

1 SB123
2 181918-1
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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8 SYNOPSIS: This bill would amend the Alabama
9 Accountability Act of 2013.

10 This bill would provide further for
11 definitions.

12 This bill would make income tax credits
13 available to trusts and estates.

14 This bill would increase the cap on income
15 tax credits for donations to scholarship granting
16 organizations.

17 This bill would create a credit against
18 utility gross receipts tax liability for donations
19 to scholarship granting organizations.

20 This bill would establish procedures for
21 claiming a credit against the utility gross
22 receipts tax.

23 This bill would authorize scholarship
24 granting organizations to assist eligible students
25 with qualifying expenses.

26 This bill would also require scholarship
27 granting organizations to obtain audited financial

1 statements annually and would require the
2 Department of Revenue, or its agent, to perform an
3 audit of each scholarship granting organization at
4 least triennially.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

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

1 Section 1. Sections 16-6D-3, 16-6D-4, 16-6D-6,
2 16-6D-8, and 16-6D-9 of the Code of Alabama 1975, are amended
3 to read as follows:

4 "§16-6D-3.

5 "(a) The Legislature finds and declares all of the
6 following:

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

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

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

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

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

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

4 "(3) Encourage innovation in education by providing
5 local school systems and school administrators with greater
6 control over decisions including, but not limited to,
7 budgetary matters, staffing, personnel, scheduling, and
8 educational programming, including curriculum and instruction.

9 "(4) Provide financial assistance through an income
10 tax credit to a parent who transfers a student from ~~a failing~~
11 an underperforming public school to a ~~nonfailing~~
12 nonunderperforming public school or nonpublic school of the
13 parent's choice.

14 "(5) Provide funding for scholarships to eligible
15 students through an income tax credit and utility gross
16 receipts tax credit to taxpayers who make donations to
17 scholarship granting organizations.

18 "§16-6D-4.

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

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

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

25 "(3) EDUCATIONAL SCHOLARSHIP. A grant made by a
26 scholarship granting organization to an eligible student to
27 cover all or part of the tuition and mandatory fees for one

1 academic year charged by a qualifying school to the eligible
2 student receiving the scholarship; ~~provided, however, that.~~
3 Subject to the following sentence, an educational scholarship
4 shall not exceed six thousand dollars (\$6,000) for an
5 elementary school student, eight thousand dollars (\$8,000) for
6 a middle school student, or ten thousand dollars (\$10,000) for
7 a high school student per academic year. Commencing on July 1,
8 2017, and for each academic year thereafter, the maximum
9 scholarship amounts set forth in the previous sentence shall
10 be adjusted annually by the cumulative percentage change in
11 the average annual state cost of attendance for a public K-12
12 student described in subdivision (1) of subsection (a) of
13 Section 16-6D-8 for the then current academic year over the
14 immediately preceding academic year as calculated by the
15 Department of Revenue. The term does not include a lump sum,
16 block grant, or similar payment by a scholarship granting
17 organization to a qualifying school that assigns the
18 responsibility in whole or in part for determining the
19 eligibility of scholarship recipients to the qualifying school
20 or any person or entity other than the scholarship granting
21 organization.

22 "(4) ELIGIBLE STUDENT.

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

24 "1. Is a member of a family whose total annual
25 income the calendar year before he or she receives an
26 educational scholarship under this program does not exceed 185
27 percent of the federal poverty level, the federally recognized

1 threshold for receiving free or reduced priced lunch, as
2 established from time to time by the U.S. Department of Health
3 and Human Services.

4 "2. Was eligible to attend a public school in the
5 preceding semester or is starting school in Alabama for the
6 first time.

7 "3. Resides in Alabama while receiving an
8 educational scholarship.

9 "b. A scholarship granting organization shall
10 determine the eligibility of a student under subparagraph 1.
11 of paragraph a. every other academic year in which a student
12 receives an educational scholarship; provided that if the
13 annual income of the family of a student who has received at
14 least one educational scholarship exceeds 185 percent of the
15 federal poverty level, the existing student shall remain
16 eligible to receive educational scholarships until and unless
17 the annual income of the family of the student exceeds 275
18 percent of the federal poverty level; provided, further that
19 no student who has received at least one educational
20 scholarship shall be eligible to receive educational
21 scholarships if the annual income of his or her family exceeds
22 275 percent of the federal poverty level. For purposes of
23 determining the eligibility of a student who is a foster
24 child, the income of the family of the foster child may not be
25 subject to limitation.

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

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

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

7 "~~(6)~~ (5) FAMILY. A group of two or more people
8 related by birth, marriage, or adoption, including foster
9 children, who reside together.

10 "~~(7)~~ (6) FLEXIBILITY CONTRACT. A school flexibility
11 contract between the local school system and the State Board
12 of Education wherein a local school system may apply for
13 programmatic flexibility or budgetary flexibility, or both,
14 from state laws, regulations, and policies, including
15 regulations and policies promulgated by the State Board of
16 Education and the State Department of Education.

17 "~~(8)~~ (7) INNOVATION PLAN. The request of a local
18 school system for flexibility and plan for annual
19 accountability measures and five-year targets for all
20 participating schools within the school system.

21 "~~(9)~~ (8) LOCAL BOARD OF EDUCATION. A city or county
22 board of education that exercises management and control of a
23 local school system pursuant to state law.

24 "~~(10)~~ (9) LOCAL SCHOOL SYSTEM. A public agency that
25 establishes and supervises one or more public schools within
26 its geographical limits pursuant to state law.

1 "~~(11)~~(10) NONPUBLIC SCHOOL. Any nonpublic or private
2 school, including parochial schools, not under the
3 jurisdiction of the State Superintendent of Education and the
4 State Board of Education, providing educational services to
5 children. A nonpublic school provides education to elementary
6 or secondary, or both, students and has notified the
7 Department of Revenue of its intention to participate in the
8 scholarship program and comply with the requirements of the
9 scholarship program. A nonpublic school does not include home
10 schooling.

11 "~~(12)~~(11) PARENT. The parent or guardian of a
12 student, with authority to act on behalf of the student. For
13 purposes of Section 16-6D-8, the parent or guardian shall
14 claim the student as a dependent on his or her Alabama state
15 income tax return.

16 "(12) QUALIFYING EXPENSE. Any expense, other than
17 tuition and mandatory fees, incurred by a parent on behalf of
18 an eligible student that is related to achieving an education
19 at a qualifying school including, but not limited to, the cost
20 of uniforms, textbooks, school supplies, tutoring, summer
21 school, school meals, and transportation.

22 "(13) QUALIFYING SCHOOL.

23 "a. Either a public school outside of the resident
24 school district that is not ~~considered failing~~ an
25 underperforming within the meaning of subdivision ~~(5)~~ (15) or
26 any nonpublic school as defined in subdivision ~~(11)~~ (10) and
27 that satisfies the requirements of this subdivision. A

1 qualifying nonpublic school shall be accredited by one of the
2 six regional accrediting agencies or the National Council for
3 Private School Accreditation, AdvancEd, the American
4 Association of Christian Schools, or one of their partner
5 accrediting agencies. A nonpublic school shall have three
6 years from the later of the date the nonpublic school notified
7 the Department of Revenue of its intent to participate in the
8 scholarship program or June 10, 2015, to obtain the required
9 accreditation and shall thereafter maintain accreditation as
10 required by this subdivision. During the three-year period
11 described in the immediately preceding sentence, a nonpublic
12 school that is not accredited shall satisfy all of the
13 following conditions until the nonpublic school obtains
14 accreditation:

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

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

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

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

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

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

26 "7. Requires students in high school in grades nine
27 through 12 to earn a minimum of 24 credits before graduating,

1 including 16 credits in core subjects, and each awarded credit
2 shall consist of a minimum of 140 instructional hours.

3 "8. Does not subject special education students to
4 the same testing or curricular requirements as regular
5 education students if it is not required in the individual
6 plan for the student.

7 "9. Maintains a website that describes the school,
8 the instructional program of the school, and the tuition and
9 mandatory fees charged by the school, updated prior to the
10 beginning of each semester.

11 "10. Annually affirms on forms prescribed by the
12 scholarship granting organization and the Department of
13 Revenue its status financially and academically and provide
14 other relative information as required by the scholarship
15 granting organization or as otherwise required in this
16 chapter.

17 "b. A nonpublic school that is not accredited and
18 that has not been in existence for at least three years shall
19 nevertheless be considered a qualifying school if, in addition
20 to satisfying the requirements in subparagraphs 2. to 10.,
21 inclusive, of paragraph a., the nonpublic school operates
22 under the governance of the board of directors or the
23 equivalent thereof of an accredited nonpublic school. For
24 purposes of the immediately preceding sentence, the term
25 governance shall include, but not be limited to, curriculum
26 oversight, personnel and facility management, and financial
27 management. If, at the conclusion of the three-year period in

1 which a nonpublic school is required to obtain accreditation,
2 a nonpublic school is not accredited, the nonpublic school
3 shall not be considered a qualifying school and shall not
4 receive any funds from a scholarship granting organization
5 until the nonpublic school obtains the accreditation required
6 by this subdivision.

7 "(14) SCHOLARSHIP GRANTING ORGANIZATION. An
8 organization that provides or is approved to provide
9 educational scholarships to eligible students attending
10 qualifying schools of their parents' choice.

11 "(15) UNDERPERFORMING SCHOOL. A public K-12 school
12 that is either of the following:

13 "a. Designated as an underperforming school by the
14 State Superintendent of Education.

15 "b. Not exclusively serving a special population of
16 students and listed in the lowest six percent of public K-12
17 schools based on the state standardized assessment in reading
18 and math.

19 "§16-6D-6.

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

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

24 "(2) The list of state laws, regulations, and
25 policies, including rules, regulations, and policies
26 promulgated by the State Board of Education and the State

1 Department of Education, that the local school system is
2 seeking to waive in its school flexibility contract.

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

5 "(b) A local school system is accountable to the
6 state for the performance of all schools in its system,
7 including innovative schools, under state and federal
8 accountability requirements.

9 "(c) A local school system may not, pursuant to this
10 chapter, waive requirements imposed by federal law,
11 requirements related to the health and safety of students or
12 employees, requirements imposed by ethics laws, requirements
13 imposed by the Alabama Child Protection Act of 1999, Chapter
14 22A of this title, requirements imposed by open records or
15 open meetings laws, requirements related to financial or
16 academic reporting or transparency, requirements designed to
17 protect the civil rights of students or employees,
18 requirements related to the state retirement system or state
19 health insurance plan, or requirements imposed by Act
20 2012-482. This chapter may not be construed to allow a local
21 school system to compensate an employee at an annual amount
22 that is less than the amount the employee would otherwise be
23 afforded through the State Minimum Salary Schedule included in
24 the annual Education Trust Fund Appropriations Act. No local
25 school system shall involuntarily remove any rights or
26 privileges acquired by any employee under the Students First
27 Act of 2011, Chapter 24C of this title. Except as provided for

1 ~~a failing~~ an underperforming school pursuant to subsection
2 (e), no plan or program submitted by a local board of
3 education may be used to deny any right or privilege granted
4 to a new employee pursuant to the Students First Act of 2011.

5 "(d) No provision of this chapter shall be construed
6 or shall be used to authorize the formation of a charter
7 school.

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

20 "(f) The State Department of Education shall
21 finalize all school data and the local school system shall
22 seek approval of the local board of education before final
23 submission to the State Department of Education and the State
24 Board of Education.

25 "(g) The final innovation plan, as recommended by
26 the local superintendent of education and approved by the
27 local board of education, shall accompany the formal

1 submission of the local school system to the State Department
2 of Education.

3 "(h) Within 60 days of receiving the final
4 submission, the State Superintendent of Education shall decide
5 whether or not the school flexibility contract and the
6 innovation plan should be approved. If the State
7 Superintendent of Education denies a school flexibility
8 contract and innovation plan, he or she shall provide a
9 written explanation for his or her decision to the local board
10 of education. Likewise, a written letter of approval by the
11 State Superintendent of Education shall be provided to the
12 local board of education that submitted the final school
13 flexibility contract and innovation plan.

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

17 "(1) The specification of timelines for submission
18 and approval of the innovation plan and school flexibility
19 contract of a local school system.

20 "(2) An authorization for the State Department of
21 Education, upon approval by the State Board of Education after
22 periodic review, to revoke a school flexibility contract for
23 noncompliance or nonperformance, or both, by a local school
24 system.

25 "(3) An outline of procedures and necessary steps
26 that a local school system shall follow, upon denial of an

1 original submission, to amend and resubmit an innovation plan
2 and school flexibility contract for approval.

3 "§16-6D-8.

4 "(a) To provide educational flexibility and state
5 accountability for students in ~~failing~~ underperforming
6 schools:

7 "(1) For tax years beginning on and after January 1,
8 2013, an Alabama income tax credit is made available to the
9 parent of a student enrolled in or assigned to attend a
10 ~~failing~~ an underperforming school to help offset the cost of
11 transferring the student to a ~~nonfailing~~ nonunderperforming
12 public school or nonpublic school of the parent's choice. The
13 income tax credit shall be an amount equal to 80 percent of
14 the average annual state cost of attendance for a public K-12
15 student during the applicable tax year or the actual cost of
16 attending a ~~nonfailing~~ nonunderperforming public school or
17 nonpublic school, whichever is less. The actual cost of
18 attending a ~~nonfailing~~ nonunderperforming public school or
19 nonpublic school shall be calculated by adding together any
20 tuition amounts or mandatory fees charged by the school to the
21 student as a condition of enrolling or of maintaining
22 enrollment in the school. The average annual state cost of
23 attendance for a public K-12 student shall be calculated by
24 dividing the state funds appropriated to the Foundation
25 Program pursuant to Section 16-13-231(b) (2) by the total
26 statewide number of pupils in average daily membership during
27 the first 20 scholastic days following Labor Day of the

1 preceding school year. For each student who was enrolled in
2 and attended ~~a failing~~ an underperforming school the previous
3 semester whose parent receives an income tax credit under this
4 section, an amount equal to 20 percent of the average annual
5 state cost of attendance for a public K-12 student during the
6 applicable tax year shall be allocated, for as long as the
7 parent receives the tax credit, to the ~~failing~~ underperforming
8 school from which the student transferred if the student
9 transfers to and remains enrolled in a nonpublic school. No
10 such allocation shall be made in the event the student
11 transfers to or enrolls in a ~~nonfailing~~ nonunderperforming
12 public school. The Department of Education shall determine the
13 best method of ensuring that the foregoing allocation
14 provisions are properly implemented. A parent is allowed a
15 credit against income tax for each taxable year under the
16 terms established in this section. If income taxes owed by
17 such a parent are less than the total credit allowed under
18 this subsection, the taxpayer shall be entitled to a refund or
19 rebate, as the case may be, equal to the balance of the unused
20 credit with respect to that taxable year.

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

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

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

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

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

8 "a. By assigned school attendance area, if the
9 student spent the prior school year in attendance at a ~~failing~~
10 an underperforming school and the attendance of the student
11 occurred during a school year in which the designation was in
12 effect.

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

16 "c. The student was notified that he or she was
17 assigned to a ~~failing~~ an underperforming school for the next
18 school year.

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

21 "(3) For the purposes of continuity of educational
22 choice, the tax credit shall be available to parents for those
23 grade levels of the ~~failing~~ underperforming school from which
24 the student transferred. The parent of a student who transfers
25 from a ~~failing~~ an underperforming school may receive income
26 tax credits for those grade levels enrolled in and attended in
27 the ~~nonfailing~~ nonunderperforming public school or nonpublic

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

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

18 "a. Timely notify the parent of the student of all
19 options available under this section as soon as the school of
20 attendance is designated as a ~~failing~~ an underperforming
21 school.

22 "b. Offer the parent of the student an opportunity
23 to enroll the student in another public school within the
24 local school system that is not a ~~failing~~ an underperforming
25 school or a ~~failing~~ an underperforming school to which the
26 student has been assigned.

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

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

19 "(7) Students with disabilities who are eligible to
20 receive services from the local school system under federal or
21 state law, and who participate in the tax credit program,
22 remain eligible to receive services from the local school
23 system as provided by federal or state law.

24 "(8) If a parent enrolls a student in a ~~nonfailing~~
25 nonunderperforming public school within the same local school
26 system, and that system provides transportation services for
27 other enrolled students, transportation costs to the

1 ~~nonfailing~~ nonunderperforming public school shall be the
2 responsibility of the local school system. Local school
3 systems may negotiate transportation options with a parent to
4 minimize system costs. If a parent enrolls a student in a
5 nonpublic school or in a ~~nonfailing~~ nonunderperforming public
6 school within another local school system, regardless of
7 whether that system provides transportation services for other
8 enrolled students, transportation of the student shall be the
9 responsibility of the parent.

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

13 "(c) There is created within the Education Trust
14 Fund a separate account named the Failing Schools Income Tax
15 Credit Account. Commencing on the effective date of the act
16 amending this subsection, the name of the fund shall be
17 changed to the Underperforming Schools Income Tax Credit
18 Account. The Commissioner of Revenue shall certify to the
19 Comptroller the amount of income tax credits due to parents
20 under this section and the Comptroller shall transfer into the
21 ~~Failing~~ Underperforming Schools Income Tax Credit Account only
22 the amount from sales tax revenues within the Education Trust
23 Fund that is sufficient for the Department of Revenue to use
24 to cover the income tax credits for the applicable tax year.
25 The Commissioner of Revenue shall distribute the funds in the
26 ~~Failing~~ Underperforming Schools Income Tax Credit Account to
27 parents pursuant to this section.

1 "(d) (1) Nothing in this section or chapter shall be
2 construed to force any public school, school system, or school
3 district or any nonpublic school, school system, or school
4 district to enroll any student.

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

13 "(3) Nothing in this section shall be construed to
14 authorize the violation of or supersede the authority of any
15 court ruling that applies to the public school, school system,
16 or school district, specifically any federal court order
17 related to the desegregation of the local school system's
18 student population.

19 "§16-6D-9.

20 "(a) (1) An individual taxpayer who files a state
21 income tax return and is not claimed as a dependent of another
22 taxpayer, a taxpayer subject to the corporate income tax
23 levied by Chapter 18 of Title 40, an Alabama S corporation as
24 defined in Section 40-18-160, or a Subchapter K entity, a
25 resident trust, a nonresident trust, a resident estate or a
26 nonresident estate, each as defined in Section 40-18-1, may
27 claim a credit against the individual or corporate income tax

1 levied by Chapter 18, Title 40, against the utility gross
2 receipts tax levied by Article 3, Chapter 21, Title 40, or
3 against any combination thereof for a contribution made to a
4 scholarship granting organization. If the income tax credit is
5 claimed by an Alabama S corporation or Subchapter K entity,
6 the credit shall pass through to and may be claimed by any
7 taxpayer eligible to claim a credit under this subdivision who
8 is a shareholder, partner, or member thereof, based on the
9 taxpayer's pro rata or distributive share, respectively, of
10 the credit.

11 "(2) The income tax credit may be claimed by an
12 individual taxpayer or a married couple filing jointly in an
13 amount equal to 100 percent of the total contributions the
14 taxpayer made to a scholarship granting organization for
15 educational scholarships during the taxable year for which the
16 credit is claimed, up to ~~50~~ 75 percent of the tax liability of
17 the individual taxpayer, not to exceed ~~fifty thousand dollars~~
18 ~~(\$50,000)~~ seventy-five thousand dollars (\$75,000) per
19 individual taxpayer or married couple filing jointly. For
20 purposes of this section, an individual taxpayer includes an
21 individual who is a shareholder of an Alabama S corporation or
22 a partner or member of a Subchapter K entity that made a
23 contribution to a scholarship granting organization.

24 "(3) The income tax credit may be claimed by a
25 taxpayer subject to the Alabama corporate income tax in an
26 amount equal to 100 percent of the total contributions the
27 taxpayer made to a scholarship granting organization for

1 educational scholarships during the taxable year for which the
2 credit is claimed, up to ~~50~~ 75 percent of the tax liability of
3 the taxpayer.

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

9 "(5) For any taxable year beginning on or after
10 January 1, 2017, a taxpayer required to make quarterly
11 estimated payments of income tax may offset such payments with
12 tax credits available under this chapter to the extent of
13 donations actually made. A taxpayer may make its full donation
14 to a scholarship granting organization or may pay its donation
15 in installments, so long as the full donation is made during
16 the taxable year of the taxpayer set forth in the system for
17 tracking scholarship donations and credits of the Department
18 of Revenue.

19 "(6) Commencing on January 1, 2017, a utility gross
20 receipts tax credit may be claimed by a taxpayer subject to
21 the utility gross receipts tax that reasonably expects to have
22 at least one hundred thousand dollars (\$100,000) in aggregate
23 utility gross receipts tax liability during the taxable year
24 for which a credit is claimed. A utility gross receipts tax
25 credit may be claimed in an amount equal to 100 percent of the
26 total contributions the taxpayer made to a scholarship
27 granting organization for educational scholarships during the

1 taxable year for which the credit is claimed, up to 75 percent
2 of the utility gross receipts tax liability of the taxpayer
3 for the applicable taxable year.

4 "(7) In order to claim a credit against utility
5 gross receipts tax payments:

6 "a. A taxpayer shall notify the Department of
7 Revenue of a planned donation, including the total amount of
8 donation to be made to a scholarship granting organization and
9 the taxable year of the taxpayer during which the donation
10 shall be made, pursuant to procedures established by the
11 Department of Revenue.

12 "b. Upon receiving notification of a donation, the
13 Department of Revenue shall issue a certificate of
14 participation to the taxpayer, which shall include the total
15 amount of donation to be made by the taxpayer and the taxable
16 year for which the donation is applicable.

17 "c. A taxpayer may make its full donation to a
18 scholarship granting organization or may pay its donation in
19 installments, so long as the full donation is made during the
20 taxable year of the taxpayer set forth in the certificate of
21 participation. A taxpayer shall submit a copy of its
22 certificate of participation to a scholarship granting
23 organization with each donation made under this paragraph. A
24 taxpayer may not withhold payment under subparagraph d. before
25 actually making its donation.

26 "d. A taxpayer shall submit a copy of its
27 certificate of participation to a utility in connection with

1 each withheld utility gross receipts tax payment and shall be
2 relieved of making payment for its utility gross receipts tax
3 payment until the amount of its donation for a taxable year is
4 recovered.

5 "e. A scholarship granting organization shall submit
6 to the Department of Revenue certification of a donation
7 received from a taxpayer under this subdivision pursuant to
8 procedures established by the Department of Revenue within 10
9 business days of receipt of each donation.

10 "(8) Any provision of law to the contrary
11 notwithstanding, any utility that relies in good faith on a
12 certificate of participation provided by a taxpayer that has
13 been authorized by the Department of Revenue and does not
14 collect utility gross receipts tax payments from a taxpayer is
15 not liable to the Department of Revenue or others for the
16 utility gross receipts tax under Section 40-21-86, or similar
17 provision of law.

18 "~~(5)~~(9) The cumulative amount of tax credits issued
19 pursuant to ~~subdivision (2) and subdivision (3)~~ this section
20 shall not exceed thirty million dollars (\$30,000,000)
21 annually, based on the calendar year. From January 1 through
22 November 30 of each calendar year, the Department of Revenue
23 shall set aside ten million dollars (\$10,000,000) of tax
24 credits to be claimed exclusively by individual taxpayers or
25 by married couples filing jointly. Any unclaimed tax credits
26 available on December 1 of each year may be claimed by any
27 taxpayer. A taxpayer making one or more otherwise

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

21 "~~(6)~~ (10) No credit may be claimed for a contribution
22 made to a scholarship granting organization if the
23 contribution is restricted or conditioned in any way by the
24 donor including, but not limited to, requiring the scholarship
25 granting organization to direct all or part of the
26 contribution to a particular qualifying school or to grant an
27 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 or qualifying expenses. Out of the 95

1 percent of revenue from donations required to be spent on
2 educational scholarships, a scholarship granting organization
3 may choose to expend no more than two percent of its revenue
4 from donations on qualifying expenses. No more than eight
5 hundred dollars (\$800) may be expended for qualifying expenses
6 per eligible student. The maximum amount of qualifying
7 expenses provided in this paragraph shall be adjusted annually
8 by the same percentage as the maximum amount of educational
9 scholarships calculated by the Department of Revenue under
10 subdivision (4) of Section 16-6D-4. A scholarship granting
11 organization may expend up to five percent of its revenue from
12 donations on administrative and operating expenses in the
13 calendar year of the donation or in any subsequent calendar
14 year.

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

1 "h. Ensure that at least 75 percent of first-time
2 recipients of educational scholarships were not continuously
3 enrolled in a private school during the previous academic
4 year.

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

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

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

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

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

24 "3. The total number and total dollar amount of
25 educational scholarships awarded and funded during the
26 previous academic year, the total number and total dollar
27 amount of educational scholarships awarded and funded during

1 the previous academic year for students qualifying for the
2 federal free and reduced-price lunch program, except as
3 provided in paragraph b. of subdivision (4) of Section
4 16-6D-4, and the percentage of first-time recipients of
5 educational scholarships who were enrolled in a public school
6 during the previous academic year.

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

11 "1. The total number of scholarships awarded and
12 funded.

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

18 "3. The total number of eligible students zoned to
19 attend ~~a failing~~ an underperforming school who received
20 educational scholarships from the scholarship granting
21 organization.

22 "4. The total number of first time scholarship
23 recipients who were continuously enrolled in a nonpublic
24 school prior to receiving an educational scholarship from that
25 scholarship granting organization.

26 "m. Ensure that educational scholarships are not
27 provided for eligible students to attend a school with ~~paid~~

1 staff or board members, or relatives thereof, in common with
2 the scholarship granting organization.

3 "n. Ensure that educational scholarships are
4 provided in a manner that does not discriminate based on the
5 gender, race, or disability status of the scholarship
6 applicant or his or her parent.

7 "o. Ensure that educational scholarships are
8 provided only to eligible students who are zoned to attend a
9 ~~failing~~ an underperforming school so that the eligible student
10 can attend a qualifying school. To ensure compliance with the
11 immediately preceding sentence, the local board of education
12 for the county or municipality in which an eligible student
13 applying for an educational scholarship resides, upon written
14 request by a parent, shall provide written verification that a
15 particular address is in the attendance zone of a specified
16 public school. The State Department of Education shall provide
17 written verification of enrollment in a ~~failing~~ an
18 underperforming school under this chapter. With respect to
19 first time educational scholarship recipients, scholarship
20 granting organizations shall give priority to eligible
21 students zoned to attend ~~failing~~ underperforming schools over
22 eligible students not zoned to attend ~~failing~~ underperforming
23 schools. Any scholarship funds unaccounted for on July 31st of
24 each calendar year may be made available to eligible students
25 to defray the costs of attending a qualifying school, whether
26 or not the student is zoned to attend a ~~failing~~ an
27 underperforming school. Any provision of this section to the

1 contrary notwithstanding, once an eligible student receives an
2 educational scholarship under this program, scholarship funds
3 may be made available to the student for educational
4 scholarships until the student graduates from high school or
5 reaches 19 years of age, regardless of whether the student is
6 zoned to attend ~~a failing~~ an underperforming school, subject
7 to the income eligibility requirements of paragraph b. of
8 subdivision (4) of Section 16-6D-4.

9 "p. Ensure that no donations are directly made to
10 benefit specifically designated scholarship recipients or to
11 particular qualifying schools.

12 "q. Submit to the Department of Revenue annual
13 verification of the scholarship granting organization's
14 policies and procedures used to determine scholarship
15 eligibility. The verification shall confirm that the
16 scholarship granting organization, and not one or more
17 qualifying schools accepting educational scholarship
18 recipients or scholarship funds, is determining whether
19 scholarship applicants are eligible to receive educational
20 scholarships. The verification shall also confirm that the
21 scholarship granting organization is giving priority to
22 receive an educational scholarship to eligible students zoned
23 to attend ~~failing~~ underperforming schools.

24 "r. Submit to the Department of Revenue annual
25 verification that none of its actions or policies restricts a
26 parent's educational choice by limiting or prohibiting the
27 enrollment of eligible students in a qualifying school if

1 those eligible students received educational scholarships from
2 other scholarship granting organizations.

3 "(2) Financial accountability standards.

4 "a. All scholarship granting organizations shall
5 demonstrate their financial accountability by ~~doing all of the~~
6 ~~following:~~ 1. ~~Annually~~ annually submitting to the Department
7 of Revenue ~~a financial information report~~ audited financial
8 statements for the scholarship granting organization ~~that~~
9 ~~complies with uniform financial accounting standards~~
10 ~~established by the Department of Revenue and conducted by a~~
11 ~~certified public accountant~~ prepared by a certified public
12 accountant or firm of certified public accountants in
13 accordance with generally accepted accounting principles as in
14 effect from time to time.

15 ~~"2. Having the auditor certify that the report is~~
16 ~~free of material misstatements.~~

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

21 "1. Filing with the scholarship granting
22 organization prior to receipt of the first educational
23 scholarship payment for that academic year a surety bond
24 payable to the scholarship granting organization in an amount
25 equal to the aggregate amount of scholarship funds expected to
26 be received during the academic year.

1 "2. Filing with the scholarship granting
2 organization prior to receipt of the first educational
3 scholarship payment for that academic year financial
4 information that demonstrates the financial viability of the
5 qualifying nonpublic school.

6 "(c) (1) Each scholarship granting organization shall
7 annually collect and submit to the Department of Revenue with
8 the annual report required by paragraph k. of subdivision (1)
9 of subsection (b) written verification from qualifying
10 nonpublic schools that accept its educational scholarship
11 students that those schools do all of the following:

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

14 "b. Hold a valid occupancy permit if required by the
15 municipality.

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

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

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

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

24 "(2) By August 1 of each year, each qualifying
25 nonpublic school shall provide to each scholarship granting
26 organization from which it receives educational scholarships
27 verification that the qualifying nonpublic school is in

1 compliance with the Alabama Child Protection Act of 1999,
2 Chapter 22A of this title. Any qualifying nonpublic school
3 failing to timely provide such annual verification shall be
4 prohibited from participating in the scholarship program. Each
5 scholarship granting organization shall annually submit to the
6 Department of Revenue with the annual report required by
7 paragraph k. of subdivision (1) of subsection (b) copies of
8 the written verifications it receives from each qualifying
9 nonpublic school.

10 "(3) Academic accountability standards. There shall
11 be sufficient information about the academic impact
12 educational scholarship tax credits have on students
13 participating in the tax credit scholarship program in order
14 to allow parents and taxpayers to measure the achievements of
15 the tax credit scholarship program, and therefore:

16 "a. Each scholarship granting organization shall
17 ensure that qualifying schools that accept its educational
18 scholarship students shall do all of the following:

19 "1. Annually administer either the state achievement
20 tests or nationally recognized norm-referenced tests that
21 measure learning gains in math and language arts to all
22 students receiving an educational scholarship in grades that
23 require testing under the accountability testing laws of the
24 state for public schools, in order that the state can compare
25 the academic achievement and learning gains of students
26 receiving educational scholarships with students of the same

1 socioeconomic and educational backgrounds who are taking the
2 state achievement tests or nationally norm-referenced tests.

3 "2. Allow the costs of the testing requirement to be
4 covered by the educational scholarships distributed by the
5 scholarship granting organizations.

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

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

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

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

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

25 "b.1. The Department of Revenue shall select an
26 independent research organization, which may be a public or
27 private entity or university, to analyze the results of the

1 testing required by paragraph a. every other academic year.
2 The cost of analyzing and reporting on the test results to the
3 Department of Revenue by the independent research organization
4 shall be borne by all scholarship granting organizations in
5 proportion to the total scholarship donations received for the
6 two calendar years prior to the report being published.
7 Scholarship granting organizations may receive and use funds
8 from outside sources to pay for its share of the biennial
9 report.

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

23 "3. The first report under this paragraph shall be
24 submitted to the Department of Revenue by September 1, 2016.
25 Each biennial report thereafter shall be submitted to the
26 Department of Revenue on September 1 of the year the report is

1 due. All biennial reports required by this paragraph shall be
2 published on the website of the Department of Revenue.

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

8 "5. The sharing and reporting of student learning
9 gain data under this paragraph shall conform to the
10 requirements of the Family Educational Rights and Privacy Act,
11 20 U.S.C. § 1232g., and shall be for the sole purpose of
12 creating the biennial report required by this paragraph. All
13 parties shall preserve the confidentiality of such information
14 as required by law. The biennial report shall not disaggregate
15 data to a level that could identify qualifying schools
16 participating in the tax credit scholarship program or
17 disclose the academic level of individual students.

18 "6. At the same time the biennial report under
19 paragraph 2 is submitted to the Department of Revenue, it
20 shall be submitted to the Chair of the Senate Education Policy
21 Committee and the Chair of the House Education Policy
22 Committee.

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

25 "(2) The Department of Revenue shall provide a
26 standardized format for a receipt to be issued by a
27 scholarship granting organization to a taxpayer to indicate

1 the value of a contribution received. The Department of
2 Revenue shall require a taxpayer to provide a copy of the
3 receipt when claiming the tax credit pursuant to this section.

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

8 "(4) The Department of Revenue ~~may, or an agent of~~
9 the Department of Revenue, shall conduct ~~either a financial~~
10 ~~review or audit of a scholarship granting organization~~ an
11 audit on each scholarship granting organization to determine
12 compliance with administrative and financial accountability
13 standards on a triennial basis, beginning with the taxable
14 year of the scholarship granting organization ending in 2017.
15 The Department of Revenue may contract with a certified public
16 accountant or firm of certified public accountants to conduct
17 audits of scholarship granting organizations pursuant to this
18 subdivision. The Department of Revenue shall establish
19 guidelines for the performance of audits under this
20 subdivision, and shall award contracts for the performance of
21 the audits in accordance with state law. The actual cost to
22 the Department of Revenue of each audit shall be reimbursed by
23 each scholarship granting organization. Audits conducted
24 pursuant to this subdivision shall be delivered within 180
25 days after each taxable year with respect to which they are
26 due.

1 "(5) The Department of Revenue may bar a scholarship
2 granting organization or a qualifying school from
3 participating in the tax credit scholarship program if the
4 Department of Revenue establishes that the scholarship
5 granting organization or the qualifying school has
6 intentionally and substantially failed to comply with the
7 requirements in subsection (b) or subsection (c).

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

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

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

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

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

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

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

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

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

26 "(2) A public school, school system, or school
27 district or any nonpublic school, school system, or school

1 district may develop the terms and conditions under which it
2 will allow a student who receives a scholarship from a
3 scholarship granting organization pursuant to this section to
4 be enrolled, but such terms and conditions may not
5 discriminate on the basis of the race, gender, religion,
6 color, disability status, or ethnicity of the student or of
7 the student's parent.

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

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

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