

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.

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

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

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

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

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

"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

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

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

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

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

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



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

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

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

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

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

"(6)(9) LOCAL BOARD OF EDUCATION. A city or county board of education that exercises management and control of a 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

enrolled in a private school during the previous academic  
year.

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

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

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

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

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

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

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

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

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

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

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

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

~~"3. Provide the test results and associated learning gains to the public via a state website after the third year of test and test-related data collection. The findings shall 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).

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

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

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

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

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

"(3) All qualifying nonpublic schools participating in the tax credit scholarship program shall maintain a website that describes the school, the instructional program of the school, and the tuition and mandatory fees charged by the 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.

*Kay Ivey*

President and Presiding Officer of the Senate

*Tommy Blanton*

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 04:02pm SLF

SPONSOR

1 Marab  
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 HL

yeas 24 nays 0 abstain 2

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 \_\_\_\_\_

HOUSE ACTION

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, 2012

Patricia Chairperson

DATE: 4-16

RF

RD 2 CA

DATE: \_\_\_\_\_

RE-REFERRED

RE-COMMITTED

Committee \_\_\_\_\_

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 WOODWARD,

Clerk