

1 SB437
2 151495-1
3 By Senator Irons
4 RFD: Finance and Taxation Education
5 First Read: 11-APR-13

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8 SYNOPSIS: This bill would amend the Alabama
9 Accountability Act of 2013, to subject scholarship
10 granting organizations to audits in the same manner
11 as other taxpayers.

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13 A BILL
14 TO BE ENTITLED
15 AN ACT

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17 To amend Section 9 of the Alabama Accountability Act
18 of 2013, Act 2013-64, proposed by House Bill 84 of the 2013
19 Regular Session (Acts 2013); to subject scholarship granting
20 organizations to audits in the same manner as other taxpayers.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Section 9 of the Alabama Accountability
23 Act of 2013, Act 2013-64, proposed by House Bill 84 of the
24 2013 Regular Session (Acts 2013), is amended to read as
25 follows:

26 "Section 9. (a) (1) A taxpayer who files a state
27 income tax return and is not a dependent of another taxpayer

1 may claim a credit for a contribution made to a scholarship
2 granting organization.

3 "(2) The tax credit may be claimed by an individual
4 taxpayer or a married couple filing jointly in an amount equal
5 to the total contributions made to a scholarship granting
6 organization for educational scholarships during the taxable
7 year for which the credit is claimed up to 50 percent of the
8 tax liability of the taxpayer, not to exceed seven thousand
9 five hundred dollars (\$7,500) per taxpayer or married couple
10 filing jointly.

11 "(3) The tax credit may be claimed by a corporate
12 taxpayer in an amount equal to 50 percent of the total
13 contributions made to a scholarship granting organization for
14 educational scholarships during the taxable year for which the
15 credit is claimed up to 50 percent of the tax liability of the
16 taxpayer. The cumulative amount of tax credits issued pursuant
17 to subdivision (2) and this subdivision shall not exceed
18 twenty-five million dollars (\$25,000,000) annually. The
19 Department of Revenue shall develop a procedure to ensure that
20 this cap is not exceeded and shall also prescribe the various
21 methods by which these credits are to be issued.

22 "(4) A corporate taxpayer, an individual taxpayer,
23 or a married couple filing jointly may carry forward a tax
24 credit under the tax credit scholarship program for three
25 years.

1 "(b) (1) Administrative accountability standards. All
2 scholarship granting organizations shall do all of the
3 following:

4 "a. Notify the Department of Revenue of their intent
5 to provide educational scholarships.

6 "b. Demonstrate to the Department of Revenue that
7 they have been granted exemption from the federal income tax
8 as an organization described in Section 501(c) (3) of the
9 Internal Revenue Code.

10 "c. Distribute periodic educational scholarship
11 payments as checks made out and mailed to the school where the
12 student is enrolled.

13 "d. Provide a Department of Revenue approved receipt
14 to taxpayers for contributions made to the scholarship
15 granting organization.

16 "e. Ensure that at least 95 percent of their revenue
17 from donations is spent on educational scholarships, and that
18 all revenue from interest or investments is spent on
19 educational scholarships.

20 "f. Spend each year a portion of their expenditures
21 on educational scholarships for low-income eligible students
22 equal to the percentage of low-income eligible students in the
23 county where the scholarship granting organization expends the
24 majority of its educational scholarships.

25 "g. Ensure that at least 75 percent of first-time
26 recipients of educational scholarships were not continuously
27 enrolled in a private school during the previous year.

1 "h. Cooperate with the Department of Revenue to
2 conduct criminal background checks on all of their employees
3 and board members and exclude from employment or governance
4 any individual who may reasonably pose a risk to the
5 appropriate use of contributed funds.

6 "i. Ensure that educational scholarships are
7 portable during the school year and can be used at any school
8 that accepts the eligible student according to the wishes of
9 the parent. If a student transfers to another school during a
10 school year, the educational scholarship amount may be
11 prorated.

12 "j. Publicly report to the Department of Revenue by
13 June 1 of each year all of the following information prepared
14 by a certified public accountant regarding their grants in the
15 previous calendar year:

16 "1. The name and address of the scholarship granting
17 organization.

18 "2. The total number and total dollar amount of
19 contributions received during the previous calendar year.

20 "3. The total number and total dollar amount of
21 educational scholarships awarded during the previous calendar
22 year, the total number and total dollar amount of educational
23 scholarships awarded during the previous year for students
24 qualifying for the federal free and reduced-price lunch
25 program, and the percentage of first-time recipients of
26 educational scholarships who were enrolled in a public school
27 during the previous year.

1 "k. Ensure educational scholarships are not provided
2 for students to attend a school with paid staff or board
3 members, or relatives thereof, in common with the scholarship
4 granting organization.

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

9 "m. Ensure that educational scholarships are
10 provided only to students who would otherwise attend a failing
11 school so that the student can attend a nonpublic school or a
12 nonfailing public school.

13 "(2) Financial accountability standards.

14 "a. All scholarship granting organizations shall
15 demonstrate their financial accountability by doing all of the
16 following:

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

22 "2. Having the auditor certify that the report is
23 free of material misstatements.

24 "b. All participating nonpublic schools shall
25 demonstrate financial viability, if they are to receive
26 donations of fifty thousand dollars (\$50,000) or more during
27 the school year, by doing either of the following:

1 "1. Filing with the scholarship granting
2 organization before the start of the school year a surety bond
3 payable to the scholarship granting organization in an amount
4 equal to the aggregate amount of contributions expected to be
5 received during the school year.

6 "2. Filing with the scholarship granting
7 organization before the start of the school year financial
8 information that demonstrates the financial viability of the
9 participating nonpublic school.

10 "(c) (1) Each scholarship granting organization shall
11 collect written verification from participating nonpublic
12 schools that accept its educational scholarship students that
13 those schools do all of the following:

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

16 "b. Hold a valid occupancy permit if required by the
17 municipality.

18 "c. Certify compliance with nondiscrimination
19 policies set forth in 42 USC 1981.

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

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

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

26 "(2) Academic accountability standards. There shall
27 be sufficient information about the academic impact

1 educational scholarship tax credits have on participating
2 students in order to allow parents and taxpayers to measure
3 the achievements of the tax credit scholarship program, and
4 therefore:

5 "a. Each scholarship granting organization shall
6 ensure that participating schools that accept its educational
7 scholarship shall do all of the following:

8 "1. Annually administer either the state achievement
9 tests or nationally recognized norm-referenced tests that
10 measure learning gains in math and language arts to all
11 participating students in grades that require testing under
12 the accountability testing laws of the state for public
13 schools.

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

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

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

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

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

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

3 "b. The Department of Revenue or an organization
4 chosen by the Department of Revenue shall do all of the
5 following:

6 "1. Ensure compliance with all student privacy laws.

7 "2. Collect all test results.

8 "3. Provide the test results and associated learning
9 gains to the public via a state website after the third year
10 of test and test-related data collection. The findings shall
11 be aggregated by the grade level, gender, family income level,
12 number of years of participation in the tax credit scholarship
13 program, and race of the student.

14 "(d) (1) The Department of Revenue shall adopt rules
15 and procedures consistent with this section as necessary to
16 implement the tax credit scholarship program.

17 "(2) The Department of Revenue shall provide a
18 standardized format for a receipt to be issued by a
19 scholarship granting organization to a taxpayer to indicate
20 the value of a contribution received. The Department of
21 Revenue shall require a taxpayer to provide a copy of the
22 receipt when claiming the tax credit pursuant to this section.

23 "(3) The Department of Revenue shall provide a
24 standardized format for a scholarship granting organization to
25 report the information required in paragraph j. of subdivision
26 (1) of subsection (b).

1 ~~"(4) The Department of Revenue may conduct either a~~
2 ~~financial review or audit of a scholarship granting~~
3 ~~organization if possessing evidence of fraud.~~

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

10 "~~(6)~~ (5) If the Department of Revenue decides to bar
11 a scholarship granting organization from the tax credit
12 scholarship program, the Department of Revenue shall notify
13 affected educational scholarship students and their parents of
14 the decision as quickly as possible.

15 "~~(7)~~ (6) The Department of Revenue shall publish and
16 routinely update, on the website of the department, a list of
17 scholarship granting organizations in the state, by county.

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

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

25 "(f) The tax credit provided in this section may be
26 first claimed for the 2013 tax year."

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