

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



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

3           Section 2. Section 16-13-231 of the Code of Alabama  
4 1975, as amended by Act 2011-235, 2011 Regular Session (Acts  
5 2011, p. \*\*), is amended to read as follows:

6           "§16-13-231.

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

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

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

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

24           "(1) REQUIREMENTS FOR PARTICIPATING IN FUND. In  
25 order for a local board of education to share in the  
26 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  
26 equivalent thereof, beginning with school year ~~2006-2007~~  
27 2012-2013 and ending with school year 2015-2016, or such part

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

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

26 "3. Beginning with the 2012-2013 school year and  
27 ending with the 2015-2016 school year, a local board of

1 education, in providing the minimum required number of  
2 instructional days or hours, shall have greater flexibility in  
3 establishing the school calendar by adjusting the days or  
4 extending the hours of actual teaching or instructional time  
5 provided on specified instructional days for the schools under  
6 the jurisdiction of the local board. The academic school  
7 calendar, established by the local board of education, shall  
8 include the minimum required number of instructional days or  
9 hours, with the first day of instruction for students no  
10 earlier than the Monday two calendar weeks before Labor Day,  
11 unless August 31 is a Monday, then on Monday, August 17, and  
12 the last day of instruction for students shall be no later  
13 than the Friday immediately before 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 scholastic days after Labor Day of the preceding school  
22 year. The State Board of Education shall recommend to the  
23 Governor the amount for each cost factor included in classroom  
24 instructional support on or before December 1 of the current  
25 fiscal year for the ensuing fiscal year.

26 "d. The Foundation Program allowance for other  
27 current expense shall be determined by multiplying a uniform

1 amount by the number of earned units. The uniform amount shall  
2 be recommended by the State Board of Education to the Governor  
3 on or before December 1 of the current fiscal year for the  
4 ensuing fiscal year.

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

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

1 its share of the cost of the Foundation Program shall be as  
2 follows:

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

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

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

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

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

25 Section 3. Although this bill would have as its  
26 purpose or effect the requirement of a new or increased  
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now  
2 appearing as Section 111.05 of the Official ReCompilation of  
3 the Constitution of Alabama of 1901, as amended, because the  
4 bill requires expenditures only by a school board.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Education Policy  
..... . . . . 16-FEB-12

Read for the second time and placed  
on the calendar 1 amendment ..... . . . . 08-MAR-12

Read for the third time and passed  
as amended..... . . . . 12-APR-12

Yeas 62, Nays 30, Abstains 1

Greg Pappas  
Clerk