

1 SB9
2 207490-1
3 By Senator Elliott
4 RFD: Finance and Taxation Education
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SYNOPSIS: Under existing law, the total amount allocated to any local board of education from the Foundation Program Fund includes an allowance for teachers' salaries, fringe benefits, classroom instructional support, and other current expense.

This bill revises existing law to include an allowance for student growth.

A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-13-231.

1 "(a) In addition to all other appropriations and
2 apportionments of public school money now provided by law and
3 made available for public schools there shall be apportioned
4 and paid to local boards of education from the Foundation
5 Program Fund, the amounts to be determined as hereinafter
6 provided and in accordance with regulations of the State Board
7 of Education. This Foundation Program Fund shall be used
8 principally:

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

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

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

18 " (1) REQUIREMENTS FOR PARTICIPATING IN FUND. In
19 order for a local board of education to share in the
20 apportionment of the Foundation Program Fund and to receive
21 the maximum benefits therefrom, the board shall meet the
22 following conditions:

23 " a. The appropriate local governing body must insure
24 that the local board of education within its jurisdiction is
25 receiving an amount of local tax receipts equivalent to ten
26 mills of school tax as computed from the most current assessed
27 valuation of property which comprises the school tax district

1 or districts of the local board of education. The State
2 Superintendent of Education shall determine compliance with
3 this provision of the law in accordance with rules or
4 procedures adopted by the State Board of Education. In
5 determining compliance for a county board of education, tax
6 revenues provided to the county board of education from the
7 county, from whatever tax source derived, shall be considered.
8 In determining compliance for a city board of education, tax
9 revenues provided to the city board of education by the county
10 and the city, from whatever tax source derived, shall be
11 considered.

12 "b. In the expenditure of all funds available for
13 the Foundation Program as herein defined, the local board of
14 education shall as nearly as practicable provide the same
15 length of term in all schools.

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

1 "2. In extreme circumstances involving natural
2 occurrences, health-related occurrences, or other extenuating
3 circumstances that result in the cancellation of an
4 instructional day, a local board of education may submit a
5 plan for the approval of the State Superintendent of Education
6 to replace cancelled instructional days by adjusting the
7 school calendar to extend the hours of actual teaching time on
8 specified instructional days. At any time the Governor
9 declares a state of emergency for any part of the state, any
10 affected school system that is closed as a result and loses
11 student days or employee days, or both, may appeal to the
12 State Superintendent of Education for relief in fulfilling the
13 local school calendar with respect to student days or employee
14 days, or both, with no loss of income to employees.

15 "3. The local board of education, in providing the
16 minimum required number of instructional days or hours, shall
17 have greater flexibility in establishing the school calendar
18 by adjusting the days or extending the hours of actual
19 teaching or instructional time provided on specified
20 instructional days for the schools under the jurisdiction of
21 the local board. The academic school calendar, established by
22 the local board of education, shall include the minimum
23 required number of instructional days or hours.

24 "d. The local board of education shall expend funds
25 for teachers' salaries in accordance with a salary schedule
26 adopted by the local board of education and approved by the
27 State Superintendent of Education. The salary schedule shall

1 be at least 100 percent of those salary amounts specified in
2 the State Minimum Salary Schedule by cell.

3 "The local board of education shall allocate state
4 and local Foundation Program funds to each school in an
5 equitable manner, based on the needs of the students and the
6 schools, as reflected in the current year's actual student
7 populations, including at-risk students, students receiving
8 special education services, and students enrolled in
9 vocational/technical educational programs. The local board of
10 education shall report annually to the State Board of
11 Education on how all state and local funds for public
12 education, including Foundation Program funds and capital
13 outlay funds, have been allocated to each of its schools or
14 area vocational centers.

15 "e. The local board of education shall submit to the
16 State Superintendent of Education, under the regulations of
17 the State Board of Education, the following:

18 "1. A proposed building program which sets out in
19 detail the location of all present and proposed buildings;
20 which indicates proposed educational centers and grades to be
21 taught at these centers and which provides schools for all
22 children of the local board of education.

23 "2. Except for those city boards of education not
24 maintaining a transportation system, a proposed transportation
25 program showing the proposed routing of buses and the
26 condition of all roads to be used for transportation.

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

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

6 "5. A proposed program for the provision of services
7 to students with disabilities and gifted students in
8 compliance with applicable state and federal laws.

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

12 "7. A proposed program for the provision of
13 educational services to at-risk students in compliance with
14 applicable state and federal laws. The proposed program for
15 at-risk students shall include the provision that all funds
16 allocated shall be spent for at-risk students.

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

21 "(2) DETERMINING COST OF FOUNDATION PROGRAM. In
22 determining the cost of the Foundation Program, the
23 Legislature, based on the recommendation of the State Board of
24 Education, shall proceed to find the following allowable costs
25 for each local board of education: Teachers' salaries, fringe
26 benefits, classroom instructional support, student growth, and
27 other current expense. The rate per employee set by the

1 Legislature for teachers' retirement and employees' health
2 insurance shall be in effect for the entire fiscal year and
3 shall not be increased by the Teachers' Retirement System or
4 the Public Education Employees' Health Insurance Board, except
5 by further action of the Legislature.

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

22 "b. The Foundation Program allowance for fringe
23 benefits shall be determined by multiplying a uniform
24 percentage times the amount of teachers' salaries allowed in
25 paragraph a. above or by multiplying a fixed rate depending on
26 the type of fringe benefit. The fringe benefits allowances
27 shall include amounts for the employer's contribution for

1 teachers' retirement, health insurance, Social Security,
2 Medicare, unemployment compensation, personal leave, and sick
3 leave. The fringe benefits allowance may include allowances
4 for other fringe benefits as may be approved by the State
5 Legislature. The State Legislature shall seek the input and
6 advice of appropriate agencies and individuals in setting
7 allowances. The Teachers' Retirement System and the Public
8 Education Employees' Health Insurance Board shall recommend to
9 the Legislature, on or before the first legislative day of
10 each regular session of the Legislature, the rate for the
11 following fiscal year. The Legislature shall set the rate in
12 the annual appropriation bill.

13 "c. The Foundation Program allowance for classroom
14 instructional support shall be determined by multiplying a
15 uniform amount times the number of teacher units allowed in
16 Section 16-13-232. The uniform amount shall include allowances
17 for library enhancement, classroom materials and supplies,
18 professional development, and technology. The library
19 enhancement appropriation shall be for K-12 Public School
20 Library/Media Centers and is an absolute appropriation. Other
21 expenditures may include book binding, repair, CD Roms,
22 computer software, computer equipment, cataloging,
23 audio-visual materials, newspapers, magazines, recordings, and
24 video tapes. The uniform amount may include allowances for
25 other classroom instructional support as may be approved by
26 the State Board of Education. The Foundation Program allowance
27 for classroom instructional support shall also include an

1 allowance for textbooks which shall be determined on a per
2 pupil basis. The number of pupils shall be determined by the
3 number of pupils in average daily membership during the first
4 20 scholastic days after Labor Day of the preceding school
5 year. The State Board of Education shall recommend to the
6 Governor the amount for each cost factor included in classroom
7 instructional support on or before December 1 of the current
8 fiscal year for the ensuing fiscal year.

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

15 "e. The Foundation Program allowance for student
16 growth shall be determined by multiplying the combined
17 allowances in paragraphs a. through d. of subdivision (2) on a
18 per student basis by the net year over year growth of average
19 daily membership for non-virtual students for the two
20 preceding school years. This allowance shall be funded at 70%
21 for fiscal year 2021 and 100% thereafter. The net student
22 growth attributable to full-time virtual students shall be
23 funded at a rate determined by the State Department of
24 Education based on the average cost to districts of educating
25 a full-time virtual student beginning in fiscal year 2022.

26 ~~"e. f.~~ f. The State Board of Education may cause, from
27 time to time, a study of allowances for teachers' salaries,

1 fringe benefits, classroom instructional support, student
2 growth, and other current expense of local boards of education
3 to be conducted and, based on the results of the study, may
4 propose any necessary changes to the Governor and Legislature.

5 "~~f.~~ g. The total cost of the Foundation Program for
6 any local board of education shall be the total allowed for
7 teachers' salaries, for fringe benefits, for classroom
8 instructional support, for student growth, and for other
9 current expense. The allowances herein to the local boards of
10 education shall be expended subject to all applicable laws,
11 rules, and regulations; however, the total funds calculated in
12 the total cost of the Foundation Program for teachers'
13 salaries shall be expended for salaries within the
14 instructional program.

15 "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE
16 FOUNDATION PROGRAM.

17 "a. The funds available to meet the cost of the
18 Foundation Program shall be appropriated by the Legislature
19 taking into consideration an amount of local effort required
20 on the part of each local board of education. The required
21 local effort charged against each local board of education for
22 its share of the cost of the Foundation Program shall be as
23 follows:

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

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

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

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

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

20 "(c) No local board of education may reduce the
21 amount in any cell of any employee salary schedule, or
22 otherwise reduce the compensation of any employee, based upon
23 the amendments to this section made by Act 2012-482 or upon
24 any future modification to its calendar or schedule pursuant
25 to the amendments to this section made by Act 2012-482. Salary
26 appropriations in all future Education Trust Fund budgets

1 shall be based upon the number of contract days allocated by
2 the Legislature, or the hourly equivalent thereof.

3 "§16-13-232.

4 "(a) In determining the number of teacher units for
5 the purpose of apportioning the state Foundation Program, one
6 teacher unit or fraction thereof shall be allowed for the
7 specified number of pupils in average daily membership as
8 provided for in subsection (b), during the first 20 scholastic
9 days following Labor Day of the preceding school year in the
10 public schools. In extreme circumstances involving natural
11 occurrences, health-related occurrences, or other extenuating
12 circumstances as determined and approved by the State
13 Superintendent of Education, average daily membership for
14 local boards of education may be calculated using alternative
15 days to the first 20 scholastic days following Labor Day. Such
16 alternative calculation shall be determined by the State
17 Department of Education on a case by case basis. If a request
18 from a local board is made to the State Superintendent, the
19 superintendent shall submit a report detailing the decision of
20 the superintendent to the Chair of the Senate Finance and
21 Taxation-Education and the House Education Appropriations
22 Committees and to the Department of Examiners of Public
23 Accounts within 30 days following the end of the average daily
24 membership reporting period. Average daily membership is
25 defined as the average number of students enrolled on a daily
26 basis. Each school, at a minimum, shall earn instructional
27 support units based on the accreditation standards of the

1 commissions which comprise the Southern Association of
2 Colleges and Schools or as otherwise required by an
3 accreditation system adopted by the State Board of Education.
4 Instructional support units shall be earned for principals,
5 assistant principals, counselors, and librarians, and shall be
6 added to a school's teacher units to determine total units
7 earned for each school. Notwithstanding the accreditation
8 standards referenced above, every school shall earn one
9 full-time principal unit beginning with the fiscal year
10 2008-2009. An instructional support unit earned for a
11 principal shall be increased by a factor of .7 for high
12 schools, unit schools, and area vocational centers; .6 for
13 middle schools; and .5 for elementary schools. An
14 instructional support unit earned for an assistant principal
15 shall be increased by .3; and an instructional support unit
16 earned for a high school guidance counselor shall be increased
17 by .1. Each area vocational center shall earn only one
18 instructional support unit which shall be a principal
19 (director) and shall continue to earn a counselor should it
20 have received a counselor unit in 1994-95. Beginning in the
21 2009-10 school year, the salary supplement factors for
22 instructional support units, including principals, assistant
23 principals, counselors, and librarians, shall be recommended
24 to the Governor and the Legislature annually by the State
25 Board of Education, but shall not be less than the factors
26 established above. Those local boards of education which show
27 an increase in average daily membership during the first 20

1 scholastic days following Labor Day of the current year may be
2 allowed one additional teacher unit or fraction thereof for
3 each specified number of pupils in subsection (b) in such
4 increase in average daily membership for such current year.
5 Fractional teacher and instructional support units shall be
6 combined to create whole units. Assignment of whole and
7 fractional teacher and instructional support units shall be
8 made by the local superintendent of education and submitted
9 for approval of the local board of education. Any funds
10 remaining from a fractional teacher and instructional support
11 units that are not combined with and used to make a whole
12 teacher or instructional support unit may be used by the local
13 board of education for salaries and benefits.

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

1 one teacher unit shall be allowed for each 16 pupils in
2 average daily membership in kindergarten through third grade;
3 one teacher unit shall be allowed for each 24 pupils in
4 average daily membership in grade four through grade six; one
5 teacher unit shall be allowed for each 23 pupils in average
6 daily membership in grade seven through grade eight; and one
7 teacher unit shall be allowed for each 20 pupils in average
8 daily membership in grade nine through grade twelve. Beginning
9 in the 1996-97 school year, the teacher unit divisors shall be
10 recommended to the Governor and the Legislature annually by
11 the State Board of Education, but shall not be higher than the
12 divisors established for the 1995-1996 school year.

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

25 ~~"(d) Current units shall be calculated by comparing~~
26 ~~the first 20 scholastic days following Labor Day of average~~
27 ~~daily membership of a current year with that of the prior~~

1 ~~year. This comparison shall be grade by grade with the prior~~
2 ~~year first 20 scholastic days following Labor Day average~~
3 ~~daily membership subtracted from the current year first 20~~
4 ~~scholastic days following Labor Day average daily membership.~~
5 ~~The difference shall be divided by the Foundation Program~~
6 ~~grade divisor for each grade. The result by grade shall be~~
7 ~~summed over all grades to yield current teacher units by local~~
8 ~~board of education. No current teacher units shall be earned~~
9 ~~if the number of units by local board of education is less~~
10 ~~than or equal to zero. The total of all current teacher units~~
11 ~~by local board of education determines the number of state~~
12 ~~current teacher units for the year.~~

13 ~~"(e) The allocation of funds for current teacher~~
14 ~~units shall be determined by multiplying the average~~
15 ~~allocation per teacher unit in the current year Foundation~~
16 ~~Program.~~

17 ~~"(f) Current teacher unit calculations shall be~~
18 ~~completed by the State Department of Education not later than~~
19 ~~December 1 of the current year and the allocation of current~~
20 ~~teacher unit funds shall be distributed in accordance with~~
21 ~~subsection (c).~~

22 ~~"(g) If funds allocated for current teacher units~~
23 ~~are insufficient to fully fund current teacher units, the~~
24 ~~allocation for each current teacher unit shall be prorated~~
25 ~~accordingly based upon funds available for that purpose.~~

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

4 ~~"(i) Current teacher units shall be allocated only~~
5 ~~when earned.~~

6 ~~"(j) Current teacher unit funds not earned shall be~~
7 ~~distributed to all local boards of education as an increase in~~
8 ~~other current expense.~~

9 ~~"(k) Local boards of education have the management~~
10 ~~responsibility to allocate current teacher unit funds where~~
11 ~~needed."~~

12 Section 2. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.