

1 SB381
2 150844-1
3 By Senator Brewbaker
4 RFD: Education
5 First Read: 04-APR-13

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8 SYNOPSIS: This bill would amend the Alabama
9 Accountability Act of 2013, to specify that no
10 public or nonpublic school may be forced to enroll
11 a student pursuant to the act.

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13 A BILL
14 TO BE ENTITLED
15 AN ACT

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17 To amend Section 8 of the Alabama Accountability Act
18 of 2013, Act 2013-64, proposed by House Bill 84 of the 2013
19 Regular Session (Acts 2013); to specify that no public or
20 nonpublic school may be forced to enroll a student pursuant to
21 the act.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 8 of the Alabama Accountability
24 Act of 2013, Act 2013-64, proposed by House Bill 84 of the
25 2013 Regular Session (Acts 2013), is amended to read as
26 follows:

1 "Section 8. (a) To provide educational flexibility
2 and state accountability for students in failing schools:

3 "(1) For tax years beginning on and after January 1,
4 2013, an Alabama income tax credit is made available to the
5 parent of a student enrolled in or assigned to attend a
6 failing school to help offset the cost of transferring the
7 student to a nonfailing public school or nonpublic school of
8 the parent's choice. The income tax credit shall be an amount
9 equal to 80 percent of the average annual state cost of
10 attendance for a public K-12 student during the applicable tax
11 year or the actual cost of attending a nonfailing public
12 school or nonpublic school, whichever is less. A parent is
13 allowed a credit against income tax for each taxable year
14 under the terms established in this section. If income taxes
15 owed by the parent are less than the total credit allowed
16 under this subsection, the taxpayer shall be entitled to a
17 refund or rebate, as the case may be, equal to the balance of
18 the unused credit with respect to that taxable year.

19 "(2) Any income tax credit due a parent under this
20 section shall be granted or issued to the parent only upon his
21 or her making application therefor, at such time and in such
22 manner as may be prescribed from time to time by the
23 Department of Revenue. The application process shall include,
24 but not be limited to, certification by the parent that the
25 student was enrolled in or was assigned to attend a failing
26 school, certification by the parent that the student was
27 subsequently transferred to, and was enrolled and attended, a

1 nonfailing public school or nonpublic school of the parent's
2 choice, and proof, satisfactory to the Department of Revenue,
3 of the actual cost of attendance for the student at the
4 nonfailing public school or nonpublic school. The Department
5 of Revenue shall also prescribe the various methods by which
6 income tax credits are to be issued to taxpayers. Income tax
7 credits authorized by this section shall be paid out of sales
8 tax collections made to the Education Trust Fund, and set
9 aside by the Comptroller in the Failing School Tax Credit
10 Account created in subsection (c), in the same manner as
11 refunds of income tax otherwise provided by law, and there is
12 hereby appropriated therefrom, for such purpose, so much as
13 may be necessary to annually pay the income tax credits
14 provided by this section.

15 "(3) An application for an income tax credit
16 authorized by this section shall be filed with the Department
17 of Revenue within the time prescribed for filing petitions for
18 refund under Section 40-2A-7, Code of Alabama 1975.

19 "(4) The Department of Revenue shall promulgate
20 reasonable rules to effectuate the intent of this section.

21 "(b) (1) The parent of a public school student may
22 request and receive an income tax credit pursuant to this
23 section to reimburse the parent for costs associated with
24 transferring the student from a failing school to a nonfailing
25 public school or nonpublic school of the parent's choice, in
26 any of the following circumstances:

1 "a. By assigned school attendance area, if the
2 student spent the prior school year in attendance at a failing
3 school and the attendance of the student occurred during a
4 school year in which the designation was in effect.

5 "b. The student was in attendance elsewhere in the
6 Alabama public school system and was assigned to a failing
7 school for the next school year.

8 "c. The student was notified that he or she was
9 assigned to a failing school for the next school year.

10 "(2) This section does not apply to a student who is
11 enrolled in the Department of Youth Services School District.

12 "(3) For the purposes of continuity of educational
13 choice, the tax credit shall be available to parents for those
14 grade levels of the failing school from which the student
15 transferred. The parent of a student who transfers from a
16 failing school may receive income tax credits for those grade
17 levels enrolled in and attended in the nonfailing public
18 school or nonpublic school of the parent's choice transferred
19 to that were included in the failing school from which the
20 student transferred, whether or not the failing school becomes
21 a nonfailing school during those years. The student shall
22 return to his or her original local school system of
23 attendance when he or she completes the highest grade level of
24 the failing school transferred from in the nonfailing public
25 school or nonpublic school of the parent's choice. If the
26 public school the student returns to is a failing school, the
27 parent may again transfer the student to a nonfailing public

1 school or nonpublic school of the parent's choice and request
2 and receive an income tax credit as provided in this section.

3 "(4) A local school system, for each student
4 enrolled in or assigned to a failing school, shall do all of
5 the following:

6 "a. Timely notify the parent of the student of all
7 options available under this section as soon as the school of
8 attendance is designated as a failing school.

9 "b. Offer the parent of the student an opportunity
10 to enroll the student in another public school within the
11 local school system that is not a failing school or a failing
12 school to which the student has been assigned.

13 "(5) The parent of a student enrolled in or assigned
14 to a school that has been designated as a failing school, as
15 an alternative to paragraph b. of subdivision (4), may choose
16 to enroll the student in and transport the student to a
17 nonfailing public school that has available space in any other
18 local school system in the state, and that local school system
19 is willing to accept the student on whatever terms and
20 conditions the system establishes and report the student for
21 purposes of the local school system's funding pursuant to the
22 Foundation Program. Nothing in this act shall be construed to
23 force any school, whether public or nonpublic, to enroll any
24 student.

25 "(6) For students in the local school system who are
26 participating in the tax credit program, the local school

1 system shall provide locations and times to take all statewide
2 assessments required by law.

3 "(7) Students with disabilities who are eligible to
4 receive services from the local school system under federal or
5 state law, and who participate in the tax credit program,
6 remain eligible to receive services from the local school
7 system as provided by federal or state law.

8 "(8) If a parent requests that the student be
9 enrolled in a nonfailing public school within the same local
10 school system, transportation costs to the nonfailing public
11 school shall be the responsibility of the local school system.

12 "(9) The State Department of Education shall
13 promulgate reasonable rules to effectuate the intent of this
14 section. Rules shall include penalties for noncompliance.

15 "(c) There is created within the Education Trust
16 Fund a separate account named the Failing Schools Income Tax
17 Credit Account. The Commissioner of Revenue shall annually
18 certify to the Comptroller the amount of income tax credits
19 due to parents under this section and the Comptroller shall
20 transfer into the Failing Schools Income Tax Credit Account
21 only the amount from sales tax revenues within the Education
22 Trust Fund that is sufficient for the Department of Revenue to
23 use to cover the income tax credits for the applicable tax
24 year. The Commissioner of Revenue shall annually distribute
25 the funds in the Failing Schools Income Tax Credit Account to
26 parents pursuant to this section."

1 Section 2. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.