

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

1 SB9

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4 ENROLLED, An Act,

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

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

11 "§16-13-231.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 "4. A proposed technology program which sets out in
24 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, student growth, and
22 other current expense. The rate per employee set by the
23 Legislature for teachers' retirement and employees' health
24 insurance shall be in effect for the entire fiscal year and
25 shall not be increased by the Teachers' Retirement System or

1 the Public Education Employees' Health Insurance Board, except
2 by further action of the Legislature.

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

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

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

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

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

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

16 "e. The Foundation Program allowance for student
17 growth shall be determined by multiplying the combined
18 allowances in paragraphs a. through d. of subdivision (2) on a
19 per student basis by the net year over year growth of average
20 daily membership for non-virtual students for the two
21 preceding school years. This allowance, for fiscal year 2022,
22 shall be funded net of the amount received by the school
23 system under the preexisting Current Units allotment and 100%
24 thereafter. The net student growth attributable to full-time
25 virtual students shall be funded at a rate determined by the

1 State Department of Education based on the average cost to
2 districts of educating a full-time virtual student beginning
3 in fiscal year 2022.

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

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

20 "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE
21 FOUNDATION PROGRAM.

22 "a. The funds available to meet the cost of the
23 Foundation Program shall be appropriated by the Legislature
24 taking into consideration an amount of local effort required
25 on the part of each local board of education. The required

1 local effort charged against each local board of education for
2 its share of the cost of the Foundation Program shall be as
3 follows:

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

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

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

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

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

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

10 "§16-13-232.

11 "(a) In determining the number of teacher units for
12 the purpose of apportioning the state Foundation Program, one
13 teacher unit or fraction thereof shall be allowed for the
14 specified number of pupils in average daily membership as
15 provided for in subsection (b), during the first 20 scholastic
16 days following Labor Day of the preceding school year in the
17 public schools. In extreme circumstances involving natural
18 occurrences, health-related occurrences, or other extenuating
19 circumstances as determined and approved by the State
20 Superintendent of Education, average daily membership for
21 local boards of education may be calculated using alternative
22 days to the first 20 scholastic days following Labor Day. Such
23 alternative calculation shall be determined by the State
24 Department of Education on a case by case basis. If a request
25 from a local board is made to the State Superintendent, the

1 superintendent shall submit a report detailing the decision of
2 the superintendent to the Chair of the Senate Finance and
3 Taxation-Education and the House Education Appropriations
4 Committees and to the Department of Examiners of Public
5 Accounts within 30 days following the end of the average daily
6 membership reporting period. Average daily membership is
7 defined as the average number of students enrolled on a daily
8 basis. Each school, at a minimum, shall earn instructional
9 support units based on the accreditation standards of the
10 commissions which comprise the Southern Association of
11 Colleges and Schools or as otherwise required by an
12 accreditation system adopted by the State Board of Education.
13 Instructional support units shall be earned for principals,
14 assistant principals, counselors, and librarians, and shall be
15 added to a school's teacher units to determine total units
16 earned for each school. Notwithstanding the accreditation
17 standards referenced above, every school shall earn one
18 full-time principal unit beginning with the fiscal year
19 2008-2009. An instructional support unit earned for a
20 principal shall be increased by a factor of .7 for high
21 schools, unit schools, and area vocational centers; .6 for
22 middle schools; and .5 for elementary schools. An
23 instructional support unit earned for an assistant principal
24 shall be increased by .3; and an instructional support unit
25 earned for a high school guidance counselor shall be increased

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

1 "(b) The grade level divisors for each fiscal year
2 shall be weighted for each grade to provide funding for
3 special education and vocational education. For the 1995-96
4 school year the grade level divisors include for special
5 education 5 percent full time equivalent across all grades
6 weighted 2.5 times the regular student weight. For the 1995-96
7 school year the grade level divisors include for
8 vocational/technical education 7.4 percent full time
9 equivalent in grades 7-8 weighted 1.4 times the regular
10 student weight, and 16.5 percent full time equivalent in
11 grades 9-12 weighted 2.0 times the regular student weight. The
12 weights for special education and vocational education shall
13 be recommended to the Governor and the Legislature annually by
14 the State Board of Education. For the 1995-1996 school year,
15 one teacher unit shall be allowed for each 16 pupils in
16 average daily membership in kindergarten through third grade;
17 one teacher unit shall be allowed for each 24 pupils in
18 average daily membership in grade four through grade six; one
19 teacher unit shall be allowed for each 23 pupils in average
20 daily membership in grade seven through grade eight; and one
21 teacher unit shall be allowed for each 20 pupils in average
22 daily membership in grade nine through grade twelve. Beginning
23 in the 1996-97 school year, the teacher unit divisors shall be
24 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
18 year. This comparison shall be grade by grade with the prior
19 year first 20 scholastic days following Labor Day average
20 daily membership subtracted from the current year first 20
21 scholastic days following Labor Day average daily membership.
22 The difference shall be divided by the Foundation Program
23 grade divisor for each grade. The result by grade shall be
24 summed over all grades to yield current teacher units by local
25 board of education. No current teacher units shall be earned~~

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

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

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

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

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

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

23 ~~"(j) Current teacher unit funds not earned shall be~~
24 ~~distributed to all local boards of education as an increase in~~
25 ~~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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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB9
Senate 04-FEB-21
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 01-APR-21

By: Senator Elliott