

# HB30 INTRODUCED



1 Q7NV41-1  
2 By Representative McCampbell  
3 RFD: Education Policy  
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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 lowest sixth percent school and the designation of a nonfailing school to a highest 94th percent 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 lowest sixth  
35 percent school and the designation of a nonfailing school to a  
36 highest 94th percent school; and to require the State Board of  
37 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~~ lowest sixth percent 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 lowest sixth percent public school to a ~~nonfailing~~ highest  
168 94th percent 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 ~~(8)~~ (7) INNOVATION PLAN. The request of a local school  
239 system for flexibility and plan for annual accountability  
240 measures and five-year targets for all participating schools  
241 within the school system.

242 ~~(9)~~ (8) LOCAL BOARD OF EDUCATION. A city or county board  
243 of education that exercises management and control of a local  
244 school system pursuant to state law.

245 ~~(10)~~ (9) LOCAL SCHOOL SYSTEM. A public agency that  
246 establishes and supervises one or more public schools within  
247 its geographical limits pursuant to state law.

248 (10) LOWEST SIXTH PERCENT SCHOOL. A public K-12 school  
249 that is either of the following:

250 a. Is designated as a lowest sixth percent school by  
251 the State Superintendent of Education.

252 b. Does not exclusively serve a special population of



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253 students and is listed in the lowest sixth percent of public  
254 K-12 schools based on the state standardized assessment in  
255 reading and math.

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~~ lowest sixth  
273 percent within the meaning of subdivision ~~(5)~~ (10) or any  
274 nonpublic school as defined in subdivision (11) and that  
275 satisfies the requirements of this subdivision. A qualifying  
276 nonpublic school shall be accredited by one of the six  
277 regional accrediting agencies or the National Council for  
278 Private School Accreditation, AdvancEed, the American  
279 Association of Christian Schools, or one of their partner  
280 accrediting agencies. A nonpublic school shall have three



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

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

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

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

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

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

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

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

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

308 9. Maintains a website that describes the school, the



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309 instructional program of the school, and the tuition and  
310 mandatory fees charged by the school, updated prior to the  
311 beginning of each semester.

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

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

335 (14) SCHOLARSHIP GRANTING ORGANIZATION. An organization  
336 that provides or is approved to provide educational



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337 scholarships to eligible students attending qualifying schools  
338 of their parents' choice."

339 "§16-6D-6

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

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

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

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

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

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



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

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

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

392 (f) The State Department of Education shall finalize



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393 all school data and the local school system shall seek  
394 approval of the local board of education before final  
395 submission to the State Department of Education and the State  
396 Board of Education.

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

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

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

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

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





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421 noncompliance or nonperformance, or both, by a local school  
422 system.

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

427 "§16-6D-8

428 (a) To provide educational flexibility and state  
429 accountability for students in ~~failing~~ lowest sixth percent  
430 schools:

431 (1) For tax years beginning on and after January 1,  
432 2013, an Alabama income tax credit is made available to the  
433 parent of a student enrolled in or assigned to attend a  
434 ~~failing~~ lowest sixth percent school to help offset the cost of  
435 transferring the student to a ~~nonfailing~~ highest 94th percent  
436 public school or nonpublic school of the parent's choice. The  
437 income tax credit shall be an amount equal to 80 percent of  
438 the average annual state cost of attendance for a public K-12  
439 student during the applicable tax year or the actual cost of  
440 attending a ~~nonfailing~~ highest 94th percent public school or  
441 nonpublic school, whichever is less. The actual cost of  
442 attending a ~~nonfailing~~ highest 94th percent public school or  
443 nonpublic school shall be calculated by adding together any  
444 tuition amounts or mandatory fees charged by the school to the  
445 student as a condition of enrolling or of maintaining  
446 enrollment in the school. The average annual state cost of  
447 attendance for a public K-12 student shall be calculated by  
448 dividing the state funds appropriated to the Foundation



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449 Program pursuant to Section 16-13-231(b) (2) by the total  
450 statewide number of pupils in average daily membership during  
451 the first 20 scholastic days following Labor Day of the  
452 preceding school year. For each student who was enrolled in  
453 and attended a ~~failing~~ lowest sixth percent school the  
454 previous semester whose parent receives an income tax credit  
455 under this section, an amount equal to 20 percent of the  
456 average annual state cost of attendance for a public K-12  
457 student during the applicable tax year shall be allocated, for  
458 as long as the parent receives the tax credit, to the ~~failing~~  
459 lowest sixth percent school from which the student transferred  
460 if the student transfers to and remains enrolled in a  
461 nonpublic school. No such allocation shall be made in the  
462 event the student transfers to or enrolls in a ~~nonfailing~~  
463 highest 94th percent public school. The Department of  
464 Education shall determine the best method of ensuring that the  
465 foregoing allocation provisions are properly implemented. A  
466 parent is allowed a credit against income tax for each taxable  
467 year under the terms established in this section. If income  
468 taxes owed by such a parent are less than the total credit  
469 allowed under this subsection, the taxpayer shall be entitled  
470 to a refund or rebate, as the case may be, equal to the  
471 balance of the unused credit with respect to that taxable  
472 year.

473 (2) Any income tax credit due a parent under this  
474 section shall be granted or issued to the parent only upon his  
475 or her making application therefor, at such time and in such  
476 manner as may be prescribed from time to time by the



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477 Department of Revenue. The application process shall include,  
478 but not be limited to, certification by the parent that the  
479 student was enrolled in or was assigned to attend a ~~failing~~  
480 lowest sixth percent school, certification by the parent that  
481 the student was subsequently transferred to, and was enrolled  
482 and attended, a ~~nonfailing~~ highest 94th percent public school  
483 or nonpublic school of the parent's choice, and proof,  
484 satisfactory to the Department of Revenue, of the actual cost  
485 of attendance for the student at the ~~nonfailing~~ highest 94th  
486 percent public school or nonpublic school. For purposes of the  
487 tax credit authorized by this section, costs of attendance  
488 does not include any such costs incurred for an academic year  
489 prior to the 2013-2014 academic year. The Department of  
490 Revenue shall also prescribe the various methods by which  
491 income tax credits are to be issued to taxpayers. Income tax  
492 credits authorized by this section shall be paid out of sales  
493 tax collections made to the Education Trust Fund, and set  
494 aside by the Comptroller in the ~~Failing~~ Lowest Sixth Percent  
495 Schools Income Tax Credit Account created in subsection (c),  
496 in the same manner as refunds of income tax otherwise provided  
497 by law, and there is hereby appropriated therefrom, for such  
498 purpose, so much as may be necessary to annually pay the  
499 income tax credits provided by this section.

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

504 (4) The Department of Revenue shall ~~promulgate~~ adopt



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505 reasonable rules to effectuate the intent of this subsection.

506 (b) (1) The parent of a public school student may  
507 request and receive an income tax credit pursuant to this  
508 section to reimburse the parent for costs associated with  
509 transferring the student from a ~~failing~~ lowest sixth percent  
510 school to a ~~nonfailing~~ highest 94th percent public school or  
511 nonpublic school of the parent's choice, in any of the  
512 following circumstances:

513 a. By assigned school attendance area, if the student  
514 spent the prior school year in attendance at a ~~failing~~ lowest  
515 sixth percent school and the attendance of the student  
516 occurred during a school year in which the designation was in  
517 effect.

518 b. The student was in attendance elsewhere in the  
519 Alabama public school system and was assigned to a ~~failing~~  
520 lowest sixth percent school for the next school year.

521 c. The student was notified that he or she was assigned  
522 to a ~~failing~~ lowest sixth percent school for the next school  
523 year.

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

526 (3) For the purposes of continuity of educational  
527 choice, the tax credit shall be available to parents for those  
528 grade levels of the ~~failing~~ lowest sixth percent school from  
529 which the student transferred. The parent of a student who  
530 transfers from a ~~failing~~ lowest sixth percent school may  
531 receive income tax credits for those grade levels enrolled in  
532 and attended in the ~~nonfailing~~ highest 94th percent public



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533 school or nonpublic school of the parent's choice transferred  
534 to that were included in the ~~failing~~ lowest sixth percent  
535 school from which the student transferred, whether or not the  
536 ~~failing~~ lowest sixth percent school becomes a ~~nonfailing~~  
537 highest 94th percent school during those years. The parent of  
538 such a student shall no longer be eligible for the income tax  
539 credit after the student completes the highest grade level in  
540 which he or she would otherwise have been enrolled at the  
541 ~~failing~~ lowest sixth percent school. Notwithstanding the  
542 foregoing, as long as the student remains enrolled in or  
543 assigned to attend a ~~failing~~ lowest sixth percent school, the  
544 parent may again transfer the student to a ~~nonfailing~~ highest  
545 94th percent public school or nonpublic school of the parent's  
546 choice and request and receive an income tax credit as  
547 provided in this section.

548 (4) A local school system, for each student enrolled in  
549 or assigned to a ~~failing~~ lowest sixth percent school, shall do  
550 all of the following:

551 a. Timely notify the parent of the student of all  
552 options available under this section as soon as the school of  
553 attendance is designated as a ~~failing~~ lowest sixth percent  
554 school.

555 b. Offer the parent of the student an opportunity to  
556 enroll the student in another public school within the local  
557 school system that is not a ~~failing~~ lowest sixth percent  
558 school or a ~~failing~~ lowest sixth percent school to which the  
559 student has been assigned.

560 (5) The parent of a student enrolled in or assigned to



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561 a school that has been designated as a ~~failing~~ lowest sixth  
562 percent school, who decides to transfer the student to a  
563 ~~nonfailing~~ highest 94th percent public school, shall first  
564 attempt to enroll the student in a ~~nonfailing~~ highest 94th  
565 percent public school within the same local system in which  
566 the student is already enrolled or assigned to attend before  
567 attempting to enroll the student in a ~~nonfailing~~ highest 94th  
568 percent public school that has available space in any other  
569 local school system in the state. A local school system may  
570 accept the student on whatever terms and conditions the system  
571 establishes and report the student for purposes of the local  
572 school system's funding pursuant to the Foundation Program.

573 (6) For students in the local school system who are  
574 participating in the tax credit program, the local school  
575 system shall provide locations and times to take all statewide  
576 assessments required by law.

577 (7) Students with disabilities who are eligible to  
578 receive services from the local school system under federal or  
579 state law, and who participate in the tax credit program,  
580 remain eligible to receive services from the local school  
581 system as provided by federal or state law.

582 (8) If a parent enrolls a student in a ~~nonfailing~~  
583 highest 94th percent public school within the same local  
584 school system, and that system provides transportation  
585 services for other enrolled students, transportation costs to  
586 the ~~nonfailing~~ highest 94th percent public school shall be the  
587 responsibility of the local school system. Local school  
588 systems may negotiate transportation options with a parent to



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589 minimize system costs. If a parent enrolls a student in a  
590 nonpublic school or in a ~~nonfailing~~ highest 94th percent  
591 public school within another local school system, regardless  
592 of whether that system provides transportation services for  
593 other enrolled students, transportation of the student shall  
594 be the responsibility of the parent.

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

598 (c) There is created within the Education Trust Fund a  
599 separate account named the ~~Failing~~ Lowest Sixth Percent  
600 Schools Income Tax Credit Account. The Commissioner of Revenue  
601 shall certify to the Comptroller the amount of income tax  
602 credits due to parents under this section and the Comptroller  
603 shall transfer into the ~~Failing~~ Lowest Sixth Percent Schools  
604 Income Tax Credit Account only the amount from sales tax  
605 revenues within the Education Trust Fund that is sufficient  
606 for the Department of Revenue to use to cover the income tax  
607 credits for the applicable tax year. The Commissioner of  
608 Revenue shall distribute the funds in the ~~Failing~~ Lowest Sixth  
609 Percent Schools Income Tax Credit Account to parents pursuant  
610 to this section.

611 (d) (1) Nothing in this section or chapter shall be  
612 construed to force any public school, school system, or school  
613 district or any nonpublic school, school system, or school  
614 district to enroll any student.

615 (2) A public school, school system, or school district  
616 or any nonpublic school, school system, or school district may



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617 develop the terms and conditions under which it will allow a  
618 student whose parent receives an income tax credit pursuant to  
619 this section to be enrolled, but such terms and conditions may  
620 not discriminate on the basis of the race, gender, religion,  
621 color, disability status, or ethnicity of the student or of  
622 the student's parent.

623 (3) Nothing in this section shall be construed to  
624 authorize the violation of or supersede the authority of any  
625 court ruling that applies to the public school, school system,  
626 or school district, specifically any federal court order  
627 related to the desegregation of the local school system's  
628 student population."

629 "§16-6D-9

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

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





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645 to 100 percent of the total contributions the taxpayer made to  
646 a scholarship granting organization for educational  
647 scholarships during the taxable year for which the credit is  
648 claimed, up to 100 percent of the tax liability of the  
649 individual taxpayer, not to exceed one hundred thousand  
650 dollars (\$100,000) per individual taxpayer or married couple  
651 filing jointly. For purposes of this section, an individual  
652 taxpayer includes an individual who is a shareholder of an  
653 Alabama S corporation or a partner or member of a Subchapter K  
654 entity that made a contribution to a scholarship granting  
655 organization.

656 (3) The tax credit may be claimed by a taxpayer subject  
657 to the Alabama corporate income tax in an amount equal to 100  
658 percent of the total contributions the taxpayer made to a  
659 scholarship granting organization for educational scholarships  
660 during the taxable year for which the credit is claimed, up to  
661 100 percent of the tax liability of the taxpayer.

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

666 (5) The cumulative amount of tax credits issued  
667 pursuant to subdivision (2) and subdivision (3) shall not  
668 exceed thirty million dollars (\$30,000,000) annually, based on  
669 the calendar year. A taxpayer making one or more otherwise  
670 tax-creditable contributions before the due date, with  
671 extensions, of a timely filed 2014 tax return may elect to  
672 treat all or a portion of such contributions as applying to



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673 and creditable against its 2014 Alabama income tax liability,  
674 if the taxpayer properly reserves the credit on the website of  
675 the Department of Revenue or another method provided by the  
676 Department of Revenue. The amount creditable against the  
677 taxpayer's 2014 income tax liability shall be limited to the  
678 lesser of the amount so designated or the remaining balance,  
679 if any, of the cumulative amount of the twenty-five million  
680 dollars (\$25,000,000) of tax credits available for the 2014  
681 calendar year. No such contribution and election by a taxpayer  
682 to reserve tax credits against the remaining balance of the  
683 cumulative amount of tax credits available for 2014 shall  
684 preclude the taxpayer from making additional contributions in  
685 2015 and reserving those amounts against the cumulative amount  
686 of tax credits available for 2015. The Department of Revenue  
687 shall develop a procedure to ensure that this cap is not  
688 exceeded and shall also prescribe the various methods by which  
689 these credits are to be issued.

690 (6) No credit may be claimed for a contribution made to  
691 a scholarship granting organization if the contribution is  
692 restricted or conditioned in any way by the donor including,  
693 but not limited to, requiring the scholarship granting  
694 organization to direct all or part of the contribution to a  
695 particular qualifying school or to grant an educational  
696 scholarship to a particular eligible student.

697 (b) (1) ADMINISTRATIVE ACCOUNTABILITY STANDARDS. All  
698 scholarship granting organizations shall do all of the  
699 following:

700 a. Notify the Department of Revenue of their intent to



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701 provide educational scholarships to eligible students.

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

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

709           d. Provide a Department of Revenue approved receipt to  
710 taxpayers for contributions made to the scholarship granting  
711 organization.

712           e. Ensure that all determinations with respect to the  
713 eligibility of a student to receive an educational scholarship  
714 shall be made by the scholarship granting organization. A  
715 scholarship granting organization shall not delegate any  
716 responsibility for determining the eligibility of a student  
717 for an educational scholarship or any other requirements it is  
718 subject to under this chapter to any qualifying school or an  
719 entity affiliated therewith.

720           f. Ensure that at least 95 percent of their revenue  
721 from donations is expended on educational scholarships, and  
722 that all revenue from interest or investments is expended on  
723 educational scholarships. A scholarship granting organization  
724 may expend up to five percent of its revenue from donations on  
725 administrative and operating expenses in the calendar year of  
726 the donation or in any subsequent calendar year.

727           g. Ensure that scholarship funds on hand at the  
728 beginning of a calendar year are expended on educational



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729 scholarships within three calendar years. Any scholarship  
730 funds on hand at the beginning of a calendar year that are not  
731 expended on educational scholarships within three calendar  
732 years shall be turned over to and deposited with the State  
733 Department of Education for the benefit of its At-Risk Student  
734 Program to be distributed to local boards of education on the  
735 basis determined by the State Department of Education in  
736 furtherance of support to underperforming schools.

737           h. Ensure that at least 75 percent of first-time  
738 recipients of educational scholarships were not continuously  
739 enrolled in a private school during the previous academic  
740 year.

741           i. Cooperate with the Department of Revenue to conduct  
742 criminal background checks on all of their employees and board  
743 members and exclude from employment or governance any  
744 individual who may reasonably pose a risk to the appropriate  
745 use of contributed funds.

746           j. Ensure that educational scholarships are portable  
747 during the academic year and can be used at any qualifying  
748 school that accepts the eligible student according to the  
749 wishes of the parent. If an eligible student transfers to  
750 another qualifying school during an academic year, the  
751 educational scholarship amount may be prorated.

752           k. Publicly report to the Department of Revenue by  
753 September 1 of each year all of the following information  
754 prepared by a certified public accountant regarding their  
755 educational scholarships funded in the previous academic year:

756           1. The name and address of the scholarship granting



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757 organization.

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

760           3. The total number and total dollar amount of  
761 educational scholarships awarded and funded during the  
762 previous academic year, the total number and total dollar  
763 amount of educational scholarships awarded and funded during  
764 the previous academic year for students qualifying for the  
765 federal free and reduced-price lunch program, and the  
766 percentage of first-time recipients of educational  
767 scholarships who were enrolled in a public school during the  
768 previous academic year.

769           1. Publicly report to the Department of Revenue, by the  
770 15th day after the close of each calendar quarter, all of the  
771 following information about educational scholarships granted  
772 during the quarter:

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

774           2. The names of the qualifying schools that received  
775 funding for educational scholarships, the total amount of  
776 funds paid to each qualifying school, and the total number of  
777 scholarship recipients enrolled in each qualifying school.

778           3. The total number of eligible students zoned to  
779 attend a ~~failing~~ lowest sixth percent school who received  
780 educational scholarships from the scholarship granting  
781 organization.

782           4. The total number of first time scholarship  
783 recipients who were continuously enrolled in a nonpublic  
784 school prior to receiving an educational scholarship from that



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785 scholarship granting organization.

786 m. Ensure that educational scholarships are not  
787 provided for eligible students to attend a school with paid  
788 staff or board members, or relatives thereof, in common with  
789 the scholarship granting organization.

790 n. Ensure that educational scholarships are provided in  
791 a manner that does not discriminate based on the gender, race,  
792 or disability status of the scholarship applicant or his or  
793 her parent.

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



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813 or not the student is zoned to attend a ~~ailing~~ lowest sixth  
814 percent school. Any provision of this section to the contrary  
815 notwithstanding, once an eligible student receives an  
816 educational scholarship under this program, scholarship funds  
817 may be made available to the student for educational  
818 scholarships until the student graduates from high school or  
819 reaches 19 years of age, regardless of whether the student is  
820 zoned to attend a ~~ailing~~ lowest sixth percent school, subject  
821 to the income eligibility requirements of paragraph b. of  
822 subdivision (4) of Section 16-6D-4.

823 p. Ensure that no donations are directly made to  
824 benefit specifically designated scholarship recipients or to  
825 particular qualifying schools.

826 q. Submit to the Department of Revenue annual  
827 verification of the scholarship granting organization's  
828 policies and procedures used to determine scholarship  
829 eligibility. The verification shall confirm that the  
830 scholarship granting organization, and not one or more  
831 qualifying schools accepting educational scholarship  
832 recipients or scholarship funds, is determining whether  
833 scholarship applicants are eligible to receive educational  
834 scholarships. The verification shall also confirm that the  
835 scholarship granting organization is giving priority to  
836 receive an educational scholarship to eligible students zoned  
837 to attend ~~ailing~~ lowest sixth percent schools.

838 r. Submit to the Department of Revenue annual  
839 verification that none of its actions or policies restricts a  
840 parent's educational choice by limiting or prohibiting the  
841 enrollment of eligible students in a qualifying school if



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842 those eligible students received educational scholarships from  
843 other scholarship granting organizations.

844 (2) FINANCIAL ACCOUNTABILITY STANDARDS.

845 a. All scholarship granting organizations shall  
846 demonstrate their financial accountability by doing all of the  
847 following:

848 1. Annually submitting to the Department of Revenue a  
849 financial information report for the scholarship granting  
850 organization that complies with uniform financial accounting  
851 standards established by the Department of Revenue and  
852 conducted by a certified public accountant.

853 2. Having the auditor certify that the report is free  
854 of material misstatements.

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

859 1. Filing with the scholarship granting organization  
860 prior to receipt of the first educational scholarship payment  
861 for that academic year a surety bond payable to the  
862 scholarship granting organization in an amount equal to the  
863 aggregate amount of scholarship funds expected to be received  
864 during the academic year.

865 2. Filing with the scholarship granting organization  
866 prior to receipt of the first educational scholarship payment  
867 for that academic year financial information that demonstrates  
868 the financial viability of the qualifying nonpublic school.

869 (c) (1) Each scholarship granting organization shall





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870 annually collect and submit to the Department of Revenue with  
871 the annual report required by paragraph k. of subdivision (1)  
872 of subsection (b) written verification from qualifying  
873 nonpublic schools that accept its educational scholarship  
874 students that those schools do all of the following:

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

877 b. Hold a valid occupancy permit if required by the  
878 municipality.

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

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

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

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

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



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898 verifications it receives from each qualifying nonpublic  
899 school.

900 (3) ACADEMIC ACCOUNTABILITY STANDARDS. There shall be  
901 sufficient information about the academic impact educational  
902 scholarship tax credits have on students participating in the  
903 tax credit scholarship program in order to allow parents and  
904 taxpayers to measure the achievements of the tax credit  
905 scholarship program, and therefore:

906 a. Each scholarship granting organization shall ensure  
907 that qualifying schools that accept its educational  
908 scholarship students shall do all of the following:

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

919 2. Allow the costs of the testing requirement to be  
920 covered by the educational scholarships distributed by the  
921 scholarship granting organizations.

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

925 4. Provide the test results to the Department of



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926 Revenue on an annual basis, beginning with the first year of  
927 testing.

928           5. Report student information that allows the state to  
929 aggregate data by grade level, gender, family income level,  
930 and race.

931           6. Provide graduation rates of those students  
932 benefitting from educational scholarships to the Department of  
933 Revenue or an organization chosen by the state in a manner  
934 consistent with nationally recognized standards.

935           7. Ensure that a student who receives an educational  
936 scholarship conforms to the attendance requirements of the  
937 qualifying school. If a student fails to conform, the  
938 qualifying school shall immediately communicate the failure to  
939 the applicable scholarship granting organization.

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

952           2. The independent research organization shall report  
953 to the Department of Revenue every other year on the learning



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954 gains of students receiving educational scholarships and the  
955 report shall be aggregated by the grade level, gender, family  
956 income level, number of years of participation in the tax  
957 credit scholarship program, and race of the student receiving  
958 an educational scholarship. The report shall also include, to  
959 the extent possible, a comparison of the learning gains of  
960 students participating in the tax credit scholarship program  
961 to the statewide learning gains of public school students with  
962 socioeconomic and educational backgrounds similar to those  
963 students participating in the tax credit scholarship program.

964         3. The first report under this paragraph shall be  
965 submitted to the Department of Revenue by September 1, 2016.  
966 Each biennial report thereafter shall be submitted to the  
967 Department of Revenue on September 1 of the year the report is  
968 due. All biennial reports required by this paragraph shall be  
969 published on the website of the Department of Revenue.

970         4. Each scholarship granting organization shall collect  
971 all test results from qualifying schools accepting its  
972 scholarship recipients and turn over such test results to the  
973 independent research organization described in this paragraph  
974 by August 15 of each calendar year.

975         5. The sharing and reporting of student learning gain  
976 data under this paragraph shall conform to the requirements of  
977 the Family Educational Rights and Privacy Act, 20 U.S.C.  
978 § 1232g., and shall be for the sole purpose of creating the  
979 biennial report required by this paragraph. All parties shall  
980 preserve the confidentiality of such information as required by  
981 law. The biennial report shall not disaggregate data to a



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982 level that could identify qualifying schools participating in  
983 the tax credit scholarship program or disclose the academic  
984 level of individual students.

985 6. At the same time the biennial report under  
986 subparagraph 2. is submitted to the Department of Revenue, it  
987 shall be submitted to the Chair of the Senate Education Policy  
988 Committee and the Chair of the House Education Policy  
989 Committee.

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

992 (2) The Department of Revenue shall provide a  
993 standardized format for a receipt to be issued by a  
994 scholarship granting organization to a taxpayer to indicate  
995 the value of a contribution received. The Department of  
996 Revenue shall require a taxpayer to provide a copy of the  
997 receipt when claiming the tax credit pursuant to this section.

998 (3) The Department of Revenue shall provide a  
999 standardized format for a scholarship granting organization to  
1000 report the information required in paragraphs k. and l. of  
1001 subdivision (1) of subsection (b).

1002 (4) The Department of Revenue may conduct either a  
1003 financial review or audit of a scholarship granting  
1004 organization.

1005 (5) The Department of Revenue may bar a scholarship  
1006 granting organization or a qualifying school from  
1007 participating in the tax credit scholarship program if the  
1008 Department of Revenue establishes that the scholarship  
1009 granting organization or the qualifying school has



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1010 intentionally and substantially failed to comply with the  
1011 requirements in subsection (b) or subsection (c).

1012 (6) If the Department of Revenue decides to bar a  
1013 scholarship granting organization or a qualifying school from  
1014 the tax credit scholarship program, the Department of Revenue  
1015 shall notify affected educational scholarship students and  
1016 their parents of the decision as quickly as possible.

1017 (7) The Department of Revenue shall publish and  
1018 routinely update, on the website of the department, a list of  
1019 scholarship granting organizations in the state, by county.

1020 (8) The Department of Revenue shall publish and make  
1021 publicly available on its website all annual and quarterly  
1022 reports required to be filed with it by scholarship granting  
1023 organizations under paragraphs k. and l. of subdivision (1) of  
1024 subsection (b).

1025 (e) (1) All schools participating in the tax credit  
1026 scholarship program shall be required to operate in Alabama.

1027 (2) All schools participating in the tax credit  
1028 scholarship program shall comply with all state laws that  
1029 apply to public schools regarding criminal background checks  
1030 for employees and exclude from employment any person not  
1031 permitted by state law to work in a public school.

1032 (3) All qualifying nonpublic schools participating in  
1033 the tax credit scholarship program shall maintain a website  
1034 that describes the school, the instructional program of the  
1035 school, and the tuition and mandatory fees charged by the  
1036 school, updated prior to the beginning of each semester.

1037 (4) The amount of a scholarship awarded a student to



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1038 attend a nonpublic school may not exceed the total sum of  
1039 tuition and mandatory fees normally charged a student to  
1040 attend the nonpublic school for the same attendance period.  
1041 The amount of a scholarship awarded a student to attend a  
1042 public school may not exceed the total state appropriation  
1043 provided for a student to attend the public school for the  
1044 same attendance period.

1045 (f) The tax credit provided in this section may be  
1046 first claimed for the 2013 tax year, but may not be claimed  
1047 for any tax year prior to the 2013 tax year.

1048 (g) (1) Nothing in this section shall be construed to  
1049 force any public school, school system, or school district or  
1050 any nonpublic school, school system, or school district to  
1051 enroll any student. No qualifying school may enter into any  
1052 agreement, whether oral or written, with a scholarship  
1053 granting organization that would prohibit or limit an eligible  
1054 student from enrolling in the school based on the identity of  
1055 the scholarship granting organization from which the eligible  
1056 student received an educational scholarship.

1057 (2) A public school, school system, or school district  
1058 or any nonpublic school, school system, or school district may  
1059 develop the terms and conditions under which it will allow a  
1060 student who receives a scholarship from a scholarship granting  
1061 organization pursuant to this section to be enrolled, but such  
1062 terms and conditions may not discriminate on the basis of the  
1063 race, gender, religion, disability status, or ethnicity of the  
1064 student or of the student's parent.

1065 (3) Nothing in this section shall be construed to



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1066 authorize the violation of or supersede the authority of any  
1067 court ruling that applies to the public school, school system,  
1068 or school district, specifically any federal court order  
1069 related to the desegregation of the local school system's  
1070 student population.

1071 (h) Nothing in this chapter shall affect or change the  
1072 athletic eligibility rules of student athletes governed by the  
1073 Alabama High School Athletic Association or similar  
1074 association."

1075 Section 2. Commencing on the effective date of this  
1076 act, the State Board of Education shall refer to any public  
1077 K-12 school or school district that is determined to have poor  
1078 performance or is failing to make adequate progress as a  
1079 lowest sixth percent school, in lieu of a failing school, and  
1080 shall refer to a nonfailing school as an upper 94th percent  
1081 school, when amending rules or adopting rules.

1082 Section 3. This act shall become effective on the first  
1083 day of the third month following its passage and approval by  
1084 the Governor, or its otherwise becoming law.