SB437
151495-1
By Senator Irons
RFD: Finance and Taxation Education
First Read: 11-APR-13
SYNOPSIS: This bill would amend the Alabama Accountability Act of 2013, to subject scholarship granting organizations to audits in the same manner as other taxpayers.

A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"Section 9. (a)(1) A taxpayer who files a state income tax return and is not a dependent of another taxpayer
may claim a credit for a contribution made to a scholarship granting organization.

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

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

"(4) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward a tax credit under the tax credit scholarship program for three years.
“(b)(1) Administrative accountability standards. All scholarship granting organizations shall do all of the following:

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

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

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

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

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

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

"g. Ensure that at least 75 percent of first-time recipients of educational scholarships were not continuously enrolled in a private school during the previous year.
h. Cooperate with the Department of Revenue to conduct criminal background checks on all of their employees and board members and exclude from employment or governance any individual who may reasonably pose a risk to the appropriate use of contributed funds.

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

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

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

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

3. The total number and total dollar amount of educational scholarships awarded during the previous calendar year, the total number and total dollar amount of educational scholarships awarded during the previous year for students qualifying for the federal free and reduced-price lunch program, and the percentage of first-time recipients of educational scholarships who were enrolled in a public school during the previous year.
"k. Ensure educational scholarships are not provided for students to attend a school with paid staff or board members, or relatives thereof, in common with the scholarship granting organization.

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

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

"(2) Financial accountability standards.

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

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

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

"b. All participating nonpublic schools shall demonstrate financial viability, if they are to receive donations of fifty thousand dollars ($50,000) or more during the school year, by doing either of the following:
"1. Filing with the scholarship granting organization before the start of the school year a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of contributions expected to be received during the school year.

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

1. Ensure compliance with all student privacy laws.
2. Collect all test results.
3. Provide the test results and associated learning gains to the public via a state website after the third year of test and test-related data collection. The findings shall be aggregated by the grade level, gender, family income level, number of years of participation in the tax credit scholarship program, and race of the student.

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

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

"(3) The Department of Revenue shall provide a standardized format for a scholarship granting organization to report the information required in paragraph j. of subdivision (1) of subsection (b).
"(4) The Department of Revenue may conduct either a financial review or audit of a scholarship granting organization if possessing evidence of fraud.

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

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

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

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

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

"(f) The tax credit provided in this section may be first claimed for the 2013 tax year."
Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.