

1 HB5  
2 163982-1  
3 By Representatives Chesteen, Lee, Clouse, Moore (B), Brown and  
4 Patterson  
5 RFD: Education Policy  
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SYNOPSIS: Under existing law, the Flexible School Calendar Act of 2012 requires each local board of education to establish an academic school calendar, beginning with the 2012-2013 school year and ending with the last day of the third month of the 2013-2014 school year, with the first day of instruction for students no earlier than the Monday two calendar weeks before Labor Day, unless August 31 is a Monday, then on Monday, August 17, and the last day of instruction for students shall be no later than the Friday immediately before Memorial Day.

This bill would remove the temporary academic school calendar parameters provided for the 2013-2014 school year and would allow each local board of education to provide the required 180 full instructional days based on an hourly equivalent of no less than 1080 instructional hours.

1                   Amendment 621 of the Constitution of Alabama  
2                   of 1901, now appearing as Section 111.05 of the  
3                   Official Recompilation of the Constitution of  
4                   Alabama of 1901, as amended, prohibits a general  
5                   law whose purpose or effect would be to require a  
6                   new or increased expenditure of local funds from  
7                   becoming effective with regard to a local  
8                   governmental entity without enactment by a 2/3 vote  
9                   unless: it comes within one of a number of  
10                  specified exceptions; it is approved by the  
11                  affected entity; or the Legislature appropriates  
12                  funds, or provides a local source of revenue, to  
13                  the entity for the purpose.

14                  The purpose or effect of this bill would be  
15                  to require a new or increased expenditure of local  
16                  funds within the meaning of the amendment. However,  
17                  the bill does not require approval of a local  
18                  governmental entity or enactment by a 2/3 vote to  
19                  become effective because it comes within one of the  
20                  specified exceptions contained in the amendment.

21  
22                                   A BILL

23                                   TO BE ENTITLED

24                                   AN ACT

25  
26                   To amend Section 16-13-231, Code of Alabama 1975,  
27                   the Flexible School Calendar Act of 2012; to remove the

1 temporary academic school calendar parameters provided for the  
2 2013-2014 school year; to allow each local board of education  
3 to provide the required 180 full instructional days based on  
4 an hourly equivalent of no less than 1080 instructional hours;  
5 and in connection therewith to have as its purpose or effect  
6 the requirement of a new or increased expenditure of local  
7 funds; and in connection therewith would have as its purpose  
8 or effect the requirement of a new or increased expenditure of  
9 local funds within the meaning of Amendment 621 of the  
10 Constitution of Alabama of 1901, now appearing as Section  
11 111.05 of the Official Recompilation of the Constitution of  
12 Alabama of 1901, as amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Section 16-13-231 of the Code of Alabama  
15 1975, is amended to read as follows:

16 "§16-13-231.

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

25 "(1) To aid in providing at least a 180 full  
26 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~~ The local board of education shall provide a  
9 school term of at least 180 full instructional days, or the  
10 hourly equivalent ~~thereof, beginning with school year~~  
11 ~~2012-2013 and ending with the last day of the third month of~~  
12 ~~the 2013-2014 school year, or such part of that school term as~~  
13 ~~can be maintained by using funds available and as defined by~~  
14 ~~regulations of the State Board of Education~~ of no less than  
15 1080 instructional hours. The local academic school calendar  
16 shall be annually established by the local board of education,  
17 within the parameters of subparagraph 3. In case the local  
18 board of education fails to operate any schools the minimum  
19 180 full instructional day term, or the hourly equivalent  
20 thereof, or the minimum term as defined by the State Board of  
21 Education, the Foundation Program allowances of the local  
22 board of education shall be computed only for the actual  
23 period the schools are in session that school year.

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

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

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

1           "d. The local board of education shall expend funds  
2 for teachers' salaries in accordance with a salary schedule  
3 adopted by the local board of education and approved by the  
4 State Superintendent of Education. The salary schedule shall  
5 be at least 100 percent of those salary amounts specified in  
6 the State Minimum Salary Schedule by cell.

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

19           "e. The local board of education shall submit to the  
20 State Superintendent of Education, under the regulations of  
21 the State Board of Education, the following:

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



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

5           "3. A proposed professional development program  
6 which sets out in detail the professional development needs of  
7 employees of the local board of education.

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

10          "5. A proposed program for the provision of services  
11 to students with disabilities and gifted students in  
12 compliance with applicable state and federal laws.

13          "6. A proposed program for the provision of  
14 vocational educational services in compliance with applicable  
15 state and federal laws.

16          "7. A proposed program for the provision of  
17 educational services to at-risk students in compliance with  
18 applicable state and federal laws. The proposed program for  
19 at-risk students shall include the provision that all funds  
20 allocated shall be spent for at-risk students.

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

25          "(2) DETERMINING COST OF FOUNDATION PROGRAM. In  
26 determining the cost of the Foundation Program, the  
27 Legislature, based on the recommendation of the State Board of

1 Education, shall proceed to find the following allowable costs  
2 for each local board of education: Teachers' salaries, fringe  
3 benefits, classroom instructional support, and other current  
4 expense. The rate per employee set by the Legislature for  
5 teachers' retirement and employees' health insurance shall be  
6 in effect for the entire fiscal year and shall not be  
7 increased by the Teachers' Retirement System or the Public  
8 Education Employees' Health Insurance Board, except by further  
9 action of the Legislature.

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

26 "b. The Foundation Program allowance for fringe  
27 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,  
26 computer software, computer equipment, cataloging,  
27 audio-visual materials, newspapers, magazines, recordings, and

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

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

19 "e. The State Board of Education may cause, from  
20 time to time, a study of allowances for teachers' salaries,  
21 fringe benefits, classroom instructional support, and other  
22 current expense of local boards of education to be conducted  
23 and, based on the results of the study, may propose any  
24 necessary changes to the Governor and Legislature.

25 "f. The total cost of the Foundation Program for any  
26 local board of education shall be the total allowed for  
27 teachers' salaries, for fringe benefits, for classroom

1 instructional support, and for other current expense. The  
2 allowances herein to the local boards of education shall be  
3 expended subject to all applicable laws, rules, and  
4 regulations; however, the total funds calculated in the total  
5 cost of the Foundation Program for teachers' salaries shall be  
6 expended for salaries within the instructional program.

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

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

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

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

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

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

1            "b. After calculating the total cost of the  
2            Foundation Program for each local board of education, the  
3            state allocation from the Education Trust Fund is calculated  
4            by subtracting the local effort required by this section from  
5            the total cost. Although the cost of the Foundation Program is  
6            calculated for each school, the one sum allocation for each  
7            local board of education shall flow monthly to the local board  
8            of education. The state funds for the Foundation Program shall  
9            be allotted by the State Board of Education consistent with  
10           State Board of Education rules and regulations.

11           "(c) No local board of education may reduce the  
12           amount in any cell of any employee salary schedule, or  
13           otherwise reduce the compensation of any employee, based upon  
14           the amendments to this section made by Act 2012-482 or upon  
15           any future modification to its calendar or schedule pursuant  
16           to the amendments to this section made by Act 2012-482. Salary  
17           appropriations in all future Education Trust Fund budgets  
18           shall be based upon the number of contract days allocated by  
19           the Legislature, or the hourly equivalent thereof."

20           Section 2. Although this bill would have as its  
21           purpose or effect the requirement of a new or increased  
22           expenditure of local funds, the bill is excluded from further  
23           requirements and application under Amendment 621, now  
24           appearing as Section 111.05 of the Official ReCompilation of  
25           the Constitution of Alabama of 1901, as amended, because the  
26           bill requires expenditures only by a school board.

1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.