on the expected increase in enrolled  
11 students; and

12 (3) Which school districts have  
13 experienced a significant growth in enrolled students as necessary to qualify  
14 for funding under this subdivision (b)(4)(B)(ii).

15 (c) The Department of Education shall not be  
16 required to adjust or fund a school district's national school lunch students  
17 based on the current year's number of national school lunch students enrolled  
18 in the district or the average growth of students in the district.

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

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

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

31 (c) Prekindergarten programs coordinated by  
32 the Department of Human Services;

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

35 (e) Parent education;

36 (f) Summer programs;

1 (g) Early intervention programs; and  
 2 (h) Materials, supplies, and equipment,  
 3 including technology used in approved programs or for approved purposes.

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

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

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

18 (5)(A) Professional development funding for ~~the 2004-2005 school~~  
 19 years 2005-2006 and 2006-2007 year shall be equal to an amount of up to fifty  
 20 dollars (\$50.00) multiplied by the school district's previous school year  
 21 average daily membership.

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

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

31 ~~(2) A school district shall only use general facilities funding~~  
 32 ~~for:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36                         (B) The records shall be kept according to law and

1 regulations on paper or electronic forms either furnished or approved by the  
2 department.

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

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

13  
14 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
15 General Assembly of the State of Arkansas that the current funding provided  
16 for public schools is for the 2004-2005 school year; that it is necessary to  
17 fund school districts for the remainder of the biennium; and that this act is  
18 immediately necessary because changes in funding for school districts must be  
19 available for the 2005-2006 school year. Therefore, an emergency is declared  
20 to exist and this act being necessary for the preservation of the public  
21 peace, health, and safety shall become effective on July 1, 2005.

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23 /s/ Broadway  
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