

1 HB473  
2 174081-2  
3 By Representatives McMillan, Davis, Faust, Hill (M), Sessions,  
4 Gaston, Beckman, Patterson and Shiver  
5 RFD: Ways and Means Education  
6 First Read: 23-MAR-16

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, the annual apportioning  
9 of Foundation Program funds for education is  
10 determined by calculating the average number of  
11 students enrolled on a daily basis for the first 20  
12 scholastic days following Labor Day of the  
13 preceding school year.

14 This bill revises existing law to require  
15 that the annual apportioning of funds be determined  
16 by calculating the average number of students  
17 enrolled on a daily basis for the first 20  
18 scholastic days following Labor Day of the  
19 preceding school year and then adding or  
20 subtracting the change in ADM of the two preceding  
21 school years.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 16-13-231 and 16-13-232, Code of  
2 Alabama 1975, relating to the Foundation Program; to provide  
3 that the annual apportioning of funds be determined by  
4 calculating the average number of students enrolled on a daily  
5 basis for the first 20 scholastic days following Labor Day of  
6 the preceding school year and then adding or subtracting the  
7 change in ADM of the two preceding school years, depending on  
8 whether the system experienced an increase or decrease in  
9 enrollment between the two preceding school years.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11           Section 1. The following is found and declared by  
12 the Legislature of Alabama:

13           (1) The Legislature frequently funds a large number  
14 of students that are no longer enrolled in Alabama's public  
15 schools or are enrolled in different school systems. This bill  
16 substantially resolves the funding misappropriation and  
17 creates savings that can be used to help fully fund the  
18 Foundation Program.

19           (2) From fiscal year 2015 to fiscal year 2016 the  
20 total number of students enrolled in Alabama public schools  
21 declined by approximately 2,600. Under the current method for  
22 calculating ADM, the Alabama Legislature is required to fund  
23 teacher units for the 2,600 students that are no longer  
24 enrolled in Alabama's public schools. The result is  
25 misallocated or wasted funds that should be properly spent to  
26 help fully fund the Foundation Program.

1           (3) Additionally, many school systems within the  
2 state are experiencing a downward trend in student enrollment  
3 each year while other systems are experiencing an upward trend  
4 in enrollment each year. Alabama school systems with declining  
5 enrollment lost a cumulative 6,513 students from fiscal year  
6 2015 to fiscal year 2016 while the growing systems added a  
7 cumulative 3,886 students. The end result was a total change  
8 of 10,399 students.

9           (4) Under the current method of calculating ADM, the  
10 systems that are losing students are still receiving funds for  
11 the students that are no longer in their systems while the  
12 growing systems are not receiving funds for the new students  
13 that they are now required to educate. The Legislature  
14 attempts to remedy this misallocation through a special  
15 "Current Units" line item in the education budget that has  
16 been chronically underfunded in recent years. This bill  
17 remedies this misallocation to fully fund the Foundation  
18 Program.

19           Section 2. Sections 16-13-231 and 16-13-232 of the  
20 Code of Alabama 1975, are amended to read as follows:

21           "§16-13-231.

22           "(a) In addition to all other appropriations and  
23 apportionments of public school money now provided by law and  
24 made available for public schools there shall be apportioned  
25 and paid to local boards of education from the Foundation  
26 Program Fund, the amounts to be determined as hereinafter  
27 provided and in accordance with regulations of the State Board

1 of Education. This Foundation Program Fund shall be used  
2 principally:

3 "(1) To aid in providing at least a 180 full  
4 instructional day minimum school term, or the hourly  
5 equivalent thereof, except as otherwise provided in paragraph  
6 c. of subdivision (1) of subsection (b); and,

7 "(2) To assist in the promotion of educational  
8 opportunity for all children in the public schools.

9 "(b) The following requirements and procedures,  
10 supplemented when necessary by regulations of the State Board  
11 of Education, shall govern the apportionment of the fund:

12 "(1) REQUIREMENTS FOR PARTICIPATING IN FUND. In  
13 order for a local board of education to share in the  
14 apportionment of the Foundation Program Fund and to receive  
15 the maximum benefits therefrom, the board shall meet the  
16 following conditions:

17 "a. The appropriate local governing body must insure  
18 that the local board of education within its jurisdiction is  
19 receiving an amount of local tax receipts equivalent to ten  
20 mills of school tax as computed from the most current assessed  
21 valuation of property which comprises the school tax district  
22 or districts of the local board of education. The State  
23 Superintendent of Education shall determine compliance with  
24 this provision of the law in accordance with rules or  
25 procedures adopted by the State Board of Education. In  
26 determining compliance for a county board of education, tax  
27 revenues provided to the county board of education from the

1 county, from whatever tax source derived, shall be considered.  
2 In determining compliance for a city board of education, tax  
3 revenues provided to the city board of education by the county  
4 and the city, from whatever tax source derived, shall be  
5 considered.

6 "b. In the expenditure of all funds available for  
7 the Foundation Program as herein defined, the local board of  
8 education shall as nearly as practicable provide the same  
9 length of term in all schools.

10 "c.1. The local board of education shall provide a  
11 school term of at least 180 full instructional days, or the  
12 hourly equivalent of no less than 1080 instructional hours.  
13 The local academic school calendar shall be annually  
14 established by the local board of education, within the  
15 parameters of subparagraph 3. In case the local board of  
16 education fails to operate any schools the minimum 180 full  
17 instructional day term, or the hourly equivalent thereof, or  
18 the minimum term as defined by the State Board of Education,  
19 the Foundation Program allowances of the local board of  
20 education shall be computed only for the actual period the  
21 schools are in session that school year.

22 "2. In extreme circumstances involving natural  
23 occurrences, health-related occurrences, or other extenuating  
24 circumstances that result in the cancellation of an  
25 instructional day, a local board of education may submit a  
26 plan for the approval of the State Superintendent of Education  
27 to replace cancelled instructional days by adjusting the

1 school calendar to extend the hours of actual teaching time on  
2 specified instructional days. At any time the Governor  
3 declares a state of emergency for any part of the state, any  
4 affected school system that is closed as a result and loses  
5 student days or employee days, or both, may appeal to the  
6 State Superintendent of Education for relief in fulfilling the  
7 local school calendar with respect to student days or employee  
8 days, or both, with no loss of income to employees.

9 "3. The local board of education, in providing the  
10 minimum required number of instructional days or hours, shall  
11 have greater flexibility in establishing the school calendar  
12 by adjusting the days or extending the hours of actual  
13 teaching or instructional time provided on specified  
14 instructional days for the schools under the jurisdiction of  
15 the local board. The academic school calendar, established by  
16 the local board of education, shall include the minimum  
17 required number of instructional days or hours.

18 "d. The local board of education shall expend funds  
19 for teachers' salaries in accordance with a salary schedule  
20 adopted by the local board of education and approved by the  
21 State Superintendent of Education. The salary schedule shall  
22 be at least 100 percent of those salary amounts specified in  
23 the State Minimum Salary Schedule by cell.

24 "The local board of education shall allocate state  
25 and local Foundation Program funds to each school in an  
26 equitable manner, based on the needs of the students and the  
27 schools, as reflected in the current year's actual student

1 populations, including at-risk students, students receiving  
2 special education services, and students enrolled in  
3 vocational/technical educational programs. The local board of  
4 education shall report annually to the State Board of  
5 Education on how all state and local funds for public  
6 education, including Foundation Program funds and capital  
7 outlay funds, have been allocated to each of its schools or  
8 area vocational centers.

9 "e. The local board of education shall submit to the  
10 State Superintendent of Education, under the regulations of  
11 the State Board of Education, the following:

12 "1. A proposed building program which sets out in  
13 detail the location of all present and proposed buildings;  
14 which indicates proposed educational centers and grades to be  
15 taught at these centers and which provides schools for all  
16 children of the local board of education.

17 "2. Except for those city boards of education not  
18 maintaining a transportation system, a proposed transportation  
19 program showing the proposed routing of buses and the  
20 condition of all roads to be used for transportation.

21 "3. A proposed professional development program  
22 which sets out in detail the professional development needs of  
23 employees of the local board of education.

24 "4. A proposed technology program which sets out in  
25 detail the proposed expenditures of technology funds.



1           "5. A proposed program for the provision of services  
2 to students with disabilities and gifted students in  
3 compliance with applicable state and federal laws.

4           "6. A proposed program for the provision of  
5 vocational educational services in compliance with applicable  
6 state and federal laws.

7           "7. A proposed program for the provision of  
8 educational services to at-risk students in compliance with  
9 applicable state and federal laws. The proposed program for  
10 at-risk students shall include the provision that all funds  
11 allocated shall be spent for at-risk students.

12           "f. The local board of education shall meet such  
13 other standards as may be set up by the State Board of  
14 Education to promote improved educational opportunity and  
15 provide better schools.

16           "(2) DETERMINING COST OF FOUNDATION PROGRAM. In  
17 determining the cost of the Foundation Program, the  
18 Legislature, based on the recommendation of the State Board of  
19 Education, shall proceed to find the following allowable costs  
20 for each local board of education: Teachers' salaries, fringe  
21 benefits, classroom instructional support, and other current  
22 expense. The rate per employee set by the Legislature for  
23 teachers' retirement and employees' health insurance shall be  
24 in effect for the entire fiscal year and shall not be  
25 increased by the Teachers' Retirement System or the Public  
26 Education Employees' Health Insurance Board, except by further  
27 action of the Legislature.

1            "a. The Foundation Program allowance for salaries of  
2 teachers shall be determined as follows: The number of teacher  
3 units allowed in Section 16-13-232 for each local board of  
4 education shall be multiplied by the amount or amounts per  
5 teacher unit, which amounts shall be based on the average  
6 salaries for each major classification required by the  
7 operation of the State Minimum Salary Schedule established by  
8 the Legislature in the Education Trust Fund appropriation bill  
9 and adopted by the State Board of Education. In recommending  
10 to the Governor and the Legislature the State Minimum Salary  
11 Schedule the State Board of Education shall give due  
12 consideration to degree level, certification, and public  
13 education experience. Any teacher, including, but not limited  
14 to, a vocational education teacher, currently under contract  
15 in excess of 187 days shall not have the term or salary of his  
16 or her contract reduced as a result of this article.

17            "b. The Foundation Program allowance for fringe  
18 benefits shall be determined by multiplying a uniform  
19 percentage times the amount of teachers' salaries allowed in  
20 paragraph a. above or by multiplying a fixed rate depending on  
21 the type of fringe benefit. The fringe benefits allowances  
22 shall include amounts for the employer's contribution for  
23 teachers' retirement, health insurance, Social Security,  
24 Medicare, unemployment compensation, personal leave, and sick  
25 leave. The fringe benefits allowance may include allowances  
26 for other fringe benefits as may be approved by the State  
27 Legislature. The State Legislature shall seek the input and

1 advice of appropriate agencies and individuals in setting  
2 allowances. The Teachers' Retirement System and the Public  
3 Education Employees' Health Insurance Board shall recommend to  
4 the Legislature, on or before the first legislative day of  
5 each regular session of the Legislature, the rate for the  
6 following fiscal year. The Legislature shall set the rate in  
7 the annual appropriation bill.

8 "c. The Foundation Program allowance for classroom  
9 instructional support shall be determined by multiplying a  
10 uniform amount times the number of teacher units allowed in  
11 Section 16-13-232. The uniform amount shall include allowances  
12 for library enhancement, classroom materials and supplies,  
13 professional development, and technology. The library  
14 enhancement appropriation shall be for K-12 Public School  
15 Library/Media Centers and is an absolute appropriation. Other  
16 expenditures may include book binding, repair, CD Roms,  
17 computer software, computer equipment, cataloging,  
18 audio-visual materials, newspapers, magazines, recordings, and  
19 video tapes. The uniform amount may include allowances for  
20 other classroom instructional support as may be approved by  
21 the State Board of Education. The Foundation Program allowance  
22 for classroom instructional support shall also include an  
23 allowance for textbooks which shall be determined on a per  
24 pupil basis. The number of pupils shall be determined by the  
25 number of pupils in average daily membership during the first  
26 20 scholastic days after Labor Day of the first preceding  
27 school year plus the difference in average daily membership

1 during the first 20 scholastic days after Labor Day between  
2 the first preceding school year and the second preceding  
3 school year. The State Board of Education shall recommend to  
4 the Governor the amount for each cost factor included in  
5 classroom instructional support on or before December 1 of the  
6 current fiscal year for the ensuing fiscal year.

7 "d. The Foundation Program allowance for other  
8 current expense shall be determined by multiplying a uniform  
9 amount by the number of earned units. The uniform amount shall  
10 be recommended by the State Board of Education to the Governor  
11 on or before December 1 of the current fiscal year for the  
12 ensuing fiscal year.

13 "e. The State Board of Education may cause, from  
14 time to time, a study of allowances for teachers' salaries,  
15 fringe benefits, classroom instructional support, and other  
16 current expense of local boards of education to be conducted  
17 and, based on the results of the study, may propose any  
18 necessary changes to the Governor and Legislature.

19 "f. The total cost of the Foundation Program for any  
20 local board of education shall be the total allowed for  
21 teachers' salaries, for fringe benefits, for classroom  
22 instructional support, and for other current expense. The  
23 allowances herein to the local boards of education shall be  
24 expended subject to all applicable laws, rules, and  
25 regulations; however, the total funds calculated in the total  
26 cost of the Foundation Program for teachers' salaries shall be  
27 expended for salaries within the instructional program.

1                   "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE  
2 FOUNDATION PROGRAM.

3                   "a. The funds available to meet the cost of the  
4 Foundation Program shall be appropriated by the Legislature  
5 taking into consideration an amount of local effort required  
6 on the part of each local board of education. The required  
7 local effort charged against each local board of education for  
8 its share of the cost of the Foundation Program shall be as  
9 follows:

10                   "1. For the 1995-96 fiscal year, the equivalent of  
11 five mills of local school tax district ad valorem tax as  
12 reported pursuant to subsection (b)(1)a.

13                   "2. For the 1996-97 fiscal year, the equivalent of  
14 seven and one-half mills of local school tax district ad  
15 valorem tax as reported pursuant to subsection (b)(1)a.

16                   "3. For the 1997-98 fiscal year, the equivalent of  
17 ten mills of local school tax district ad valorem tax as  
18 reported pursuant to subsection (b)(1)a.

19                   "4. For each fiscal year thereafter, the equivalent  
20 of ten mills of local school tax district ad valorem tax as  
21 reported pursuant to subsection (b)(1)a.

22                   "b. After calculating the total cost of the  
23 Foundation Program for each local board of education, the  
24 state allocation from the Education Trust Fund is calculated  
25 by subtracting the local effort required by this section from  
26 the total cost. Although the cost of the Foundation Program is  
27 calculated for each school, the one sum allocation for each

1 local board of education shall flow monthly to the local board  
2 of education. The state funds for the Foundation Program shall  
3 be allotted by the State Board of Education consistent with  
4 State Board of Education rules and regulations.

5 "(c) No local board of education may reduce the  
6 amount in any cell of any employee salary schedule, or  
7 otherwise reduce the compensation of any employee, based upon  
8 the amendments to this section made by Act 2012-482 or upon  
9 any future modification to its calendar or schedule pursuant  
10 to the amendments to this section made by Act 2012-482. Salary  
11 appropriations in all future Education Trust Fund budgets  
12 shall be based upon the number of contract days allocated by  
13 the Legislature, or the hourly equivalent thereof.

14 "§16-13-232.

15 "(a) In determining the number of teacher units for  
16 the purpose of apportioning the state Foundation Program, one  
17 teacher unit or fraction thereof shall be allowed for the  
18 specified number of pupils in average daily membership as  
19 provided for in subsection (b), during the first 20 scholastic  
20 days following Labor Day of the first preceding school year  
21 plus the difference in average daily membership during the  
22 first 20 scholastic days after Labor Day between the first  
23 preceding school year and the second preceding school year, in  
24 the public schools. The number of pupils shall be determined  
25 grade by grade for the first 20 scholastic days following  
26 Labor Day average daily membership for the two preceding  
27 years. In extreme circumstances involving natural occurrences,

1 health-related occurrences, or other extenuating circumstances  
2 as determined and approved by the State Superintendent of  
3 Education, average daily membership for local boards of  
4 education may be calculated using alternative days to the  
5 first 20 scholastic days following Labor Day. Such alternative  
6 calculation shall be determined by the State Department of  
7 Education on a case by case basis. If a request from a local  
8 board is made to the State Superintendent, the superintendent  
9 shall submit a report detailing the decision of the  
10 superintendent to the Chair of the Senate Finance and  
11 Taxation-Education and the House Education Appropriations  
12 Committees and to the Department of Examiners of Public  
13 Accounts within 30 days following the end of the average daily  
14 membership reporting period. Average daily membership is  
15 defined as the average number of students enrolled on a daily  
16 basis. Each school, at a minimum, shall earn instructional  
17 support units based on the accreditation standards of the  
18 commissions which comprise the Southern Association of  
19 Colleges and Schools or as otherwise required by an  
20 accreditation system adopted by the State Board of Education.  
21 Instructional support units shall be earned for principals,  
22 assistant principals, counselors, and librarians, and shall be  
23 added to a school's teacher units to determine total units  
24 earned for each school. Notwithstanding the accreditation  
25 standards referenced above, every school shall earn one  
26 full-time principal unit beginning with the fiscal year  
27 2008-2009. An instructional support unit earned for a

1 principal shall be increased by a factor of .7 for high  
2 schools, unit schools, and area vocational centers; .6 for  
3 middle schools; and .5 for elementary schools. An  
4 instructional support unit earned for an assistant principal  
5 shall be increased by .3; and an instructional support unit  
6 earned for a high school guidance counselor shall be increased  
7 by .1. Each area vocational center shall earn only one  
8 instructional support unit which shall be a principal  
9 (director) and shall continue to earn a counselor should it  
10 have received a counselor unit in 1994-95. Beginning in the  
11 2009-10 school year, the salary supplement factors for  
12 instructional support units, including principals, assistant  
13 principals, counselors, and librarians, shall be recommended  
14 to the Governor and the Legislature annually by the State  
15 Board of Education, but shall not be less than the factors  
16 established above. Those local boards of education which show  
17 an increase in average daily membership during the first 20  
18 scholastic days following Labor Day of the current year may be  
19 allowed one additional teacher unit or fraction thereof for  
20 each specified number of pupils in subsection (b) in such  
21 increase in average daily membership for such current year.  
22 Fractional teacher and instructional support units shall be  
23 combined to create whole units. Assignment of whole and  
24 fractional teacher and instructional support units shall be  
25 made by the local superintendent of education and submitted  
26 for approval of the local board of education. Any funds  
27 remaining from a fractional teacher and instructional support



1 units that are not combined with and used to make a whole  
2 teacher or instructional support unit may be used by the local  
3 board of education for salaries and benefits.

4 "(b) The grade level divisors for each fiscal year  
5 shall be weighted for each grade to provide funding for  
6 special education and vocational education. For the 1995-96  
7 school year the grade level divisors include for special  
8 education 5 percent full time equivalent across all grades  
9 weighted 2.5 times the regular student weight. For the 1995-96  
10 school year the grade level divisors include for  
11 vocational/technical education 7.4 percent full time  
12 equivalent in grades 7-8 weighted 1.4 times the regular  
13 student weight, and 16.5 percent full time equivalent in  
14 grades 9-12 weighted 2.0 times the regular student weight. The  
15 weights for special education and vocational education shall  
16 be recommended to the Governor and the Legislature annually by  
17 the State Board of Education. For the 1995-1996 school year,  
18 one teacher unit shall be allowed for each 16 pupils in  
19 average daily membership in kindergarten through third grade;  
20 one teacher unit shall be allowed for each 24 pupils in  
21 average daily membership in grade four through grade six; one  
22 teacher unit shall be allowed for each 23 pupils in average  
23 daily membership in grade seven through grade eight; and one  
24 teacher unit shall be allowed for each 20 pupils in average  
25 daily membership in grade nine through grade twelve. Beginning  
26 in the 1996-97 school year, the teacher unit divisors shall be  
27 recommended to the Governor and the Legislature annually by

1 the State Board of Education, but shall not be higher than the  
2 divisors established for the 1995-1996 school year.

3 "(c) It is the intent of the Legislature that local  
4 boards of education ~~experiencing increases in average daily~~  
5 ~~membership~~ receive payment for additional current teacher  
6 units earned pursuant to subsection (a) as early in the school  
7 year as possible. The State Superintendent of Education shall  
8 certify to the State Budget Officer the amount for additional  
9 current teacher units earned and/or other current expense  
10 increase required by subsection (j) and shall adjust the local  
11 board of education's regular allocation of state funds, and  
12 make requisition on the state Comptroller accordingly, within  
13 thirty days of receipt of the first 20 scholastic days  
14 membership report.

15 "(d) Current units shall be calculated by comparing  
16 the first 20 scholastic days following Labor Day of average  
17 daily membership of a current year with ~~that of the prior year~~  
18 the specified number of pupils used in subsection (a) to  
19 determine the number of teacher units. This comparison shall  
20 be grade by grade with the ~~prior year first 20 scholastic days~~  
21 ~~following Labor Day average daily membership~~ the specified  
22 number of pupils used in subsection (a) subtracted from the  
23 current year first 20 scholastic days following Labor Day  
24 average daily membership. The difference shall be divided by  
25 the Foundation Program grade divisor for each grade. The  
26 result by grade shall be summed over all grades to yield  
27 current teacher units by local board of education. No current

1 teacher units shall be earned if the number of units by local  
2 board of education is less than or equal to zero. The total of  
3 all current teacher units by local board of education  
4 determines the number of state current teacher units for the  
5 year.

6 "(e) The allocation of funds for current teacher  
7 units shall be determined by multiplying the average  
8 allocation per teacher unit in the current year Foundation  
9 Program.

10 "(f) Current teacher unit calculations shall be  
11 completed by the State Department of Education not later than  
12 December 1 of the current year and the allocation of current  
13 teacher unit funds shall be distributed in accordance with  
14 subsection (c).

15 "(g) If funds allocated for current teacher units  
16 are insufficient to fully fund current teacher units, the  
17 allocation for each current teacher unit shall be prorated  
18 accordingly based upon funds available for that purpose.

19 "(h) The State Department of Education shall report  
20 to the Governor by December 1 of each year the estimated  
21 current teacher units for the next budget year.

22 "(i) Current teacher units shall be allocated only  
23 when earned.

24 "(j) Current teacher unit funds not earned shall be  
25 distributed to all local boards of education as an increase in  
26 other current expense.

1                   "(k) Local boards of education have the management  
2                   responsibility to allocate current teacher unit funds where  
3                   needed."

4                   Section 3. This act shall become effective on the  
5                   first day of the first month following its passage and  
6                   approval by the Governor, or its otherwise becoming law.