

1 HB360  
2 134697-2  
3 By Representatives Davis, Ison, Ford, Tuggle, Hill, Fincher,  
4 McMillan and Faust  
5 RFD: Education Policy  
6 First Read: 16-FEB-12

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8 SYNOPSIS: This bill establishes the Flexible School  
9 Calendar Act of 2012.

10 Under existing law, to receive the maximum  
11 benefits from the Foundation Program Fund, local  
12 boards of education are required to provide a  
13 minimum school term of at least 180 days.

14 This bill would require each local board of  
15 education to establish a local calendar providing  
16 180 full instructional days, or the hourly  
17 equivalent thereof, per school year for the  
18 computation of Foundation Program Fund benefits,  
19 and would establish parameters for when academic  
20 instruction may begin and end in the public  
21 elementary and secondary schools of the state.

22 Amendment 621 of the Constitution of Alabama  
23 of 1901, now appearing as Section 111.05 of the  
24 Official Recompilation of the Constitution of  
25 Alabama of 1901, as amended, prohibits a general  
26 law whose purpose or effect would be to require a  
27 new or increased expenditure of local funds from

1 becoming effective with regard to a local  
2 governmental entity without enactment by a 2/3 vote  
3 unless: it comes within one of a number of  
4 specified exceptions; it is approved by the  
5 affected entity; or the Legislature appropriates  
6 funds, or provides a local source of revenue, to  
7 the entity for the purpose.

8 The purpose or effect of this bill would be  
9 to require a new or increased expenditure of local  
10 funds within the meaning of the amendment. However,  
11 the bill does not require approval of a local  
12 governmental entity or enactment by a 2/3 vote to  
13 become effective because it comes within one of the  
14 specified exceptions contained in the amendment.

15  
16 A BILL  
17 TO BE ENTITLED  
18 AN ACT  
19

20 To establish the Flexible School Calendar Act of  
21 2012; to amend Section 16-13-231, Code of Alabama 1975, as  
22 amended by Act 2011-235, 2011 Regular Session (Acts 2011, p.  
23 \*\*), relating to the public education Foundation Program Fund;  
24 to require each local board of education to establish a local  
25 calendar providing 180 full instructional days, or the hourly  
26 equivalent thereof, per school year for the computation of  
27 Foundation Program Fund benefits; to establish parameters for

1 when academic instruction for students may begin and end in  
2 the public elementary and secondary schools of the state; and  
3 in connection therewith to have as its purpose or effect the  
4 requirement of a new or increased expenditure of local funds;  
5 and in connection therewith would have as its purpose or  
6 effect the requirement of a new or increased expenditure of  
7 local funds within the meaning of Amendment 621 of the  
8 Constitution of Alabama of 1901, now appearing as Section  
9 111.05 of the Official Recompilation of the Constitution of  
10 Alabama of 1901, as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall be known and may be cited  
13 as the Flexible School Calendar Act of 2012.

14 Section 2. Section 16-13-231 of the Code of Alabama  
15 1975, as amended by Act 2011-235, 2011 Regular Session (Acts  
16 2011, p. \*\*), is amended to read as follows:

17 "§16-13-231.

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

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

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

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

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

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

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

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

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

7 "c. 1. Except as otherwise provided in this  
8 paragraph, the local board of education shall provide a school  
9 term of at least 180 full instructional days, or the hourly  
10 equivalent thereof, beginning with school year ~~2006-2007~~  
11 2012-2013, or such part of that school term as can be  
12 maintained by using funds available and as defined by  
13 regulations of the State Board of Education. The local  
14 academic school calendar shall be annually established by the  
15 local board of education, within the parameters of  
16 subparagraph 3. In case the local board of education fails to  
17 operate any schools the minimum 180 full instructional day  
18 term, or the hourly equivalent thereof, or the minimum term as  
19 defined by the State Board of Education, the Foundation  
20 Program allowances of the local board of education shall be  
21 computed only for the actual period the schools are in session  
22 that school year.

23 "2. In extreme circumstances involving natural  
24 occurrences, health-related occurrences, or other extenuating  
25 circumstances that result in the cancellation of an  
26 instructional day, a local board of education may submit a  
27 plan for the approval of the State Superintendent of Education

1 to replace cancelled instructional days by adjusting the  
2 school calendar to extend the hours of actual teaching time on  
3 specified instructional days. At any time the Governor  
4 declares a state of emergency for any part of the state, any  
5 affected school system that is closed as a result and loses  
6 student days or employee days, or both, may appeal to the  
7 State Superintendent of Education for relief in fulfilling the  
8 local school calendar with respect to student days or employee  
9 days, or both, with no loss of income to employees.

10 "3. Beginning with the 2012-2013 school year, a  
11 local board of education, in providing the minimum required  
12 number of instructional days or hours, shall have greater  
13 flexibility in establishing the school calendar by adjusting  
14 the days or extending the hours of actual teaching or  
15 instructional time provided on specified instructional days  
16 for the schools under the jurisdiction of the local board. The  
17 academic school calendar, established by the local board of  
18 education, shall include the minimum required number of  
19 instructional days or hours, with the first day of instruction  
20 for students no earlier than the Monday two calendar weeks  
21 before Labor Day, unless August 31 is a Monday, then on  
22 Monday, August 17, and the last day of instruction for  
23 students shall be no later than the Friday immediately before  
24 Memorial Day.

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

1 State Superintendent of Education. The salary schedule shall  
2 be at least 100 percent of those salary amounts specified in  
3 the State Minimum Salary Schedule by cell.

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

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

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

24 "2. Except for those city boards of education not  
25 maintaining a transportation system, a proposed transportation  
26 program showing the proposed routing of buses and the  
27 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, and other current  
27 expense. The rate per employee set by the Legislature for

1 teachers' retirement and employees' health insurance shall be  
2 in effect for the entire fiscal year and shall not be  
3 increased by the Teachers' Retirement System or the Public  
4 Education Employees' Health Insurance Board, except by further  
5 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 State Board of Education may cause, from  
16 time to time, a study of allowances for teachers' salaries,  
17 fringe benefits, classroom instructional support, and other  
18 current expense of local boards of education to be conducted  
19 and, based on the results of the study, may propose any  
20 necessary changes to the Governor and Legislature.

21 "f. The total cost of the Foundation Program for any  
22 local board of education shall be the total allowed for  
23 teachers' salaries, for fringe benefits, for classroom  
24 instructional support, and for other current expense. The  
25 allowances herein to the local boards of education shall be  
26 expended subject to all applicable laws, rules, and  
27 regulations; however, the total funds calculated in the total

1 cost of the Foundation Program for teachers' salaries shall be  
2 expended for salaries within the instructional program.

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

5 "a. The funds available to meet the cost of the  
6 Foundation Program shall be appropriated by the Legislature  
7 taking into consideration an amount of local effort required  
8 on the part of each local board of education. The required  
9 local effort charged against each local board of education for  
10 its share of the cost of the Foundation Program shall be as  
11 follows:

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

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

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

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

24 "b. After calculating the total cost of the  
25 Foundation Program for each local board of education, the  
26 state allocation from the Education Trust Fund is calculated  
27 by subtracting the local effort required by this section from

1 the total cost. Although the cost of the Foundation Program is  
2 calculated for each school, the one sum allocation for each  
3 local board of education shall flow monthly to the local board  
4 of education. The state funds for the Foundation Program shall  
5 be allotted by the State Board of Education consistent with  
6 State Board of Education rules and regulations."

7 Section 3. Although this bill would have as its  
8 purpose or effect the requirement of a new or increased  
9 expenditure of local funds, the bill is excluded from further  
10 requirements and application under Amendment 621, now  
11 appearing as Section 111.05 of the Official Recompilation of  
12 the Constitution of Alabama of 1901, as amended, because the  
13 bill requires expenditures only by a school board.

14 Section 4. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.