

HB218 INTRODUCED



1 VFMOPV-1
2 By Representative McCampbell
3 RFD: Education Policy
4 First Read: 23-Mar-23
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SYNOPSIS:

Under existing law, the Alabama Accountability Act of 2013, provides financial assistance through an income tax credit to a parent who transfers a student from a failing public school to a nonfailing public school or nonpublic school of the parent's choice.

This bill would change the designation of a failing school to a fully supported school and the designation of a nonfailing school to a non-fully supported school for the purposes of the Alabama Accountability Act of 2013, and would require the State Board of Education to reflect those changes in terminology when amending or adopting rules relating to the Alabama Accountability Act of 2013.

A BILL
TO BE ENTITLED
AN ACT

Relating to public K-12 education and the Alabama Accountability Act of 2013; to amend Sections 16-6D-3, 16-6D-4, 16-6D-6, 16-6D-8, and 16-6D-9, as amended by Act 2022-390, 2022 Regular Session, Code of Alabama 1975; to change the designation of a failing school to a fully



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29 supported school and the designation of a nonfailing school to
30 a non-fully supported school; and to require the State Board
31 of Education to reflect those changes in terminology when
32 amending or adopting rules relating to the Alabama
33 Accountability Act of 2013.

34 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

35 Section 1. Sections 16-6D-3, 16-6D-4, 16-6D-6, 16-6D-8,
36 and 16-6D-9, as amended by Act 2022-390, 2022 Regular Session,
37 of the Code of Alabama 1975, are amended to read as follows:

38 "§16-6D-3

39 (a) The Legislature finds and declares all of the
40 following:

41 (1) To further the goals of public education throughout
42 the state, each school system should be able to have maximum
43 possible flexibility to meet the needs of students and the
44 communities within its jurisdiction.

45 (2) There is a critical need for innovative models of
46 public education that are tailored to the unique circumstances
47 and needs of the students in all schools and communities, and
48 especially in schools and communities that are struggling to
49 improve academic outcomes and close the achievement gap.

50 (3) To better serve students and better use available
51 resources, local boards of education, local school systems,
52 and parents need the ability to explore flexible alternatives
53 in an effort to be more efficient and effective in providing
54 operational and programmatic services.

55 (b) Therefore, it is the intent of the Legislature to
56 do all of the following:



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57 (1) Allow school systems greater flexibility in meeting
58 the educational needs of a diverse student population.

59 (2) Improve educational performance through greater
60 individual school autonomy and managerial flexibility with
61 regard to programs and budgetary matters.

62 (3) Encourage innovation in education by providing
63 local school systems and school administrators with greater
64 control over decisions including, but not limited to,
65 budgetary matters, staffing, personnel, scheduling, and
66 educational programming, including curriculum and instruction.

67 (4) Provide financial assistance through an income tax
68 credit to a parent who transfers a student from a ~~failing~~
69 fully supported public school to a ~~nonfailing~~ non-fully
70 supported public school or nonpublic school of the parent's
71 choice."

72 "§16-6D-4

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

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

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

79 (3) EDUCATIONAL SCHOLARSHIP. A grant made by a
80 scholarship granting organization to an eligible student to
81 cover all or part of the tuition and mandatory fees for one
82 academic year charged by a qualifying school to the eligible
83 student receiving the scholarship; provided, however, that an
84 educational scholarship shall not exceed six thousand dollars



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85 (\$6,000) for an elementary school student, eight thousand
86 dollars (\$8,000) for a middle school student, or ten thousand
87 dollars (\$10,000) for a high school student per academic year.
88 The term does not include a lump sum, block grant, or similar
89 payment by a scholarship granting organization to a qualifying
90 school that assigns the responsibility in whole or in part for
91 determining the eligibility of scholarship recipients to the
92 qualifying school or any person or entity other than the
93 scholarship granting organization.

94 (4) ELIGIBLE STUDENT.

95 a. A student who satisfies all of the following:

96 1. Is a member of a family whose total annual income
97 the calendar year before he or she receives an educational
98 scholarship under this program does not exceed 185 percent of
99 the federal poverty level, the federally recognized threshold
100 for receiving free or reduced priced lunch, as established
101 from time to time by the U.S. Department of Health and Human
102 Services.

103 2. Was eligible to attend a public school in the
104 preceding semester or is starting school in Alabama for the
105 first time.

106 3. Resides in Alabama while receiving an educational
107 scholarship.

108 b. A scholarship granting organization shall determine
109 the eligibility of a student under subparagraph 1. of
110 paragraph a. every other academic year in which a student
111 receives an educational scholarship; provided that if the
112 annual income of the family of a student who has received at



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113 least one educational scholarship exceeds 185 percent of the
114 federal poverty level, the existing student shall remain
115 eligible to receive educational scholarships until and unless
116 the annual income of the family of the student exceeds 275
117 percent of the federal poverty level; provided, further that
118 no student who has received at least one educational
119 scholarship shall be eligible to receive educational
120 scholarships if the annual income of his or her family exceeds
121 275 percent of the federal poverty level.

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

124 ~~a. Is designated as a failing school by the State~~
125 ~~Superintendent of Education.~~

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

130 ~~(6)~~ (5) FAMILY. A group of two or more people related by
131 birth, marriage, or adoption, including foster children, who
132 reside together.

133 ~~(7)~~ (6) FLEXIBILITY CONTRACT. A school flexibility
134 contract between the local school system and the State Board
135 of Education wherein a local school system may apply for
136 programmatic flexibility or budgetary flexibility, or both,
137 from state laws, regulations, and policies, including
138 regulations and policies ~~promulgated~~ adopted by the State
139 Board of Education and the State Department of Education.

140 (7) FULLY SUPPORTED SCHOOL. A public K-12 school that



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141 is either of the following:

142 a. Is designated as a fully supported school by the
143 State Superintendent of Education.

144 b. Does not exclusively serve a special population of
145 students and is listed in the lowest sixth percent of public
146 K-12 schools based on the state standardized assessment in
147 reading and math.

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

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

155 (10) LOCAL SCHOOL SYSTEM. A public agency that
156 establishes and supervises one or more public schools within
157 its geographical limits pursuant to state law.

158 (11) NONPUBLIC SCHOOL. Any nonpublic or private school,
159 including parochial schools, not under the jurisdiction of the
160 State Superintendent of Education and the State Board of
161 Education, providing educational services to children. A
162 nonpublic school provides education to elementary or
163 secondary, or both, students and has notified the Department
164 of Revenue of its intention to participate in the scholarship
165 program and comply with the requirements of the scholarship
166 program. A nonpublic school does not include home schooling.

167 (12) PARENT. The parent or guardian of a student, with
168 authority to act on behalf of the student. For purposes of



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169 Section 16-6D-8, the parent or guardian shall claim the
170 student as a dependent on his or her Alabama state income tax
171 return.

172 (13) QUALIFYING SCHOOL.

173 a. Either a public school outside of the resident
174 school district that is not considered ~~failing~~ fully supported
175 within the meaning of subdivision ~~(5)~~ (7) or any nonpublic
176 school as defined in subdivision (11) and that satisfies the
177 requirements of this subdivision. A qualifying nonpublic
178 school shall be accredited by one of the six regional
179 accrediting agencies or the National Council for Private
180 School Accreditation, AdvancEd, the American Association of
181 Christian Schools, or one of their partner accrediting
182 agencies. A nonpublic school shall have three years from the
183 later of the date the nonpublic school notified the Department
184 of Revenue of its intent to participate in the scholarship
185 program or June 10, 2015, to obtain the required accreditation
186 and shall thereafter maintain accreditation as required by
187 this subdivision. During the three-year period described in
188 the immediately preceding sentence, a nonpublic school that is
189 not accredited shall satisfy all of the following conditions
190 until the nonpublic school obtains accreditation:

191 1. Has been in existence for at least three years.

192 2. Has daily attendance of at least 85 percent over a
193 two-year period.

194 3. Has a minimum 180-day school year, or its hourly
195 equivalent.

196 4. Has a day length of at least six and one-half hours.



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197 5. Requires all students to take the Stanford
198 Achievement Test, or its equivalent.

199 6. Requires all candidates for graduation to take the
200 American College Test before graduation.

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

205 8. Does not subject special education students to the
206 same testing or curricular requirements as regular education
207 students if it is not required in the individual plan for the
208 student.

209 9. Maintains a website that describes the school, the
210 instructional program of the school, and the tuition and
211 mandatory fees charged by the school, updated prior to the
212 beginning of each semester.

213 10. Annually affirms on forms prescribed by the
214 scholarship granting organization and the Department of
215 Revenue its status financially and academically and provide
216 other relative information as required by the scholarship
217 granting organization or as otherwise required in this
218 chapter.

219 b. A nonpublic school that is not accredited and that
220 has not been in existence for at least three years shall
221 nevertheless be considered a qualifying school if, in addition
222 to satisfying the requirements in subparagraphs 2. to 10.,
223 inclusive, of paragraph a., the nonpublic school operates
224 under the governance of the board of directors or the



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225 equivalent thereof of an accredited nonpublic school. For
226 purposes of the immediately preceding sentence, the term
227 governance shall include, but not be limited to, curriculum
228 oversight, personnel and facility management, and financial
229 management. If, at the conclusion of the three-year period in
230 which a nonpublic school is required to obtain accreditation,
231 a nonpublic school is not accredited, the nonpublic school
232 shall not be considered a qualifying school and shall not
233 receive any funds from a scholarship granting organization
234 until the nonpublic school obtains the accreditation required
235 by this subdivision.

236 (14) SCHOLARSHIP GRANTING ORGANIZATION. An organization
237 that provides or is approved to provide educational
238 scholarships to eligible students attending qualifying schools
239 of their parents' choice."

240 "§16-6D-6

241 (a) The innovation plan of a local school system shall
242 include, at a minimum, all of the following:

243 (1) The school year that the local school system
244 expects the school flexibility contract to begin.

245 (2) The list of state laws, regulations, and policies,
246 including rules, regulations, and policies ~~promulgated~~ adopted
247 by the State Board of Education and the State Department of
248 Education, that the local school system is seeking to waive in
249 its school flexibility contract.

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

252 (b) A local school system is accountable to the state



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253 for the performance of all schools in its system, including
254 innovative schools, under state and federal accountability
255 requirements.

256 (c) A local school system may not, pursuant to this
257 chapter, waive requirements imposed by federal law,
258 requirements related to the health and safety of students or
259 employees, requirements imposed by ethics laws, requirements
260 imposed by the Alabama Child Protection Act of 1999, Chapter
261 22A of this title, requirements imposed by open records or
262 open meetings laws, requirements related to financial or
263 academic reporting or transparency, requirements designed to
264 protect the civil rights of students or employees,
265 requirements related to the state retirement system or state
266 health insurance plan, or requirements imposed by Act
267 2012-482. This chapter may not be construed to allow a local
268 school system to compensate an employee at an annual amount
269 that is less than the amount the employee would otherwise be
270 afforded through the State Minimum Salary Schedule included in
271 the annual Education Trust Fund Appropriations Act. No local
272 school system shall involuntarily remove any rights or
273 privileges acquired by any employee under the Students First
274 Act of 2011, Chapter 24C of this title. Except as provided for
275 a ~~failing~~ fully supported school pursuant to subsection (e),
276 no plan or program submitted by a local board of education may
277 be used to deny any right or privilege granted to a new
278 employee pursuant to the Students First Act of 2011.

279 (d) No provision of this chapter shall be construed or
280 shall be used to authorize the formation of a charter school.



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281 (e) Any provision of subsection (c) to the contrary
282 notwithstanding, nothing in this chapter shall be construed to
283 prohibit the approval of a flexibility contract that gives
284 potential, current, or future employees of a ~~failing~~ fully
285 supported school within the local school system the option to
286 voluntarily waive any rights or privileges already acquired or
287 that could potentially be acquired as a result of attaining
288 tenure or nonprobationary status, provided, however, that any
289 employee provided this option is also provided the option of
290 retaining or potentially obtaining any rights or privileges
291 provided under the Students First Act, Chapter 24C of this
292 title.

293 (f) The State Department of Education shall finalize
294 all school data and the local school system shall seek
295 approval of the local board of education before final
296 submission to the State Department of Education and the State
297 Board of Education.

298 (g) The final innovation plan, as recommended by the
299 local superintendent of education and approved by the local
300 board of education, shall accompany the formal submission of
301 the local school system to the State Department of Education.

302 (h) Within 60 days of receiving the final submission,
303 the State Superintendent of Education shall decide whether or
304 not the school flexibility contract and the innovation plan
305 should be approved. If the State Superintendent of Education
306 denies a school flexibility contract and innovation plan, he
307 or she shall provide a written explanation for his or her
308 decision to the local board of education. Likewise, a written



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309 letter of approval by the State Superintendent of Education
310 shall be provided to the local board of education that
311 submitted the final school flexibility contract and innovation
312 plan.

313 (i) The State Board of Education shall ~~promulgate~~ adopt
314 any necessary rules and regulations required to implement this
315 chapter including, but not limited to, all of the following:

316 (1) The specification of timelines for submission and
317 approval of the innovation plan and school flexibility
318 contract of a local school system.

319 (2) An authorization for the State Department of
320 Education, upon approval by the State Board of Education after
321 periodic review, to revoke a school flexibility contract for
322 noncompliance or nonperformance, or both, by a local school
323 system.

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

328 "§16-6D-8

329 (a) To provide educational flexibility and state
330 accountability for students in ~~failing~~ fully supported
331 schools:

332 (1) For tax years beginning on and after January 1,
333 2013, an Alabama income tax credit is made available to the
334 parent of a student enrolled in or assigned to attend a
335 ~~failing~~ fully supported school to help offset the cost of
336 transferring the student to a ~~nonfailing~~ non-fully supported



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337 public school or nonpublic school of the parent's choice. The
338 income tax credit shall be an amount equal to 80 percent of
339 the average annual state cost of attendance for a public K-12
340 student during the applicable tax year or the actual cost of
341 attending a ~~nonfailing~~ non-fully supported public school or
342 nonpublic school, whichever is less. The actual cost of
343 attending a ~~nonfailing~~ non-fully supported public school or
344 nonpublic school shall be calculated by adding together any
345 tuition amounts or mandatory fees charged by the school to the
346 student as a condition of enrolling or of maintaining
347 enrollment in the school. The average annual state cost of
348 attendance for a public K-12 student shall be calculated by
349 dividing the state funds appropriated to the Foundation
350 Program pursuant to Section 16-13-231(b) (2) by the total
351 statewide number of pupils in average daily membership during
352 the first 20 scholastic days following Labor Day of the
353 preceding school year. For each student who was enrolled in
354 and attended a ~~failing~~ fully supported school the previous
355 semester whose parent receives an income tax credit under this
356 section, an amount equal to 20 percent of the average annual
357 state cost of attendance for a public K-12 student during the
358 applicable tax year shall be allocated, for as long as the
359 parent receives the tax credit, to the ~~failing~~ fully supported
360 school from which the student transferred if the student
361 transfers to and remains enrolled in a nonpublic school. No
362 such allocation shall be made in the event the student
363 transfers to or enrolls in a ~~nonfailing~~ non-fully supported
364 public school. The Department of Education shall determine the



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365 best method of ensuring that the foregoing allocation
366 provisions are properly implemented. A parent is allowed a
367 credit against income tax for each taxable year under the
368 terms established in this section. If income taxes owed by
369 such a parent are less than the total credit allowed under
370 this subsection, the taxpayer shall be entitled to a refund or
371 rebate, as the case may be, equal to the balance of the unused
372 credit with respect to that taxable year.

373 (2) Any income tax credit due a parent under this
374 section shall be granted or issued to the parent only upon his
375 or her making application therefor, at such time and in such
376 manner as may be prescribed from time to time by the
377 Department of Revenue. The application process shall include,
378 but not be limited to, certification by the parent that the
379 student was enrolled in or was assigned to attend a ~~failing~~
380 fully supported school, certification by the parent that the
381 student was subsequently transferred to, and was enrolled and
382 attended, a ~~nonfailing~~ non-fully supported public school or
383 nonpublic school of the parent's choice, and proof,
384 satisfactory to the Department of Revenue, of the actual cost
385 of attendance for the student at the ~~nonfailing~~ non-fully
386 supported public school or nonpublic school. For purposes of
387 the tax credit authorized by this section, costs of attendance
388 does not include any such costs incurred for an academic year
389 prior to the 2013-2014 academic year. The Department of
390 Revenue shall also prescribe the various methods by which
391 income tax credits are to be issued to taxpayers. Income tax
392 credits authorized by this section shall be paid out of sales



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393 tax collections made to the Education Trust Fund, and set
394 aside by the Comptroller in the ~~Failing~~ Fully Supported
395 Schools Income Tax Credit Account created in subsection (c),
396 in the same manner as refunds of income tax otherwise provided
397 by law, and there is hereby appropriated therefrom, for such
398 purpose, so much as may be necessary to annually pay the
399 income tax credits provided by this section.

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

404 (4) The Department of Revenue shall ~~promulgate~~ adopt
405 reasonable rules to effectuate the intent of this subsection.

406 (b) (1) The parent of a public school student may
407 request and receive an income tax credit pursuant to this
408 section to reimburse the parent for costs associated with
409 transferring the student from a ~~failing~~ fully supported school
410 to a ~~nonfailing~~ non-fully supported public school or nonpublic
411 school of the parent's choice, in any of the following
412 circumstances:

413 a. By assigned school attendance area, if the student
414 spent the prior school year in attendance at a ~~failing~~ fully
415 supported school and the attendance of the student occurred
416 during a school year in which the designation was in effect.

417 b. The student was in attendance elsewhere in the
418 Alabama public school system and was assigned to a ~~failing~~
419 fully supported school for the next school year.

420 c. The student was notified that he or she was assigned



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421 to a ~~failing~~ fully supported school for the next school year.

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

424 (3) For the purposes of continuity of educational
425 choice, the tax credit shall be available to parents for those
426 grade levels of the ~~failing~~ fully supported school from which
427 the student transferred. The parent of a student who transfers
428 from a ~~failing~~ fully supported school may receive income tax
429 credits for those grade levels enrolled in and attended in the
430 ~~nonfailing~~ non-fully supported public school or nonpublic
431 school of the parent's choice transferred to that were
432 included in the ~~failing~~ fully supported school from which the
433 student transferred, whether or not the ~~failing~~ fully
434 supported school becomes a ~~nonfailing~~ non-fully supported
435 school during those years. The parent of such a student shall
436 no longer be eligible for the income tax credit after the
437 student completes the highest grade level in which he or she
438 would otherwise have been enrolled at the ~~failing~~ fully
439 supported school. Notwithstanding the foregoing, as long as
440 the student remains enrolled in or assigned to attend a
441 ~~failing~~ fully supported school, the parent may again transfer
442 the student to a ~~nonfailing~~ non-fully supported public school
443 or nonpublic school of the parent's choice and request and
444 receive an income tax credit as provided in this section.

445 (4) A local school system, for each student enrolled in
446 or assigned to a ~~failing~~ fully supported school, shall do all
447 of the following:

448 a. Timely notify the parent of the student of all



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449 options available under this section as soon as the school of
450 attendance is designated as a ~~failing~~ fully supported school.

451 b. Offer the parent of the student an opportunity to
452 enroll the student in another public school within the local
453 school system that is ~~not a failing~~ a non-fully supported
454 school or a ~~failing~~ fully supported school to which the
455 student has been assigned.

456 (5) The parent of a student enrolled in or assigned to
457 a school that has been designated as a ~~failing~~ fully supported
458 school, who decides to transfer the student to a ~~nonfailing~~
459 non-fully supported public school, shall first attempt to
460 enroll the student in a ~~nonfailing~~ non-fully supported public
461 school within the same local system in which the student is
462 already enrolled or assigned to attend before attempting to
463 enroll the student in a ~~nonfailing~~ non-fully supported public
464 school that has available space in any other local school
465 system in the state. A local school system may accept the
466 student on whatever terms and conditions the system
467 establishes and report the student for purposes of the local
468 school system's funding pursuant to the Foundation Program.

469 (6) For students in the local school system who are
470 participating in the tax credit program, the local school
471 system shall provide locations and times to take all statewide
472 assessments required by law.

473 (7) Students with disabilities who are eligible to
474 receive services from the local school system under federal or
475 state law, and who participate in the tax credit program,
476 remain eligible to receive services from the local school



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477 system as provided by federal or state law.

478 (8) If a parent enrolls a student in a ~~nonfailing~~
479 non-fully supported public school within the same local school
480 system, and that system provides transportation services for
481 other enrolled students, transportation costs to the
482 ~~nonfailing~~ non-fully supported public school shall be the
483 responsibility of the local school system. Local school
484 systems may negotiate transportation options with a parent to
485 minimize system costs. If a parent enrolls a student in a
486 nonpublic school or in a ~~nonfailing~~ non-fully supported public
487 school within another local school system, regardless of
488 whether that system provides transportation services for other
489 enrolled students, transportation of the student shall be the
490 responsibility of the parent.

491 (9) The State Department of Education shall ~~promulgate~~
492 adopt reasonable rules to effectuate the intent of this
493 subsection. Rules shall include penalties for noncompliance.

494 (c) There is created within the Education Trust Fund a
495 separate account named the ~~Failing~~ Fully Supported Schools
496 Income Tax Credit Account. The Commissioner of Revenue shall
497 certify to the Comptroller the amount of income tax credits
498 due to parents under this section and the Comptroller shall
499 transfer into the ~~Failing~~ Fully Supported Schools Income Tax
500 Credit Account only the amount from sales tax revenues within
501 the Education Trust Fund that is sufficient for the Department
502 of Revenue to use to cover the income tax credits for the
503 applicable tax year. The Commissioner of Revenue shall
504 distribute the funds in the ~~Failing~~ Fully Supported Schools



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505 Income Tax Credit Account to parents pursuant to this section.

506 (d) (1) Nothing in this section or chapter shall be
507 construed to force any public school, school system, or school
508 district or any nonpublic school, school system, or school
509 district to enroll any student.

510 (2) A public school, school system, or school district
511 or any nonpublic school, school system, or school district may
512 develop the terms and conditions under which it will allow a
513 student whose parent receives an income tax credit pursuant to
514 this section to be enrolled, but such terms and conditions may
515 not discriminate on the basis of the race, gender, religion,
516 color, disability status, or ethnicity of the student or of
517 the student's parent.

518 (3) Nothing in this section shall be construed to
519 authorize the violation of or supersede the authority of any
520 court ruling that applies to the public school, school system,
521 or school district, specifically any federal court order
522 related to the desegregation of the local school system's
523 student population."

524 "§16-6D-9

525 (a) (1) An individual taxpayer who files a state income
526 tax return and is not claimed as a dependent of another
527 taxpayer, a taxpayer subject to the corporate income tax
528 levied by Chapter 18 of Title 40, an Alabama S corporation as
529 defined in Section 40-18-160, or a Subchapter K entity as
530 defined in Section 40-18-1 may claim a credit for a
531 contribution made to a scholarship granting organization. If
532 the credit is claimed by an Alabama S corporation or



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533 Subchapter K entity, the credit shall pass through to and may
534 be claimed by any taxpayer eligible to claim a credit under
535 this subdivision who is a shareholder, partner, or member
536 thereof, based on the taxpayer's pro rata or distributive
537 share, respectively, of the credit.

538 (2) The tax credit may be claimed by an individual
539 taxpayer or a married couple filing jointly in an amount equal
540 to 100 percent of the total contributions the taxpayer made to
541 a scholarship granting organization for educational
542 scholarships during the taxable year for which the credit is
543 claimed, up to 100 percent of the tax liability of the
544 individual taxpayer, not to exceed one hundred thousand
545 dollars (\$100,000) per individual taxpayer or married couple
546 filing jointly. For purposes of this section, an individual
547 taxpayer includes an individual who is a shareholder of an
548 Alabama S corporation or a partner or member of a Subchapter K
549 entity that made a contribution to a scholarship granting
550 organization.

551 (3) The tax credit may be claimed by a taxpayer subject
552 to the Alabama corporate income tax in an amount equal to 100
553 percent of the total contributions the taxpayer made to a
554 scholarship granting organization for educational scholarships
555 during the taxable year for which the credit is claimed, up to
556 100 percent of the tax liability of the taxpayer.

557 (4) A taxpayer subject to the Alabama corporate income
558 tax, an individual taxpayer, or a married couple filing
559 jointly may carry forward a tax credit earned under the tax
560 credit scholarship program for up to three taxable years.



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561 (5) The cumulative amount of tax credits issued
562 pursuant to subdivision (2) and subdivision (3) shall not
563 exceed thirty million dollars (\$30,000,000) annually, based on
564 the calendar year. A taxpayer making one or more otherwise
565 tax-creditable contributions before the due date, with
566 extensions, of a timely filed 2014 tax return may elect to
567 treat all or a portion of such contributions as applying to
568 and creditable against its 2014 Alabama income tax liability,
569 if the taxpayer properly reserves the credit on the website of
570 the Department of Revenue or another method provided by the
571 Department of Revenue. The amount creditable against the
572 taxpayer's 2014 income tax liability shall be limited to the
573 lesser of the amount so designated or the remaining balance,
574 if any, of the cumulative amount of the twenty-five million
575 dollars (\$25,000,000) of tax credits available for the 2014
576 calendar year. No such contribution and election by a taxpayer
577 to reserve tax credits against the remaining balance of the
578 cumulative amount of tax credits available for 2014 shall
579 preclude the taxpayer from making additional contributions in
580 2015 and reserving those amounts against the cumulative amount
581 of tax credits available for 2015. The Department of Revenue
582 shall develop a procedure to ensure that this cap is not
583 exceeded and shall also prescribe the various methods by which
584 these credits are to be issued.

585 (6) No credit may be claimed for a contribution made to
586 a scholarship granting organization if the contribution is
587 restricted or conditioned in any way by the donor including,
588 but not limited to, requiring the scholarship granting



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589 organization to direct all or part of the contribution to a
590 particular qualifying school or to grant an educational
591 scholarship to a particular eligible student.

592 (b) (1) ADMINISTRATIVE ACCOUNTABILITY STANDARDS. All
593 scholarship granting organizations shall do all of the
594 following:

595 a. Notify the Department of Revenue of their intent to
596 provide educational scholarships to eligible students.

597 b. Demonstrate to the Department of Revenue that they
598 have been granted exemption from the federal income tax as an
599 organization described in Section 501(c)(3) of the Internal
600 Revenue Code, as in effect from time to time.

601 c. Distribute periodic educational scholarship payments
602 as checks made out and mailed to or directly deposited with
603 the school where the student is enrolled.

604 d. Provide a Department of Revenue approved receipt to
605 taxpayers for contributions made to the scholarship granting
606 organization.

607 e. Ensure that all determinations with respect to the
608 eligibility of a student to receive an educational scholarship
609 shall be made by the scholarship granting organization. A
610 scholarship granting organization shall not delegate any
611 responsibility for determining the eligibility of a student
612 for an educational scholarship or any other requirements it is
613 subject to under this chapter to any qualifying school or an
614 entity affiliated therewith.

615 f. Ensure that at least 95 percent of their revenue
616 from donations is expended on educational scholarships, and



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617 that all revenue from interest or investments is expended on
618 educational scholarships. A scholarship granting organization
619 may expend up to five percent of its revenue from donations on
620 administrative and operating expenses in the calendar year of
621 the donation or in any subsequent calendar year.

622 g. Ensure that scholarship funds on hand at the
623 beginning of a calendar year are expended on educational
624 scholarships within three calendar years. Any scholarship
625 funds on hand at the beginning of a calendar year that are not
626 expended on educational scholarships within three calendar
627 years shall be turned over to and deposited with the State
628 Department of Education for the benefit of its At-Risk Student
629 Program to be distributed to local boards of education on the
630 basis determined by the State Department of Education in
631 furtherance of support to underperforming schools.

632 h. Ensure that at least 75 percent of first-time
633 recipients of educational scholarships were not continuously
634 enrolled in a private school during the previous academic
635 year.

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

641 j. Ensure that educational scholarships are portable
642 during the academic year and can be used at any qualifying
643 school that accepts the eligible student according to the
644 wishes of the parent. If an eligible student transfers to



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645 another qualifying school during an academic year, the
646 educational scholarship amount may be prorated.

647 k. Publicly report to the Department of Revenue by
648 September 1 of each year all of the following information
649 prepared by a certified public accountant regarding their
650 educational scholarships funded in the previous academic year:

651 1. The name and address of the scholarship granting
652 organization.

653 2. The total number and total dollar amount of
654 contributions received during the previous academic year.

655 3. The total number and total dollar amount of
656 educational scholarships awarded and funded during the
657 previous academic year, the total number and total dollar
658 amount of educational scholarships awarded and funded during
659 the previous academic year for students qualifying for the
660 federal free and reduced-price lunch program, and the
661 percentage of first-time recipients of educational
662 scholarships who were enrolled in a public school during the
663 previous academic year.

664 1. Publicly report to the Department of Revenue, by the
665 15th day after the close of each calendar quarter, all of the
666 following information about educational scholarships granted
667 during the quarter:

668 1. The total number of scholarships awarded and funded.

669 2. The names of the qualifying schools that received
670 funding for educational scholarships, the total amount of
671 funds paid to each qualifying school, and the total number of
672 scholarship recipients enrolled in each qualifying school.



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673 3. The total number of eligible students zoned to
674 attend a ~~failing~~ fully supported school who received
675 educational scholarships from the scholarship granting
676 organization.

677 4. The total number of first time scholarship
678 recipients who were continuously enrolled in a nonpublic
679 school prior to receiving an educational scholarship from that
680 scholarship granting organization.

681 m. Ensure that educational scholarships are not
682 provided for eligible students to attend a school with paid
683 staff or board members, or relatives thereof, in common with
684 the scholarship granting organization.

685 n. Ensure that educational scholarships are provided in
686 a manner that does not discriminate based on the gender, race,
687 or disability status of the scholarship applicant or his or
688 her parent.

689 o. Ensure that educational scholarships are provided
690 only to eligible students who are zoned to attend a ~~failing~~
691 fully supported school so that the eligible student can attend
692 a qualifying school. To ensure compliance with the immediately
693 preceding sentence, the local board of education for the
694 county or municipality in which an eligible student applying
695 for an educational scholarship resides, upon written request
696 by a parent, shall provide written verification that a
697 particular address is in the attendance zone of a specified
698 public school. The State Department of Education shall provide
699 written verification of enrollment in a ~~failing~~ fully
700 supported school under this chapter. With respect to first



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701 time educational scholarship recipients, scholarship granting
702 organizations shall give priority to eligible students zoned
703 to attend ~~failing~~ fully supported schools over eligible
704 students not zoned to attend ~~failing~~ fully supported schools.
705 Any scholarship funds unaccounted for on July 31st of each
706 calendar year may be made available to eligible students to
707 defray the costs of attending a qualifying school, whether or
708 not the student is zoned to attend a ~~failing~~ fully supported
709 school. Any provision of this section to the contrary
710 notwithstanding, once an eligible student receives an
711 educational scholarship under this program, scholarship funds
712 may be made available to the student for educational
713 scholarships until the student graduates from high school or
714 reaches 19 years of age, regardless of whether the student is
715 zoned to attend a ~~failing~~ fully supported school, subject to
716 the income eligibility requirements of paragraph b. of
717 subdivision (4) of Section 16-6D-4.

718 p. Ensure that no donations are directly made to
719 benefit specifically designated scholarship recipients or to
720 particular qualifying schools.

721 q. Submit to the Department of Revenue annual
722 verification of the scholarship granting organization's
723 policies and procedures used to determine scholarship
724 eligibility. The verification shall confirm that the
725 scholarship granting organization, and not one or more
726 qualifying schools accepting educational scholarship
727 recipients or scholarship funds, is determining whether
728 scholarship applicants are eligible to receive educational



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729 scholarships. The verification shall also confirm that the
730 scholarship granting organization is giving priority to
731 receive an educational scholarship to eligible students zoned
732 to attend ~~failing~~ fully supported schools.

733 r. Submit to the Department of Revenue annual
734 verification that none of its actions or policies restricts a
735 parent's educational choice by limiting or prohibiting the
736 enrollment of eligible students in a qualifying school if
737 those eligible students received educational scholarships from
738 other scholarship granting organizations.

739 (2) FINANCIAL ACCOUNTABILITY STANDARDS.

740 a. All scholarship granting organizations shall
741 demonstrate their financial accountability by doing all of the
742 following:

743 1. Annually submitting to the Department of Revenue a
744 financial information report for the scholarship granting
745 organization that complies with uniform financial accounting
746 standards established by the Department of Revenue and
747 conducted by a certified public accountant.

748 2. Having the auditor certify that the report is free
749 of material misstatements.

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

754 1. Filing with the scholarship granting organization
755 prior to receipt of the first educational scholarship payment
756 for that academic year a surety bond payable to the



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757 scholarship granting organization in an amount equal to the
758 aggregate amount of scholarship funds expected to be received
759 during the academic year.

760 2. Filing with the scholarship granting organization
761 prior to receipt of the first educational scholarship payment
762 for that academic year financial information that demonstrates
763 the financial viability of the qualifying nonpublic school.

764 (c) (1) Each scholarship granting organization shall
765 annually collect and submit to the Department of Revenue with
766 the annual report required by paragraph k. of subdivision (1)
767 of subsection (b) written verification from qualifying
768 nonpublic schools that accept its educational scholarship
769 students that those schools do all of the following:

770 a. Comply with all health and safety laws or codes that
771 otherwise apply to nonpublic schools.

772 b. Hold a valid occupancy permit if required by the
773 municipality.

774 c. Certify compliance with nondiscrimination policies
775 set forth in 42 U.S.C. [§](#) 1981.

776 d. Conduct criminal background checks on employees and
777 then do all of the following:

778 1. Exclude from employment any person not permitted by
779 state law to work in a public school.

780 2. Exclude from employment any person who may
781 reasonably pose a threat to the safety of students.

782 (2) By August 1 of each year, each qualifying nonpublic
783 school shall provide to each scholarship granting organization
784 from which it receives educational scholarships verification



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785 that the qualifying nonpublic school is in compliance with the
786 Alabama Child Protection Act of 1999, Chapter 22A of this
787 title. Any qualifying nonpublic school failing to timely
788 provide such annual verification shall be prohibited from
789 participating in the scholarship program. Each scholarship
790 granting organization shall annually submit to the Department
791 of Revenue with the annual report required by paragraph k. of
792 subdivision (1) of subsection (b) copies of the written
793 verifications it receives from each qualifying nonpublic
794 school.

795 (3) ACADEMIC ACCOUNTABILITY STANDARDS. There shall be
796 sufficient information about the academic impact educational
797 scholarship tax credits have on students participating in the
798 tax credit scholarship program in order to allow parents and
799 taxpayers to measure the achievements of the tax credit
800 scholarship program, and therefore:

801 a. Each scholarship granting organization shall ensure
802 that qualifying schools that accept its educational
803 scholarship students shall do all of the following:

804 1. Annually administer either the state achievement
805 tests or nationally recognized norm-referenced tests that
806 measure learning gains in math and language arts to all
807 students receiving an educational scholarship in grades that
808 require testing under the accountability testing laws of the
809 state for public schools, in order that the state can compare
810 the academic achievement and learning gains of students
811 receiving educational scholarships with students of the same
812 socioeconomic and educational backgrounds who are taking the



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813 state achievement tests or nationally norm-referenced tests.

814 2. Allow the costs of the testing requirement to be
815 covered by the educational scholarships distributed by the
816 scholarship granting organizations.

817 3. Provide the parents of each student who was tested
818 with a copy of the results of the tests on an annual basis,
819 beginning with the first year of testing.

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

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

826 6. Provide graduation rates of those students
827 ~~benefitting~~benefiting from educational scholarships to the
828 Department of Revenue or an organization chosen by the state
829 in a manner consistent with nationally recognized standards.

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

835 b.1. The Department of Revenue shall select an
836 independent research organization, which may be a public or
837 private entity or university, to analyze the results of the
838 testing required by paragraph a. every other academic year.
839 The cost of analyzing and reporting on the test results to the
840 Department of Revenue by the independent research organization



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841 shall be borne by all scholarship granting organizations in
842 proportion to the total scholarship donations received for the
843 two calendar years prior to the report being published.

844 Scholarship granting organizations may receive and use funds
845 from outside sources to pay for its share of the biennial
846 report.

847 2. The independent research organization shall report
848 to the Department of Revenue every other year on the learning
849 gains of students receiving educational scholarships and the
850 report shall be aggregated by the grade level, gender, family
851 income level, number of years of participation in the tax
852 credit scholarship program, and race of the student receiving
853 an educational scholarship. The report shall also include, to
854 the extent possible, a comparison of the learning gains of
855 students participating in the tax credit scholarship program
856 to the statewide learning gains of public school students with
857 socioeconomic and educational backgrounds similar to those
858 students participating in the tax credit scholarship program.

859 3. The first report under this paragraph shall be
860 submitted to the Department of Revenue by September 1, 2016.
861 Each biennial report thereafter shall be submitted to the
862 Department of Revenue on September 1 of the year the report is
863 due. All biennial reports required by this paragraph shall be
864 published on the website of the Department of Revenue.

865 4. Each scholarship granting organization shall collect
866 all test results from qualifying schools accepting its
867 scholarship recipients and turn over such test results to the
868 independent research organization described in this paragraph



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869 by August 15 of each calendar year.

870 5. The sharing and reporting of student learning gain
871 data under this paragraph shall conform to the requirements of
872 the Family Educational Rights and Privacy Act, 20 U.S.C.
873 § 1232g., and shall be for the sole purpose of creating the
874 biennial report required by this paragraph. All parties shall
875 preserve the confidentiality of such information as required by
876 law. The biennial report shall not disaggregate data to a
877 level that could identify qualifying schools participating in
878 the tax credit scholarship program or disclose the academic
879 level of individual students.

880 6. At the same time the biennial report under
881 subparagraph 2. is submitted to the Department of Revenue, it
882 shall be submitted to the Chair of the Senate Education Policy
883 Committee and the Chair of the House Education Policy
884 Committee.

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

887 (2) The Department of Revenue shall provide a
888 standardized format for a receipt to be issued by a
889 scholarship granting organization to a taxpayer to indicate
890 the value of a contribution received. The Department of
891 Revenue shall require a taxpayer to provide a copy of the
892 receipt when claiming the tax credit pursuant to this section.

893 (3) The Department of Revenue shall provide a
894 standardized format for a scholarship granting organization to
895 report the information required in paragraphs k. and l. of
896 subdivision (1) of subsection (b).



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897 (4) The Department of Revenue may conduct either a
898 financial review or audit of a scholarship granting
899 organization.

900 (5) The Department of Revenue may bar a scholarship
901 granting organization or a qualifying school from
902 participating in the tax credit scholarship program if the
903 Department of Revenue establishes that the scholarship
904 granting organization or the qualifying school has
905 intentionally and substantially failed to comply with the
906 requirements in subsection (b) or subsection (c).

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

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

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

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

922 (2) All schools participating in the tax credit
923 scholarship program shall comply with all state laws that
924 apply to public schools regarding criminal background checks



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925 for employees and exclude from employment any person not
926 permitted by state law to work in a public school.

927 (3) All qualifying nonpublic schools participating in
928 the tax credit scholarship program shall maintain a website
929 that describes the school, the instructional program of the
930 school, and the tuition and mandatory fees charged by the
931 school, updated prior to the beginning of each semester.

932 (4) The amount of a scholarship awarded a student to
933 attend a nonpublic school may not exceed the total sum of
934 tuition and mandatory fees normally charged a student to
935 attend the nonpublic school for the same attendance period.
936 The amount of a scholarship awarded a student to attend a
937 public school may not exceed the total state appropriation
938 provided for a student to attend the public school for the
939 same attendance period.

940 (f) The tax credit provided in this section may be
941 first claimed for the 2013 tax year, but may not be claimed
942 for any tax year prior to the 2013 tax year.

943 (g) (1) Nothing in this section shall be construed to
944 force any public school, school system, or school district or
945 any nonpublic school, school system, or school district to
946 enroll any student. No qualifying school may enter into any
947 agreement, whether oral or written, with a scholarship
948 granting organization that would prohibit or limit an eligible
949 student from enrolling in the school based on the identity of
950 the scholarship granting organization from which the eligible
951 student received an educational scholarship.

952 (2) A public school, school system, or school district



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953 or any nonpublic school, school system, or school district may
954 develop the terms and conditions under which it will allow a
955 student who receives a scholarship from a scholarship granting
956 organization pursuant to this section to be enrolled, but such
957 terms and conditions may not discriminate on the basis of the
958 race, gender, religion, disability status, or ethnicity of the
959 student or of the student's parent.

960 (3) Nothing in this section shall be construed to
961 authorize the violation of or supersede the authority of any
962 court ruling that applies to the public school, school system,
963 or school district, specifically any federal court order
964 related to the desegregation of the local school system's
965 student population.

966 (h) Nothing in this chapter shall affect or change the
967 athletic eligibility rules of student athletes governed by the
968 Alabama High School Athletic Association or similar
969 association."

970 Section 2. Commencing on the effective date of this
971 act, the State Board of Education shall refer to any public
972 K-12 school or school district that is determined to have poor
973 performance or is failing to make adequate progress as a fully
974 supported school, in lieu of a failing school, and shall refer
975 to a nonfailing school as a non-fully supported school, when
976 amending rules or adopting rules relating to the Alabama
977 Accountability Act of 2013.

978 Section 3. This act shall become effective on the first
979 day of the third month following its passage and approval by
980 the Governor, or its otherwise becoming law.