

1 SB341
2 174081-2
3 By Senator Pittman
4 RFD: Finance and Taxation Education
5 First Read: 10-MAR-16

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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.