

1 SB449  
2 168492-1  
3 By Senator Pittman  
4 RFD: Finance and Taxation Education  
5 First Read: 05-MAY-15

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

14 This bill would provide that average daily  
15 membership be calculated based on the first 90  
16 scholastic days of the preceding school year for  
17 the particular school.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT

22  
23 To amend Sections 16-13-231 and 16-13-232, Code of  
24 Alabama 1975, relating to the Foundation Program; to provide  
25 that average daily membership be calculated based on the first  
26 90 scholastic days of the preceding school year for a  
27 particular school.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§16-13-231.

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

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

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

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

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

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

17           "b. In the expenditure of all funds available for  
18 the Foundation Program as herein defined, the local board of  
19 education shall as nearly as practicable provide the same  
20 length of term in all schools.

21           "c.1. Except as otherwise provided in this  
22 paragraph, the local board of education shall provide a school  
23 term of at least 180 full instructional days, or the hourly  
24 equivalent thereof, beginning with school year 2012-2013 and  
25 ending with the last day of the third month of the 2013-2014  
26 school year, or such part of that school term as can be  
27 maintained by using funds available and as defined by

1 regulations of the State Board of Education. The local  
2 academic school calendar shall be annually established by the  
3 local board of education, within the parameters of  
4 subparagraph 3. In case the local board of education fails to  
5 operate any schools the minimum 180 full instructional day  
6 term, or the hourly equivalent thereof, or the minimum term as  
7 defined by the State Board of Education, the Foundation  
8 Program allowances of the local board of education shall be  
9 computed only for the actual period the schools are in session  
10 that school year.

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

25 "3. Beginning with the 2012-2013 school year and  
26 ending with the last day of the third month of the 2013-2014  
27 school year, a local board of education, in providing the

1 minimum required number of instructional days or hours, shall  
2 have greater flexibility in establishing the school calendar  
3 by adjusting the days or extending the hours of actual  
4 teaching or instructional time provided on specified  
5 instructional days for the schools under the jurisdiction of  
6 the local board. The academic school calendar, established by  
7 the local board of education, shall include the minimum  
8 required number of instructional days or hours, with the first  
9 day of instruction for students no earlier than the Monday two  
10 calendar weeks before Labor Day, unless August 31 is a Monday,  
11 then on Monday, August 17, and the last day of instruction for  
12 students shall be no later than the Friday immediately before  
13 Memorial Day.

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

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

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

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

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

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

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

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

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

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

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

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

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

22           "a. The Foundation Program allowance for salaries of  
23 teachers shall be determined as follows: The number of teacher  
24 units allowed in Section 16-13-232 for each local board of  
25 education shall be multiplied by the amount or amounts per  
26 teacher unit, which amounts shall be based on the average  
27 salaries for each major classification required by the

1 operation of the State Minimum Salary Schedule established by  
2 the Legislature in the Education Trust Fund appropriation bill  
3 and adopted by the State Board of Education. In recommending  
4 to the Governor and the Legislature the State Minimum Salary  
5 Schedule the State Board of Education shall give due  
6 consideration to degree level, certification, and public  
7 education experience. Any teacher, including, but not limited  
8 to, a vocational education teacher, currently under contract  
9 in excess of 187 days shall not have the term or salary of his  
10 or her contract reduced as a result of this article.

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

1 following fiscal year. The Legislature shall set the rate in  
2 the annual appropriation bill.

3 "c. The Foundation Program allowance for classroom  
4 instructional support shall be determined by multiplying a  
5 uniform amount times the number of teacher units allowed in  
6 Section 16-13-232. The uniform amount shall include allowances  
7 for library enhancement, classroom materials and supplies,  
8 professional development, and technology. The library  
9 enhancement appropriation shall be for K-12 Public School  
10 Library/Media Centers and is an absolute appropriation. Other  
11 expenditures may include book binding, repair, CD Roms,  
12 computer software, computer equipment, cataloging,  
13 audio-visual materials, newspapers, magazines, recordings, and  
14 video tapes. The uniform amount may include allowances for  
15 other classroom instructional support as may be approved by  
16 the State Board of Education. The Foundation Program allowance  
17 for classroom instructional support shall also include an  
18 allowance for textbooks which shall be determined on a per  
19 pupil basis. The number of pupils shall be determined by the  
20 number of pupils in average daily membership during the first  
21 ~~20~~ 90 scholastic days ~~after Labor Day~~ of the preceding school  
22 year for the particular school. The State Board of Education  
23 shall recommend to the Governor the amount for each cost  
24 factor included in classroom instructional support on or  
25 before December 1 of the current fiscal year for the ensuing  
26 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 State Board of Education may cause, from  
8 time to time, a study of allowances for teachers' salaries,  
9 fringe benefits, classroom instructional support, and other  
10 current expense of local boards of education to be conducted  
11 and, based on the results of the study, may propose any  
12 necessary changes to the Governor and Legislature.

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

22           "(3) DETERMINING FUNDS AVAILABLE TO PROVIDE  
23 FOUNDATION PROGRAM.

24           "a. The funds available to meet the cost of the  
25 Foundation Program shall be appropriated by the Legislature  
26 taking into consideration an amount of local effort required  
27 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.

26 "(c) No local board of education may reduce the  
27 amount in any cell of any employee salary schedule, or

1 otherwise reduce the compensation of any employee, based upon  
2 the amendments to this section made by Act 2012-482 or upon  
3 any future modification to its calendar or schedule pursuant  
4 to the amendments to this section made by Act 2012-482. Salary  
5 appropriations in all future Education Trust Fund budgets  
6 shall be based upon the number of contract days allocated by  
7 the Legislature, or the hourly equivalent thereof.

8 "§16-13-232.

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

1 Accounts within 30 days following the end of the average daily  
2 membership reporting period. Average daily membership is  
3 defined as the average number of students enrolled on a daily  
4 basis. Each school, at a minimum, shall earn instructional  
5 support units based on the accreditation standards of the  
6 commissions which comprise the Southern Association of  
7 Colleges and Schools or as otherwise required by an  
8 accreditation system adopted by the State Board of Education.  
9 Instructional support units shall be earned for principals,  
10 assistant principals, counselors, and librarians, and shall be  
11 added to a school's teacher units to determine total units  
12 earned for each school. Notwithstanding the accreditation  
13 standards referenced above, every school shall earn one  
14 full-time principal unit beginning with the fiscal year  
15 2008-2009. An instructional support unit earned for a  
16 principal shall be increased by a factor of .7 for high  
17 schools, unit schools, and area vocational centers; .6 for  
18 middle schools; and .5 for elementary schools. An  
19 instructional support unit earned for an assistant principal  
20 shall be increased by .3; and an instructional support unit  
21 earned for a high school guidance counselor shall be increased  
22 by .1. Each area vocational center shall earn only one  
23 instructional support unit which shall be a principal  
24 (director) and shall continue to earn a counselor should it  
25 have received a counselor unit in 1994-95. Beginning in the  
26 2009-10 school year, the salary supplement factors for  
27 instructional support units, including principals, assistant

1 principals, counselors, and librarians, shall be recommended  
2 to the Governor and the Legislature annually by the State  
3 Board of Education, but shall not be less than the factors  
4 established above. Those local boards of education which show  
5 an increase in average daily membership during the first 20  
6 scholastic days following Labor Day of the current year may be  
7 allowed one additional teacher unit or fraction thereof for  
8 each specified number of pupils in subsection (b) in such  
9 increase in average daily membership for such current year.  
10 Fractional teacher and instructional support units shall be  
11 combined to create whole units. Assignment of whole and  
12 fractional teacher and instructional support units shall be  
13 made by the local superintendent of education and submitted  
14 for approval of the local board of education. Any funds  
15 remaining from a fractional teacher and instructional support  
16 units that are not combined with and used to make a whole  
17 teacher or instructional support unit may be used by the local  
18 board of education for salaries and benefits.

19 "(b) The grade level divisors for each fiscal year  
20 shall be weighted for each grade to provide funding for  
21 special education and vocational education. For the 1995-96  
22 school year the grade level divisors include for special  
23 education 5 percent full time equivalent across all grades  
24 weighted 2.5 times the regular student weight. For the 1995-96  
25 school year the grade level divisors include for  
26 vocational/technical education 7.4 percent full time  
27 equivalent in grades 7-8 weighted 1.4 times the regular

1 student weight, and 16.5 percent full time equivalent in  
2 grades 9-12 weighted 2.0 times the regular student weight. The  
3 weights for special education and vocational education shall  
4 be recommended to the Governor and the Legislature annually by  
5 the State Board of Education. For the 1995-1996 school year,  
6 one teacher unit shall be allowed for each 16 pupils in  
7 average daily membership in kindergarten through third grade;  
8 one teacher unit shall be allowed for each 24 pupils in  
9 average daily membership in grade four through grade six; one  
10 teacher unit shall be allowed for each 23 pupils in average  
11 daily membership in grade seven through grade eight; and one  
12 teacher unit shall be allowed for each 20 pupils in average  
13 daily membership in grade nine through grade twelve. Beginning  
14 in the 1996-97 school year, the teacher unit divisors shall be  
15 recommended to the Governor and the Legislature annually by  
16 the State Board of Education, but shall not be higher than the  
17 divisors established for the 1995-1996 school year.

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

1 thirty days of receipt of the first 20 scholastic days  
2 membership report.

3 "(d) Current units shall be calculated by comparing  
4 the first ~~20~~ 90 scholastic days ~~following Labor Day~~ of average  
5 daily membership of a current year with that of the prior  
6 year. This comparison shall be grade by grade with the prior  
7 year first ~~20~~ 90 scholastic days ~~following Labor Day~~ average  
8 daily membership subtracted from the current year first ~~20~~ 90  
9 scholastic days ~~following Labor Day~~ average daily membership.  
10 The difference shall be divided by the Foundation Program  
11 grade divisor for each grade. The result by grade shall be  
12 summed over all grades to yield current teacher units by local  
13 board of education. No current teacher units shall be earned  
14 if the number of units by local board of education is less  
15 than or equal to zero. The total of all current teacher units  
16 by local board of education determines the number of state  
17 current teacher units for the year.

18 "(e) The allocation of funds for current teacher  
19 units shall be determined by multiplying the average  
20 allocation per teacher unit in the current year Foundation  
21 Program.

22 "(f) Current teacher unit calculations shall be  
23 completed by the State Department of Education not later than  
24 December 1 of the current year and the allocation of current  
25 teacher unit funds shall be distributed in accordance with  
26 subsection (c).

1           "(g) If funds allocated for current teacher units  
2 are insufficient to fully fund current teacher units, the  
3 allocation for each current teacher unit shall be prorated  
4 accordingly based upon funds available for that purpose.

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

8           "(i) Current teacher units shall be allocated only  
9 when earned.

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

13           "(k) Local boards of education have the management  
14 responsibility to allocate current teacher unit funds where  
15 needed."

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