

1 SB123
2 182564-2
3 By Senators Marsh, McClendon, Glover, Whatley, Waggoner,
4 Shelnutt, Pittman, Dial, Allen, Williams, Albritton and Melson
5 RFD: Finance and Taxation Education
6 First Read: 09-FEB-17

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 16-6D-3, 16-6D-4, 16-6D-6,
12 16-6D-8, and 16-6D-9, Code of Alabama 1975, relating to
13 Alabama Accountability Act of 2013; to provide further for
14 definitions; to make income tax credits available to trusts
15 and estates; to increase the cap on income tax credits for
16 donations to scholarship granting organizations; to create a
17 credit against utility gross receipts tax liability for
18 donations to scholarship granting organizations; to establish
19 procedures for claiming a credit against the utility gross
20 receipts tax; to require scholarship granting organizations to
21 obtain audited financial statements annually; and to require
22 the Department of Revenue or its agent to perform an audit of
23 each scholarship granting organization at least triennially.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 16-6D-3, 16-6D-4, 16-6D-6,
26 16-6D-8, and 16-6D-9 of the Code of Alabama 1975, are amended
27 to read as follows:

1 "§16-6D-3.

2 "(a) The Legislature finds and declares all of the
3 following:

4 "(1) To further the goals of public education
5 throughout the state, each school system should be able to
6 have maximum possible flexibility to meet the needs of
7 students and the communities within its jurisdiction.

8 "(2) There is a critical need for innovative models
9 of public education that are tailored to the unique
10 circumstances and needs of the students in all schools and
11 communities, and especially in schools and communities that
12 are struggling to improve academic outcomes and close the
13 achievement gap.

14 "(3) To better serve students and better use
15 available resources, local boards of education, local school
16 systems, and parents need the ability to explore flexible
17 alternatives in an effort to be more efficient and effective
18 in providing operational and programmatic services.

19 "(b) Therefore, it is the intent of the Legislature
20 to do all of the following:

21 "(1) Allow school systems greater flexibility in
22 meeting the educational needs of a diverse student population.

23 "(2) Improve educational performance through greater
24 individual school autonomy and managerial flexibility with
25 regard to programs and budgetary matters.

26 "(3) Encourage innovation in education by providing
27 local school systems and school administrators with greater

1 control over decisions including, but not limited to,
2 budgetary matters, staffing, personnel, scheduling, and
3 educational programming, including curriculum and instruction.

4 "(4) Provide financial assistance through an income
5 tax credit to a parent who transfers a student from ~~a failing~~
6 an underperforming public school to a ~~nonfailing~~
7 nonunderperforming public school or nonpublic school of the
8 parent's choice.

9 "(5) Provide funding for scholarships to eligible
10 students through an income tax credit and utility gross
11 receipts tax credit to taxpayers who make donations to
12 scholarship granting organizations.

13 "§16-6D-4.

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

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

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

20 "(3) EDUCATIONAL SCHOLARSHIP. A grant made by a
21 scholarship granting organization to an eligible student to
22 cover all or part of the tuition and mandatory fees for one
23 academic year charged by a qualifying school to the eligible
24 student receiving the scholarship; ~~provided, however, that.~~
25 Subject to the following sentence, an educational scholarship
26 shall not exceed six thousand dollars (\$6,000) for an
27 elementary school student, eight thousand dollars (\$8,000) for

1 a middle school student, or ten thousand dollars (\$10,000) for
2 a high school student per academic year. The term does not
3 include a lump sum, block grant, or similar payment by a
4 scholarship granting organization to a qualifying school that
5 assigns the responsibility in whole or in part for determining
6 the eligibility of scholarship recipients to the qualifying
7 school or any person or entity other than the scholarship
8 granting organization.

9 "(4) ELIGIBLE STUDENT.

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

11 "1. Is a member of a family whose total annual
12 income the calendar year before he or she receives an
13 educational scholarship under this program does not exceed 185
14 percent of the federal poverty level, the federally recognized
15 threshold for receiving free or reduced priced lunch, as
16 established from time to time by the U.S. Department of Health
17 and Human Services.

18 "2. Was eligible to attend a public school in the
19 preceding semester or is starting school in Alabama for the
20 first time.

21 "3. Resides in Alabama while receiving an
22 educational scholarship.

23 "b. A scholarship granting organization shall
24 determine the eligibility of a student under subparagraph 1.
25 of paragraph a. every other academic year in which a student
26 receives an educational scholarship; provided that if the
27 annual income of the family of a student who has received at

1 least one educational scholarship exceeds 185 percent of the
2 federal poverty level, the existing student shall remain
3 eligible to receive educational scholarships until and unless
4 the annual income of the family of the student exceeds 275
5 percent of the federal poverty level; provided, further that
6 no student who has received at least one educational
7 scholarship shall be eligible to receive educational
8 scholarships if the annual income of his or her family exceeds
9 275 percent of the federal poverty level. For purposes of
10 determining the eligibility of a student who is a foster
11 child, the income of the family of a foster child is not
12 subject to limitation.

13 ~~"(5) FAILING SCHOOL. A public K-12 school that is~~
14 ~~either of the following:~~

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

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

21 ~~"(6) (5) FAMILY. A group of two or more people~~
22 ~~related by birth, marriage, or adoption, including foster~~
23 ~~children, who reside together.~~

24 ~~"(7) (6) FLEXIBILITY CONTRACT. A school flexibility~~
25 ~~contract between the local school system and the State Board~~
26 ~~of Education wherein a local school system may apply for~~
27 ~~programmatic flexibility or budgetary flexibility, or both,~~

1 from state laws, regulations, and policies, including
2 regulations and policies promulgated by the State Board of
3 Education and the State Department of Education.

4 "~~(8)~~(7) INNOVATION PLAN. The request of a local
5 school system for flexibility and plan for annual
6 accountability measures and five-year targets for all
7 participating schools within the school system.

8 "~~(9)~~(8) LOCAL BOARD OF EDUCATION. A city or county
9 board of education that exercises management and control of a
10 local school system pursuant to state law.

11 "~~(10)~~(9) LOCAL SCHOOL SYSTEM. A public agency that
12 establishes and supervises one or more public schools within
13 its geographical limits pursuant to state law.

14 "~~(11)~~(10) NONPUBLIC SCHOOL. Any nonpublic or private
15 school, including parochial schools, not under the
16 jurisdiction of the State Superintendent of Education and the
17 State Board of Education, providing educational services to
18 children. A nonpublic school provides education to elementary
19 or secondary, or both, students and has notified the
20 Department of Revenue of its intention to participate in the
21 scholarship program and comply with the requirements of the
22 scholarship program. A nonpublic school does not include home
23 schooling.

24 "~~(12)~~(11) PARENT. The parent or guardian of a
25 student, with authority to act on behalf of the student. For
26 purposes of Section 16-6D-8, the parent or guardian shall

1 claim the student as a dependent on his or her Alabama state
2 income tax return.

3 "~~(13)~~ (12) QUALIFYING SCHOOL.

4 "a. Either a public school outside of the resident
5 school district that is not ~~considered failing an~~
6 underperforming school within the meaning of subdivision ~~(5)~~
7 (14) or any nonpublic school as defined in subdivision ~~(11)~~
8 (10) and that satisfies the requirements of this subdivision.
9 A qualifying nonpublic school shall be accredited by one of
10 the six regional accrediting agencies or the National Council
11 for Private School Accreditation, AdvancEd, the American
12 Association of Christian Schools, or one of their partner
13 accrediting agencies. A nonpublic school shall have three
14 years from the later of the date the nonpublic school notified
15 the Department of Revenue of its intent to participate in the
16 scholarship program or June 10, 2015, to obtain the required
17 accreditation and shall thereafter maintain accreditation as
18 required by this subdivision. During the three-year period
19 described in the immediately preceding sentence, a nonpublic
20 school that is not accredited shall satisfy all of the
21 following conditions until the nonpublic school obtains
22 accreditation:

23 "1. Has been in existence for at least three years.

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

26 "3. Has a minimum 180-day school year, or its hourly
27 equivalent.

1 "4. Has a day length of at least six and one-half
2 hours.

3 "5. Requires all students to take the Stanford
4 Achievement Test, or its equivalent.

5 "6. Requires all candidates for graduation to take
6 the American College Test before graduation.

7 "7. Requires students in high school in grades nine
8 through 12 to earn a minimum of 24 credits before graduating,
9 including 16 credits in core subjects, and each awarded credit
10 shall consist of a minimum of 140 instructional hours.

11 "8. Does not subject special education students to
12 the same testing or curricular requirements as regular
13 education students if it is not required in the individual
14 plan for the student.

15 "9. Maintains a website that describes the school,
16 the instructional program of the school, and the tuition and
17 mandatory fees charged by the school, updated prior to the
18 beginning of each semester.

19 "10. Annually affirms on forms prescribed by the
20 scholarship granting organization and the Department of
21 Revenue its status financially and academically and provide
22 other relative information as required by the scholarship
23 granting organization or as otherwise required in this
24 chapter.

25 "b. A nonpublic school that is not accredited and
26 that has not been in existence for at least three years shall
27 nevertheless be considered a qualifying school if, in addition

1 to satisfying the requirements in subparagraphs 2. to 10.,
2 inclusive, of paragraph a., the nonpublic school operates
3 under the governance of the board of directors or the
4 equivalent thereof of an accredited nonpublic school. For
5 purposes of the immediately preceding sentence, the term
6 governance shall include, but not be limited to, curriculum
7 oversight, personnel and facility management, and financial
8 management. If, at the conclusion of the three-year period in
9 which a nonpublic school is required to obtain accreditation,
10 a nonpublic school is not accredited, the nonpublic school
11 shall not be considered a qualifying school and shall not
12 receive any funds from a scholarship granting organization
13 until the nonpublic school obtains the accreditation required
14 by this subdivision.

15 ~~"(14)~~ (13) SCHOLARSHIP GRANTING ORGANIZATION. An
16 organization that provides or is approved to provide
17 educational scholarships to eligible students attending
18 qualifying schools of their parents' choice.

19 "(14) UNDERPERFORMING SCHOOL. A public K-12 school
20 that is either of the following:

21 "a. Designated as an underperforming school by the
22 State Superintendent of Education.

23 "b. Not exclusively serving a special population of
24 students and listed in the lowest six percent of public K-12
25 schools based on the state standardized assessment in reading
26 and math.

27 "§16-6D-6.

1 "(a) The innovation plan of a local school system
2 shall include, at a minimum, all of the following:

3 "(1) The school year that the local school system
4 expects the school flexibility contract to begin.

5 "(2) The list of state laws, regulations, and
6 policies, including rules, regulations, and policies
7 promulgated by the State Board of Education and the State
8 Department of Education, that the local school system is
9 seeking to waive in its school flexibility contract.

10 "(3) A list of schools included in the innovation
11 plan of the local school system.

12 "(b) A local school system is accountable to the
13 state for the performance of all schools in its system,
14 including innovative schools, under state and federal
15 accountability requirements.

16 "(c) A local school system may not, pursuant to this
17 chapter, waive requirements imposed by federal law,
18 requirements related to the health and safety of students or
19 employees, requirements imposed by ethics laws, requirements
20 imposed by the Alabama Child Protection Act of 1999, Chapter
21 22A of this title, requirements imposed by open records or
22 open meetings laws, requirements related to financial or
23 academic reporting or transparency, requirements designed to
24 protect the civil rights of students or employees,
25 requirements related to the state retirement system or state
26 health insurance plan, or requirements imposed by Act
27 2012-482. This chapter may not be construed to allow a local

1 school system to compensate an employee at an annual amount
2 that is less than the amount the employee would otherwise be
3 afforded through the State Minimum Salary Schedule included in
4 the annual Education Trust Fund Appropriations Act. No local
5 school system shall involuntarily remove any rights or
6 privileges acquired by any employee under the Students First
7 Act of 2011, Chapter 24C of this title. Except as provided for
8 ~~a failing~~ an underperforming school pursuant to subsection
9 (e), no plan or program submitted by a local board of
10 education may be used to deny any right or privilege granted
11 to a new employee pursuant to the Students First Act of 2011.

12 "(d) No provision of this chapter shall be construed
13 or shall be used to authorize the formation of a charter
14 school.

15 "(e) Any provision of subsection (c) to the contrary
16 notwithstanding, nothing in this chapter shall be construed to
17 prohibit the approval of a flexibility contract that gives
18 potential, current, or future employees of ~~a failing~~ an
19 underperforming school within the local school system the
20 option to voluntarily waive any rights or privileges already
21 acquired or that could potentially be acquired as a result of
22 attaining tenure or nonprobationary status, provided, however,
23 that any employee provided this option is also provided the
24 option of retaining or potentially obtaining any rights or
25 privileges provided under the Students First Act, Chapter 24C
26 of this title.

1 "(f) The State Department of Education shall
2 finalize all school data and the local school system shall
3 seek approval of the local board of education before final
4 submission to the State Department of Education and the State
5 Board of Education.

6 "(g) The final innovation plan, as recommended by
7 the local superintendent of education and approved by the
8 local board of education, shall accompany the formal
9 submission of the local school system to the State Department
10 of Education.

11 "(h) Within 60 days of receiving the final
12 submission, the State Superintendent of Education shall decide
13 whether or not the school flexibility contract and the
14 innovation plan should be approved. If the State
15 Superintendent of Education denies a school flexibility
16 contract and innovation plan, he or she shall provide a
17 written explanation for his or her decision to the local board
18 of education. Likewise, a written letter of approval by the
19 State Superintendent of Education shall be provided to the
20 local board of education that submitted the final school
21 flexibility contract and innovation plan.

22 "(i) The State Board of Education shall promulgate
23 any necessary rules and regulations required to implement this
24 chapter including, but not limited to, all of the following:

25 "(1) The specification of timelines for submission
26 and approval of the innovation plan and school flexibility
27 contract of a local school system.

1 "(2) An authorization for the State Department of
2 Education, upon approval by the State Board of Education after
3 periodic review, to revoke a school flexibility contract for
4 noncompliance or nonperformance, or both, by a local school
5 system.

6 "(3) An outline of procedures and necessary steps
7 that a local school system shall follow, upon denial of an
8 original submission, to amend and resubmit an innovation plan
9 and school flexibility contract for approval.

10 "§16-6D-8.

11 "(a) To provide educational flexibility and state
12 accountability for students in ~~failing~~ underperforming
13 schools:

14 "(1) For tax years beginning on and after January 1,
15 2013, an Alabama income tax credit is made available to the
16 parent of a student enrolled in or assigned to attend a
17 ~~failing~~ an underperforming school to help offset the cost of
18 transferring the student to a ~~nonfailing~~ nonunderperforming
19 public school or nonpublic school of the parent's choice. The
20 income tax credit shall be an amount equal to 80 percent of
21 the average annual state cost of attendance for a public K-12
22 student during the applicable tax year or the actual cost of
23 attending a ~~nonfailing~~ nonunderperforming public school or
24 nonpublic school, whichever is less. The actual cost of
25 attending a ~~nonfailing~~ nonunderperforming public school or
26 nonpublic school shall be calculated by adding together any
27 tuition amounts or mandatory fees charged by the school to the

1 student as a condition of enrolling or of maintaining
2 enrollment in the school. The average annual state cost of
3 attendance for a public K-12 student shall be calculated by
4 dividing the state funds appropriated to the Foundation
5 Program pursuant to Section 16-13-231(b) (2) by the total
6 statewide number of pupils in average daily membership during
7 the first 20 scholastic days following Labor Day of the
8 preceding school year. For each student who was enrolled in
9 and attended ~~a failing~~ an underperforming school the previous
10 semester whose parent receives an income tax credit under this
11 section, an amount equal to 20 percent of the average annual
12 state cost of attendance for a public K-12 student during the
13 applicable tax year shall be allocated, for as long as the
14 parent receives the tax credit, to the ~~failing~~ underperforming
15 school from which the student transferred if the student
16 transfers to and remains enrolled in a nonpublic school. No
17 such allocation shall be made in the event the student
18 transfers to or enrolls in a ~~nonfailing~~ nonunderperforming
19 public school. The Department of Education shall determine the
20 best method of ensuring that the foregoing allocation
21 provisions are properly implemented. A parent is allowed a
22 credit against income tax for each taxable year under the
23 terms established in this section. If income taxes owed by
24 such a parent are less than the total credit allowed under
25 this subsection, the taxpayer shall be entitled to a refund or
26 rebate, as the case may be, equal to the balance of the unused
27 credit with respect to that taxable year.

1 "(2) Any income tax credit due a parent under this
2 section shall be granted or issued to the parent only upon his
3 or her making application therefor, at such time and in such
4 manner as may be prescribed from time to time by the
5 Department of Revenue. The application process shall include,
6 but not be limited to, certification by the parent that the
7 student was enrolled in or was assigned to attend a ~~failing~~ an
8 underperforming school, certification by the parent that the
9 student was subsequently transferred to, and was enrolled and
10 attended, a ~~nonfailing~~ nonunderperforming public school or
11 nonpublic school of the parent's choice, and proof,
12 satisfactory to the Department of Revenue, of the actual cost
13 of attendance for the student at the ~~nonfailing~~
14 nonunderperforming public school or nonpublic school. For
15 purposes of the tax credit authorized by this section, costs
16 of attendance does not include any such costs incurred for an
17 academic year prior to the 2013-2014 academic year. The
18 Department of Revenue shall also prescribe the various methods
19 by which income tax credits are to be issued to taxpayers.
20 Income tax credits authorized by this section shall be paid
21 out of sales tax collections made to the Education Trust Fund,
22 and set aside by the Comptroller in the ~~Failing~~
23 Underperforming Schools Income Tax Credit Account created in
24 subsection (c), in the same manner as refunds of income tax
25 otherwise provided by law, and there is hereby appropriated
26 therefrom, for such purpose, so much as may be necessary to
27 annually pay the income tax credits provided by this section.

1 "(3) An application for an income tax credit
2 authorized by this section shall be filed with the Department
3 of Revenue within the time prescribed for filing petitions for
4 refund under Section 40-2A-7.

5 "(4) The Department of Revenue shall promulgate
6 reasonable rules to effectuate the intent of this subsection.

7 "(b) (1) The parent of a public school student may
8 request and receive an income tax credit pursuant to this
9 section to reimburse the parent for costs associated with
10 transferring the student from ~~a failing~~ an underperforming
11 school to a ~~nonfailing~~ nonunderperforming public school or
12 nonpublic school of the parent's choice, in any of the
13 following circumstances:

14 "a. By assigned school attendance area, if the
15 student spent the prior school year in attendance at ~~a failing~~
16 an underperforming school and the attendance of the student
17 occurred during a school year in which the designation was in
18 effect.

19 "b. The student was in attendance elsewhere in the
20 Alabama public school system and was assigned to ~~a failing~~ an
21 underperforming school for the next school year.

22 "c. The student was notified that he or she was
23 assigned to ~~a failing~~ an underperforming school for the next
24 school year.

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

1 "(3) For the purposes of continuity of educational
2 choice, the tax credit shall be available to parents for those
3 grade levels of the ~~failing~~ underperforming school from which
4 the student transferred. The parent of a student who transfers
5 from ~~a failing~~ an underperforming school may receive income
6 tax credits for those grade levels enrolled in and attended in
7 the ~~nonfailing~~ nonunderperforming public school or nonpublic
8 school of the parent's choice transferred to that were
9 included in the ~~failing~~ underperforming school from which the
10 student transferred, whether or not the ~~failing~~
11 underperforming school becomes a ~~nonfailing~~ nonunderperforming
12 school during those years. The parent of such a student shall
13 no longer be eligible for the income tax credit after the
14 student completes the highest grade level in which he or she
15 would otherwise have been enrolled at the ~~failing~~
16 underperforming school. Notwithstanding the foregoing, as long
17 as the student remains enrolled in or assigned to attend ~~a~~
18 ~~failing~~ an underperforming school, the parent may again
19 transfer the student to a ~~nonfailing~~ nonunderperforming public
20 school or nonpublic school of the parent's choice and request
21 and receive an income tax credit as provided in this section.

22 "(4) A local school system, for each student
23 enrolled in or assigned to ~~a failing~~ an underperforming
24 school, shall do all of the following:

25 "a. Timely notify the parent of the student of all
26 options available under this section as soon as the school of

1 attendance is designated as ~~a failing~~ an underperforming
2 school.

3 "b. Offer the parent of the student an opportunity
4 to enroll the student in another public school within the
5 local school system that is not ~~a failing~~ an underperforming
6 school or ~~a failing~~ an underperforming school to which the
7 student has been assigned.

8 "(5) The parent of a student enrolled in or assigned
9 to a school that has been designated as ~~a failing~~ an
10 underperforming school, who decides to transfer the student to
11 a ~~nonfailing~~ nonunderperforming public school, shall first
12 attempt to enroll the student in a ~~nonfailing~~
13 nonunderperforming public school within the same local system
14 in which the student is already enrolled or assigned to attend
15 before attempting to enroll the student in a ~~nonfailing~~
16 nonunderperforming public school that has available space in
17 any other local school system in the state. A local school
18 system may accept the student on whatever terms and conditions
19 the system establishes and report the student for purposes of
20 the local school system's funding pursuant to the Foundation
21 Program.

22 "(6) For students in the local school system who are
23 participating in the tax credit program, the local school
24 system shall provide locations and times to take all statewide
25 assessments required by law.

26 "(7) Students with disabilities who are eligible to
27 receive services from the local school system under federal or

1 state law, and who participate in the tax credit program,
2 remain eligible to receive services from the local school
3 system as provided by federal or state law.

4 "(8) If a parent enrolls a student in a ~~nonfailing~~
5 nonunderperforming public school within the same local school
6 system, and that system provides transportation services for
7 other enrolled students, transportation costs to the
8 ~~nonfailing~~ nonunderperforming public school shall be the
9 responsibility of the local school system. Local school
10 systems may negotiate transportation options with a parent to
11 minimize system costs. If a parent enrolls a student in a
12 nonpublic school or in a ~~nonfailing~~ nonunderperforming public
13 school within another local school system, regardless of
14 whether that system provides transportation services for other
15 enrolled students, transportation of the student shall be the
16 responsibility of the parent.

17 "(9) The State Department of Education shall
18 promulgate reasonable rules to effectuate the intent of this
19 subsection. Rules shall include penalties for noncompliance.

20 "(c) There is created within the Education Trust
21 Fund a separate account named the Failing Schools Income Tax
22 Credit Account. Commencing on the effective date of the act
23 amending this subsection, the name of the fund shall be
24 changed to the Underperforming Schools Income Tax Credit
25 Account. The Commissioner of Revenue shall certify to the
26 Comptroller the amount of income tax credits due to parents
27 under this section and the Comptroller shall transfer into the

1 ~~Failing~~ Underperforming Schools Income Tax Credit Account only
2 the amount from sales tax revenues within the Education Trust
3 Fund that is sufficient for the Department of Revenue to use
4 to cover the income tax credits for the applicable tax year.
5 The Commissioner of Revenue shall distribute the funds in the
6 ~~Failing~~ Underperforming Schools Income Tax Credit Account to
7 parents pursuant to this section.

8 "(d) (1) Nothing in this section or chapter shall be
9 construed to force any public school, school system, or school
10 district or any nonpublic school, school system, or school
11 district to enroll any student.

12 "(2) A public school, school system, or school
13 district or any nonpublic school, school system, or school
14 district may develop the terms and conditions under which it
15 will allow a student whose parent receives an income tax
16 credit pursuant to this section to be enrolled, but such terms
17 and conditions may not discriminate on the basis of the race,
18 gender, religion, color, disability status, or ethnicity of
19 the student or of the student's parent.

20 "(3) Nothing in this section shall be construed to
21 authorize the violation of or supersede the authority of any
22 court ruling that applies to the public school, school system,
23 or school district, specifically any federal court order
24 related to the desegregation of the local school system's
25 student population.

26 "§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 married couple filing jointly, a taxpayer subject
4 to the corporate income tax levied by Chapter 18 of Title 40,
5 an Alabama S corporation as defined in Section 40-18-160, or a
6 Subchapter K entity, a resident trust, a nonresident trust, a
7 resident estate or a nonresident estate, each as defined in
8 Section 40-18-1, may claim a credit against the individual or
9 corporate income tax levied by Chapter 18, Title 40, against
10 the utility gross receipts tax levied by Article 3, Chapter
11 21, Title 40, or against any combination thereof for a
12 contribution made to a scholarship granting organization. If
13 the income tax credit is claimed by an Alabama S corporation
14 or Subchapter K entity, the credit shall pass through to and
15 may be claimed by any taxpayer eligible to claim a credit
16 under this subdivision who is a shareholder, partner, or
17 member thereof, based on the taxpayer's pro rata or
18 distributive share, respectively, of the credit.

19 "(2) The income tax credit may be claimed by an
20 individual taxpayer or a married couple filing jointly in an
21 amount equal to 100 percent of the total contributions the
22 taxpayer made to a scholarship granting organization for
23 educational scholarships during the taxable year for which the
24 credit is claimed, up to ~~50~~ 100 percent of the tax liability
25 of the individual taxpayer or married couple filing jointly,
26 not to exceed ~~fifty thousand dollars (\$50,000)~~ one hundred
27 thousand dollars (\$100,000) per individual taxpayer or married

1 couple filing jointly. For purposes of this section, an
2 individual taxpayer includes an individual who is a
3 shareholder of an Alabama S corporation or a partner or member
4 of a Subchapter K entity that made a contribution to a
5 scholarship granting organization.

6 "(3) The income tax credit may be claimed by a
7 taxpayer subject to the Alabama corporate income tax in an
8 amount equal to 100 percent of the total contributions the
9 taxpayer made to a scholarship granting organization for
10 educational scholarships during the taxable year for which the
11 credit is claimed, up to ~~50~~ 75 percent of the tax liability of
12 the taxpayer.

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

18 "(5) For any taxable year beginning on or after
19 January 1, 2017, a taxpayer required to make quarterly
20 estimated payments of income tax may offset such payments with
21 tax credits available under this chapter to the extent of
22 donations actually made. A taxpayer may make its full donation
23 to a scholarship granting organization in one payment or may
24 pay its donation in installments, so long as the full donation
25 is made during the taxable year of the taxpayer set forth in
26 the system for tracking scholarship donations and credits of
27 the Department of Revenue.

1 "(6) Commencing on January 1, 2017, a utility gross
2 receipts tax credit may be claimed by a taxpayer subject to
3 the utility gross receipts tax paid of at least one hundred
4 thousand dollars (\$100,000) in aggregate utility gross
5 receipts taxes during the 12-month period preceding a credit
6 reservation request. A utility gross receipts tax credit may
7 be claimed in an amount equal to 100 percent of the total
8 contributions the taxpayer made to a scholarship granting
9 organization for educational scholarships during the taxable
10 year for which the credit is claimed, up to 75 percent of the
11 actual utility gross receipts tax liability of the taxpayer
12 during the 12-month period following each credit reservation
13 granted a taxpayer.

14 "(7)a. In order to claim a credit against utility
15 gross receipts tax payments under this section, a taxpayer
16 meeting the requirements of subdivision (6) as determined by
17 the Department of Revenue is required to have a utility
18 privilege license tax direct pay permit. A taxpayer that does
19 not have a utility privilege license tax direct pay permit may
20 file an application for a utility privilege license tax direct
21 pay permit at any time. Upon receipt of an application for a
22 direct pay permit from a taxpayer intending to make a donation
23 to a scholarship granting organization, the Department of
24 Revenue shall determine whether the taxpayer meets the
25 requirements of subdivision (6) and, if the taxpayer satisfies
26 the requirements of subdivision (6), the Department of Revenue
27 shall issue a utility privilege license tax direct pay permit

1 to the applicant. The application shall be made in a manner
2 prescribed by the Department of Revenue. A taxpayer shall
3 provide a copy of the utility direct pay permit to each
4 utility provider from whom the taxpayer receives services. A
5 taxpayer shall be required to report and pay all utility taxes
6 due directly to the Department of Revenue in a manner
7 prescribed by the Department of Revenue. Nothing in this
8 chapter shall be construed to prevent or restrict a taxpayer
9 that does not intend to make a donation to a scholarship
10 granting organization, or who does not satisfy the
11 requirements of subdivision (6), from applying for or using a
12 direct pay permit without an ability to claim any credits
13 against utility gross receipts tax payments under this
14 section.

15 "b. A taxpayer holding a direct pay permit shall
16 notify the Department of Revenue of each donation to be made
17 to a scholarship granting organization pursuant to procedures
18 established by the Department of Revenue. To the extent
19 credits are available, the Department of Revenue shall reserve
20 credits for a taxpayer and provide written confirmation
21 thereof. A taxpayer may make its full donation to a
22 scholarship granting organization in one payment or may pay
23 its donation in installments.

24 "c. Upon receipt of a donation from a taxpayer, a
25 scholarship granting organization shall submit to the
26 Department of Revenue certification of a donation received
27 from a taxpayer under this subdivision pursuant to procedures

1 established by the Department of Revenue within 10 business
2 days after receipt of each donation.

3 "d. Upon receipt of the certification from the
4 scholarship granting organization described in paragraph c.,
5 the Department of Revenue shall provide written confirmation
6 to the taxpayer within 10 business days that the reserved
7 credits of the taxpayer in the amount of donations actually
8 made and not yet claimed are eligible to be utilized on its
9 monthly utility direct pay return. A taxpayer may not utilize
10 a credit against the utility gross receipts tax until such
11 time as the Department of Revenue provides the notification
12 described in the previous sentence.

13 "~~(5)~~(8)a. The cumulative amount of tax credits
14 issued pursuant to ~~subdivision (2) and subdivision (3)~~ this
15 section shall not exceed thirty million dollars (\$30,000,000)
16 annually, based on the calendar year. Each year, the
17 Department of Revenue shall set aside fifteen million dollars
18 (\$15,000,000) of tax credits to be claimed exclusively by
19 individual taxpayers or by married couples filing jointly. Any
20 unclaimed credits set aside for individual taxpayers or
21 married couples filing jointly during each calendar year shall
22 be made available to a taxpayer subject to the utility gross
23 receipts tax until January 31 of the following year to offset
24 utility gross receipts tax in the following year pursuant to
25 procedures established by the Department of Revenue.

26 "b. A taxpayer making one or more otherwise
27 tax-creditable contributions before the due date, with

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

20 "~~(6)~~ (9) No credit may be claimed for a contribution
21 made to a scholarship granting organization if the
22 contribution is restricted or conditioned in any way by the
23 donor including, but not limited to, requiring the scholarship
24 granting organization to direct all or part of the
25 contribution to a particular qualifying school or to grant an
26 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 "f. Ensure that at least 95 percent of their revenue
25 from donations is expended on educational scholarships, and
26 that all revenue from interest or investments is expended on
27 educational scholarships. A scholarship granting organization

1 may expend up to five percent of its revenue from donations on
2 administrative and operating expenses in the calendar year of
3 the donation or in any subsequent calendar year.

4 "g. Ensure that scholarship funds on hand at the
5 beginning of a calendar year are expended on educational
6 scholarships by the end of the academic year ending within the
7 next succeeding calendar year. Any scholarship funds on hand
8 at the beginning of a calendar year that are not expended on
9 educational scholarships by the end of the academic year
10 ending within the next succeeding calendar year shall be
11 turned over to and deposited with the State Department of
12 Education for the benefit of its At-Risk Student Program to be
13 distributed to local boards of education on the basis
14 determined by the State Department of Education in furtherance
15 of support to underperforming schools.

16 "h. Ensure that at least 75 percent of first-time
17 recipients of educational scholarships were not continuously
18 enrolled in a private school during the previous academic
19 year.

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

25 "j. Ensure that educational scholarships are
26 portable during the academic year and can be used at any
27 qualifying school that accepts the eligible student according

1 to the wishes of the parent. If an eligible student transfers
2 to another qualifying school during an academic year, the
3 educational scholarship amount may be prorated.

4 "k. Publicly report to the Department of Revenue by
5 September 1 of each year all of the following information
6 prepared by a certified public accountant regarding their
7 educational scholarships funded in the previous academic year:

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

10 "2. The total number and total dollar amount of
11 contributions received during the previous academic year.

12 "3. The total number and total dollar amount of
13 educational scholarships awarded and funded during the
14 previous academic year, the total number and total dollar
15 amount of educational scholarships awarded and funded during
16 the previous academic year for students qualifying for the
17 federal free and reduced-price lunch program, except as
18 provided in paragraph b. of subdivision (4) of Section
19 16-6D-4, and the percentage of first-time recipients of
20 educational scholarships who were enrolled in a public school
21 during the previous academic year.

22 "l. Publicly report to the Department of Revenue, by
23 the 15th day after the close of each calendar quarter, all of
24 the following information about educational scholarships
25 granted during the quarter:

26 "1. The total number of scholarships awarded and
27 funded.

1 "2. The names of the qualifying schools that
2 received funding for educational scholarships, the total
3 amount of funds paid to each qualifying school, and the total
4 number of scholarship recipients enrolled in each qualifying
5 school.

6 "3. The total number of eligible students zoned to
7 attend ~~a failing~~ an underperforming school who received
8 educational scholarships from the scholarship granting
9 organization.

10 "4. The total number of first time scholarship
11 recipients who were continuously enrolled in a nonpublic
12 school prior to receiving an educational scholarship from that
13 scholarship granting organization.

14 "m. Ensure that educational scholarships are not
15 provided for eligible students to attend a school with ~~paid~~
16 staff or board members, or relatives thereof, in common with
17 the scholarship granting organization.

18 "n. Ensure that educational scholarships are
19 provided in a manner that does not discriminate based on the
20 gender, race, or disability status of the scholarship
21 applicant or his or her parent.

22 "o. Ensure that educational scholarships are
23 provided only to eligible students who are zoned to attend ~~a~~
24 ~~failing~~ an underperforming school so that the eligible student
25 can attend a qualifying school. To ensure compliance with the
26 immediately preceding sentence, the local board of education
27 for the county or municipality in which an eligible student

1 applying for an educational scholarship resides, upon written
2 request by a parent, shall provide written verification that a
3 particular address is in the attendance zone of a specified
4 public school. The State Department of Education shall provide
5 written verification of enrollment in ~~a failing~~ an
6 underperforming school under this chapter. With respect to
7 first time educational scholarship recipients, scholarship
8 granting organizations shall give priority to eligible
9 students zoned to attend ~~failing~~ underperforming schools over
10 eligible students not zoned to attend ~~failing~~ underperforming
11 schools. Any scholarship funds unaccounted for on July 31st of
12 each calendar year may be made available to eligible students
13 to defray the costs of attending a qualifying school, whether
14 or not the student is zoned to attend ~~a failing~~ an
15 underperforming school. Any provision of this section to the
16 contrary notwithstanding, once an eligible student receives an
17 educational scholarship under this program, scholarship funds
18 may be made available to the student for educational
19 scholarships until the student graduates from high school or
20 reaches 19 years of age, regardless of whether the student is
21 zoned to attend ~~a failing~~ an underperforming school, subject
22 to the income eligibility requirements of paragraph b. of
23 subdivision (4) of Section 16-6D-4.

24 "p. Ensure that no donations are directly made to
25 benefit specifically designated scholarship recipients or to
26 particular qualifying schools.

1 "q. Submit to the Department of Revenue annual
2 verification of the scholarship granting organization's
3 policies and procedures used to determine scholarship
4 eligibility. The verification shall confirm that the
5 scholarship granting organization, and not one or more
6 qualifying schools accepting educational scholarship
7 recipients or scholarship funds, is determining whether
8 scholarship applicants are eligible to receive educational
9 scholarships. The verification shall also confirm that the
10 scholarship granting organization is giving priority to
11 receive an educational scholarship to eligible students zoned
12 to attend ~~failing~~ underperforming schools.

13 "r. Submit to the Department of Revenue annual
14 verification that none of its actions or policies restricts a
15 parent's educational choice by limiting or prohibiting the
16 enrollment of eligible students in a qualifying school if
17 those eligible students received educational scholarships from
18 other scholarship granting organizations.

19 "(2) Financial accountability standards.

20 "a. All scholarship granting organizations shall
21 demonstrate their financial accountability by ~~doing all of the~~
22 ~~following:~~ 1. ~~Annually~~ annually submitting to the Department
23 of Revenue ~~a financial information report~~ audited financial
24 statements for the scholarship granting organization ~~that~~
25 ~~complies with uniform financial accounting standards~~
26 ~~established by the Department of Revenue and conducted by a~~
27 ~~certified public accountant~~ prepared by a certified public

1 accountant or firm of certified public accountants in
2 accordance with generally accepted accounting principles as in
3 effect from time to time.

4 ~~"2. Having the auditor certify that the report is~~
5 ~~free of material misstatements.~~

6 "b. All qualifying nonpublic schools shall
7 demonstrate financial viability, if they are to receive
8 donations of fifty thousand dollars (\$50,000) or more during
9 the academic year, by doing either of the following:

10 "1. Filing with the scholarship granting
11 organization prior to receipt of the first educational
12 scholarship payment for that academic year a surety bond
13 payable to the scholarship granting organization in an amount
14 equal to the aggregate amount of scholarship funds expected to
15 be received during the academic year.

16 "2. Filing with the scholarship granting
17 organization prior to receipt of the first educational
18 scholarship payment for that academic year financial
19 information that demonstrates the financial viability of the
20 qualifying nonpublic school.

21 "(c) (1) Each scholarship granting organization shall
22 annually collect and submit to the Department of Revenue with
23 the annual report required by paragraph k. of subdivision (1)
24 of subsection (b) written verification from qualifying
25 nonpublic schools that accept its educational scholarship
26 students that those schools do all of the following:

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

3 "b. Hold a valid occupancy permit if required by the
4 municipality.

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

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

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

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

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

26 "(3) Academic accountability standards. There shall
27 be sufficient information about the academic impact

1 educational scholarship tax credits have on students
2 participating in the tax credit scholarship program in order
3 to allow parents and taxpayers to measure the achievements of
4 the tax credit scholarship program, and therefore:

5 "a. Each scholarship granting organization shall
6 ensure that qualifying schools that accept its educational
7 scholarship students shall do all of the 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 students receiving an educational scholarship in grades that
12 require testing under the accountability testing laws of the
13 state for public schools, in order that the state can compare
14 the academic achievement and learning gains of students
15 receiving educational scholarships with students of the same
16 socioeconomic and educational backgrounds who are taking the
17 state achievement tests or nationally norm-referenced tests.

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

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

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

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

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

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

14 "b.1. The Department of Revenue shall select an
15 independent research organization, which may be a public or
16 private entity or university, to analyze the results of the
17 testing required by paragraph a. every other academic year.
18 The cost of analyzing and reporting on the test results to the
19 Department of Revenue by the independent research organization
20 shall be borne by all scholarship granting organizations in
21 proportion to the total scholarship donations received for the
22 two calendar years prior to the report being published.
23 Scholarship granting organizations may receive and use funds
24 from outside sources to pay for its share of the biennial
25 report.

26 "2. The independent research organization shall
27 report to the Department of Revenue every other year on the

1 learning gains of students receiving educational scholarships
2 and the report shall be aggregated by the grade level, gender,
3 family income level, number of years of participation in the
4 tax credit scholarship program, and race of the student
5 receiving an educational scholarship. The report shall also
6 include, to the extent possible, a comparison of the learning
7 gains of students participating in the tax credit scholarship
8 program to the statewide learning gains of public school
9 students with socioeconomic and educational backgrounds
10 similar to those students participating in the tax credit
11 scholarship program.

12 "3. The first report under this paragraph shall be
13 submitted to the Department of Revenue by September 1, 2016.
14 Each biennial report thereafter shall be submitted to the
15 Department of Revenue on September 1 of the year the report is
16 due. All biennial reports required by this paragraph shall be
17 published on the website of the Department of Revenue.

18 "4. Each scholarship granting organization shall
19 collect all test results from qualifying schools accepting its
20 scholarship recipients and turn over such test results to the
21 independent research organization described in this paragraph
22 by August 15 of each calendar year.

23 "5. The sharing and reporting of student learning
24 gain data under this paragraph shall conform to the
25 requirements of the Family Educational Rights and Privacy Act,
26 20 U.S.C. § 1232g., and shall be for the sole purpose of
27 creating the biennial report required by this paragraph. All

1 parties shall preserve the confidentially of such information
2 as required by law. The biennial report shall not disaggregate
3 data to a level that could identify qualifying schools
4 participating in the tax credit scholarship program or
5 disclose the academic level of individual students.

6 "6. At the same time the biennial report under
7 paragraph 2 is submitted to the Department of Revenue, it
8 shall be submitted to the Chair of the Senate Education Policy
9 Committee and the Chair of the House Education Policy
10 Committee.

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

13 "(2) The Department of Revenue shall provide a
14 standardized format for a receipt to be issued by a
15 scholarship granting organization to a taxpayer to indicate
16 the value of a contribution received. The Department of
17 Revenue shall require a taxpayer to provide a copy of the
18 receipt when claiming the tax credit pursuant to this section.

19 "(3) The Department of Revenue shall provide a
20 standardized format for a scholarship granting organization to
21 report the information required in paragraphs k. and l. of
22 subdivision (1) of subsection (b).

23 "(4) The Department of Revenue ~~may, or an agent of~~
24 the Department of Revenue, shall conduct ~~either a financial~~
25 ~~review or audit of a scholarship granting organization~~ an
26 audit of each scholarship granting organization to determine
27 compliance with administrative and financial accountability

1 standards on a triennial basis, beginning with the taxable
2 year of the scholarship granting organization ending in 2017.
3 The Department of Revenue may contract with a certified public
4 accountant or firm of certified public accountants to conduct
5 audits of scholarship granting organizations pursuant to this
6 subdivision. The Department of Revenue shall establish
7 guidelines for the performance of audits under this
8 subdivision, and shall award contracts for the performance of
9 the audits in accordance with state law. The actual cost to
10 the Department of Revenue of each audit shall be reimbursed by
11 each scholarship granting organization. Audits conducted
12 pursuant to this subdivision shall be delivered within 180
13 days after the end of each taxable year with respect to which
14 they are due.

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

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

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

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

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

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

16 "(3) All qualifying nonpublic schools participating
17 in the tax credit scholarship program shall maintain a website
18 that describes the school, the instructional program of the
19 school, and the tuition and mandatory fees charged by the
20 school, updated prior to the beginning of each semester.

21 "(4) The amount of a scholarship awarded a student
22 to attend a nonpublic school may not exceed the total sum of
23 tuition and mandatory fees normally charged a student to
24 attend the nonpublic school for the same attendance period.
25 The amount of a scholarship awarded a student to attend a
26 public school may not exceed the total state appropriation

1 provided for a student to attend the public school for the
2 same attendance period.

3 "(f) The income tax credit provided in this section
4 may be first claimed for the 2013 tax year but may not be
5 claimed for any tax year prior to the 2013 tax year.

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

15 "(2) A public school, school system, or school
16 district or any nonpublic school, school system, or school
17 district may develop the terms and conditions under which it
18 will allow a student who receives a scholarship from a
19 scholarship granting organization pursuant to this section to
20 be enrolled, but such terms and conditions may not
21 discriminate on the basis of the race, gender, religion,
22 color, disability status, or ethnicity of the student or of
23 the student's parent.

24 "(3) Nothing in this section shall be construed to
25 authorize the violation of or supersede the authority of any
26 court ruling that applies to the public school, school system,
27 or school district, specifically any federal court order

1 related to the desegregation of the local school system's
2 student population.

3 "(h) Nothing in this chapter shall affect or change
4 the athletic eligibility rules of student athletes governed by
5 the Alabama High School Athletic Association or similar
6 association."

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

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Senate

Read for the first time and referred to the Senate
committee on Finance and Taxation Education 09-FEB-17

Read for the second time and placed on the calen-
dar..... 16-FEB-17

Read for the third time and passed as amended 23-FEB-17

Yeas 17
Nays 15

Patrick Harris
Secretary