

1 SB71
2 170262-5
3 By Senator Marsh
4 RFD: Finance and Taxation Education
5 First Read: 03-MAR-15

ACT No. 2015 - 434



1 SB71

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4 ENROLLED, An Act,

5 To amend Sections 16-6D-4 and 16-6D-9, Code of
6 Alabama 1975, relating to the Alabama Accountability Act of
7 2013; to clarify and confirm that the intent of the Alabama
8 Accountability Act of 2013 is educational choice; to amend
9 certain current definitions and add new definitions; to amend
10 the reporting period for scholarship granting organizations
11 from a calendar year to an academic year; to clarify and
12 confirm that educational scholarships are provided to eligible
13 students, not to particular schools; to require scholarship
14 granting organizations to determine the income eligibility of
15 a scholarship recipient every other year; to require all
16 participating private schools to be accredited by one of the
17 six regional accrediting agencies, the National Council for
18 Private School Accreditation, AdvancEd, the American
19 Association of Christian Schools, or one of their partner
20 accrediting agencies, within three years from the date their
21 notice of intent to participate in the scholarship program is
22 filed with the Department of Revenue or the effective date of
23 this act, whichever is later; to allow a newly-formed
24 nonpublic school that is working to obtain accreditation to
25 receive educational scholarships by partnering with an

1 accredited school; to allow certain pass-through entities,
2 such as Subchapter S corporations and limited liability
3 companies, to make contributions to scholarship granting
4 organizations and to allow the credit earned by the entity to
5 pass through to and be claimed by its owners, and to expand
6 the definition of "individual taxpayer" to include the
7 individual owners of these pass-through entities; to clarify
8 and confirm that donors making contributions to scholarship
9 granting organizations cannot earmark their contribution for a
10 particular school or to fund scholarships for a particular
11 student or group of students; to prohibit scholarship granting
12 organizations from making lump sum, block grants, or other
13 similar payments to otherwise qualifying schools; to remove
14 the current \$7,500 annual limitation on contributions made to
15 scholarship granting organizations by individual taxpayers; to
16 increase the cumulative amount of tax credits available in a
17 calendar year to \$30,000,000; to allow taxpayers to make
18 contributions to scholarship granting organizations before the
19 due date, with extensions, of a timely filed 2014 tax return
20 but reserve tax credits against the remaining balance of the
21 2014 cumulative amount of tax credits available; to clarify
22 and confirm that scholarship granting organizations may use up
23 to five percent of their revenues from donations for
24 administrative or operating expenses in the year of donation
25 or any subsequent year; to require scholarship granting

1 organizations to spend on educational scholarships the
2 scholarship funds on hand at the beginning of a calendar year
3 by the end of the academic year ending within the next
4 succeeding calendar year, for example, a scholarship granting
5 organization's scholarship funds on hand on January 1, 2015,
6 must be expended on educational scholarships by June 30, 2016;
7 to provide that certain unexpended scholarship funds are to be
8 turned over to the State Department of Education for the
9 benefit of the At-Risk Student Fund; to amend the deadline for
10 the annual reports required to be filed by scholarship
11 granting organizations with the Department of Revenue and
12 provide for additional quarterly reports to be filed with the
13 Department of Revenue; to require that such reports be made
14 publicly available on the Department of Revenue's website; to
15 require the State Department of Education and local boards of
16 education to provide verification that an eligible student is
17 zoned to attend a particular public school; to require
18 scholarship granting organizations to give priority to
19 first-time scholarship recipients from failing schools; to
20 change the release date for unaccounted scholarship funds from
21 September 15 to July 31 of each calendar year; to clarify and
22 confirm that once an eligible student receives an educational
23 scholarship under this program that the student remains
24 eligible to receive educational scholarships until the student
25 graduates from high school or reaches 19 years of age,

1 regardless of whether or not the student is zoned to attend a
2 failing school, subject to the income eligibility requirements
3 of Section 16-6D-4(4)a.1; to prohibit so-called lock-up
4 agreements between scholarship granting organizations and
5 otherwise qualifying schools that would limit or prevent
6 students who received educational scholarships from other
7 scholarship granting organizations from attending that school;
8 to require scholarship granting organizations to submit annual
9 verification to the Department of Revenue of the policies and
10 procedures used to determine a student's eligibility for an
11 educational scholarship and to clarify and confirm that
12 scholarship granting organizations, not schools, are
13 responsible for determining student eligibility; to require
14 scholarship granting organizations to verify that priority is
15 given to eligible students zoned to attend failing schools; to
16 require qualifying schools to provide information on financial
17 viability prior to receiving educational scholarship payments;
18 to require participating schools to comply with the Alabama
19 Child Protection Act of 1999; and to provide for a limited
20 retroactive effective date.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 16-6D-4 and 16-6D-9 of the Code
23 of Alabama 1975, are amended to read as follows:

24 "§16-6D-4.

1 "For the purposes of this chapter, the following
2 terms shall have the following meanings:

3 "(1) ACADEMIC YEAR. The 12-month period beginning on
4 July 1 and ending on the following June 30.

5 "(2) DEPARTMENT OF REVENUE. The Alabama Department
6 of Revenue.

7 "~~(1)~~ (3) EDUCATIONAL SCHOLARSHIP. SCHOLARSHIPS-
8 Grants A grant made by a scholarship granting organization to
9 an eligible student to cover all or part of the tuition and
10 mandatory fees for one academic year charged by a qualifying
11 school to an the eligible student receiving a the scholarship;
12 provided, however, that an educational scholarship shall not
13 exceed six thousand dollars (\$6,000) for an elementary school
14 student, eight thousand dollars (\$8,000) for a middle school
15 student, or ten thousand dollars (\$10,000) for a high school
16 student per academic year. The term does not include a lump
17 sum, block grant, or similar payment by a scholarship granting
18 organization to a qualifying school that assigns the
19 responsibility in whole or in part for determining the
20 eligibility of scholarship recipients to the qualifying school
21 or any person or entity other than the scholarship granting
22 organization.

23 "~~(2)~~ (4) ELIGIBLE STUDENT.

24 "a. A student who satisfies all of the following:

1 "~~a.1.~~ Is a member of a household family whose total
2 annual income the calendar year before he or she receives an
3 educational scholarship under this program does not exceed ~~an~~
4 ~~amount equal to 150 percent of the median household income~~ 185
5 percent of the federal poverty level, the federally recognized
6 threshold for receiving free or reduced priced lunch, as
7 established from time to time by the U.S. Department of Health
8 and Human Services. ~~Once a student receives an educational~~
9 ~~scholarship under this program, the student shall remain~~
10 ~~eligible regardless of household income until the student~~
11 ~~graduates high school or reaches 19 years of age.~~

12 "~~b.2.~~ Was eligible to attend a public school in the
13 preceding semester or is starting school in Alabama for the
14 first time.

15 "~~c.3.~~ Resides in Alabama while receiving an
16 educational scholarship.

17 "b. A scholarship granting organization shall
18 determine the eligibility of a student under subparagraph 1.
19 of paragraph a. every other academic year in which a student
20 receives an educational scholarship; provided that if the
21 annual income of the family of a student who has received at
22 least one educational scholarship exceeds 185 percent of the
23 federal poverty level, the existing student shall remain
24 eligible to receive educational scholarships until and unless
25 the annual income of the family of the student exceeds 275

1 percent of the federal poverty level; provided, further that
2 no student who has received at least one educational
3 scholarship shall be eligible to receive educational
4 scholarships if the annual income of his or her family exceeds
5 275 percent of the federal poverty level.

6 ~~"(3)(5) FAILING SCHOOL. A public K-12 school that is~~
7 ~~one or more either of the following:~~

8 ~~"a. Is labeled as persistently low performing by the~~
9 ~~State Department of Education, in the then most recent United~~
10 ~~States Department of Education School Improvement Grant~~
11 ~~application.~~

12 ~~"b.a. Is designated as a failing school by the State~~
13 ~~Superintendent of Education.~~

14 ~~"c. Does not exclusively serve a special population~~
15 ~~of students and, until June 1, 2017, has been listed three or~~
16 ~~more times during the then most recent six years in the lowest~~
17 ~~six percent of public K-12 schools on the state standardized~~
18 ~~assessment in reading and math or, on or after June 1, 2017,~~
19 ~~has, during the then most recent three years, earned at least~~
20 ~~one grade of "F" or, during the then most recent four years,~~
21 ~~earned at least three grades of "D" on the school grading~~
22 ~~system developed pursuant to Section 16-6C-2. In the event~~
23 ~~sufficient rules required to implement the grading system~~
24 ~~provided for by Section 16-6C-2 have not been implemented~~
25 ~~pursuant to the Alabama Administrative Procedure Act in time~~

1 ~~to provide a sufficient record to implement this subdivision~~
2 ~~by June 1, 2017, then a failing school shall be a school that~~
3 ~~has been~~

4 "b. Does not exclusively serve a special population
5 of students and is listed in the lowest ~~10~~ six percent of
6 public K-12 schools ~~in~~ based on the state standardized
7 assessment in reading and math.

8 "(6) FAMILY. A group of two or more people related
9 by birth, marriage, or adoption, including foster children,
10 who reside together.

11 "~~(4)~~ (7) FLEXIBILITY CONTRACT. A school flexibility
12 contract between the local school system and the State Board
13 of Education wherein a local school system may apply for
14 programmatic flexibility or budgetary flexibility, or both,
15 from state laws, regulations, and policies, including
16 regulations and policies promulgated by the State Board of
17 Education and the State Department of Education.

18 "~~(5)~~ (8) INNOVATION PLAN. The request of a local
19 school system for flexibility and plan for annual
20 accountability measures and five-year targets for all
21 participating schools within the school system.

22 "~~(6)~~ (9) LOCAL BOARD OF EDUCATION. A city or county
23 board of education that exercises management and control of a
24 local school system pursuant to state law.

1 "~~(7)~~ (10) LOCAL SCHOOL SYSTEM. A public agency that
2 establishes and supervises one or more public schools within
3 its geographical limits pursuant to state law.

4 "~~(8)~~ ~~LOW INCOME ELIGIBLE STUDENT. A student of a~~
5 ~~family with income equal to or less than two times the federal~~
6 ~~poverty level.~~

7 "~~(9)~~ (11) NONPUBLIC SCHOOL. Any nonpublic or private
8 school, including parochial schools, not under the
9 jurisdiction of the State Superintendent of Education and the
10 State Board of Education, providing educational services to
11 children. A nonpublic school ~~is accredited by a state~~
12 ~~recognized accrediting agency that~~ provides education to
13 elementary or secondary, or both, students and has notified
14 the ~~State~~ Department of Revenue of its intention to
15 participate in the scholarship program and comply with the
16 requirements of the scholarship program. A nonpublic school
17 does not include home schooling.

18 "~~(10)~~ (12) PARENT. The parent or ~~legal~~ guardian of a
19 student, with authority to act on behalf of the student, ~~who~~
20 ~~claims.~~ For purposes of Section 16-6D-8, the parent or
21 guardian shall claim the student as a dependent on his or her
22 Alabama state income tax return.

23 "~~(11)~~ (13) QUALIFYING SCHOOL.

24 "a. Either a public school outside of the resident
25 school district that is not considered failing ~~under either~~

1 ~~state or federal standards~~ within the meaning of subdivision
2 (5) or any nonpublic school as defined in this chapter or that
3 ~~satisfies the compulsory attendance requirements provided in~~
4 ~~Section 16-20-7~~ in subdivision (11) and that satisfies the
5 requirements of this subdivision. A ~~qualified~~ qualifying
6 nonpublic school shall be accredited by one of the six
7 regional accrediting agencies or ~~, if not so accredited,~~ the
8 National Council for Private School Accreditation, AdvancEd,
9 the American Association of Christian Schools, or one of their
10 partner accrediting agencies. A nonpublic school shall have
11 three years from the later of the date the nonpublic school
12 notified the Department of Revenue of its intent to
13 participate in the scholarship program or the effective date
14 of the act amending this subdivision, to obtain the required
15 accreditation and shall thereafter maintain accreditation as
16 required by this subdivision. During the three-year period
17 described in the immediately preceding sentence, a nonpublic
18 school that is not accredited shall satisfy all of the
19 following conditions until the nonpublic school obtains
20 accreditation:

21 "a.1. Has been in existence for at least three
22 years.

23 "b.2. Has daily attendance of at least 85 percent
24 over a two-year period.

1 "~~c~~.3. Has a minimum 180-day school year, or its
2 hourly equivalent.

3 "~~d~~.4. Has a day length of at least six and one-half
4 hours.

5 "~~e~~.5. Requires all students to take the Stanford
6 Achievement Test, or its equivalent.

7 "~~f~~.6. Requires all candidates for graduation to take
8 the American College Test before graduation.

9 "~~g~~.7. Requires students in high school in grades
10 nine through 12 to earn a minimum of 24 ~~Carnegie~~ credits
11 before graduating, including 16 credits in core subjects ~~and~~
12 ~~additional requirements in health and physical education, fine~~
13 ~~arts, computer studies, and foreign language, and each awarded~~
14 credit shall consist of a minimum of 140 instructional hours.

15 "~~h~~.8. Does not subject special education students to
16 the same testing or curricular requirements as regular
17 education students if it is not required in the individual
18 plan for the student.

19 "~~i~~.9. Maintains a ~~current~~ website that describes the
20 school, ~~and~~ the instructional program of the school, and the
21 tuition and mandatory fees charged by the school, updated
22 prior to the beginning of each semester.

23 "~~j~~.10. Annually affirms on forms prescribed by the
24 scholarship granting organization and the ~~department~~
25 Department of Revenue its status financially and academically

1 and provide other relative information as required by the
2 scholarship granting organization or as otherwise required in
3 this chapter.

4 "b. A nonpublic school that is not accredited and
5 that has not been in existence for at least three years shall
6 nevertheless be considered a qualifying school if, in addition
7 to satisfying the requirements in subparagraphs 2. to 10.,
8 inclusive, of paragraph a., the nonpublic school operates
9 under the governance of the board of directors or the
10 equivalent thereof of an accredited nonpublic school. For
11 purposes of the immediately preceding sentence, the term
12 governance shall include, but not be limited to, curriculum
13 oversight, personnel and facility management, and financial
14 management. If, at the conclusion of the three-year period in
15 which a nonpublic school is required to obtain accreditation,
16 a nonpublic school is not accredited, the nonpublic school
17 shall not be considered a qualifying school and shall not
18 receive any funds from a scholarship granting organization
19 until the nonpublic school obtains the accreditation required
20 by this subdivision.

21 ~~"(12)~~ (14) SCHOLARSHIP GRANTING ORGANIZATION. An
22 organization that provides or is approved to provide
23 educational scholarships to eligible students attending
24 qualifying schools of their parents' choice.

25 "§16-6D-9.

1 "(a) (1) * An individual taxpayer who files a state
2 income tax return and is not claimed as a dependent of another
3 taxpayer, a taxpayer subject to the corporate income tax
4 levied by Chapter 18 of Title 40, an Alabama S corporation as
5 defined in Section 40-18-160, or a Subchapter K entity as
6 defined in Section 40-18-1 may claim a credit for a
7 contribution made to a scholarship granting organization. If
8 the credit is claimed by an Alabama S corporation or
9 Subchapter K entity, the credit shall pass through to and may
10 be claimed by any taxpayer eligible to claim a credit under
11 this subdivision who is a shareholder, partner, or member
12 thereof, based on the taxpayer's pro rata or distributive
13 share, respectively, of the credit.

14 "(2) The tax credit may be claimed by an individual
15 taxpayer or a married couple filing jointly in an amount equal
16 to 100 percent of the total contributions the taxpayer made to
17 a scholarship granting organization for educational
18 scholarships during the taxable year for which the credit is
19 claimed, up to 50 percent of the tax liability of the
20 individual taxpayer, not to exceed ~~seven thousand five hundred~~
21 dollars ~~(\$7,500)~~ fifty thousand dollars (\$50,000) per
22 individual taxpayer or married couple filing jointly. For
23 purposes of this section, an individual taxpayer includes an
24 individual who is a shareholder of an Alabama S corporation or

1 a partner or member of a Subchapter K entity that made a
2 contribution to a scholarship granting organization.

3 "(3) The tax credit may be claimed by a ~~corporate~~
4 taxpayer subject to the Alabama corporate income tax in an
5 amount equal to 100 percent of the total contributions the
6 taxpayer made to a scholarship granting organization for
7 educational scholarships during the taxable year for which the
8 credit is claimed, up to 50 percent of the tax liability of
9 the taxpayer. ~~The cumulative amount of tax credits issued~~
10 ~~pursuant to subdivision (2) and this subdivision shall not~~
11 ~~exceed twenty five million dollars (\$25,000,000) annually. The~~
12 ~~Department of Revenue shall develop a procedure to ensure that~~
13 ~~this cap is not exceeded and shall also prescribe the various~~
14 ~~methods by which these credits are to be issued.~~

15 "(4) A ~~corporate~~ taxpayer subject to the Alabama
16 corporate income tax, an individual taxpayer, or a married
17 couple filing jointly may carry forward a tax credit earned
18 under the tax credit scholarship program for up to three
19 taxable years.

20 "(5) The cumulative amount of tax credits issued
21 pursuant to subdivision (2) and subdivision (3) shall not
22 exceed thirty million dollars (\$30,000,000) annually, based on
23 the calendar year. A taxpayer making one or more otherwise
24 tax-creditable contributions before the due date, with
25 extensions, of a timely filed 2014 tax return may elect to

1 treat all or a portion of such contributions as applying to
2 and creditable against its 2014 Alabama income tax liability,
3 if the taxpayer properly reserves the credit on the website of
4 the Department of Revenue or another method provided by the
5 Department of Revenue. The amount creditable against the
6 taxpayer's 2014 income tax liability shall be limited to the
7 lesser of the amount so designated or the remaining balance,
8 if any, of the cumulative amount of the twenty-five million
9 dollars (\$25,000,000) of tax credits available for the 2014
10 calendar year. No such contribution and election by a taxpayer
11 to reserve tax credits against the remaining balance of the
12 cumulative amount of tax credits available for 2014 shall
13 preclude the taxpayer from making additional contributions in
14 2015 and reserving those amounts against the cumulative amount
15 of tax credits available for 2015. The Department of Revenue
16 shall develop a procedure to ensure that this cap is not
17 exceeded and shall also prescribe the various methods by which
18 these credits are to be issued.

19 "(6) No credit may be claimed for a contribution
20 made to a scholarship granting organization if the
21 contribution is restricted or conditioned in any way by the
22 donor including, but not limited to, requiring the scholarship
23 granting organization to direct all or part of the
24 contribution to a particular qualifying school or to grant an
25 educational scholarship to a particular eligible student.

1 "(b) (1) Administrative accountability standards. All
2 scholarship granting organizations shall do all of the
3 following:

4 "a. Notify the Department of Revenue of their intent
5 to provide educational scholarships to eligible students.

6 "b. Demonstrate to the Department of Revenue that
7 they have been granted exemption from the federal income tax
8 as an organization described in Section 501(c) (3) of the
9 Internal Revenue Code, as in effect from time to time.

10 "c. Distribute periodic educational scholarship
11 payments as checks made out and mailed to or directly
12 deposited with the school where the student is enrolled.

13 "d. Provide a Department of Revenue approved receipt
14 to taxpayers for contributions made to the scholarship
15 granting organization.

16 "e. Ensure that all determinations with respect to
17 the eligibility of a student to receive an educational
18 scholarship shall be made by the scholarship granting
19 organization. A scholarship granting organization shall not
20 delegate any responsibility for determining the eligibility of
21 a student for an educational scholarship or any other
22 requirements it is subject to under this chapter to any
23 qualifying school or an entity affiliated therewith.

24 "e.f. Ensure that at least 95 percent of their
25 revenue from donations is ~~spent~~ expended on educational

1 scholarships, and that all revenue from interest or
2 investments is ~~spent~~ expended on educational scholarships. A
3 scholarship granting organization may expend up to five
4 percent of its revenue from donations on administrative and
5 operating expenses in the calendar year of the donation or in
6 any subsequent calendar year.

7 ~~"f. Spend each year a portion of their expenditures~~
8 ~~on educational scholarships for low income eligible students~~
9 ~~equal to the percentage of low income eligible students in the~~
10 ~~county where the scholarship granting organization expends the~~
11 ~~majority of its educational scholarships.~~

12 "g. Ensure that scholarship funds on hand at the
13 beginning of a calendar year are expended on educational
14 scholarships by the end of the academic year ending within the
15 next succeeding calendar year. Any scholarship funds on hand
16 at the beginning of a calendar year that are not expended on
17 educational scholarships by the end of the academic year
18 ending within the next succeeding calendar year shall be
19 turned over to and deposited with the State Department of
20 Education for the benefit of its At-Risk Student Program to be
21 distributed to local boards of education on the basis
22 determined by the State Department of Education in furtherance
23 of support to underperforming schools.

24 ~~"g.h. Ensure that at least 75 percent of first-time~~
25 recipients of educational scholarships were not continuously

1 enrolled in a private school during the previous academic
2 year.

3 "h.i. Cooperate with the Department of Revenue to
4 conduct criminal background checks on all of their employees
5 and board members and exclude from employment or governance
6 any individual who may reasonably pose a risk to the
7 appropriate use of contributed funds.

8 "i.j. Ensure that educational scholarships are
9 portable during the ~~school~~ academic year and can be used at
10 any qualifying school that accepts the eligible student
11 according to the wishes of the parent. If ~~a~~ an eligible
12 student transfers to another qualifying school during ~~a school~~
13 an academic year, the educational scholarship amount may be
14 prorated.

15 "j.k. Publicly report to the Department of Revenue
16 by ~~June~~ September 1 of each year all of the following
17 information prepared by a certified public accountant
18 regarding their ~~grants~~ educational scholarships funded in the
19 previous ~~calendar~~ academic year:

20 "1. The name and address of the scholarship granting
21 organization.

22 "2. The total number and total dollar amount of
23 contributions received during the previous ~~calendar~~ academic
24 year.

1 "3. The total number and total dollar amount of
2 educational scholarships awarded and funded during the
3 previous ~~calendar~~ academic year, the total number and total
4 dollar amount of educational scholarships awarded and funded
5 during the previous academic year for students qualifying for
6 the federal free and reduced-price lunch program, and the
7 percentage of first-time recipients of educational
8 scholarships who were enrolled in a public school during the
9 previous academic year.

10 "1. Publicly report to the Department of Revenue, by
11 the 15th day after the close of each calendar quarter, all of
12 the following information about educational scholarships
13 granted during the quarter:

14 "1. The total number of scholarships awarded and
15 funded.

16 "2. The names of the qualifying schools that
17 received funding for educational scholarships, the total
18 amount of funds paid to each qualifying school, and the total
19 number of scholarship recipients enrolled in each qualifying
20 school.

21 "3. The total number of eligible students zoned to
22 attend a failing school who received educational scholarships
23 from the scholarship granting organization.

24 "4. The total number of first time scholarship
25 recipients who were continuously enrolled in a nonpublic

1 school prior to receiving an educational scholarship from that
2 scholarship granting organization.

3 "k.m. Ensure that educational scholarships are not
4 provided for eligible students to attend a school with paid
5 staff or board members, or relatives thereof, in common with
6 the scholarship granting organization.

7 "l.n. Ensure that educational scholarships are
8 provided in a manner that does not discriminate based on the
9 gender, race, or disability status of the scholarship
10 applicant or his or her parent.

11 "m.o. Ensure that educational scholarships are
12 provided only to eligible students who ~~would otherwise be~~ are
13 zoned to attend a failing school so that the eligible student
14 can attend a ~~nonpublic school or a nonfailing public~~
15 qualifying school. ~~Provided, however, that any~~ To ensure
16 compliance with the immediately preceding sentence, the local
17 board of education for the county or municipality in which an
18 eligible student applying for an educational scholarship
19 resides, upon written request by a parent, shall provide
20 written verification that a particular address is in the
21 attendance zone of a specified public school. The State
22 Department of Education shall provide written verification of
23 enrollment in a failing school under this chapter. With
24 respect to first time educational scholarship recipients,
25 scholarship granting organizations shall give priority to

1 eligible students zoned to attend failing schools over
2 eligible students not zoned to attend failing schools. Any
3 scholarship funds unaccounted for on ~~September 15th~~ July 31st
4 of each calendar year may be made available to low-income
5 eligible students to defray the costs of attending a
6 qualifying school, whether or not the student is assigned
7 zoned to attend a failing school. Any provision of this
8 section to the contrary notwithstanding, once an eligible
9 student receives an educational scholarship under this
10 program, scholarship funds may be made available to the
11 student for educational scholarships until the student
12 graduates from high school or reaches 19 years of age,
13 regardless of whether the student is zoned to attend a failing
14 school, subject to the income eligibility requirements of
15 paragraph b. of subdivision (4) of Section 16-6D-4.

16 "n.p. Ensure that no donations are directly made to
17 benefit specifically designated scholarship recipients or to
18 particular qualifying schools.

19 "q. Submit to the Department of Revenue annual
20 verification of the scholarship granting organization's
21 policies and procedures used to determine scholarship
22 eligibility. The verification shall confirm that the
23 scholarship granting organization, and not one or more
24 qualifying schools accepting educational scholarship
25 recipients or scholarship funds, is determining whether

1 scholarship applicants are eligible to receive educational
2 scholarships. The verification shall also confirm that the
3 scholarship granting organization is giving priority to
4 receive an educational scholarship to eligible students zoned
5 to attend failing schools.

6 "r. Submit to the Department of Revenue annual
7 verification that none of its actions or policies restricts a
8 parent's educational choice by limiting or prohibiting the
9 enrollment of eligible students in a qualifying school if
10 those eligible students received educational scholarships from
11 other scholarship granting organizations.

12 "(2) Financial accountability standards.

13 "a. All scholarship granting organizations shall
14 demonstrate their financial accountability by doing all of the
15 following:

16 "1. Annually submitting to the Department of Revenue
17 a financial information report for the scholarship granting
18 organization that complies with uniform financial accounting
19 standards established by the Department of Revenue and
20 conducted by a certified public accountant.

21 "2. Having the auditor certify that the report is
22 free of material misstatements.

23 "b. All ~~participating~~ qualifying nonpublic schools
24 shall demonstrate financial viability, if they are to receive

1 donations of fifty thousand dollars (\$50,000) or more during
2 the ~~school~~ academic year, by doing either of the following:

3 "1. Filing with the scholarship granting
4 organization ~~before the start of the school~~ prior to receipt
5 of the first educational scholarship payment for that academic
6 year a surety bond payable to the scholarship granting
7 organization in an amount equal to the aggregate amount of
8 ~~contributions~~ scholarship funds expected to be received during
9 the ~~school~~ academic year.

10 "2. Filing with the scholarship granting
11 organization ~~before the start of the school~~ prior to receipt
12 of the first educational scholarship payment for that academic
13 year financial information that demonstrates the financial
14 viability of the participating qualifying nonpublic school.

15 "(c) (1) Each scholarship granting organization shall
16 annually collect and submit to the Department of Revenue with
17 the annual report required by paragraph k. of subdivision (1)
18 of subsection (b) written verification from participating
19 qualifying nonpublic schools that accept its educational
20 scholarship students that those schools do all of the
21 following:

22 "a. Comply with all health and safety laws or codes
23 that otherwise apply to nonpublic schools.

24 "b. Hold a valid occupancy permit if required by the
25 municipality.

1 "c. Certify compliance with nondiscrimination
2 policies set forth in 42 U.S.C. 1981.

3 "d. Conduct criminal background checks on employees
4 and then do all of the following:

5 "1. Exclude from employment any person not permitted
6 by state law to work in a public school.

7 "2. Exclude from employment any person who may
8 reasonably pose a threat to the safety of students.

9 "(2) By August 1 of each year, each qualifying
10 nonpublic school shall provide to each scholarship granting
11 organization from which it receives educational scholarships
12 verification that the qualifying nonpublic school is in
13 compliance with the Alabama Child Protection Act of 1999,
14 Chapter 22A of this title. Any qualifying nonpublic school
15 failing to timely provide such annual verification shall be
16 prohibited from participating in the scholarship program. Each
17 scholarship granting organization shall annually submit to the
18 Department of Revenue with the annual report required by
19 paragraph k. of subdivision (1) of subsection (b) copies of
20 the written verifications it receives from each qualifying
21 nonpublic school.

22 "(2)(3) Academic accountability standards. There
23 shall be sufficient information about the academic impact
24 educational scholarship tax credits have on participating
25 students participating in the tax credit scholarship program

1 in order to allow parents and taxpayers to measure the
2 achievements of the tax credit scholarship program, and
3 therefore:

4 "a. Each scholarship granting organization shall
5 ensure that ~~participating~~ qualifying schools that accept its
6 educational scholarship students shall do all of the
7 following:

8 "1. Annually administer either the state achievement
9 tests or nationally recognized norm-referenced tests that
10 measure learning gains in math and language arts to all
11 ~~participating~~ students receiving an educational scholarship in
12 grades that require testing under the accountability testing
13 laws of the state for public schools, in order that the state
14 can compare the academic achievement and learning gains of
15 students receiving educational scholarships with students of
16 the same socioeconomic and educational backgrounds who are
17 taking the state achievement tests or nationally
18 norm-referenced tests.

19 "2. Allow the costs of the testing ~~requirements~~
20 requirement to be covered by the educational scholarships
21 distributed by the scholarship granting organizations.

22 "3. Provide the parents of each student who was
23 tested with a copy of the results of the tests on an annual
24 basis, beginning with the first year of testing.

1 "4. Provide the test results to the Department of
2 Revenue on an annual basis, beginning with the first year of
3 testing.

4 "5. Report student information that allows the state
5 to aggregate data by grade level, gender, family income level,
6 and race.

7 "6. Provide graduation rates of those students
8 benefitting from education scholarships to the Department of
9 Revenue or an organization chosen by the state in a manner
10 consistent with nationally recognized standards.

11 "7. Ensure that a student who receives an
12 educational scholarship conforms to the attendance
13 requirements of the qualifying school. If a student fails to
14 conform, the qualifying school shall immediately communicate
15 the failure to the applicable scholarship granting
16 organization.

17 ~~"b. The Department of Revenue or an organization~~
18 ~~chosen by the Department of Revenue shall do all of the~~
19 ~~following:~~

20 ~~"1. Ensure compliance with all student privacy laws.~~

21 ~~"2. Collect all test results.~~

22 ~~"3. Provide the test results and associated learning~~
23 ~~gains to the public via a state website after the third year~~
24 ~~of test and test-related data collection. The findings shall~~
25 ~~be aggregated by the grade level, gender, family income level,~~

1 ~~number of years of participation in the tax credit scholarship~~
2 ~~program, and race of the student.~~

3 "b.1. The Department of Revenue shall select an
4 independent research organization, which may be a public or
5 private entity or university, to analyze the results of the
6 testing required by paragraph a. every other academic year.
7 The cost of analyzing and reporting on the test results to the
8 Department of Revenue by the independent research organization
9 shall be borne by all scholarship granting organizations in
10 proportion to the total scholarship donations received for the
11 two calendar years prior to the report being published.
12 Scholarship granting organizations may receive and use funds
13 from outside sources to pay for its share of the biennial
14 report.

15 "2. The independent research organization shall
16 report to the Department of Revenue every other year on the
17 learning gains of students receiving educational scholarships
18 and the report shall be aggregated by the grade level, gender,
19 family income level, number of years of participation in the
20 tax credit scholarship program, and race of the student
21 receiving an educational scholarship. The report shall also
22 include, to the extent possible, a comparison of the learning
23 gains of students participating in the tax credit scholarship
24 program to the statewide learning gains of public school
25 students with socioeconomic and educational backgrounds

1 similar to those students participating in the tax credit
2 scholarship program.

3 "3. The first report under this paragraph shall be
4 submitted to the Department of Revenue by September 1, 2016.
5 Each biennial report thereafter shall be submitted to the
6 Department of Revenue on September 1 of the year the report is
7 due. All biennial reports required by this paragraph shall be
8 published on the website of the Department of Revenue.

9 "4. Each scholarship granting organization shall
10 collect all test results from qualifying schools accepting its
11 scholarship recipients and turn over such test results to the
12 independent research organization described in this paragraph
13 by August 15 of each calendar year.

14 "5. The sharing and reporting of student learning
15 gain data under this paragraph shall conform to the
16 requirements of the Family Educational Rights and Privacy Act,
17 20 U.S.C. § 1232g., and shall be for the sole purpose of
18 creating the biennial report required by this paragraph. All
19 parties shall preserve the confidentiality of such information
20 as required by law. The biennial report shall not disaggregate
21 data to a level that could identify qualifying schools
22 participating in the tax credit scholarship program or
23 disclose the academic level of individual students.

24 "6. At the same time the biennial report under
25 paragraph 2 is submitted to the Department of Revenue, it

1 shall be submitted to the Chair of the Senate Education Policy
2 Committee and the Chair of the House Education Policy
3 Committee.

4 "(d) (1) The Department of Revenue shall adopt rules
5 and procedures consistent with this section as necessary.

6 "(2) The Department of Revenue shall provide a
7 standardized format for a receipt to be issued by a
8 scholarship granting organization to a taxpayer to indicate
9 the value of a contribution received. The Department of
10 Revenue shall require a taxpayer to provide a copy of the
11 receipt when claiming the tax credit pursuant to this section.

12 "(3) The Department of Revenue shall provide a
13 standardized format for a scholarship granting organization to
14 report the information required in ~~paragraph j.~~ paragraphs k.
15 and l. of subdivision (1) of subsection (b).

16 "(4) The Department of Revenue may conduct either a
17 financial review or audit of a scholarship granting
18 organization ~~if possessing evidence of fraud.~~

19 "(5) The Department of Revenue may bar a scholarship
20 granting organization or a qualifying school from
21 participating in the tax credit scholarship program if the
22 Department of Revenue establishes that the scholarship
23 granting organization or the qualifying school has
24 intentionally and substantially failed to comply with the
25 requirements in subsection (b) or subsection (c).

1 "(6) If the Department of Revenue decides to bar a
2 scholarship granting organization or a qualifying school from
3 the tax credit scholarship program, the Department of Revenue
4 shall notify affected educational scholarship students and
5 their parents of the decision as quickly as possible.

6 "(7) The Department of Revenue shall publish and
7 routinely update, on the website of the department, a list of
8 scholarship granting organizations in the state, by county.

9 "(8) The Department of Revenue shall publish and
10 make publicly available on its website all annual and
11 quarterly reports required to be filed with it by scholarship
12 granting organizations under paragraphs k. and l. of
13 subdivision (1) of subsection (b).

14 "(e) (1) All schools participating in the tax credit
15 scholarship program shall be required to operate in Alabama.

16 "(2) All schools participating in the tax credit
17 scholarship program shall comply with all state laws that
18 apply to public schools regarding criminal background checks
19 for employees and exclude from employment any person not
20 permitted by state law to work in a public school.

21 "(3) All qualifying nonpublic schools participating
22 in the tax credit scholarship program shall maintain a website
23 that describes the school, the instructional program of the
24 school, and the tuition and mandatory fees charged by the
25 school, updated prior to the beginning of each semester.

1 "(4) The amount of a scholarship awarded a student
2 to attend a nonpublic school may not exceed the total sum of
3 tuition and mandatory fees normally charged a student to
4 attend the nonpublic school for the same attendance period.
5 The amount of a scholarship awarded a student to attend a
6 public school may not exceed the total state appropriation
7 provided for a student to attend the public school for the
8 same attendance period.

9 "(f) The tax credit provided in this section may be
10 first claimed for the 2013 tax year but may not be claimed for
11 any tax year prior to the 2013 tax year.

12 "(g) (1) Nothing in this section shall be construed
13 to force any public school, school system, or school district
14 or any nonpublic school, school system, or school district to
15 enroll any student. No qualifying school may enter into any
16 agreement, whether oral or written, with a scholarship
17 granting organization that would prohibit or limit an eligible
18 student from enrolling in the school based on the identity of
19 the scholarship granting organization from which the eligible
20 student received an educational scholarship.

21 "(2) A public school, school system, or school
22 district or any nonpublic school, school system, or school
23 district may develop the terms and conditions under which it
24 will allow a student who receives a scholarship from a
25 scholarship granting organization pursuant to this section to

1 be enrolled, but such terms and conditions may not
2 discriminate on the basis of the race, gender, religion,
3 color, disability status, or ethnicity of the student or of
4 the student's parent.

5 "(3) Nothing in this section shall be construed to
6 authorize the violation of or supersede the authority of any
7 court ruling that applies to the public school, school system,
8 or school district, specifically any federal court order
9 related to the desegregation of the local school system's
10 student population.

11 "(h) Nothing in this chapter shall affect or change
12 the athletic eligibility rules of student athletes governed by
13 the Alabama High School Athletic Association or similar
14 association."

15 Section 2. The provisions of this act are severable.
16 If any part of this act is declared invalid or
17 unconstitutional, that declaration shall not affect the part
18 which remains.

19 Section 3. (a) Except as provided in subsection (b),
20 this act shall become effective immediately following its
21 passage and approval by the Governor, or its otherwise
22 becoming law, and shall apply retroactively to tax years or
23 periods beginning on or after January 1, 2015.

24 (b) The amendments to subdivision (4) of Section
25 16-6D-4 and paragraphs f. and o. of subdivision (1) of

1 subsection (b) of Section 16-6D-9, regarding the clarification
2 that scholarship granting organizations may use up to five
3 percent of scholarship donations for administrative and
4 operating expenses and the continuing eligibility of a student
5 once he or she receives an educational scholarship, shall be
6 retroactively effective to and as of March 14, 2013, the
7 effective date of the Alabama Accountability Act of 2013.

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Kay Ivey

President and Presiding Officer of the Senate

Tommy Sharp

Speaker of the House of Representatives

SB71

Senate 31-MAR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 04-JUN-15

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris
Secretary

House of Representatives
Passed: 28-MAY-15, as amended

House of Representatives
Passed: 04-JUN-2015, as amended by Conference Committee Report.

APPROVED 6-9-2015

TIME By: Senator Marsh 5:00 pm

Robert Bentley

GOVERNOR

Alabama Secretary Of State

Act Num....: 2015-434
Bill Num....: S-71

Recv'd 06/10/15 04:02pmSLF

SPONSOR

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CO-SPONSORS

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SENATE ACTION

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB MI

years 24 nays abstain

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees _____

FURTHER HOUSE ACTION (OVER)

DATE: 5-31

RD 1 RFD W&M EDUC

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on W&M E was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be (Passed w/amend(s) 2 w/sub

This 102 day of April, 2013
P. H. Harris Chairperson

DATE: 4-16

RF

RD 2 CA

DATE: _____

RE-REFERRED _____

Committee _____

RE-COMMITTED _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill. SB 71

YEAS 68 NAYS 22

JEFF WOODARD,
Clerk