

1 SB71
2 166547-3
3 By Senator Marsh
4 RFD: Finance and Taxation Education
5 First Read: 03-MAR-15

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3
4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 16-6D-4 and 16-6D-9, Code of
12 Alabama 1975, relating to the Alabama Accountability Act of
13 2013; to clarify and confirm that the intent of the Alabama
14 Accountability Act of 2013 is educational choice; to amend
15 certain current definitions and add new definitions; to amend
16 the reporting period for scholarship granting organizations
17 from a calendar year to an academic year; to clarify and
18 confirm that educational scholarships are provided to eligible
19 students, not to particular schools; to require scholarship
20 granting organizations to determine the income eligibility of
21 a scholarship recipient every other year; to require all
22 participating private schools to be accredited by one of the
23 six regional accrediting agencies, the National Council for
24 Private School Accreditation, AdvancEd, the American
25 Association of Christian Schools, or one of their partner
26 accrediting agencies, within three years from the date their
27 notice of intent to participate in the scholarship program is

1 filed with the Department of Revenue or the effective date of
2 this act, whichever is later; to allow a newly-formed
3 nonpublic school that is working to obtain accreditation to
4 receive educational scholarships by partnering with an
5 accredited school; to allow certain pass-through entities,
6 such as Subchapter S corporations and limited liability
7 companies, to make contributions to scholarship granting
8 organizations and to allow the credit earned by the entity to
9 pass through to and be claimed by its owners, and to expand
10 the definition of "individual taxpayer" to include the
11 individual owners of these pass-through entities; to clarify
12 and confirm that donors making contributions to scholarship
13 granting organizations cannot earmark their contribution for a
14 particular school or to fund scholarships for a particular
15 student or group of students; to prohibit scholarship granting
16 organizations from making lump sum, block grants, or other
17 similar payments to otherwise qualifying schools; to remove
18 the current \$7,500 annual limitation on contributions made to
19 scholarship granting organizations by individual taxpayers; to
20 increase the cumulative amount of tax credits available in a
21 calendar year to \$30,000,000; to allow taxpayers to make
22 contributions to scholarship granting organizations before the
23 due date, with extensions, of a timely filed 2014 tax return
24 but reserve tax credits against the remaining balance of the
25 2014 cumulative amount of tax credits available; to clarify
26 and confirm that scholarship granting organizations may use up
27 to five percent of their revenues from donations for

1 administrative or operating expenses in the year of donation
2 or any subsequent year; to require scholarship granting
3 organizations to spend on educational scholarships the
4 scholarship funds on hand at the beginning of a calendar year
5 by the end of the academic year ending within the next
6 succeeding calendar year, for example, a scholarship granting
7 organization's scholarship funds on hand on January 1, 2015,
8 must be expended on educational scholarships by June 30, 2016;
9 to provide that certain unexpended scholarship funds are to be
10 turned over to the State Department of Education for the
11 benefit of the At-Risk Student Fund; to amend the deadline for
12 the annual reports required to be filed by scholarship
13 granting organizations with the Department of Revenue and
14 provide for additional quarterly reports to be filed with the
15 Department of Revenue; to require that such reports be made
16 publicly available on the Department of Revenue's website; to
17 require the State Department of Education and local boards of
18 education to provide verification that an eligible student is
19 zoned to attend a particular public school; to require
20 scholarship granting organizations to give priority to
21 first-time scholarship recipients from failing schools; to
22 change the release date for unaccounted scholarship funds from
23 September 15 to July 31 of each calendar year; to clarify and
24 confirm that once an eligible student receives an educational
25 scholarship under this program that the student remains
26 eligible to receive educational scholarships until the student
27 graduates from high school or reaches 19 years of age,

1 regardless of whether or not the student is zoned to attend a
2 failing school, subject to the income eligibility requirements
3 of Section 16-6D-4(4)a.1; to prohibit so-called lock-up
4 agreements between scholarship granting organizations and
5 otherwise qualifying schools that would limit or prevent
6 students who received educational scholarships from other
7 scholarship granting organizations from attending that school;
8 to require scholarship granting organizations to submit annual
9 verification to the Department of Revenue of the policies and
10 procedures used to determine a student's eligibility for an
11 educational scholarship and to clarify and confirm that
12 scholarship granting organizations, not schools, are
13 responsible for determining student eligibility; to require
14 scholarship granting organizations to verify that priority is
15 given to eligible students zoned to attend failing schools; to
16 require qualifying schools to provide information on financial
17 viability prior to receiving educational scholarship payments;
18 to require participating schools to comply with the Alabama
19 Child Protection Act of 1999; and to provide for a limited
20 retroactive effective date.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 16-6D-4 and 16-6D-9 of the Code
23 of Alabama 1975, are amended to read as follows:

24 "§16-6D-4.

25 "For the purposes of this chapter, the following
26 terms shall have the following meanings:

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

3 "(2) DEPARTMENT OF REVENUE. The Alabama Department
4 of Revenue.

5 "~~(1)~~ (3) EDUCATIONAL SCHOLARSHIP. SCHOLARSHIPS.
6 ~~Grants~~ A grant made by a scholarship granting organization to
7 an eligible student to cover all or part of the tuition and
8 mandatory fees for one academic year charged by a qualifying
9 school to an the eligible student receiving a the scholarship;
10 provided, however, that an educational scholarship shall not
11 exceed six thousand dollars (\$6,000) for an elementary school
12 student, eight thousand dollars (\$8,000) for a middle school
13 student, or ten thousand dollars (\$10,000) for a high school
14 student per academic year. The term does not include a lump
15 sum, block grant, or similar payment by a scholarship granting
16 organization to a qualifying school that assigns the
17 responsibility in whole or in part for determining the
18 eligibility of scholarship recipients to the qualifying school
19 or any person or entity other than the scholarship granting
20 organization.

21 "~~(2)~~ (4) ELIGIBLE STUDENT.

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

23 "a.1. Is a member of a ~~household~~ family whose total
24 annual income the calendar year before he or she receives an
25 educational scholarship under this program does not exceed ~~an~~
26 ~~amount equal to 150 percent of the median household income~~ 185
27 percent of the federal poverty level, the federally recognized

1 threshold for receiving free or reduced priced lunch, as
2 established from time to time by the U.S. Department of Health
3 and Human Services. ~~Once a student receives an educational~~
4 ~~scholarship under this program, the student shall remain~~
5 ~~eligible regardless of household income until the student~~
6 ~~graduates high school or reaches 19 years of age.~~

7 "b.2. Was eligible to attend a public school in the
8 preceding semester or is starting school in Alabama for the
9 first time.

10 "c.3. Resides in Alabama while receiving an
11 educational scholarship.

12 "b. A scholarship granting organization shall
13 determine the eligibility of a student under subparagraph 1.
14 of paragraph a. every other academic year in which a student
15 receives an educational scholarship.

16 "~~(3)(5)~~ FAILING SCHOOL. A public K-12 school that is
17 ~~one or more~~ either of the following:

18 "a. ~~Is labeled as persistently low-performing by the~~
19 ~~State Department of Education, in the then most recent United~~
20 ~~States Department of Education School Improvement Grant~~
21 ~~application.~~

22 "b.a. Is designated as a failing school by the State
23 Superintendent of Education.

24 "c. ~~Does not exclusively serve a special population~~
25 ~~of students and, until June 1, 2017, has been listed three or~~
26 ~~more times during the then-most recent six years in the lowest~~
27 ~~six percent of public K-12 schools on the state standardized~~

1 ~~assessment in reading and math or, on or after June 1, 2017,~~
2 ~~has, during the then-most recent three years, earned at least~~
3 ~~one grade of "F" or, during the then-most recent four years,~~
4 ~~earned at least three grades of "D" on the school grading~~
5 ~~system developed pursuant to Section 16-6C-2. In the event~~
6 ~~sufficient rules required to implement the grading system~~
7 ~~provided for by Section 16-6C-2 have not been implemented~~
8 ~~pursuant to the Alabama Administrative Procedure Act in time~~
9 ~~to provide a sufficient record to implement this subdivision~~
10 ~~by June 1, 2017, then a failing school shall be a school that~~
11 ~~has been~~

12 ~~"b. Is listed in the lowest 10~~ six percent of public
13 K-12 schools ~~in~~ based on the state standardized assessment in
14 reading and math.

15 ~~"(6) FAMILY. A group of two or more people related~~
16 ~~by birth, marriage, or adoption, including foster children,~~
17 ~~who reside together.~~

18 ~~"(4)(7) FLEXIBILITY CONTRACT. A school flexibility~~
19 ~~contract between the local school system and the State Board~~
20 ~~of Education wherein a local school system may apply for~~
21 ~~programmatic flexibility or budgetary flexibility, or both,~~
22 ~~from state laws, regulations, and policies, including~~
23 ~~regulations and policies promulgated by the State Board of~~
24 ~~Education and the State Department of Education.~~

25 ~~"(5)(8) INNOVATION PLAN. The request of a local~~
26 ~~school system for flexibility and plan for annual~~

1 accountability measures and five-year targets for all
2 participating schools within the school system.

3 ~~"(6)(9)~~ LOCAL BOARD OF EDUCATION. A city or county
4 board of education that exercises management and control of a
5 local school system pursuant to state law.

6 ~~"(7)(10)~~ LOCAL SCHOOL SYSTEM. A public agency that
7 establishes and supervises one or more public schools within
8 its geographical limits pursuant to state law.

9 ~~"(8) LOW-INCOME ELIGIBLE STUDENT. A student of a~~
10 ~~family with income equal to or less than two times the federal~~
11 ~~poverty level.~~

12 ~~"(9)(11)~~ NONPUBLIC SCHOOL. Any nonpublic or private
13 school, including parochial schools, not under the
14 jurisdiction of the State Superintendent of Education and the
15 State Board of Education, providing educational services to
16 children. A nonpublic school ~~is accredited by a state~~
17 ~~recognized accrediting agency that~~ provides education to
18 elementary or secondary, or both, students and has notified
19 the ~~State~~ Department of Revenue of its intention to
20 participate in the scholarship program and comply with the
21 requirements of the scholarship program. A nonpublic school
22 does not include home schooling.

23 ~~"(10)(12)~~ PARENT. The parent or ~~legal~~ guardian of a
24 student, with authority to act on behalf of the student, ~~who~~
25 claims. For purposes of Section 16-6D-8, the parent or
26 guardian shall claim the student as a dependent on his or her
27 Alabama state income tax return.

1 "~~(11)~~(13) QUALIFYING SCHOOL.

2 "a. Either a public school outside of the resident
3 school district that is not considered failing ~~under either~~
4 ~~state or federal standards~~ within the meaning of subdivision
5 (5) or any nonpublic school as defined in this chapter or that
6 ~~satisfies the compulsory attendance requirements provided in~~
7 ~~Section 16-28-7~~ in subdivision (11) and that satisfies the
8 requirements of this subdivision. A ~~qualified~~ qualifying
9 nonpublic school shall be accredited by one of the six
10 regional accrediting agencies or ~~, if not so accredited,~~ the
11 National Council for Private School Accreditation, AdvancEd,
12 the American Association of Christian Schools, or one of their
13 partner accrediting agencies. A nonpublic school shall have
14 three years from the later of the date the nonpublic school
15 notified the Department of Revenue of its intent to
16 participate in the scholarship program or the effective date
17 of the act amending this subdivision, to obtain the required
18 accreditation and shall thereafter maintain accreditation as
19 required by this subdivision. During the three-year period
20 described in the immediately preceding sentence, a nonpublic
21 school that is not accredited shall satisfy all of the
22 following conditions until the nonpublic school obtains
23 accreditation:

24 "a.1. Has been in existence for at least three
25 years.

26 "b.2. Has daily attendance of at least 85 percent
27 over a two-year period.

1 "~~c.3.~~ Has a minimum 180-day school year, or its
2 hourly equivalent.

3 "~~d.4.~~ Has a day length of at least six and one-half
4 hours.

5 "~~e.5.~~ Requires all students to take the Stanford
6 Achievement Test, or its equivalent.

7 "~~f.6.~~ Requires all candidates for graduation to take
8 the American College Test before graduation.

9 "~~g.7.~~ Requires students in high school in grades
10 nine through 12 to earn a minimum of 24 ~~Carnegie~~ credits
11 before graduating, including 16 credits in core subjects ~~and~~
12 ~~additional requirements in health and physical education, fine~~
13 ~~arts, computer studies, and foreign language, and each awarded~~
14 credit shall consist of a minimum of 140 instructional hours.

15 "~~h.8.~~ Does not subject special education students to
16 the same testing or curricular requirements as regular
17 education students if it is not required in the individual
18 plan for the student.

19 "~~i.9.~~ Maintains a ~~current~~ website that describes the
20 school, ~~and~~ the instructional program of the school, and the
21 tuition and mandatory fees charged by the school, updated
22 prior to the beginning of each semester.

23 "~~j.10.~~ Annually affirms on forms prescribed by the
24 scholarship granting organization and the ~~department~~
25 Department of Revenue its status financially and academically
26 and provide other relative information as required by the

1 scholarship granting organization or as otherwise required in
2 this chapter.

3 "b. A nonpublic school that is not accredited and
4 that has not been in existence for at least three years shall
5 nevertheless be considered a qualifying school if, in addition
6 to satisfying the requirements in subparagraphs 2. to 10.,
7 inclusive, of paragraph a., the nonpublic school operates
8 under the governance of the board of directors or the
9 equivalent thereof of an accredited nonpublic school. For
10 purposes of the immediately preceding sentence, the term
11 governance shall include, but not be limited to, curriculum
12 oversight, personnel and facility management, and financial
13 management. If, at the conclusion of the three-year period in
14 which a nonpublic school is required to obtain accreditation,
15 a nonpublic school is not accredited, the nonpublic school
16 shall not be considered a qualifying school and shall not
17 receive any funds from a scholarship granting organization
18 until the nonpublic school obtains the accreditation required
19 by this subdivision.

20 ~~"(12)~~(14) SCHOLARSHIP GRANTING ORGANIZATION. An
21 organization that provides or is approved to provide
22 educational scholarships to eligible students attending
23 qualifying schools of their parents' choice.

24 "§16-6D-9.

25 "(a) (1) ~~A~~ An individual taxpayer who files a state
26 income tax return and is not claimed as a dependent of another
27 taxpayer, a taxpayer subject to the corporate income tax

1 levied by Chapter 18 of Title 40, an Alabama S corporation as
2 defined in Section 40-18-160, or a Subchapter K entity as
3 defined in Section 40-18-1 may claim a credit for a
4 contribution made to a scholarship granting organization. If
5 the credit is claimed by an Alabama S corporation or
6 Subchapter K entity, the credit shall pass through to and may
7 be claimed by any taxpayer eligible to claim a credit under
8 this subdivision who is a shareholder, partner, or member
9 thereof, based on the taxpayer's pro rata or distributive
10 share, respectively, of the credit.

11 "(2) The tax credit may be claimed by an individual
12 taxpayer or a married couple filing jointly in an amount equal
13 to 100 percent of the total contributions the taxpayer made to
14 a scholarship granting organization for educational
15 scholarships during the taxable year for which the credit is
16 claimed, up to 50 percent of the tax liability of the
17 individual taxpayer, not to exceed seven thousand five hundred
18 dollars (\$7,500) per taxpayer or married couple filing
19 jointly. For purposes of this section, an individual taxpayer
20 includes an individual who is a shareholder of an Alabama S
21 corporation or a partner or member of a Subchapter K entity
22 that made a contribution to a scholarship granting
23 organization.

24 "(3) The tax credit may be claimed by a ~~corporate~~
25 taxpayer subject to the Alabama corporate income tax in an
26 amount equal to 100 percent of the total contributions the
27 taxpayer made to a scholarship granting organization for

1 educational scholarships during the taxable year for which the
2 credit is claimed, up to 50 percent of the tax liability of
3 the taxpayer. ~~The cumulative amount of tax credits issued~~
4 ~~pursuant to subdivision (2) and this subdivision shall not~~
5 ~~exceed twenty-five million dollars (\$25,000,000) annually. The~~
6 ~~Department of Revenue shall develop a procedure to ensure that~~
7 ~~this cap is not exceeded and shall also prescribe the various~~
8 ~~methods by which these credits are to be issued.~~

9 "(4) A ~~corporate~~ taxpayer subject to the Alabama
10 corporate income tax, an individual taxpayer, or a married
11 couple filing jointly may carry forward a tax credit earned
12 under the tax credit scholarship program for up to three
13 taxable years.

14 "(5) The cumulative amount of tax credits issued
15 pursuant to subdivision (2) and subdivision (3) shall not
16 exceed thirty million dollars (\$30,000,000) annually, based on
17 the calendar year. A taxpayer making one or more otherwise
18 tax-creditable contributions before the due date, with
19 extensions, of a timely filed 2014 tax return may elect to
20 treat all or a portion of such contributions as applying to
21 and creditable against its 2014 Alabama income tax liability,
22 if the taxpayer properly reserves the credit on the website of
23 the Department of Revenue or another method provided by the
24 Department of Revenue. The amount creditable against the
25 taxpayer's 2014 income tax liability shall be limited to the
26 lesser of the amount so designated or the remaining balance,
27 if any, of the cumulative amount of the twenty-five million

1 dollars (\$25,000,000) of tax credits available for the 2014
2 calendar year. No such contribution and election by a taxpayer
3 to reserve tax credits against the remaining balance of the
4 cumulative amount of tax credits available for 2014 shall
5 preclude the taxpayer from making additional contributions in
6 2015 and reserving those amounts against the cumulative amount
7 of tax credits available for 2015. The Department of Revenue
8 shall develop a procedure to ensure that this cap is not
9 exceeded and shall also prescribe the various methods by which
10 these credits are to be issued.

11 "(6) No credit may be claimed for a contribution
12 made to a scholarship granting organization if the
13 contribution is restricted or conditioned in any way by the
14 donor including, but not limited to, requiring the scholarship
15 granting organization to direct all or part of the
16 contribution to a particular qualifying school or to grant an
17 educational scholarship to a particular eligible student.

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

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

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

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

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

7 "e. Ensure that all determinations with respect to
8 the eligibility of a student to receive an educational
9 scholarship shall be made by the scholarship granting
10 organization. A scholarship granting organization shall not
11 delegate any responsibility for determining the eligibility of
12 a student for an educational scholarship or any other
13 requirements it is subject to under this chapter to any
14 qualifying school or an entity affiliated therewith.

15 "e.f. Ensure that at least 95 percent of their
16 revenue from donations is ~~spent~~ expended on educational
17 scholarships, and that all revenue from interest or
18 investments is ~~spent~~ expended on educational scholarships. A
19 scholarship granting organization may expend up to five
20 percent of its revenue from donations on administrative and
21 operating expenses in the calendar year of the donation or in
22 any subsequent calendar year.

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

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

13 "g.h. Ensure that at least 75 percent of first-time
14 recipients of educational scholarships were not continuously
15 enrolled in a private school during the previous academic
16 year.

17 "h.i. Cooperate with the Department of Revenue to
18 conduct criminal background checks on all of their employees
19 and board members and exclude from employment or governance
20 any individual who may reasonably pose a risk to the
21 appropriate use of contributed funds.

22 "i.j. Ensure that educational scholarships are
23 portable during the ~~school~~ academic year and can be used at
24 any qualifying school that accepts the eligible student
25 according to the wishes of the parent. If ~~a~~ an eligible
26 student transfers to another qualifying school during ~~a school~~

1 an academic year, the educational scholarship amount may be
2 prorated.

3 "j.k. Publicly report to the Department of Revenue
4 by ~~June~~ September 1 of each year all of the following
5 information prepared by a certified public accountant
6 regarding their ~~grants~~ educational scholarships funded in the
7 previous ~~calendar~~ academic year:

8 "1. The name and address of the scholarship granting
9 organization.

10 "2. The total number and total dollar amount of
11 contributions received during the previous ~~calendar~~ academic
12 year.

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

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

26 "1. The total number of scholarships awarded and
27 funded.

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

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

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

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

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

21 "m.o. Ensure that educational scholarships are
22 provided only to eligible students who ~~would otherwise~~ are
23 zoned to attend a failing school so that the eligible student
24 can attend a ~~nonpublic school or a nonfailing public~~
25 qualifying school. ~~Provided, however, that any~~ To ensure
26 compliance with the immediately preceding sentence, the local
27 board of education for the county or municipality in which an

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "~~(2)~~ (3) Academic accountability standards. There
25 shall be sufficient information about the academic impact
26 educational scholarship tax credits have on participating
27 students in order to allow parents and taxpayers to measure

1 the achievements of the tax credit scholarship program, and
2 therefore:

3 "a. Each scholarship granting organization shall
4 ensure that ~~participating~~ qualifying schools that accept its
5 educational scholarship students shall do all of the
6 following:

7 "1. Annually administer ~~either~~ the state achievement
8 tests ~~or nationally recognized norm-referenced tests~~ that
9 measure learning gains in math and language arts to all
10 participating students in grades that require testing under
11 the accountability testing laws of the state for public
12 schools. The scholarship granting organization shall work with
13 the State Department of Education to ensure compliance with
14 this subparagraph.

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

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

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

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

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

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

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

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

15 "2. Collect all test results.

16 "3. Provide the test results and associated learning
17 gains to the public via a state website after the third year
18 of test and test-related data collection. The findings shall
19 be aggregated by the grade level, gender, family income level,
20 number of years of participation in the tax credit scholarship
21 program, and race of the student.

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

24 "(2) The Department of Revenue shall provide a
25 standardized format for a receipt to be issued by a
26 scholarship granting organization to a taxpayer to indicate
27 the value of a contribution received. The Department of

1 Revenue shall require a taxpayer to provide a copy of the
2 receipt when claiming the tax credit pursuant to this section.

3 "(3) The Department of Revenue shall provide a
4 standardized format for a scholarship granting organization to
5 report the information required in ~~paragraph j.~~ paragraphs k.
6 and l. of subdivision (1) of subsection (b).

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

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

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

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

25 "(8) The Department of Revenue shall publish and
26 make publicly available on its website all annual and
27 quarterly reports required to be filed with it by scholarship

1 granting organizations under paragraphs k. and l. of
2 subdivision (1) of subsection (b).

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

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

10 "(3) All qualifying nonpublic schools participating
11 in the tax credit scholarship program shall maintain a website
12 that describes the school, the instructional program of the
13 school, and the tuition and mandatory fees charged by the
14 school, updated prior to the beginning of each semester.

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

18 "(g) (1) Nothing in this section shall be construed
19 to force any public school, school system, or school district
20 or any nonpublic school, school system, or school district to
21 enroll any student. No qualifying school may enter into any
22 agreement, whether oral or written, with a scholarship
23 granting organization that would prohibit or limit an eligible
24 student from enrolling in the school based on the identity of
25 the scholarship granting organization from which the eligible
26 student received an educational scholarship.

1 "(2) A public school, school system, or school
2 district or any nonpublic school, school system, or school
3 district may develop the terms and conditions under which it
4 will allow a student who receives a scholarship from a
5 scholarship granting organization pursuant to this section to
6 be enrolled, but such terms and conditions may not
7 discriminate on the basis of the race, gender, religion,
8 color, disability status, or ethnicity of the student or of
9 the student's parent.

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

16 "(h) Nothing in this chapter shall affect or change
17 the athletic eligibility rules of student athletes governed by
18 the Alabama High School Athletic Association or similar
19 association."

20 Section 2. The provisions of this act are severable.
21 If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains.

24 Section 3. (a) Except as provided in subsection (b),
25 this act shall become effective immediately following its
26 passage and approval by the Governor, or its otherwise

1 becoming law, and shall apply retroactively to tax years or
2 periods beginning on or after January 1, 2015.

3 (b) The amendments to subdivision (4) of Section
4 16-6D-4 and paragraphs f. and o. of subdivision (1) of
5 subsection (b) of Section 16-6D-9, regarding the clarification
6 that scholarship granting organizations may use up to five
7 percent of scholarship donations for administrative and
8 operating expenses and the continuing eligibility of a student
9 once he or she receives an educational scholarship, shall be
10 retroactively effective to and as of March 14, 2013, the
11 effective date of the Alabama Accountability Act of 2013.

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Senate

Read for the first time and referred to the Senate
committee on Finance and Taxation Education 03-MAR-15

Read for the second time and placed on the calen-
dar with 1 substitute and..... 18-MAR-15

Read for the third time and passed as amended 31-MAR-15

Yeas 20
Nays 14

Patrick Harris
Secretary