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8 SYNOPSIS: Under existing law, the Flexible School  
9 Calendar Act of 2012 requires each local board of  
10 education to establish an academic school calendar,  
11 beginning with the 2012-2013 school year and ending  
12 with the last day of the third month of the  
13 2013-2014 school year, with the first day of  
14 instruction for students no earlier than the Monday  
15 two calendar weeks before Labor Day, unless August  
16 31 is a Monday, then on Monday, August 17, and the  
17 last day of instruction for students shall be no  
18 later than the Friday immediately before Memorial  
19 Day.

20 This bill would allow a local board of  
21 education to opt out of the temporary academic  
22 school calendar parameters by providing written  
23 notice to the State Superintendent of Education.

24 Amendment 621 of the Constitution of Alabama  
25 of 1901, now appearing as Section 111.05 of the  
26 Official Recompilation of the Constitution of

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

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

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 To amend Section 16-13-231, Code of Alabama 1975, as  
24 amended by Act 2012-482, 2012 Regular Session (Acts 2012, p.  
25 \_\_\_), the Flexible School Calendar Act of 2012; to allow a  
26 city or county board of education to opt out of the temporary

1 academic school calendar parameters by providing written  
2 notice to the State Superintendent of Education; and in  
3 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. Section 16-13-231 of the Code of Alabama  
13 1975, is amended to read as follows:

14 "§16-13-231.

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

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

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

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

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

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

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

5            "c.1. Except as otherwise provided in this  
6 paragraph, the local board of education shall provide a school  
7 term of at least 180 full instructional days, or the hourly  
8 equivalent thereof, beginning with school year 2012-2013 and  
9 ending with the last day of the third month of the 2013-2014  
10 school year, or such part of that school term as can be  
11 maintained by using funds available and as defined by  
12 regulations of the State Board of Education. The local  
13 academic school calendar shall be annually established by the  
14 local board of education, within the parameters of  
15 subparagraph 3. In case the local board of education fails to  
16 operate any schools the minimum 180 full instructional day  
17 term, or the hourly equivalent thereof, or the minimum term as  
18 defined by the State Board of Education, the Foundation  
19 Program allowances of the local board of education shall be  
20 computed only for the actual period the schools are in session  
21 that school year.

22            "2. In extreme circumstances involving natural  
23 occurrences, health-related occurrences, or other extenuating  
24 circumstances that result in the cancellation of an  
25 instructional day, a local board of education may submit a  
26 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 and  
11 ending with the last day of the third month of the 2013-2014  
12 school year, a local board of education, in providing the  
13 minimum required number of instructional days or hours, shall  
14 have greater flexibility in establishing the school calendar  
15 by adjusting the days or extending the hours of actual  
16 teaching or instructional time provided on specified  
17 instructional days for the schools under the jurisdiction of  
18 the local board. The academic school calendar, established by  
19 the local board of education, shall include the minimum  
20 required number of instructional days or hours, with the first  
21 day of instruction for students no earlier than the Monday two  
22 calendar weeks before Labor Day, unless August 31 is a Monday,  
23 then on Monday, August 17, and the last day of instruction for  
24 students shall be no later than the Friday immediately before  
25 Memorial Day. A local board of education desiring to have its  
26 first day of instruction earlier than the Monday two calendar

1 weeks before Labor Day or its last day of instruction for  
2 students later than the Friday immediately before Memorial Day  
3 may opt out of the temporary academic school calendar  
4 parameters provided in this subparagraph by providing written  
5 notice to the State Superintendent of Education.

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

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

24 "e. The local board of education shall submit to the  
25 State Superintendent of Education, under the regulations of  
26 the State Board of Education, the following:

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

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

10          "3. A proposed professional development program  
11 which sets out in detail the professional development needs of  
12 employees of the local board of education.

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

15          "5. A proposed program for the provision of services  
16 to students with disabilities and gifted students in  
17 compliance with applicable state and federal laws.

18          "6. A proposed program for the provision of  
19 vocational educational services in compliance with applicable  
20 state and federal laws.

21          "7. A proposed program for the provision of  
22 educational services to at-risk students in compliance with  
23 applicable state and federal laws. The proposed program for  
24 at-risk students shall include the provision that all funds  
25 allocated shall be spent for at-risk students.

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

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

17            "a. The Foundation Program allowance for salaries of  
18 teachers shall be determined as follows: The number of teacher  
19 units allowed in Section 16-13-232 for each local board of  
20 education shall be multiplied by the amount or amounts per  
21 teacher unit, which amounts shall be based on the average  
22 salaries for each major classification required by the  
23 operation of the State Minimum Salary Schedule established by  
24 the Legislature in the Education Trust Fund appropriation bill  
25 and adopted by the State Board of Education. In recommending  
26 to the Governor and the Legislature the State Minimum Salary

1 Schedule the State Board of Education shall give due  
2 consideration to degree level, certification, and public  
3 education experience. Any teacher, including, but not limited  
4 to, a vocational education teacher, currently under contract  
5 in excess of 187 days shall not have the term or salary of his  
6 or her contract reduced as a result of this article.

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

25 "c. The Foundation Program allowance for classroom  
26 instructional support shall be determined by multiplying a

1 uniform amount times the number of teacher units allowed in  
2 Section 16-13-232. The uniform amount shall include allowances  
3 for library enhancement, classroom materials and supplies,  
4 professional development, and technology. The library  
5 enhancement appropriation shall be for K-12 Public School  
6 Library/Media Centers and is an absolute appropriation. Other  
7 expenditures may include book binding, repair, CD Roms,  
8 computer software, computer equipment, cataloging,  
9 audio-visual materials, newspapers, magazines, recordings, and  
10 video tapes. The uniform amount may include allowances for  
11 other classroom instructional support as may be approved by  
12 the State Board of Education. The Foundation Program allowance  
13 for classroom instructional support shall also include an  
14 allowance for textbooks which shall be determined on a per  
15 pupil basis. The number of pupils shall be determined by the  
16 number of pupils in average daily membership during the first  
17 20 scholastic days after Labor Day of the preceding school  
18 year. The State Board of Education shall recommend to the  
19 Governor the amount for each cost factor included in classroom  
20 instructional support on or before December 1 of the current  
21 fiscal year for the ensuing fiscal year.

22 "d. The Foundation Program allowance for other  
23 current expense shall be determined by multiplying a uniform  
24 amount by the number of earned units. The uniform amount shall  
25 be recommended by the State Board of Education to the Governor

1 on or before December 1 of the current fiscal year for the  
2 ensuing fiscal year.

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

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

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

20 "a. The funds available to meet the cost of the  
21 Foundation Program shall be appropriated by the Legislature  
22 taking into consideration an amount of local effort required  
23 on the part of each local board of education. The required  
24 local effort charged against each local board of education for  
25 its share of the cost of the Foundation Program shall be as  
26 follows:

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

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

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

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

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

23          Section 2. Although this bill would have as its  
24 purpose or effect the requirement of a new or increased  
25 expenditure of local funds, the bill is excluded from further  
26 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official Recompilation of  
2 the Constitution of Alabama of 1901, as amended, because the  
3 bill requires expenditures only by a school board.

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