

1 HB72
2 197055-1
3 By Representative McCampbell
4 RFD: Education Policy
5 First Read: 05-MAR-19
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8 SYNOPSIS: Under existing law, a public K-12 school or
9 school district that is determined to have poor
10 performance is labeled by the State Superintendent
11 of Education as failing to make adequate progress
12 or as a failing school under the school grading
13 system.

14 Also under existing law, the Alabama
15 Accountability Act of 2013, provides financial
16 assistance through an income tax credit to a parent
17 who transfers a student from a failing public
18 school to a nonfailing public school or nonpublic
19 school of the parent's choice.

20 This bill would change the designation of a
21 failing school to a challenged school and the
22 designation of a nonfailing school to a
23 nonchallenged school for the purposes of school
24 grading and the Alabama Accountability Act of 2013,
25 and would require the State Board of Education to
26 reflect those changes in terminology when amending
27 or adopting rules.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT

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6 To amend Sections 16-6C-2, 16-6D-3, 16-6D-4,
7 16-6D-6, 16-6D-8, and 16-6D-9, Code of Alabama 1975, relating
8 to public K-12 school grading system and the Alabama
9 Accountability Act of 2013; to change the designation of a
10 failing school to a challenged school and the designation of a
11 nonfailing school to a nonchallenged school; and to require
12 the State Board of Education to reflect those changes in
13 terminology when amending or adopting rules.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 16-6C-2, 16-6D-3, 16-6D-4,
16 16-6D-6, 16-6D-8, and 16-6D-9 of the Code of Alabama 1975, are
17 amended to read as follows:

18 "§16-6C-2.

19 "(a) In addition to any other labels or designations
20 assigned to public schools and public school districts
21 pursuant to a federal, state, school, district, or other
22 assessment or accountability system, the State Superintendent
23 of Education, consistent with the provisions of this chapter,
24 shall develop a school grading system reflective of school and
25 district performance. The grading system shall utilize the
26 traditional A, B, C, D, or F framework.

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

3 "(2) Schools receiving a grade of "B" are making
4 above average progress.

5 "(3) Schools receiving a grade of "C" are making
6 satisfactory progress.

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

9 "(5) Schools receiving a grade of "F" are ~~failing to~~
10 ~~make adequate progress~~ challenged.

11 "(b) In developing this school grading system, the
12 State Superintendent of Education shall seek input from
13 parents, teachers, school administrators, existing State
14 Department of Education advisory groups or task forces, and
15 other education stakeholders on how the system can properly
16 reflect not only the overall academic proficiency of each
17 public school but also the academic improvements made by each
18 public school, along with other key performance indicators
19 that give a total profile of the school or the school system,
20 or both.

21 "(c) The State Superintendent of Education shall
22 prescribe the design and content of the school grading system
23 by not later than December 31, 2012. It is the intent of the
24 Legislature that the system be in place by no later than the
25 2013-2014 school year. The system may not be utilized by the
26 State Superintendent of Education or the State Department of
27 Education until sufficient rules have been promulgated by the

1 State Department of Education pursuant to the Alabama
2 Administrative Procedure Act.

3 "(d) Using an easy to understand grading scale, the
4 school grading system shall describe achievement in the state,
5 each district, and each school. Additionally, the State
6 Superintendent of Education shall not be precluded from also
7 assigning grades to school feeder patterns or grades that
8 reflect the fiscal health and fiscal efficiency of a school or
9 school system.

10 "(e) The State Superintendent of Education shall
11 make these grades available to the general public, and shall
12 post these grades on the website of the State Department of
13 Education as soon as the grades are available. Additionally,
14 appropriate grade information shall be delivered to the parent
15 or guardian of each public school student at least once
16 annually in the same manner that student report cards are
17 currently delivered.

18 "(f) Using state-authorized assessments and other
19 key performance indicators that give a total profile of the
20 school or the school system, or both, a school's grade, at a
21 minimum, shall be based on a combination of student
22 achievement scores, achievement gap, college and career
23 readiness, learning gains, and other indicators as determined
24 by the State Superintendent of Education to impact student
25 learning and success. The school grading system shall be
26 consistently applied so that grades of one school or system
27 may be compared to the grades of any other school or system.

1 "§16-6D-3.

2 "(a) The Legislature finds and declares all of the
3 following:

4 "(1) To further the goals of public education
5 throughout the state, each school system should be able to
6 have maximum possible flexibility to meet the needs of
7 students and the communities within its jurisdiction.

8 "(2) There is a critical need for innovative models
9 of public education that are tailored to the unique
10 circumstances and needs of the students in all schools and
11 communities, and especially in schools and communities that
12 are struggling to improve academic outcomes and close the
13 achievement gap.

14 "(3) To better serve students and better use
15 available resources, local boards of education, local school
16 systems, and parents need the ability to explore flexible
17 alternatives in an effort to be more efficient and effective
18 in providing operational and programmatic services.

19 "(b) Therefore, it is the intent of the Legislature
20 to do all of the following:

21 "(1) Allow school systems greater flexibility in
22 meeting the educational needs of a diverse student population.

23 "(2) Improve educational performance through greater
24 individual school autonomy and managerial flexibility with
25 regard to programs and budgetary matters.

26 "(3) Encourage innovation in education by providing
27 local school systems and school administrators with greater

1 control over decisions including, but not limited to,
2 budgetary matters, staffing, personnel, scheduling, and
3 educational programming, including curriculum and instruction.

4 "(4) Provide financial assistance through an income
5 tax credit to a parent who transfers a student from a ~~failing~~
6 challenged public school to a ~~nonfailing~~ nonchallenged public
7 school or nonpublic school of the parent's choice.

8 "§16-6D-4.

9 "For the purposes of this chapter, the following
10 terms shall have the following meanings:

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

13 "(2) CHALLENGED SCHOOL. A public K-12 school that is
14 either of the following:

15 "a. Is designated as a challenged school by the
16 State Superintendent of Education.

17 "b. Does not exclusively serve a special population
18 of students and is listed in the lowest six percent of public
19 K-12 schools based on the state standardized assessment in
20 reading and math.

21 "~~(2)~~ (3) DEPARTMENT OF REVENUE. The Alabama
22 Department of Revenue.

23 "~~(3)~~ (4) EDUCATIONAL SCHOLARSHIP. A grant made by a
24 scholarship granting organization to an eligible student to
25 cover all or part of the tuition and mandatory fees for one
26 academic year charged by a qualifying school to the eligible
27 student receiving the scholarship; provided, however, that an

1 educational scholarship shall not exceed six thousand dollars
2 (\$6,000) for an elementary school student, eight thousand
3 dollars (\$8,000) for a middle school student, or ten thousand
4 dollars (\$10,000) for a high school student per academic year.
5 The term does not include a lump sum, block grant, or similar
6 payment by a scholarship granting organization to a qualifying
7 school that assigns the responsibility in whole or in part for
8 determining the eligibility of scholarship recipients to the
9 qualifying school or any person or entity other than the
10 scholarship granting organization.

11 ~~"(4)~~ (5) ELIGIBLE STUDENT.

12 "a. A student who satisfies all of the following:

13 "1. Is a member of a family whose total annual
14 income the calendar year before he or she receives an
15 educational scholarship under this program does not exceed 185
16 percent of the federal poverty level, the federally recognized
17 threshold for receiving free or reduced priced lunch, as
18 established from time to time by the U.S. Department of Health
19 and Human Services.

20 "2. Was eligible to attend a public school in the
21 preceding semester or is starting school in Alabama for the
22 first time.

23 "3. Resides in Alabama while receiving an
24 educational scholarship.

25 "b. A scholarship granting organization shall
26 determine the eligibility of a student under subparagraph 1.
27 of paragraph a. every other academic year in which a student

1 receives an educational scholarship; provided that if the
2 annual income of the family of a student who has received at
3 least one educational scholarship exceeds 185 percent of the
4 federal poverty level, the existing student shall remain
5 eligible to receive educational scholarships until and unless
6 the annual income of the family of the student exceeds 275
7 percent of the federal poverty level; provided, further that
8 no student who has received at least one educational
9 scholarship shall be eligible to receive educational
10 scholarships if the annual income of his or her family exceeds
11 275 percent of the federal poverty level.

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

14 ~~"a. Is designated as a failing school by the State~~
15 ~~Superintendent of Education.~~

16 ~~"b. Does not exclusively serve a special population~~
17 ~~of students and is listed in the lowest six percent of public~~
18 ~~K-12 schools based on the state standardized assessment in~~
19 ~~reading and math.~~

20 "(6) FAMILY. A group of two or more people related
21 by birth, marriage, or adoption, including foster children,
22 who reside together.

23 "(7) FLEXIBILITY CONTRACT. A school flexibility
24 contract between the local school system and the State Board
25 of Education wherein a local school system may apply for
26 programmatic flexibility or budgetary flexibility, or both,
27 from state laws, regulations, and policies, including

1 regulations and policies promulgated by the State Board of
2 Education and the State Department of Education.

3 "(8) INNOVATION PLAN. The request of a local school
4 system for flexibility and plan for annual accountability
5 measures and five-year targets for all participating schools
6 within the school system.

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

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

13 "(11) NONPUBLIC SCHOOL. Any nonpublic or private
14 school, including parochial schools, not under the
15 jurisdiction of the State Superintendent of Education and the
16 State Board of Education, providing educational services to
17 children. A nonpublic school provides education to elementary
18 or secondary, or both, students and has notified the
19 Department of Revenue of its intention to participate in the
20 scholarship program and comply with the requirements of the
21 scholarship program. A nonpublic school does not include home
22 schooling.

23 "(12) PARENT. The parent or guardian of a student,
24 with authority to act on behalf of the student. For purposes
25 of Section 16-6D-8, the parent or guardian shall claim the
26 student as a dependent on his or her Alabama state income tax
27 return.

1 "(13) QUALIFYING SCHOOL.

2 "a. Either a public school outside of the resident
3 school district that is not considered ~~failing~~ challenged
4 within the meaning of subdivision ~~(5)~~ (2) or any nonpublic
5 school as defined in subdivision (11) and that satisfies the
6 requirements of this subdivision. A qualifying nonpublic
7 school shall be accredited by one of the six regional
8 accrediting agencies or the National Council for Private
9 School Accreditation, AdvancEd, the American Association of
10 Christian Schools, or one of their partner accrediting
11 agencies. A nonpublic school shall have three years from the
12 later of the date the nonpublic school notified the Department
13 of Revenue of its intent to participate in the scholarship
14 program or June 10, 2015, to obtain the required accreditation
15 and shall thereafter maintain accreditation as required by
16 this subdivision. During the three-year period described in
17 the immediately preceding sentence, a nonpublic school that is
18 not accredited shall satisfy all of the following conditions
19 until the nonpublic school obtains accreditation:

20 "1. Has been in existence for at least three years.

21 "2. Has daily attendance of at least 85 percent over
22 a two-year period.

23 "3. Has a minimum 180-day school year, or its hourly
24 equivalent.

25 "4. Has a day length of at least six and one-half
26 hours.

1 "5. Requires all students to take the Stanford
2 Achievement Test, or its equivalent.

3 "6. Requires all candidates for graduation to take
4 the American College Test before graduation.

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

9 "8. Does not subject special education students to
10 the same testing or curricular requirements as regular
11 education students if it is not required in the individual
12 plan for the student.

13 "9. Maintains a website that describes the school,
14 the instructional program of the school, and the tuition and
15 mandatory fees charged by the school, updated prior to the
16 beginning of each semester.

17 "10. Annually affirms on forms prescribed by the
18 scholarship granting organization and the Department of
19 Revenue its status financially and academically and provide
20 other relative information as required by the scholarship
21 granting organization or as otherwise required in this
22 chapter.

23 "b. A nonpublic school that is not accredited and
24 that has not been in existence for at least three years shall
25 nevertheless be considered a qualifying school if, in addition
26 to satisfying the requirements in subparagraphs 2. to 10.,
27 inclusive, of paragraph a., the nonpublic school operates

1 under the governance of the board of directors or the
2 equivalent thereof of an accredited nonpublic school. For
3 purposes of the immediately preceding sentence, the term
4 governance shall include, but not be limited to, curriculum
5 oversight, personnel and facility management, and financial
6 management. If, at the conclusion of the three-year period in
7 which a nonpublic school is required to obtain accreditation,
8 a nonpublic school is not accredited, the nonpublic school
9 shall not be considered a qualifying school and shall not
10 receive any funds from a scholarship granting organization
11 until the nonpublic school obtains the accreditation required
12 by this subdivision.

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

17 "§16-6D-6.

18 "(a) The innovation plan of a local school system
19 shall include, at a minimum, all of the following:

20 "(1) The school year that the local school system
21 expects the school flexibility contract to begin.

22 "(2) The list of state laws, regulations, and
23 policies, including rules, regulations, and policies
24 promulgated by the State Board of Education and the State
25 Department of Education, that the local school system is
26 seeking to waive in its school flexibility contract.

1 "(3) A list of schools included in the innovation
2 plan of the local school system.

3 "(b) A local school system is accountable to the
4 state for the performance of all schools in its system,
5 including innovative schools, under state and federal
6 accountability requirements.

7 "(c) A local school system may not, pursuant to this
8 chapter, waive requirements imposed by federal law,
9 requirements related to the health and safety of students or
10 employees, requirements imposed by ethics laws, requirements
11 imposed by the Alabama Child Protection Act of 1999, Chapter
12 22A of this title, requirements imposed by open records or
13 open meetings laws, requirements related to financial or
14 academic reporting or transparency, requirements designed to
15 protect the civil rights of students or employees,
16 requirements related to the state retirement system or state
17 health insurance plan, or requirements imposed by Act
18 2012-482. This chapter may not be construed to allow a local
19 school system to compensate an employee at an annual amount
20 that is less than the amount the employee would otherwise be
21 afforded through the State Minimum Salary Schedule included in
22 the annual Education Trust Fund Appropriations Act. No local
23 school system shall involuntarily remove any rights or
24 privileges acquired by any employee under the Students First
25 Act of 2011, Chapter 24C of this title. Except as provided for
26 a ~~failing~~ challenged school pursuant to subsection (e), no
27 plan or program submitted by a local board of education may be

1 used to deny any right or privilege granted to a new employee
2 pursuant to the Students First Act of 2011.

3 "(d) No provision of this chapter shall be construed
4 or shall be used to authorize the formation of a charter
5 school.

6 "(e) Any provision of subsection (c) to the contrary
7 notwithstanding, nothing in this chapter shall be construed to
8 prohibit the approval of a flexibility contract that gives
9 potential, current, or future employees of a ~~failing~~
10 challenged school within the local school system the option to
11 voluntarily waive any rights or privileges already acquired or
12 that could potentially be acquired as a result of attaining
13 tenure or nonprobationary status, provided, however, that any
14 employee provided this option is also provided the option of
15 retaining or potentially obtaining any rights or privileges
16 provided under the Students First Act, Chapter 24C of this
17 title.

18 "(f) The State Department of Education shall
19 finalize all school data and the local school system shall
20 seek approval of the local board of education before final
21 submission to the State Department of Education and the State
22 Board of Education.

23 "(g) The final innovation plan, as recommended by
24 the local superintendent of education and approved by the
25 local board of education, shall accompany the formal
26 submission of the local school system to the State Department
27 of Education.

1 "(h) Within 60 days of receiving the final
2 submission, the State Superintendent of Education shall decide
3 whether or not the school flexibility contract and the
4 innovation plan should be approved. If the State
5 Superintendent of Education denies a school flexibility
6 contract and innovation plan, he or she shall provide a
7 written explanation for his or her decision to the local board
8 of education. Likewise, a written letter of approval by the
9 State Superintendent of Education shall be provided to the
10 local board of education that submitted the final school
11 flexibility contract and innovation plan.

12 "(i) The State Board of Education shall promulgate
13 any necessary rules and regulations required to implement this
14 chapter including, but not limited to, all of the following:

15 "(1) The specification of timelines for submission
16 and approval of the innovation plan and school flexibility
17 contract of a local school system.

18 "(2) An authorization for the State Department of
19 Education, upon approval by the State Board of Education after
20 periodic review, to revoke a school flexibility contract for
21 noncompliance or nonperformance, or both, by a local school
22 system.

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

27 "§16-6D-8.

1 "(a) For income tax purposes, commencing on the
2 effective date of the act adding this language, as used in
3 this section the terms failing and challenged shall have the
4 same meaning and the terms nonfailing and nonchallenged shall
5 have the same meaning. To provide educational flexibility and
6 state accountability for students in ~~failing~~ challenged
7 schools:

8 "(1) For tax years beginning on and after January 1,
9 2013, an Alabama income tax credit is made available to the
10 parent of a student enrolled in or assigned to attend a
11 ~~failing~~ challenged school to help offset the cost of
12 transferring the student to a ~~nonfailing~~ nonchallenged public
13 school or nonpublic school of the parent's choice. The income
14 tax credit shall be an amount equal to 80 percent of the
15 average annual state cost of attendance for a public K-12
16 student during the applicable tax year or the actual cost of
17 attending a ~~nonfailing~~ nonchallenged public school or
18 nonpublic school, whichever is less. The actual cost of
19 attending a ~~nonfailing~~ nonchallenged public school or
20 nonpublic school shall be calculated by adding together any
21 tuition amounts or mandatory fees charged by the school to the
22 student as a condition of enrolling or of maintaining
23 enrollment in the school. The average annual state cost of
24 attendance for a public K-12 student shall be calculated by
25 dividing the state funds appropriated to the Foundation
26 Program pursuant to Section 16-13-231(b) (2) by the total
27 statewide number of pupils in average daily membership during

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

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

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

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

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

1 "(b) (1) The parent of a public school student may
2 request and receive an income tax credit pursuant to this
3 section to reimburse the parent for costs associated with
4 transferring the student from a ~~failing~~ challenged school to a
5 ~~nonfailing~~ nonchallenged public school or nonpublic school of
6 the parent's choice, in any of the following circumstances:

7 "a. By assigned school attendance area, if the
8 student spent the prior school year in attendance at a ~~failing~~
9 challenged school and the attendance of the student occurred
10 during a school year in which the designation was in effect.

11 "b. The student was in attendance elsewhere in the
12 Alabama public school system and was assigned to a ~~failing~~
13 challenged school for the next school year.

14 "c. The student was notified that he or she was
15 assigned to a ~~failing~~ challenged school for the next school
16 year.

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

19 "(3) For the purposes of continuity of educational
20 choice, the tax credit shall be available to parents for those
21 grade levels of the ~~failing~~ challenged school from which the
22 student transferred. The parent of a student who transfers
23 from a ~~failing~~ challenged school may receive income tax
24 credits for those grade levels enrolled in and attended in the
25 ~~nonfailing~~ nonchallenged public school or nonpublic school of
26 the parent's choice transferred to that were included in the
27 ~~failing~~ challenged school from which the student transferred,

1 whether or not the ~~failing~~ challenged school becomes a
2 ~~nonfailing~~ nonchallenged school during those years. The parent
3 of such a student shall no longer be eligible for the income
4 tax credit after the student completes the highest grade level
5 in which he or she would otherwise have been enrolled at the
6 ~~failing~~ challenged school. Notwithstanding the foregoing, as
7 long as the student remains enrolled in or assigned to attend
8 a ~~failing~~ challenged school, the parent may again transfer the
9 student to a ~~nonfailing~~ nonchallenged public school or
10 nonpublic school of the parent's choice and request and
11 receive an income tax credit as provided in this section.

12 "(4) A local school system, for each student
13 enrolled in or assigned to a ~~failing~~ challenged school, shall
14 do all of the following:

15 "a. Timely notify the parent of the student of all
16 options available under this section as soon as the school of
17 attendance is designated as a ~~failing~~ challenged school.

18 "b. Offer the parent of the student an opportunity
19 to enroll the student in another public school within the
20 local school system that is not a ~~failing~~ challenged school or
21 a ~~failing~~ challenged school to which the student has been
22 assigned.

23 "(5) The parent of a student enrolled in or assigned
24 to a school that has been designated as a ~~failing~~ challenged
25 school, who decides to transfer the student to a ~~nonfailing~~
26 nonchallenged public school, shall first attempt to enroll the
27 student in a ~~nonfailing~~ nonchallenged public school within the

1 same local system in which the student is already enrolled or
2 assigned to attend before attempting to enroll the student in
3 a ~~nonfailing~~ nonchallenged public school that has available
4 space in any other local school system in the state. A local
5 school system may accept the student on whatever terms and
6 conditions the system establishes and report the student for
7 purposes of the local school system's funding pursuant to the
8 Foundation Program.

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

13 "(7) Students with disabilities who are eligible to
14 receive services from the local school system under federal or
15 state law, and who participate in the tax credit program,
16 remain eligible to receive services from the local school
17 system as provided by federal or state law.

18 "(8) If a parent enrolls a student in a ~~nonfailing~~
19 nonchallenged public school within the same local school
20 system, and that system provides transportation services for
21 other enrolled students, transportation costs to the
22 ~~nonfailing~~ nonchallenged public school shall be the
23 responsibility of the local school system. Local school
24 systems may negotiate transportation options with a parent to
25 minimize system costs. If a parent enrolls a student in a
26 nonpublic school or in a ~~nonfailing~~ nonchallenged public
27 school within another local school system, regardless of

1 whether that system provides transportation services for other
2 enrolled students, transportation of the student shall be the
3 responsibility of the parent.

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

7 "(c) There is created within the Education Trust
8 Fund a separate account named the Failing Schools Income Tax
9 Credit Account. Commencing on the effective date of the act
10 adding this sentence, the name of the account shall be changed
11 to the Challenged Schools Income Tax Credit Account. The
12 Commissioner of Revenue shall certify to the Comptroller the
13 amount of income tax credits due to parents under this section
14 and the Comptroller shall transfer into the ~~Failing~~ Challenged
15 Schools Income Tax Credit Account only the amount from sales
16 tax revenues within the Education Trust Fund that is
17 sufficient for the Department of Revenue to use to cover the
18 income tax credits for the applicable tax year. The
19 Commissioner of Revenue shall distribute the funds in the
20 ~~Failing~~ Challenged Schools Income Tax Credit Account to
21 parents pursuant to this section.

22 "(d) (1) Nothing in this section or chapter shall be
23 construed to force any public school, school system, or school
24 district or any nonpublic school, school system, or school
25 district to enroll any student.

26 "(2) A public school, school system, or school
27 district or any nonpublic school, school system, or school

1 district may develop the terms and conditions under which it
2 will allow a student whose parent receives an income tax
3 credit pursuant to this section to be enrolled, but such terms
4 and conditions may not discriminate on the basis of the race,
5 gender, religion, color, disability status, or ethnicity of
6 the student or of the student's parent.

7 "(3) Nothing in this section shall be construed to
8 authorize the violation of or supersede the authority of any
9 court ruling that applies to the public school, school system,
10 or school district, specifically any federal court order
11 related to the desegregation of the local school system's
12 student population.

13 "§16-6D-9.

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

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

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

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

25 "(5) The cumulative amount of tax credits issued
26 pursuant to subdivision (2) and subdivision (3) shall not
27 exceed thirty million dollars (\$30,000,000) annually, based on

1 the calendar year. A taxpayer making one or more otherwise
2 tax-creditable contributions before the due date, with
3 extensions, of a timely filed 2014 tax return may elect to
4 treat all or a portion of such contributions as applying to
5 and creditable against its 2014 Alabama income tax liability,
6 if the taxpayer properly reserves the credit on the website of
7 the Department of Revenue or another method provided by the
8 Department of Revenue. The amount creditable against the
9 taxpayer's 2014 income tax liability shall be limited to the
10 lesser of the amount so designated or the remaining balance,
11 if any, of the cumulative amount of the twenty-five million
12 dollars (\$25,000,000) of tax credits available for the 2014
13 calendar year. No such contribution and election by a taxpayer
14 to reserve tax credits against the remaining balance of the
15 cumulative amount of tax credits available for 2014 shall
16 preclude the taxpayer from making additional contributions in
17 2015 and reserving those amounts against the cumulative amount
18 of tax credits available for 2015. The Department of Revenue
19 shall develop a procedure to ensure that this cap is not
20 exceeded and shall also prescribe the various methods by which
21 these credits are to be issued.

22 "(6) No credit may be claimed for a contribution
23 made to a scholarship granting organization if the
24 contribution is restricted or conditioned in any way by the
25 donor including, but not limited to, requiring the scholarship
26 granting organization to direct all or part of the

1 contribution to a particular qualifying school or to grant an
2 educational scholarship to a particular eligible student.

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

6 "a. Notify the Department of Revenue of their intent
7 to provide educational scholarships to eligible students.

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

12 "c. Distribute periodic educational scholarship
13 payments as checks made out and mailed to or directly
14 deposited with the school where the student is enrolled.

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

18 "e. Ensure that all determinations with respect to
19 the eligibility of a student to receive an educational
20 scholarship shall be made by the scholarship granting
21 organization. A scholarship granting organization shall not
22 delegate any responsibility for determining the eligibility of
23 a student for an educational scholarship or any other
24 requirements it is subject to under this chapter to any
25 qualifying school or an entity affiliated therewith.

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

1 that all revenue from interest or investments is expended on
2 educational scholarships. A scholarship granting organization
3 may expend up to five percent of its revenue from donations on
4 administrative and operating expenses in the calendar year of
5 the donation or in any subsequent calendar year.

6 "g. Ensure that scholarship funds on hand at the
7 beginning of a calendar year are expended on educational
8 scholarships by the end of the academic year ending within the
9 next succeeding calendar year. Any scholarship funds on hand
10 at the beginning of a calendar year that are not expended on
11 educational scholarships by the end of the academic year
12 ending within the next succeeding calendar year shall be
13 turned over to and deposited with the State Department of
14 Education for the benefit of its At-Risk Student Program to be
15 distributed to local boards of education on the basis
16 determined by the State Department of Education in furtherance
17 of support to underperforming schools.

18 "h. Ensure that at least 75 percent of first-time
19 recipients of educational scholarships were not continuously
20 enrolled in a private school during the previous academic
21 year.

22 "i. Cooperate with the Department of Revenue to
23 conduct criminal background checks on all of their employees
24 and board members and exclude from employment or governance
25 any individual who may reasonably pose a risk to the
26 appropriate use of contributed funds.

1 "j. Ensure that educational scholarships are
2 portable during the academic year and can be used at any
3 qualifying school that accepts the eligible student according
4 to the wishes of the parent. If an eligible student transfers
5 to another qualifying school during an academic year, the
6 educational scholarship amount may be prorated.

7 "k. Publicly report to the Department of Revenue by
8 September 1 of each year all of the following information
9 prepared by a certified public accountant regarding their
10 educational scholarships funded in the previous academic year:

11 "1. The name and address of the scholarship granting
12 organization.

13 "2. The total number and total dollar amount of
14 contributions received during the previous academic year.

15 "3. The total number and total dollar amount of
16 educational scholarships awarded and funded during the
17 previous academic year, the total number and total dollar
18 amount of educational scholarships awarded and funded during
19 the previous academic year for students qualifying for the
20 federal free and reduced-price lunch program, and the
21 percentage of first-time recipients of educational
22 scholarships who were enrolled in a public school during the
23 previous academic year.

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

1 "1. The total number of scholarships awarded and
2 funded.

3 "2. The names of the qualifying schools that
4 received funding for educational scholarships, the total
5 amount of funds paid to each qualifying school, and the total
6 number of scholarship recipients enrolled in each qualifying
7 school.

8 "3. The total number of eligible students zoned to
9 attend a ~~failing~~ challenged school who received educational
10 scholarships from the scholarship granting organization.

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

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

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

23 "o. Ensure that educational scholarships are
24 provided only to eligible students who are zoned to attend a
25 ~~failing~~ challenged school so that the eligible student can
26 attend a qualifying school. To ensure compliance with the
27 immediately preceding sentence, the local board of education

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

25 "p. Ensure that no donations are directly made to
26 benefit specifically designated scholarship recipients or to
27 particular qualifying schools.

1 "q. Submit to the Department of Revenue annual
2 verification of the scholarship granting organization's
3 policies and procedures used to determine scholarship
4 eligibility. The verification shall confirm that the
5 scholarship granting organization, and not one or more
6 qualifying schools accepting educational scholarship
7 recipients or scholarship funds, is determining whether
8 scholarship applicants are eligible to receive educational
9 scholarships. The verification shall also confirm that the
10 scholarship granting organization is giving priority to
11 receive an educational scholarship to eligible students zoned
12 to attend ~~failing~~ challenged schools.

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

19 "(2) Financial accountability standards.

20 "a. All scholarship granting organizations shall
21 demonstrate their financial accountability by doing all of the
22 following:

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

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

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

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

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

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

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

26 "b. Hold a valid occupancy permit if required by the
27 municipality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 "(h) Nothing in this chapter shall affect or change
8 the athletic eligibility rules of student athletes governed by
9 the Alabama High School Athletic Association or similar
10 association."

11 Section 2. Commencing on the effective date of this
12 act, the State Board of Education shall refer to any public
13 K-12 school or school district that is determined to have poor
14 performance or is failing to make adequate progress as a
15 challenged school, in lieu of a failing school, and shall
16 refer to a nonfailing school as a nonchallenged school, when
17 amending rules or adopting rules.

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