

1 SB290  
2 183465-1  
3 By Senators Glover and Albritton  
4 RFD: Finance and Taxation Education  
5 First Read: 09-MAR-17

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8 SYNOPSIS: Under existing law, the Alabama  
9 Accountability Act provides a means for K-12  
10 students who are enrolled in or assigned to attend  
11 failing public schools to transfer to nonfailing  
12 public schools, under certain conditions.

13 This bill would authorize public nonfailing  
14 schools who have accepted and enrolled students  
15 from failing schools, with due process, to rescind  
16 the transfer of those students who create  
17 discipline or conduct problems.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 To amend Sections 16-6D-8 and 16-6D-9, Code of  
24 Alabama 1975, relating to the Alabama Accountability Act; to  
25 authorize local public school systems, with due process, to  
26 rescind the transfer of students who create discipline or  
27 conduct problems.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

4 "§16-6D-8.

5 "(a) To provide educational flexibility and state  
6 accountability for students in failing 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 school to help offset the cost of transferring the  
11 student to a nonfailing public school or nonpublic school of  
12 the parent's choice. The income tax credit shall be an amount  
13 equal to 80 percent of the average annual state cost of  
14 attendance for a public K-12 student during the applicable tax  
15 year or the actual cost of attending a nonfailing public  
16 school or nonpublic school, whichever is less. The actual cost  
17 of attending a nonfailing public school or nonpublic school  
18 shall be calculated by adding together any tuition amounts or  
19 mandatory fees charged by the school to the student as a  
20 condition of enrolling or of maintaining enrollment in the  
21 school. The average annual state cost of attendance for a  
22 public K-12 student shall be calculated by dividing the state  
23 funds appropriated to the Foundation Program pursuant to  
24 Section 16-13-231(b) (2) by the total statewide number of  
25 pupils in average daily membership during the first 20  
26 scholastic days following Labor Day of the preceding school  
27 year. For each student who was enrolled in and attended a

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

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

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

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

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

24 "(b) (1) The parent of a public school student may  
25 request and receive an income tax credit pursuant to this  
26 section to reimburse the parent for costs associated with  
27 transferring the student from a failing school to a nonfailing

1 public school or nonpublic school of the parent's choice, in  
2 any of the following circumstances:

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

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

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

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

14 "(3) For the purposes of continuity of educational  
15 choice, the tax credit shall be available to parents for those  
16 grade levels of the failing school from which the student  
17 transferred. The parent of a student who transfers from a  
18 failing school may receive income tax credits for those grade  
19 levels enrolled in and attended in the nonfailing public  
20 school or nonpublic school of the parent's choice transferred  
21 to that were included in the failing school from which the  
22 student transferred, whether or not the failing school becomes  
23 a nonfailing school during those years. The parent of such a  
24 student shall no longer be eligible for the income tax credit  
25 after the student completes the highest grade level in which  
26 he or she would otherwise have been enrolled at the failing  
27 school. Notwithstanding the foregoing, as long as the student

1 remains enrolled in or assigned to attend a failing school,  
2 the parent may again transfer the student to a nonfailing  
3 public school or nonpublic school of the parent's choice and  
4 request and receive an income tax credit as provided in this  
5 section.

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

9 "a. Timely notify the parent of the student of all  
10 options available under this section as soon as the school of  
11 attendance is designated as a failing school.

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

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

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

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

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

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

25           "(c) There is created within the Education Trust  
26 Fund a separate account named the Failing Schools Income Tax  
27 Credit Account. The Commissioner of Revenue shall certify to



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

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

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

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

1           "(4) A public school, school system, or school  
2           district may develop the terms and conditions under which a  
3           student whose parent receives an income tax credit pursuant to  
4           this section may rescind the transfer of a student based on  
5           the conduct or discipline problems of the student. The terms  
6           and conditions may not discriminate on the basis of the race,  
7           gender, religion, color, disability status, or ethnicity of  
8           the student or of the parent of the student and shall comply  
9           with all due process requirements contained in the written  
10           policy on student discipline and behavior of the local school  
11           system developed pursuant to Chapter 28A.

12           "§16-6D-9.

13           "(a) (1) An individual taxpayer who files a state  
14           income tax return and is not claimed as a dependent of another  
15           taxpayer, a taxpayer subject to the corporate income tax  
16           levied by Chapter 18 of Title 40, an Alabama S corporation as  
17           defined in Section 40-18-160, or a Subchapter K entity as  
18           defined in Section 40-18-1 may claim a credit for a  
19           contribution made to a scholarship granting organization. If  
20           the credit is claimed by an Alabama S corporation or  
21           Subchapter K entity, the credit shall pass through to and may  
22           be claimed by any taxpayer eligible to claim a credit under  
23           this subdivision who is a shareholder, partner, or member  
24           thereof, based on the taxpayer's pro rata or distributive  
25           share, respectively, of the credit.

26           "(2) The tax credit may be claimed by an individual  
27           taxpayer or a married couple filing jointly in an amount equal

1 to 100 percent of the total contributions the taxpayer made to  
2 a scholarship granting organization for educational  
3 scholarships during the taxable year for which the credit is  
4 claimed, up to 50 percent of the tax liability of the  
5 individual taxpayer, not to exceed fifty thousand dollars  
6 (\$50,000) per individual taxpayer or married couple filing  
7 jointly. For purposes of this section, an individual taxpayer  
8 includes an individual who is a shareholder of an Alabama S  
9 corporation or a partner or member of a Subchapter K entity  
10 that made a contribution to a scholarship granting  
11 organization.

12 "(3) The tax credit may be claimed by a taxpayer  
13 subject to the Alabama corporate income tax in an amount equal  
14 to 100 percent of the total contributions the taxpayer made to  
15 a scholarship granting organization for educational  
16 scholarships during the taxable year for which the credit is  
17 claimed, up to 50 percent of the tax liability of the  
18 taxpayer.

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

23 "(5) The cumulative amount of tax credits issued  
24 pursuant to subdivision (2) and subdivision (3) shall not  
25 exceed thirty million dollars (\$30,000,000) annually, based on  
26 the calendar year. 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) 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, and the  
18 percentage of first-time recipients of educational  
19 scholarships who were enrolled in a public school during the  
20 previous academic year.

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

25 "1. The total number of scholarships awarded and  
26 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 school who received educational scholarships  
8 from the scholarship granting organization.

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

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

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

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



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

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

25 "q. Submit to the Department of Revenue annual  
26 verification of the scholarship granting organization's  
27 policies and procedures used to determine scholarship

1 eligibility. The verification shall confirm that the  
2 scholarship granting organization, and not one or more  
3 qualifying schools accepting educational scholarship  
4 recipients or scholarship funds, is determining whether  
5 scholarship applicants are eligible to receive educational  
6 scholarships. The verification shall also confirm that the  
7 scholarship granting organization is giving priority to  
8 receive an educational scholarship to eligible students zoned  
9 to attend failing schools.

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

16 "(2) Financial accountability standards.

17 "a. All scholarship granting organizations shall  
18 demonstrate their financial accountability by doing all of the  
19 following:

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

25 "2. Having the auditor certify that the report is  
26 free of material misstatements.

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

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

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

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

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

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

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

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

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

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

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

20            "(3) Academic accountability standards. There shall  
21 be sufficient information about the academic impact  
22 educational scholarship tax credits have on students  
23 participating in the tax credit scholarship program in order  
24 to allow parents and taxpayers to measure the achievements of  
25 the tax credit scholarship program, and therefore:

1            "a. Each scholarship granting organization shall  
2 ensure that qualifying schools that accept its educational  
3 scholarship students shall do all of the following:

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

14            "2. Allow the costs of the testing requirement to be  
15 covered by the educational scholarships distributed by the  
16 scholarship granting organizations.

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

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

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

26            "6. Provide graduation rates of those students  
27 benefitting from education scholarships to the Department of

1 Revenue or an organization chosen by the state in a manner  
2 consistent with nationally recognized standards.

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

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

21 "2. The independent research organization shall  
22 report to the Department of Revenue every other year on the  
23 learning gains of students receiving educational scholarships  
24 and the report shall be aggregated by the grade level, gender,  
25 family income level, number of years of participation in the  
26 tax credit scholarship program, and race of the student  
27 receiving an educational scholarship. The report shall also

1 include, to the extent possible, a comparison of the learning  
2 gains of students participating in the tax credit scholarship  
3 program to the statewide learning gains of public school  
4 students with socioeconomic and educational backgrounds  
5 similar to those students participating in the tax credit  
6 scholarship program.

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

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

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

1           "6. At the same time the biennial report under  
2 paragraph 2 is submitted to the Department of Revenue, it  
3 shall be submitted to the Chair of the Senate Education Policy  
4 Committee and the Chair of the House Education Policy  
5 Committee.

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

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

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

18           "(4) The Department of Revenue may conduct either a  
19 financial review or audit of a scholarship granting  
20 organization.

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



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

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

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

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

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

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

26           "(4) The amount of a scholarship awarded a student  
27 to attend a nonpublic school may not exceed the total sum of

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

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

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

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

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

7           "(4) A public school, school system, or school  
8 district may develop the terms and conditions under which a  
9 student who receives a scholarship from a scholarship granting  
10 organization pursuant to this section may rescind the transfer  
11 of a student based on the conduct or discipline problems of  
12 the student. The terms and conditions may not discriminate on  
13 the basis of the race, gender, religion, color, disability  
14 status, or ethnicity of the student or of the parent of the  
15 student and shall comply with all due process requirements  
16 contained in the written policy on student discipline and  
17 behavior of the local school system developed pursuant to  
18 Chapter 28A.

19           "(h) Nothing in this chapter shall affect or change  
20 the athletic eligibility rules of student athletes governed by  
21 the Alabama High School Athletic Association or similar  
22 association."

23           Section 2. This act shall become effective on the  
24 first day of the third month following its passage and  
25 approval by the Governor, or its otherwise becoming law.