

1 HB360
2 134697-5
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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ENROLLED, An Act,

To establish the Flexible School Calendar Act of 2012; to amend Section 16-13-231, Code of Alabama 1975, as amended by Act 2011-235, 2011 Regular Session (Acts 2011, p. **), relating to the public education Foundation Program Fund; to require each local board of education to establish a local calendar providing 180 full instructional days, or the hourly equivalent thereof, per school year for the computation of Foundation Program Fund benefits; to establish parameters for when academic instruction for students may begin and end in the public elementary and secondary schools of the state; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 Section 2. Section 16-13-231 of the Code of Alabama
 2 1975, as amended by Act 2011-235, 2011 Regular Session (Acts
 3 2011, p. **), is 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

1 the maximum benefits therefrom, the board shall meet the
2 following conditions:

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

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

23 "c. 1. Except as otherwise provided in this
24 paragraph, the local board of education shall provide a school
25 term of at least 180 full instructional days, or the hourly

1 equivalent thereof, beginning with school year ~~2006-2007~~
2 2012-2013 and ending with school year 2015-2016 the last day
3 of the third month of the 2013-2014 school year, or such part
4 of that school term as can be maintained by using funds
5 available and as defined by regulations of the State Board of
6 Education. The local academic school calendar shall be
7 annually established by the local board of education, within
8 the parameters of subparagraph 3. In case the local board of
9 education fails to operate any schools the minimum 180 full
10 instructional day term, or the hourly equivalent thereof, or
11 the minimum term as defined by the State Board of Education,
12 the Foundation Program allowances of the local board of
13 education shall be computed only for the actual period the
14 schools are in session that school year.

15 "2. In extreme circumstances involving natural
16 occurrences, health-related occurrences, or other extenuating
17 circumstances that result in the cancellation of an
18 instructional day, a local board of education may submit a
19 plan for the approval of the State Superintendent of Education
20 to replace cancelled instructional days by adjusting the
21 school calendar to extend the hours of actual teaching time on
22 specified instructional days. At any time the Governor
23 declares a state of emergency for any part of the state, any
24 affected school system that is closed as a result and loses
25 student days or employee days, or both, may appeal to the

1 State Superintendent of Education for relief in fulfilling the
2 local school calendar with respect to student days or employee
3 days, or both, with no loss of income to employees.

4 "3. Beginning with the 2012-2013 school year and
5 ending with 2015-2016 school year the last day of the third
6 month of the 2013-2014 school year, a local board of
7 education, in providing the minimum required number of
8 instructional days or hours, shall have greater flexibility in
9 establishing the school calendar by adjusting the days or
10 extending the hours of actual teaching or instructional time
11 provided on specified instructional days for the schools under
12 the jurisdiction of the local board. The academic school
13 calendar, established by the local board of education, shall
14 include the minimum required number of instructional days or
15 hours, with the first day of instruction for students no
16 earlier than the Monday two calendar weeks before Labor Day,
17 unless August 31 is a Monday, then on Monday, August 17, and
18 the last day of instruction for students shall be no later
19 than the Friday immediately before Memorial Day.

20 "d. The local board of education shall expend funds
21 for teachers' salaries in accordance with a salary schedule
22 adopted by the local board of education and approved by the
23 State Superintendent of Education. The salary schedule shall
24 be at least 100 percent of those salary amounts specified in
25 the State Minimum Salary Schedule by cell.

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

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

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

21 "2. Except for those city boards of education not
22 maintaining a transportation system, a proposed transportation
23 program showing the proposed routing of buses and the
24 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

1 benefits, classroom instructional support, and other current
2 expense. The rate per employee set by the Legislature for
3 teachers' retirement and employees' health insurance shall be
4 in effect for the entire fiscal year and shall not be
5 increased by the Teachers' Retirement System or the Public
6 Education Employees' Health Insurance Board, except by further
7 action of the Legislature.

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

24 "b. The Foundation Program allowance for fringe
25 benefits shall be determined by multiplying a uniform

1 percentage times the amount of teachers' salaries allowed in
2 paragraph a. above or by multiplying a fixed rate depending on
3 the type of fringe benefit. The fringe benefits allowances
4 shall include amounts for the employer's contribution for
5 teachers' retirement, health insurance, Social Security,
6 Medicare, unemployment compensation, personal leave, and sick
7 leave. The fringe benefits allowance may include allowances
8 for other fringe benefits as may be approved by the State
9 Legislature. The State Legislature shall seek the input and
10 advice of appropriate agencies and individuals in setting
11 allowances. The Teachers' Retirement System and the Public
12 Education Employees' Health Insurance Board shall recommend to
13 the Legislature, on or before the first legislative day of
14 each regular session of the Legislature, the rate for the
15 following fiscal year. The Legislature shall set the rate in
16 the annual appropriation bill.

17 "c. The Foundation Program allowance for classroom
18 instructional support shall be determined by multiplying a
19 uniform amount times the number of teacher units allowed in
20 Section 16-13-232. The uniform amount shall include allowances
21 for library enhancement, classroom materials and supplies,
22 professional development, and technology. The library
23 enhancement appropriation shall be for K-12 Public School
24 Library/Media Centers and is an absolute appropriation. Other
25 expenditures may include book binding, repair, CD Roms,

1 computer software, computer equipment, cataloging,
2 audio-visual materials, newspapers, magazines, recordings, and
3 video tapes. The uniform amount may include allowances for
4 other classroom instructional support as may be approved by
5 the State Board of Education. The Foundation Program allowance
6 for classroom instructional support shall also include an
7 allowance for textbooks which shall be determined on a per
8 pupil basis. The number of pupils shall be determined by the
9 number of pupils in average daily membership during the first
10 20 scholastic days after Labor Day of the preceding school
11 year. The State Board of Education shall recommend to the
12 Governor the amount for each cost factor included in classroom
13 instructional support on or before December 1 of the current
14 fiscal year for the ensuing fiscal year.

15 "d. The Foundation Program allowance for other
16 current expense shall be determined by multiplying a uniform
17 amount by the number of earned units. The uniform amount shall
18 be recommended by the State Board of Education to the Governor
19 on or before December 1 of the current fiscal year for the
20 ensuing fiscal year.

21 "e. The State Board of Education may cause, from
22 time to time, a study of allowances for teachers' salaries,
23 fringe benefits, classroom instructional support, and other
24 current expense of local boards of education to be conducted

1 and, based on the results of the study, may propose any
2 necessary changes to the Governor and Legislature.

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

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

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

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

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

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

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

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

20 Section 3. No local board of education may reduce
 21 the amount in any cell of any employee salary schedule, or
 22 otherwise reduce the compensation of any employee, based upon
 23 this act or upon any future modification to its calendar or
 24 schedule pursuant to this act. Salary appropriations in all
 25 future Education Trust Fund budgets shall be based upon the

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

3 Section 4. The Legislative Fiscal Office shall
4 report, not later than the tenth legislative day of the 2014
5 Regular Session, on the impact of this act on state tax
6 revenues, including state sales, use, and lodging tax
7 revenues. The report shall be submitted to the members of the
8 Senate Finance and Taxation - Education Committee and the
9 members of the House Ways and Means - Education Committee.

10 Section 5. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621, now
14 appearing as Section 111.05 of the Official Recompilation of
15 the Constitution of Alabama of 1901, as amended, because the
16 bill requires expenditures only by a school board.

17 Section 6. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 12-APR-12, as amended.

Greg Pappas
Clerk

Senate	<hr/> 01-MAY-12 <hr/>	Amended and Passed
House	<hr/> 01-MAY-12 <hr/>	Concurred in Senate Amendment
House	08-MAY-12	Passed, the Governor's Objections to the Con- trary Notwithstanding Yeas 71, Nays 21
Senate	<hr/> 10-MAY-2012 <hr/>	Passed, the Governor's Objections to the Con- trary Notwithstanding Yeas 23, Nays 8