

1 SB9
2 207490-2
3 By Senator Elliott
4 RFD: Finance and Taxation Education
5 First Read: 02-FEB-21
6 PFD: 09/02/2020

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 16-13-231 and 16-13-232, Code of
12 Alabama 1975, relating to the Foundation Program Fund; and to
13 provide an allowance for student growth.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 16-13-231 and 16-13-232, Code of
16 Alabama 1975, are amended to read as follows:

17 "§16-13-231.

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

26 "(1) To aid in providing at least a 180 full
27 instructional day minimum school term, or the hourly

1 equivalent thereof, except as otherwise provided in paragraph
2 c. of subdivision (1) of subsection (b); and,

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

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

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

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

1 and the city, from whatever tax source derived, shall be
2 considered.

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

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

19 "2. In extreme circumstances involving natural
20 occurrences, health-related occurrences, or other extenuating
21 circumstances that result in the cancellation of an
22 instructional day, a local board of education may submit a
23 plan for the approval of the State Superintendent of Education
24 to replace cancelled instructional days by adjusting the
25 school calendar to extend the hours of actual teaching time on
26 specified instructional days. At any time the Governor
27 declares a state of emergency for any part of the state, any

1 affected school system that is closed as a result and loses
2 student days or employee days, or both, may appeal to the
3 State Superintendent of Education for relief in fulfilling the
4 local school calendar with respect to student days or employee
5 days, or both, with no loss of income to employees.

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

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

21 "The local board of education shall allocate state
22 and local Foundation Program funds to each school in an
23 equitable manner, based on the needs of the students and the
24 schools, as reflected in the current year's actual student
25 populations, including at-risk students, students receiving
26 special education services, and students enrolled in
27 vocational/technical educational programs. The local board of

1 education shall report annually to the State Board of
2 Education on how all state and local funds for public
3 education, including Foundation Program funds and capital
4 outlay funds, have been allocated to each of its schools or
5 area vocational centers.

6 "e. The local board of education shall submit to the
7 State Superintendent of Education, under the regulations of
8 the State Board of Education, the following:

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

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

18 "3. A proposed professional development program
19 which sets out in detail the professional development needs of
20 employees of the local board of education.

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

23 "5. A proposed program for the provision of services
24 to students with disabilities and gifted students in
25 compliance with applicable state and federal laws.

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

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

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

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

25 "a. The Foundation Program allowance for salaries of
26 teachers shall be determined as follows: The number of teacher
27 units allowed in Section 16-13-232 for each local board of

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

14 "b. The Foundation Program allowance for fringe
15 benefits shall be determined by multiplying a uniform
16 percentage times the amount of teachers' salaries allowed in
17 paragraph a. above or by multiplying a fixed rate depending on
18 the type of fringe benefit. The fringe benefits allowances
19 shall include amounts for the employer's contribution for
20 teachers' retirement, health insurance, Social Security,
21 Medicare, unemployment compensation, personal leave, and sick
22 leave. The fringe benefits allowance may include allowances
23 for other fringe benefits as may be approved by the State
24 Legislature. The State Legislature shall seek the input and
25 advice of appropriate agencies and individuals in setting
26 allowances. The Teachers' Retirement System and the Public
27 Education Employees' Health Insurance Board shall recommend to

1 the Legislature, on or before the first legislative day of
2 each regular session of the Legislature, the rate for the
3 following fiscal year. The Legislature shall set the rate in
4 the annual appropriation bill.

5 "c. The Foundation Program allowance for classroom
6 instructional support shall be determined by multiplying a
7 uniform amount times the number of teacher units allowed in
8 Section 16-13-232. The uniform amount shall include allowances
9 for library enhancement, classroom materials and supplies,
10 professional development, and technology. The library
11 enhancement appropriation shall be for K-12 Public School
12 Library/Media Centers and is an absolute appropriation. Other
13 expenditures may include book binding, repair, CD Roms,
14 computer software, computer equipment, cataloging,
15 audio-visual materials, newspapers, magazines, recordings, and
16 video tapes. The uniform amount may include allowances for
17 other classroom instructional support as may be approved by
18 the State Board of Education. The Foundation Program allowance
19 for classroom instructional support shall also include an
20 allowance for textbooks which shall be determined on a per
21 pupil basis. The number of pupils shall be determined by the
22 number of pupils in average daily membership during the first
23 20 scholastic days after Labor Day of the preceding school
24 year. The State Board of Education shall recommend to the
25 Governor the amount for each cost factor included in classroom
26 instructional support on or before December 1 of the current
27 fiscal year for the ensuing fiscal year.

1 "d. The Foundation Program allowance for other
2 current expense shall be determined by multiplying a uniform
3 amount by the number of earned units. The uniform amount shall
4 be recommended by the State Board of Education to the Governor
5 on or before December 1 of the current fiscal year for the
6 ensuing fiscal year.

7 "e. The Foundation Program allowance for student
8 growth shall be determined by multiplying the combined
9 allowances in paragraphs a. through d. of subdivision (2) on a
10 per student basis by the net year over year growth of average
11 daily membership for non-virtual students for the two
12 preceding school years. This allowance, for fiscal year 2022,
13 shall be funded net of the amount received by the school
14 system under the preexisting Current Units allotment and 100%
15 thereafter. The net student growth attributable to full-time
16 virtual students shall be funded at a rate determined by the
17 State Department of Education based on the average cost to
18 districts of educating a full-time virtual student beginning
19 in fiscal year 2022.

20 ~~"e. f.~~ The State Board of Education may cause, from
21 time to time, a study of allowances for teachers' salaries,
22 fringe benefits, classroom instructional support, student
23 growth, and other current expense of local boards of education
24 to be conducted and, based on the results of the study, may
25 propose any necessary changes to the Governor and Legislature.

26 ~~"f. g.~~ The total cost of the Foundation Program for
27 any local board of education shall be the total allowed for

1 teachers' salaries, for fringe benefits, for classroom
2 instructional support, for student growth, and for other
3 current expense. The allowances herein to the local boards of
4 education shall be expended subject to all applicable laws,
5 rules, and regulations; however, the total funds calculated in
6 the total cost of the Foundation Program for teachers'
7 salaries shall be expended for salaries within the
8 instructional program.

9 "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE
10 FOUNDATION PROGRAM.

11 "a. The funds available to meet the cost of the
12 Foundation Program shall be appropriated by the Legislature
13 taking into consideration an amount of local effort required
14 on the part of each local board of education. The required
15 local effort charged against each local board of education for
16 its share of the cost of the Foundation Program shall be as
17 follows:

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

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

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

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

4 "b. After calculating the total cost of the
5 Foundation Program for each local board of education, the
6 state allocation from the Education Trust Fund is calculated
7 by subtracting the local effort required by this section from
8 the total cost. Although the cost of the Foundation Program is
9 calculated for each school, the one sum allocation for each
10 local board of education shall flow monthly to the local board
11 of education. The state funds for the Foundation Program shall
12 be allotted by the State Board of Education consistent with
13 State Board of Education rules and regulations.

14 "(c) No local board of education may reduce the
15 amount in any cell of any employee salary schedule, or
16 otherwise reduce the compensation of any employee, based upon
17 the amendments to this section made by Act 2012-482 or upon
18 any future modification to its calendar or schedule pursuant
19 to the amendments to this section made by Act 2012-482. Salary
20 appropriations in all future Education Trust Fund budgets
21 shall be based upon the number of contract days allocated by
22 the Legislature, or the hourly equivalent thereof.

23 "§16-13-232.

24 "(a) In determining the number of teacher units for
25 the purpose of apportioning the state Foundation Program, one
26 teacher unit or fraction thereof shall be allowed for the
27 specified number of pupils in average daily membership as

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

1 standards referenced above, every school shall earn one
2 full-time principal unit beginning with the fiscal year
3 2008-2009. An instructional support unit earned for a
4 principal shall be increased by a factor of .7 for high
5 schools, unit schools, and area vocational centers; .6 for
6 middle schools; and .5 for elementary schools. An
7 instructional support unit earned for an assistant principal
8 shall be increased by .3; and an instructional support unit
9 earned for a high school guidance counselor shall be increased
10 by .1. Each area vocational center shall earn only one
11 instructional support unit which shall be a principal
12 (director) and shall continue to earn a counselor should it
13 have received a counselor unit in 1994-95. Beginning in the
14 2009-10 school year, the salary supplement factors for
15 instructional support units, including principals, assistant
16 principals, counselors, and librarians, shall be recommended
17 to the Governor and the Legislature annually by the State
18 Board of Education, but shall not be less than the factors
19 established above. Those local boards of education which show
20 an increase in average daily membership during the first 20
21 scholastic days following Labor Day of the current year may be
22 allowed one additional teacher unit or fraction thereof for
23 each specified number of pupils in subsection (b) in such
24 increase in average daily membership for such current year.
25 Fractional teacher and instructional support units shall be
26 combined to create whole units. Assignment of whole and
27 fractional teacher and instructional support units shall be

1 made by the local superintendent of education and submitted
2 for approval of the local board of education. Any funds
3 remaining from a fractional teacher and instructional support
4 units that are not combined with and used to make a whole
5 teacher or instructional support unit may be used by the local
6 board of education for salaries and benefits.

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

1 daily membership in grade nine through grade twelve. Beginning
2 in the 1996-97 school year, the teacher unit divisors shall be
3 recommended to the Governor and the Legislature annually by
4 the State Board of Education, but shall not be higher than the
5 divisors established for the 1995-1996 school year.

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

18 ~~"(d) Current units shall be calculated by comparing~~
19 ~~the first 20 scholastic days following Labor Day of average~~
20 ~~daily membership of a current year with that of the prior~~
21 ~~year. This comparison shall be grade by grade with the prior~~
22 ~~year first 20 scholastic days following Labor Day average~~
23 ~~daily membership subtracted from the current year first 20~~
24 ~~scholastic days following Labor Day average daily membership.~~
25 ~~The difference shall be divided by the Foundation Program~~
26 ~~grade divisor for each grade. The result by grade shall be~~
27 ~~summed over all grades to yield current teacher units by local~~

1 ~~board of education. No current teacher units shall be earned~~
2 ~~if the number of units by local board of education is less~~
3 ~~than or equal to zero. The total of all current teacher units~~
4 ~~by local board of education determines the number of state~~
5 ~~current teacher units for the 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 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Finance and Taxation Education	02-FEB-21
Read for the second time and placed on the calen- dar 1 amendment.....	03-FEB-21
Read for the third time and passed as amended	04-FEB-21

Patrick Harris,
Secretary.