

HB31 INTRODUCED



1 HJGQ66-1
2 By Representative McCampbell
3 RFD: Education Policy
4 First Read: 07-Mar-23
5 PFD: 23-Feb-23



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SYNOPSIS:

Under existing law, a public K-12 school or school district that is determined to have poor performance is labeled by the State Superintendent of Education as failing to make adequate progress or as a failing school under the school grading system.

Also 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 school grading and 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.

A BILL
TO BE ENTITLED
AN ACT



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29 To amend Sections 16-6C-2, as amended by Act 2022-374,
30 2022 Regular Session, 16-6D-3, 16-6D-4, 16-6D-6, 16-6D-8, and
31 16-6D-9, as amended by Act 2022-390, 2022 Regular Session,
32 Code of Alabama 1975, relating to the public K-12 school
33 grading system and the Alabama Accountability Act of 2013; to
34 change the designation of a failing school to a fully
35 supported school and the designation of a nonfailing school to
36 a non-fully supported school; and to require the State Board
37 of Education to reflect those changes in terminology when
38 amending or adopting rules.

39 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

40 Section 1. Sections 16-6C-2, as amended by Act
41 2022-374, 2022 Regular Session, 16-6D-3, 16-6D-4, 16-6D-6,
42 16-6D-8, and 16-6D-9, as amended by Act 2022-390, 2022 Regular
43 Session, of the Code of Alabama 1975, are amended to read as
44 follows:

45 "§16-6C-2

46 (a) In addition to any other labels or designations
47 assigned to public schools and public school districts
48 pursuant to a federal, state, school, district, or other
49 assessment or accountability system, the State Superintendent
50 of Education, consistent with this chapter, shall develop a
51 school grading system reflective of school and district
52 performance. The grading system shall utilize the traditional
53 A, B, C, D, or F framework.

54 (1) Schools receiving a grade of "A" are making
55 excellent progress.

56 (2) Schools receiving a grade of "B" are making above



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57 average progress.

58 (3) Schools receiving a grade of "C" are making
59 satisfactory progress.

60 (4) Schools receiving a grade of "D" are making less
61 than satisfactory progress.

62 (5) Schools receiving a grade of "F" are ~~failing to~~
63 ~~make adequate progress~~ fully supported schools.

64 (b) In developing this school grading system, the State
65 Superintendent of Education shall seek input from parents,
66 teachers, school administrators, existing State Department of
67 Education advisory groups or task forces, and other education
68 stakeholders on how the system can properly reflect not only
69 the overall academic proficiency of each public school but
70 also the academic improvements made by each public school,
71 along with other key performance indicators that give a total
72 profile of the school or the school system, or both.

73 (c) The State Superintendent of Education shall
74 prescribe the design and content of the school grading system
75 by not later than December 31, 2012. It is the intent of the
76 Legislature that the system be in place by no later than the
77 2013-2014 school year. The system may not be utilized by the
78 State Superintendent of Education or the State Department of
79 Education until sufficient rules have been adopted by the
80 State Board of Education pursuant to the Alabama
81 Administrative Procedure Act.

82 (d) Using an easy to understand grading scale, the
83 school grading system shall describe achievement in the state,
84 each district, and each school. Additionally, the State



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85 Superintendent of Education shall not be precluded from also
86 assigning grades to school feeder patterns or grades that
87 reflect the fiscal health and fiscal efficiency of a school or
88 school system.

89 (e) The State Superintendent of Education shall make
90 these grades available to the general public and shall post
91 these grades on the website of the State Department of
92 Education as soon as the grades are available. Additionally,
93 appropriate grade information shall be delivered to the parent
94 or guardian of each public school student at least once
95 annually in the same manner that student report cards are
96 currently delivered.

97 (f) (1) Using state-authorized assessments and other key
98 performance indicators that give a total profile of the school
99 or the school system, or both, a school's grade, at a minimum,
100 shall be based on a combination of student achievement scores,
101 achievement gap, college and career readiness, learning gains,
102 and other indicators as determined by the State Superintendent
103 of Education to impact student learning and success.

104 (2) Commencing with the 2021-2022 school year, the
105 academic achievement of each student identified as an English
106 language learner, who has not shown proficiency on ACCESS for
107 EL, or other state approved English proficiency assessment,
108 may not be considered in assigning an academic achievement
109 grade to a school or school system for the first five years of
110 enrollment of the student. The educational progress of each of
111 these students shall continue to be measured in the academic
112 growth category and the progress in English language



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113 proficiency category and, at the end of the five-year period
114 for the student, his or her proficiency shall again be
115 considered in assigning an academic achievement grade to a
116 school or school system on the state A-F school grading
117 system.

118 (3) The State Superintendent of Education may not amend
119 the state Every Student Succeeds Act option for including test
120 scores of English language learners enrolled in United States
121 schools. The option provides as follows: For the first year of
122 enrollment, the test scores shall be reported, but the results
123 on both the reading/language arts and math tests shall be
124 excluded from the federal accountability system; for the
125 second year of enrollment, a measure of student growth on both
126 tests shall be included in the federal accountability system;
127 and for the third year of enrollment, proficiency on both
128 tests shall be included in the federal accountability system.
129 Additionally, the option requires English language learners
130 who have successfully left the English language learner
131 subgroup by attaining English proficiency to be included in
132 that subgroup for accountability purposes for four years.

133 (g) The A-F school grading system shall be consistently
134 applied so that grades of one school or system may be compared
135 to the grades of any other school or system."

136 "§16-6D-3

137 (a) The Legislature finds and declares all of the
138 following:

139 (1) To further the goals of public education throughout
140 the state, each school system should be able to have maximum



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141 possible flexibility to meet the needs of students and the
142 communities within its jurisdiction.

143 (2) There is a critical need for innovative models of
144 public education that are tailored to the unique circumstances
145 and needs of the students in all schools and communities, and
146 especially in schools and communities that are struggling to
147 improve academic outcomes and close the achievement gap.

148 (3) To better serve students and better use available
149 resources, local boards of education, local school systems,
150 and parents need the ability to explore flexible alternatives
151 in an effort to be more efficient and effective in providing
152 operational and programmatic services.

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

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

157 (2) Improve educational performance through greater
158 individual school autonomy and managerial flexibility with
159 regard to programs and budgetary matters.

160 (3) Encourage innovation in education by providing
161 local school systems and school administrators with greater
162 control over decisions including, but not limited to,
163 budgetary matters, staffing, personnel, scheduling, and
164 educational programming, including curriculum and instruction.

165 (4) Provide financial assistance through an income tax
166 credit to a parent who transfers a student from a ~~failing~~
167 fully supported public school to a ~~nonfailing~~ non-fully
168 supported public school or nonpublic school of the parent's



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169 choice."

170 "§16-6D-4

171 For the purposes of this chapter, the following terms
172 shall have the following meanings:

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

175 (2) DEPARTMENT OF REVENUE. The Alabama Department of
176 Revenue.

177 (3) EDUCATIONAL SCHOLARSHIP. A grant made by a
178 scholarship granting organization to an eligible student to
179 cover all or part of the tuition and mandatory fees for one
180 academic year charged by a qualifying school to the eligible
181 student receiving the scholarship; provided, however, that an
182 educational scholarship shall not exceed six thousand dollars
183 (\$6,000) for an elementary school student, eight thousand
184 dollars (\$8,000) for a middle school student, or ten thousand
185 dollars (\$10,000) for a high school student per academic year.
186 The term does not include a lump sum, block grant, or similar
187 payment by a scholarship granting organization to a qualifying
188 school that assigns the responsibility in whole or in part for
189 determining the eligibility of scholarship recipients to the
190 qualifying school or any person or entity other than the
191 scholarship granting organization.

192 (4) ELIGIBLE STUDENT.

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

194 1. Is a member of a family whose total annual income
195 the calendar year before he or she receives an educational
196 scholarship under this program does not exceed 185 percent of



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197 the federal poverty level, the federally recognized threshold
198 for receiving free or reduced priced lunch, as established
199 from time to time by the U.S. Department of Health and Human
200 Services.

201 2. Was eligible to attend a public school in the
202 preceding semester or is starting school in Alabama for the
203 first time.

204 3. Resides in Alabama while receiving an educational
205 scholarship.

206 b. A scholarship granting organization shall determine
207 the eligibility of a student under subparagraph 1. of
208 paragraph a. every other academic year in which a student
209 receives an educational scholarship; provided that if the
210 annual income of the family of a student who has received at
211 least one educational scholarship exceeds 185 percent of the
212 federal poverty level, the existing student shall remain
213 eligible to receive educational scholarships until and unless
214 the annual income of the family of the student exceeds 275
215 percent of the federal poverty level; provided, further that
216 no student who has received at least one educational
217 scholarship shall be eligible to receive educational
218 scholarships if the annual income of his or her family exceeds
219 275 percent of the federal poverty level.

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

222 ~~a. Is designated as a failing school by the State~~
223 ~~Superintendent of Education.~~

224 ~~b. Does not exclusively serve a special population of~~



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225 ~~students and is listed in the lowest six percent of public~~
226 ~~K-12 schools based on the state standardized assessment in~~
227 ~~reading and math.~~

228 ~~(6)~~ (5) FAMILY. A group of two or more people related by
229 birth, marriage, or adoption, including foster children, who
230 reside together.

231 ~~(7)~~ (6) FLEXIBILITY CONTRACT. A school flexibility
232 contract between the local school system and the State Board
233 of Education wherein a local school system may apply for
234 programmatic flexibility or budgetary flexibility, or both,
235 from state laws, regulations, and policies, including
236 regulations and policies ~~promulgated~~ adopted by the State
237 Board of Education and the State Department of Education.

238 (7) FULLY SUPPORTED SCHOOL. A public K-12 school that
239 is either of the following:

240 a. Is designated as a fully supported school by the
241 State Superintendent of Education.

242 b. Does not exclusively serve a special population of
243 students and is listed in the lowest sixth percent of public
244 K-12 schools based on the state standardized assessment in
245 reading and math.

246 (8) INNOVATION PLAN. The request of a local school
247 system for flexibility and plan for annual accountability
248 measures and five-year targets for all participating schools
249 within the school system.

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



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

256 (11) NONPUBLIC SCHOOL. Any nonpublic or private school,
257 including parochial schools, not under the jurisdiction of the
258 State Superintendent of Education and the State Board of
259 Education, providing educational services to children. A
260 nonpublic school provides education to elementary or
261 secondary, or both, students and has notified the Department
262 of Revenue of its intention to participate in the scholarship
263 program and comply with the requirements of the scholarship
264 program. A nonpublic school does not include home schooling.

265 (12) PARENT. The parent or guardian of a student, with
266 authority to act on behalf of the student. For purposes of
267 Section 16-6D-8, the parent or guardian shall claim the
268 student as a dependent on his or her Alabama state income tax
269 return.

270 (13) QUALIFYING SCHOOL.

271 a. Either a public school outside of the resident
272 school district that is not considered ~~failing~~ fully supported
273 within the meaning of subdivision ~~(5)~~ (7) or any nonpublic
274 school as defined in subdivision (11) and that satisfies the
275 requirements of this subdivision. A qualifying nonpublic
276 school shall be accredited by one of the six regional
277 accrediting agencies or the National Council for Private
278 School Accreditation, AdvancEd, the American Association of
279 Christian Schools, or one of their partner accrediting
280 agencies. A nonpublic school shall have three years from the



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281 later of the date the nonpublic school notified the Department
282 of Revenue of its intent to participate in the scholarship
283 program or June 10, 2015, to obtain the required accreditation
284 and shall thereafter maintain accreditation as required by
285 this subdivision. During the three-year period described in
286 the immediately preceding sentence, a nonpublic school that is
287 not accredited shall satisfy all of the following conditions
288 until the nonpublic school obtains accreditation:

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

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

292 3. Has a minimum 180-day school year, or its hourly
293 equivalent.

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

295 5. Requires all students to take the Stanford
296 Achievement Test, or its equivalent.

297 6. Requires all candidates for graduation to take the
298 American College Test before graduation.

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

303 8. Does not subject special education students to the
304 same testing or curricular requirements as regular education
305 students if it is not required in the individual plan for the
306 student.

307 9. Maintains a website that describes the school, the
308 instructional program of the school, and the tuition and



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309 mandatory fees charged by the school, updated prior to the
310 beginning of each semester.

311 10. Annually affirms on forms prescribed by the
312 scholarship granting organization and the Department of
313 Revenue its status financially and academically and provide
314 other relative information as required by the scholarship
315 granting organization or as otherwise required in this
316 chapter.

317 b. A nonpublic school that is not accredited and that
318 has not been in existence for at least three years shall
319 nevertheless be considered a qualifying school if, in addition
320 to satisfying the requirements in subparagraphs 2. to 10.,
321 inclusive, of paragraph a., the nonpublic school operates
322 under the governance of the board of directors or the
323 equivalent thereof of an accredited nonpublic school. For
324 purposes of the immediately preceding sentence, the term
325 governance shall include, but not be limited to, curriculum
326 oversight, personnel and facility management, and financial
327 management. If, at the conclusion of the three-year period in
328 which a nonpublic school is required to obtain accreditation,
329 a nonpublic school is not accredited, the nonpublic school
330 shall not be considered a qualifying school and shall not
331 receive any funds from a scholarship granting organization
332 until the nonpublic school obtains the accreditation required
333 by this subdivision.

334 (14) SCHOLARSHIP GRANTING ORGANIZATION. An organization
335 that provides or is approved to provide educational
336 scholarships to eligible students attending qualifying schools



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337 of their parents' choice."

338 "§16-6D-6

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

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

343 (2) The list of state laws, regulations, and policies,
344 including rules, regulations, and policies ~~promulgated~~ adopted
345 by the State Board of Education and the State Department of
346 Education, that the local school system is seeking to waive in
347 its school flexibility contract.

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

350 (b) A local school system is accountable to the state
351 for the performance of all schools in its system, including
352 innovative schools, under state and federal accountability
353 requirements.

354 (c) A local school system may not, pursuant to this
355 chapter, waive requirements imposed by federal law,
356 requirements related to the health and safety of students or
357 employees, requirements imposed by ethics laws, requirements
358 imposed by the Alabama Child Protection Act of 1999, Chapter
359 22A of this title, requirements imposed by open records or
360 open meetings laws, requirements related to financial or
361 academic reporting or transparency, requirements designed to
362 protect the civil rights of students or employees,
363 requirements related to the state retirement system or state
364 health insurance plan, or requirements imposed by Act



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365 2012-482. This chapter may not be construed to allow a local
366 school system to compensate an employee at an annual amount
367 that is less than the amount the employee would otherwise be
368 afforded through the State Minimum Salary Schedule included in
369 the annual Education Trust Fund Appropriations Act. No local
370 school system shall involuntarily remove any rights or
371 privileges acquired by any employee under the Students First
372 Act of 2011, Chapter 24C of this title. Except as provided for
373 a ~~failing~~ fully supported school pursuant to subsection (e),
374 no plan or program submitted by a local board of education may
375 be used to deny any right or privilege granted to a new
376 employee pursuant to the Students First Act of 2011.

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

379 (e) Any provision of subsection (c) to the contrary
380 notwithstanding, nothing in this chapter shall be construed to
381 prohibit the approval of a flexibility contract that gives
382 potential, current, or future employees of a ~~failing~~ fully
383 supported school within the local school system the option to
384 voluntarily waive any rights or privileges already acquired or
385 that could potentially be acquired as a result of attaining
386 tenure or nonprobationary status, provided, however, that any
387 employee provided this option is also provided the option of
388 retaining or potentially obtaining any rights or privileges
389 provided under the Students First Act, Chapter 24C of this
390 title.

391 (f) The State Department of Education shall finalize
392 all school data and the local school system shall seek



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393 approval of the local board of education before final
394 submission to the State Department of Education and the State
395 Board of Education.

396 (g) The final innovation plan, as recommended by the
397 local superintendent of education and approved by the local
398 board of education, shall accompany the formal submission of
399 the local school system to the State Department of Education.

400 (h) Within 60 days of receiving the final submission,
401 the State Superintendent of Education shall decide whether or
402 not the school flexibility contract and the innovation plan
403 should be approved. If the State Superintendent of Education
404 denies a school flexibility contract and innovation plan, he
405 or she shall provide a written explanation for his or her
406 decision to the local board of education. Likewise, a written
407 letter of approval by the State Superintendent of Education
408 shall be provided to the local board of education that
409 submitted the final school flexibility contract and innovation
410 plan.

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

414 (1) The specification of timelines for submission and
415 approval of the innovation plan and school flexibility
416 contract of a local school system.

417 (2) An authorization for the State Department of
418 Education, upon approval by the State Board of Education after
419 periodic review, to revoke a school flexibility contract for
420 noncompliance or nonperformance, or both, by a local school



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421 system.

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

426 "§16-6D-8

427 (a) To provide educational flexibility and state
428 accountability for students in ~~failing~~ fully supported
429 schools:

430 (1) For tax years beginning on and after January 1,
431 2013, an Alabama income tax credit is made available to the
432 parent of a student enrolled in or assigned to attend a
433 ~~failing~~ fully supported school to help offset the cost of
434 transferring the student to a ~~nonfailing~~ non-fully supported
435 public school or nonpublic school of the parent's choice. The
436 income tax credit shall be an amount equal to 80 percent of
437 the average annual state cost of attendance for a public K-12
438 student during the applicable tax year or the actual cost of
439 attending a ~~nonfailing~~ non-fully supported public school or
440 nonpublic school, whichever is less. The actual cost of
441 attending a ~~nonfailing~~ non-fully supported public school or
442 nonpublic school shall be calculated by adding together any
443 tuition amounts or mandatory fees charged by the school to the
444 student as a condition of enrolling or of maintaining
445 enrollment in the school. The average annual state cost of
446 attendance for a public K-12 student shall be calculated by
447 dividing the state funds appropriated to the Foundation
448 Program pursuant to Section 16-13-231(b) (2) by the total



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449 statewide number of pupils in average daily membership during
450 the first 20 scholastic days following Labor Day of the
451 preceding school year. For each student who was enrolled in
452 and attended a ~~failing~~ fully supported school the previous
453 semester whose parent receives an income tax credit under this
454 section, an amount equal to 20 percent of the average annual
455 state cost of attendance for a public K-12 student during the
456 applicable tax year shall be allocated, for as long as the
457 parent receives the tax credit, to the ~~failing~~ fully supported
458 school from which the student transferred if the student
459 transfers to and remains enrolled in a nonpublic school. No
460 such allocation shall be made in the event the student
461 transfers to or enrolls in a ~~nonfailing~~ non-fully supported
462 public school. The Department of Education shall determine the
463 best method of ensuring that the foregoing allocation
464 provisions are properly implemented. A parent is allowed a
465 credit against income tax for each taxable year under the
466 terms established in this section. If income taxes owed by
467 such a parent are less than the total credit allowed under
468 this subsection, the taxpayer shall be entitled to a refund or
469 rebate, as the case may be, equal to the balance of the unused
470 credit with respect to that taxable year.

471 (2) Any income tax credit due a parent under this
472 section shall be granted or issued to the parent only upon his
473 or her making application therefor, at such time and in such
474 manner as may be prescribed from time to time by the
475 Department of Revenue. The application process shall include,
476 but not be limited to, certification by the parent that the



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477 student was enrolled in or was assigned to attend a ~~failing~~
478 fully supported school, certification by the parent that the
479 student was subsequently transferred to, and was enrolled and
480 attended, a ~~nonfailing~~ non-fully supported public school or
481 nonpublic school of the parent's choice, and proof,
482 satisfactory to the Department of Revenue, of the actual cost
483 of attendance for the student at the ~~nonfailing~~ non-fully
484 supported public school or nonpublic school. For purposes of
485 the tax credit authorized by this section, costs of attendance
486 does not include any such costs incurred for an academic year
487 prior to the 2013-2014 academic year. The Department of
488 Revenue shall also prescribe the various methods by which
489 income tax credits are to be issued to taxpayers. Income tax
490 credits authorized by this section shall be paid out of sales
491 tax collections made to the Education Trust Fund, and set
492 aside by the Comptroller in the ~~Failing~~ Fully Supported
493 Schools Income Tax Credit Account created in subsection (c),
494 in the same manner as refunds of income tax otherwise provided
495 by law, and there is hereby appropriated therefrom, for such
496 purpose, so much as may be necessary to annually pay the
497 income tax credits provided by this section.

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

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

504 (b) (1) The parent of a public school student may



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505 request and receive an income tax credit pursuant to this
506 section to reimburse the parent for costs associated with
507 transferring the student from a ~~failing~~ fully supported school
508 to a ~~nonfailing~~ non-fully supported public school or nonpublic
509 school of the parent's choice, in any of the following
510 circumstances:

511 a. By assigned school attendance area, if the student
512 spent the prior school year in attendance at a ~~failing~~ fully
513 supported school and the attendance of the student occurred
514 during a school year in which the designation was in effect.

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

518 c. The student was notified that he or she was assigned
519 to a ~~failing~~ fully supported school for the next school year.

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

522 (3) For the purposes of continuity of educational
523 choice, the tax credit shall be available to parents for those
524 grade levels of the ~~failing~~ fully supported school from which
525 the student transferred. The parent of a student who transfers
526 from a ~~failing~~ fully supported school may receive income tax
527 credits for those grade levels enrolled in and attended in the
528 ~~nonfailing~~ non-fully supported public school or nonpublic
529 school of the parent's choice transferred to that were
530 included in the ~~failing~~ fully supported school from which the
531 student transferred, whether or not the ~~failing~~ fully
532 supported school becomes a ~~nonfailing~~ non-fully supported



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533 school during those years. The parent of such a student shall
534 no longer be eligible for the income tax credit after the
535 student completes the highest grade level in which he or she
536 would otherwise have been enrolled at the ~~failing~~ fully
537 supported school. Notwithstanding the foregoing, as long as
538 the student remains enrolled in or assigned to attend a
539 ~~failing~~ fully supported school, the parent may again transfer
540 the student to a ~~nonfailing~~ non-fully supported public school
541 or nonpublic school of the parent's choice and request and
542 receive an income tax credit as provided in this section.

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

546 a. Timely notify the parent of the student of all
547 options available under this section as soon as the school of
548 attendance is designated as a ~~failing~~ fully supported school.

549 b. Offer the parent of the student an opportunity to
550 enroll the student in another public school within the local
551 school system that is ~~not a failing~~ a non-fully supported
552 school or a ~~failing~~ fully supported school to which the
553 student has been assigned.

554 (5) The parent of a student enrolled in or assigned to
555 a school that has been designated as a ~~failing~~ fully supported
556 school, who decides to transfer the student to a ~~nonfailing~~
557 non-fully supported public school, shall first attempt to
558 enroll the student in a ~~nonfailing~~ non-fully supported public
559 school within the same local system in which the student is
560 already enrolled or assigned to attend before attempting to



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561 enroll the student in a ~~nonfailing~~ non-fully supported public
562 school that has available space in any other local school
563 system in the state. A local school system may accept the
564 student on whatever terms and conditions the system
565 establishes and report the student for purposes of the local
566 school system's funding pursuant to the Foundation Program.

567 (6) For students in the local school system who are
568 participating in the tax credit program, the local school
569 system shall provide locations and times to take all statewide
570 assessments required by law.

571 (7) Students with disabilities who are eligible to
572 receive services from the local school system under federal or
573 state law, and who participate in the tax credit program,
574 remain eligible to receive services from the local school
575 system as provided by federal or state law.

576 (8) If a parent enrolls a student in a ~~nonfailing~~
577 non-fully supported public school within the same local school
578 system, and that system provides transportation services for
579 other enrolled students, transportation costs to the
580 ~~nonfailing~~ non-fully supported public school shall be the
581 responsibility of the local school system. Local school
582 systems may negotiate transportation options with a parent to
583 minimize system costs. If a parent enrolls a student in a
584 nonpublic school or in a ~~nonfailing~~ non-fully supported public
585 school within another local school system, regardless of
586 whether that system provides transportation services for other
587 enrolled students, transportation of the student shall be the
588 responsibility of the parent.



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

592 (c) There is created within the Education Trust Fund a
593 separate account named the ~~Failing~~ Fully Supported Schools
594 Income Tax Credit Account. The Commissioner of Revenue shall
595 certify to the Comptroller the amount of income tax credits
596 due to parents under this section and the Comptroller shall
597 transfer into the ~~Failing~~ Fully Supported Schools Income Tax
598 Credit Account only the amount from sales tax revenues within
599 the Education Trust Fund that is sufficient for the Department
600 of Revenue to use to cover the income tax credits for the
601 applicable tax year. The Commissioner of Revenue shall
602 distribute the funds in the ~~Failing~~ Fully Supported Schools
603 Income Tax Credit Account to parents pursuant to this section.

604 (d) (1) Nothing in this section or chapter shall be
605 construed to force any public school, school system, or school
606 district or any nonpublic school, school system, or school
607 district to enroll any student.

608 (2) A public school, school system, or school district
609 or any nonpublic school, school system, or school district may
610 develop the terms and conditions under which it will allow a
611 student whose parent receives an income tax credit pursuant to
612 this section to be enrolled, but such terms and conditions may
613 not discriminate on the basis of the race, gender, religion,
614 color, disability status, or ethnicity of the student or of
615 the student's parent.

616 (3) Nothing in this section shall be construed to



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617 authorize the violation of or supersede the authority of any
618 court ruling that applies to the public school, school system,
619 or school district, specifically any federal court order
620 related to the desegregation of the local school system's
621 student population."

622 "§16-6D-9

623 (a) (1) An individual taxpayer who files a state income
624 tax return and is not claimed as a dependent of another
625 taxpayer, a taxpayer subject to the corporate income tax
626 levied by Chapter 18 of Title 40, an Alabama S corporation as
627 defined in Section 40-18-160, or a Subchapter K entity as
628 defined in Section 40-18-1 may claim a credit for a
629 contribution made to a scholarship granting organization. If
630 the credit is claimed by an Alabama S corporation or
631 Subchapter K entity, the credit shall pass through to and may
632 be claimed by any taxpayer eligible to claim a credit under
633 this subdivision who is a shareholder, partner, or member
634 thereof, based on the taxpayer's pro rata or distributive
635 share, respectively, of the credit.

636 (2) The tax credit may be claimed by an individual
637 taxpayer or a married couple filing jointly in an amount equal
638 to 100 percent of the total contributions the taxpayer made to
639 a scholarship granting organization for educational
640 scholarships during the taxable year for which the credit is
641 claimed, up to 100 percent of the tax liability of the
642 individual taxpayer, not to exceed one hundred thousand
643 dollars (\$100,000) per individual taxpayer or married couple
644 filing jointly. For purposes of this section, an individual



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645 taxpayer includes an individual who is a shareholder of an
646 Alabama S corporation or a partner or member of a Subchapter K
647 entity that made a contribution to a scholarship granting
648 organization.

649 (3) The tax credit may be claimed by a taxpayer subject
650 to the Alabama corporate income tax in an amount equal to 100
651 percent of the total contributions the taxpayer made to a
652 scholarship granting organization for educational scholarships
653 during the taxable year for which the credit is claimed, up to
654 100 percent of the tax liability of the taxpayer.

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

659 (5) The cumulative amount of tax credits issued
660 pursuant to subdivision (2) and subdivision (3) shall not
661 exceed thirty million dollars (\$30,000,000) annually, based on
662 the calendar year. A taxpayer making one or more otherwise
663 tax-creditable contributions before the due date, with
664 extensions, of a timely filed 2014 tax return may elect to
665 treat all or a portion of such contributions as applying to
666 and creditable against its 2014 Alabama income tax liability,
667 if the taxpayer properly reserves the credit on the website of
668 the Department of Revenue or another method provided by the
669 Department of Revenue. The amount creditable against the
670 taxpayer's 2014 income tax liability shall be limited to the
671 lesser of the amount so designated or the remaining balance,
672 if any, of the cumulative amount of the twenty-five million



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673 dollars (\$25,000,000) of tax credits available for the 2014
674 calendar year. No such contribution and election by a taxpayer
675 to reserve tax credits against the remaining balance of the
676 cumulative amount of tax credits available for 2014 shall
677 preclude the taxpayer from making additional contributions in
678 2015 and reserving those amounts against the cumulative amount
679 of tax credits available for 2015. The Department of Revenue
680 shall develop a procedure to ensure that this cap is not
681 exceeded and shall also prescribe the various methods by which
682 these credits are to be issued.

683 (6) No credit may be claimed for a contribution made to
684 a scholarship granting organization if the contribution is
685 restricted or conditioned in any way by the donor including,
686 but not limited to, requiring the scholarship granting
687 organization to direct all or part of the contribution to a
688 particular qualifying school or to grant an educational
689 scholarship to a particular eligible student.

690 (b) (1) ADMINISTRATIVE ACCOUNTABILITY STANDARDS. All
691 scholarship granting organizations shall do all of the
692 following:

693 a. Notify the Department of Revenue of their intent to
694 provide educational scholarships to eligible students.

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

699 c. Distribute periodic educational scholarship payments
700 as checks made out and mailed to or directly deposited with



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701 the school where the student is enrolled.

702 d. Provide a Department of Revenue approved receipt to
703 taxpayers for contributions made to the scholarship granting
704 organization.

705 e. Ensure that all determinations with respect to the
706 eligibility of a student to receive an educational scholarship
707 shall be made by the scholarship granting organization. A
708 scholarship granting organization shall not delegate any
709 responsibility for determining the eligibility of a student
710 for an educational scholarship or any other requirements it is
711 subject to under this chapter to any qualifying school or an
712 entity affiliated therewith.

713 f. Ensure that at least 95 percent of their revenue
714 from donations is expended on educational scholarships, and
715 that all revenue from interest or investments is expended on
716 educational scholarships. A scholarship granting organization
717 may expend up to five percent of its revenue from donations on
718 administrative and operating expenses in the calendar year of
719 the donation or in any subsequent calendar year.

720 g. Ensure that scholarship funds on hand at the
721 beginning of a calendar year are expended on educational
722 scholarships within three calendar years. Any scholarship
723 funds on hand at the beginning of a calendar year that are not
724 expended on educational scholarships within three calendar
725 years shall be turned over to and deposited with the State
726 Department of Education for the benefit of its At-Risk Student
727 Program to be distributed to local boards of education on the
728 basis determined by the State Department of Education in



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729 furtherance of support to underperforming schools.

730 h. Ensure that at least 75 percent of first-time
731 recipients of educational scholarships were not continuously
732 enrolled in a private school during the previous academic
733 year.

734 i. Cooperate with the Department of Revenue to conduct
735 criminal background checks on all of their employees and board
736 members and exclude from employment or governance any
737 individual who may reasonably pose a risk to the appropriate
738 use of contributed funds.

739 j. Ensure that educational scholarships are portable
740 during the academic year and can be used at any qualifying
741 school that accepts the eligible student according to the
742 wishes of the parent. If an eligible student transfers to
743 another qualifying school during an academic year, the
744 educational scholarship amount may be prorated.

745 k. Publicly report to the Department of Revenue by
746 September 1 of each year all of the following information
747 prepared by a certified public accountant regarding their
748 educational scholarships funded in the previous academic year:

749 1. The name and address of the scholarship granting
750 organization.

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

753 3. The total number and total dollar amount of
754 educational scholarships awarded and funded during the
755 previous academic year, the total number and total dollar
756 amount of educational scholarships awarded and funded during



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757 the previous academic year for students qualifying for the
758 federal free and reduced-price lunch program, and the
759 percentage of first-time recipients of educational
760 scholarships who were enrolled in a public school during the
761 previous academic year.

762 1. Publicly report to the Department of Revenue, by the
763 15th day after the close of each calendar quarter, all of the
764 following information about educational scholarships granted
765 during the quarter:

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

767 2. The names of the qualifying schools that received
768 funding for educational scholarships, the total amount of
769 funds paid to each qualifying school, and the total number of
770 scholarship recipients enrolled in each qualifying school.

771 3. The total number of eligible students zoned to
772 attend a ~~failing~~ fully supported school who received
773 educational scholarships from the scholarship granting
774 organization.

775 4. The total number of first time scholarship
776 recipients who were continuously enrolled in a nonpublic
777 school prior to receiving an educational scholarship from that
778 scholarship granting organization.

779 m. Ensure that educational scholarships are not
780 provided for eligible students to attend a school with paid
781 staff or board members, or relatives thereof, in common with
782 the scholarship granting organization.

783 n. Ensure that educational scholarships are provided in
784 a manner that does not discriminate based on the gender, race,



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785 or disability status of the scholarship applicant or his or
786 her parent.

787 o. Ensure that educational scholarships are provided
788 only to eligible students who are zoned to attend a ~~failing~~
789 fully supported school so that the eligible student can attend
790 a qualifying school. To ensure compliance with the immediately
791 preceding sentence, the local board of education for the
792 county or municipality in which an eligible student applying
793 for an educational scholarship resides, upon written request
794 by a parent, shall provide written verification that a
795 particular address is in the attendance zone of a specified
796 public school. The State Department of Education shall provide
797 written verification of enrollment in a ~~failing~~ fully
798 supported school under this chapter. With respect to first
799 time educational scholarship recipients, scholarship granting
800 organizations shall give priority to eligible students zoned
801 to attend ~~failing~~ fully supported schools over eligible
802 students not zoned to attend ~~failing~~ fully supported schools.
803 Any scholarship funds unaccounted for on July 31st of each
804 calendar year may be made available to eligible students to
805 defray the costs of attending a qualifying school, whether or
806 not the student is zoned to attend a ~~failing~~ fully supported
807 school. Any provision of this section to the contrary
808 notwithstanding, once an eligible student receives an
809 educational scholarship under this program, scholarship funds
810 may be made available to the student for educational
811 scholarships until the student graduates from high school or
812 reaches 19 years of age, regardless of whether the student is



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813 zoned to attend a ~~ailing~~ fully supported school, subject to
814 the income eligibility requirements of paragraph b. of
815 subdivision (4) of Section 16-6D-4.

816 p. Ensure that no donations are directly made to
817 benefit specifically designated scholarship recipients or to
818 particular qualifying schools.

819 q. Submit to the Department of Revenue annual
820 verification of the scholarship granting organization's
821 policies and procedures used to determine scholarship
822 eligibility. The verification shall confirm that the
823 scholarship granting organization, and not one or more
824 qualifying schools accepting educational scholarship
825 recipients or scholarship funds, is determining whether
826 scholarship applicants are eligible to receive educational
827 scholarships. The verification shall also confirm that the
828 scholarship granting organization is giving priority to
829 receive an educational scholarship to eligible students zoned
830 to attend ~~ailing~~ fully supported schools.

831 r. Submit to the Department of Revenue annual
832 verification that none of its actions or policies restricts a
833 parent's educational choice by limiting or prohibiting the
834 enrollment of eligible students in a qualifying school if
835 those eligible students received educational scholarships from
836 other scholarship granting organizations.

837 (2) FINANCIAL ACCOUNTABILITY STANDARDS.

838 a. All scholarship granting organizations shall
839 demonstrate their financial accountability by doing all of the
840 following:



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841 1. Annually submitting to the Department of Revenue a
842 financial information report for the scholarship granting
843 organization that complies with uniform financial accounting
844 standards established by the Department of Revenue and
845 conducted by a certified public accountant.

846 2. Having the auditor certify that the report is free
847 of material misstatements.

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

852 1. Filing with the scholarship granting organization
853 prior to receipt of the first educational scholarship payment
854 for that academic year a surety bond payable to the
855 scholarship granting organization in an amount equal to the
856 aggregate amount of scholarship funds expected to be received
857 during the academic year.

858 2. Filing with the scholarship granting organization
859 prior to receipt of the first educational scholarship payment
860 for that academic year financial information that demonstrates
861 the financial viability of the qualifying nonpublic school.

862 (c) (1) Each scholarship granting organization shall
863 annually collect and submit to the Department of Revenue with
864 the annual report required by paragraph k. of subdivision (1)
865 of subsection (b) written verification from qualifying
866 nonpublic schools that accept its educational scholarship
867 students that those schools do all of the following:

868 a. Comply with all health and safety laws or codes that



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869 otherwise apply to nonpublic schools.

870 b. Hold a valid occupancy permit if required by the
871 municipality.

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

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

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

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

880 (2) By August 1 of each year, each qualifying nonpublic
881 school shall provide to each scholarship granting organization
882 from which it receives educational scholarships verification
883 that the qualifying nonpublic school is in compliance with the
884 Alabama Child Protection Act of 1999, Chapter 22A of this
885 title. Any qualifying nonpublic school failing to timely
886 provide such annual verification shall be prohibited from
887 participating in the scholarship program. Each scholarship
888 granting organization shall annually submit to the Department
889 of Revenue with the annual report required by paragraph k. of
890 subdivision (1) of subsection (b) copies of the written
891 verifications it receives from each qualifying nonpublic
892 school.

893 (3) ACADEMIC ACCOUNTABILITY STANDARDS. There shall be
894 sufficient information about the academic impact educational
895 scholarship tax credits have on students participating in the
896 tax credit scholarship program in order to allow parents and



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897 taxpayers to measure the achievements of the tax credit
898 scholarship program, and therefore:

899 a. Each scholarship granting organization shall ensure
900 that qualifying schools that accept its educational
901 scholarship students shall do all of the following:

902 1. Annually administer either the state achievement
903 tests or nationally recognized norm-referenced tests that
904 measure learning gains in math and language arts to all
905 students receiving an educational scholarship in grades that
906 require testing under the accountability testing laws of the
907 state for public schools, in order that the state can compare
908 the academic achievement and learning gains of students
909 receiving educational scholarships with students of the same
910 socioeconomic and educational backgrounds who are taking the
911 state achievement tests or nationally norm-referenced tests.

912 2. Allow the costs of the testing requirement to be
913 covered by the educational scholarships distributed by the
914 scholarship granting organizations.

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

918 4. Provide the test results to the Department of
919 Revenue on an annual basis, beginning with the first year of
920 testing.

921 5. Report student information that allows the state to
922 aggregate data by grade level, gender, family income level,
923 and race.

924 6. Provide graduation rates of those students



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925 benefitting from educational scholarships to the Department of
926 Revenue or an organization chosen by the state in a manner
927 consistent with nationally recognized standards.

928 7. Ensure that a student who receives an educational
929 scholarship conforms to the attendance requirements of the
930 qualifying school. If a student fails to conform, the
931 qualifying school shall immediately communicate the failure to
932 the applicable scholarship granting organization.

933 b.1. The Department of Revenue shall select an
934 independent research organization, which may be a public or
935 private entity or university, to analyze the results of the
936 testing required by paragraph a. every other academic year.
937 The cost of analyzing and reporting on the test results to the
938 Department of Revenue by the independent research organization
939 shall be borne by all scholarship granting organizations in
940 proportion to the total scholarship donations received for the
941 two calendar years prior to the report being published.
942 Scholarship granting organizations may receive and use funds
943 from outside sources to pay for its share of the biennial
944 report.

945 2. The independent research organization shall report
946 to the Department of Revenue every other year on the learning
947 gains of students receiving educational scholarships and the
948 report shall be aggregated by the grade level, gender, family
949 income level, number of years of participation in the tax
950 credit scholarship program, and race of the student receiving
951 an educational scholarship. The report shall also include, to
952 the extent possible, a comparison of the learning gains of



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953 students participating in the tax credit scholarship program
954 to the statewide learning gains of public school students with
955 socioeconomic and educational backgrounds similar to those
956 students participating in the tax credit scholarship program.

957 3. The first report under this paragraph shall be
958 submitted to the Department of Revenue by September 1, 2016.
959 Each biennial report thereafter shall be submitted to the
960 Department of Revenue on September 1 of the year the report is
961 due. All biennial reports required by this paragraph shall be
962 published on the website of the Department of Revenue.

963 4. Each scholarship granting organization shall collect
964 all test results from qualifying schools accepting its
965 scholarship recipients and turn over such test results to the
966 independent research organization described in this paragraph
967 by August 15 of each calendar year.

968 5. The sharing and reporting of student learning gain
969 data under this paragraph shall conform to the requirements of
970 the Family Educational Rights and Privacy Act, 20 U.S.C.
971 § 1232g., and shall be for the sole purpose of creating the
972 biennial report required by this paragraph. All parties shall
973 preserve the confidentiality of such information as required by
974 law. The biennial report shall not disaggregate data to a
975 level that could identify qualifying schools participating in
976 the tax credit scholarship program or disclose the academic
977 level of individual students.

978 6. At the same time the biennial report under
979 subparagraph 2. is submitted to the Department of Revenue, it
980 shall be submitted to the Chair of the Senate Education Policy



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981 Committee and the Chair of the House Education Policy
982 Committee.

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

985 (2) The Department of Revenue shall provide a
986 standardized format for a receipt to be issued by a
987 scholarship granting organization to a taxpayer to indicate
988 the value of a contribution received. The Department of
989 Revenue shall require a taxpayer to provide a copy of the
990 receipt when claiming the tax credit pursuant to this section.

991 (3) The Department of Revenue shall provide a
992 standardized format for a scholarship granting organization to
993 report the information required in paragraphs k. and l. of
994 subdivision (1) of subsection (b).

995 (4) The Department of Revenue may conduct either a
996 financial review or audit of a scholarship granting
997 organization.

998 (5) The Department of Revenue may bar a scholarship
999 granting organization or a qualifying school from
1000 participating in the tax credit scholarship program if the
1001 Department of Revenue establishes that the scholarship
1002 granting organization or the qualifying school has
1003 intentionally and substantially failed to comply with the
1004 requirements in subsection (b) or subsection (c).

1005 (6) If the Department of Revenue decides to bar a
1006 scholarship granting organization or a qualifying school from
1007 the tax credit scholarship program, the Department of Revenue
1008 shall notify affected educational scholarship students and



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1009 their parents of the decision as quickly as possible.

1010 (7) The Department of Revenue shall publish and
1011 routinely update, on the website of the department, a list of
1012 scholarship granting organizations in the state, by county.

1013 (8) The Department of Revenue shall publish and make
1014 publicly available on its website all annual and quarterly
1015 reports required to be filed with it by scholarship granting
1016 organizations under paragraphs k. and l. of subdivision (1) of
1017 subsection (b).

1018 (e) (1) All schools participating in the tax credit
1019 scholarship program shall be required to operate in Alabama.

1020 (2) All schools participating in the tax credit
1021 scholarship program shall comply with all state laws that
1022 apply to public schools regarding criminal background checks
1023 for employees and exclude from employment any person not
1024 permitted by state law to work in a public school.

1025 (3) All qualifying nonpublic schools participating in
1026 the tax credit scholarship program shall maintain a website
1027 that describes the school, the instructional program of the
1028 school, and the tuition and mandatory fees charged by the
1029 school, updated prior to the beginning of each semester.

1030 (4) The amount of a scholarship awarded a student to
1031 attend a nonpublic school may not exceed the total sum of
1032 tuition and mandatory fees normally charged a student to
1033 attend the nonpublic school for the same attendance period.
1034 The amount of a scholarship awarded a student to attend a
1035 public school may not exceed the total state appropriation
1036 provided for a student to attend the public school for the



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1037 same attendance period.

1038 (f) The tax credit provided in this section may be
1039 first claimed for the 2013 tax year, but may not be claimed
1040 for any tax year prior to the 2013 tax year.

1041 (g) (1) Nothing in this section shall be construed to
1042 force any public school, school system, or school district or
1043 any nonpublic school, school system, or school district to
1044 enroll any student. No qualifying school may enter into any
1045 agreement, whether oral or written, with a scholarship
1046 granting organization that would prohibit or limit an eligible
1047 student from enrolling in the school based on the identity of
1048 the scholarship granting organization from which the eligible
1049 student received an educational scholarship.

1050 (2) A public school, school system, or school district
1051 or any nonpublic school, school system, or school district may
1052 develop the terms and conditions under which it will allow a
1053 student who receives a scholarship from a scholarship granting
1054 organization pursuant to this section to be enrolled, but such
1055 terms and conditions may not discriminate on the basis of the
1056 race, gender, religion, disability status, or ethnicity of the
1057 student or of the student's parent.

1058 (3) Nothing in this section shall be construed to
1059 authorize the violation of or supersede the authority of any
1060 court ruling that applies to the public school, school system,
1061 or school district, specifically any federal court order
1062 related to the desegregation of the local school system's
1063 student population.

1064 (h) Nothing in this chapter shall affect or change the



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1065 athletic eligibility rules of student athletes governed by the
1066 Alabama High School Athletic Association or similar
1067 association."

1068 Section 2. Commencing on the effective date of this
1069 act, the State Board of Education shall refer to any public
1070 K-12 school or school district that is determined to have poor
1071 performance or is failing to make adequate progress as a fully
1072 supported school, in lieu of a failing school, and shall refer
1073 to a nonfailing school as a non-fully supported school, when
1074 amending rules or adopting rules.

1075 Section 3. This act shall become effective on the first
1076 day of the third month following its passage and approval by
1077 the Governor, or its otherwise becoming law.