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3 SENATE FINANCE AND TAXATION EDUCATION COMMITTEE SUBSTITUTE FOR
4 SB71

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9 SYNOPSIS: This bill would clarify and confirm that the
10 intent of the Alabama Accountability Act of 2013 is
11 educational choice and would amend certain
12 definitions and provisions of the Alabama
13 Accountability Act of 2013.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 To amend Sections 16-6D-4 and 16-6D-9, Code of
20 Alabama 1975, relating to the Alabama Accountability Act of
21 2013; to clarify and confirm that the intent of the Alabama
22 Accountability Act of 2013 is educational choice; to amend
23 certain current definitions and add new definitions; to amend
24 the reporting period for scholarship granting organizations
25 from a calendar year to an academic year; to clarify and
26 confirm that educational scholarships are provided to eligible
27 students, not to particular schools; to clarify and confirm

1 that once a student has received an educational scholarship
2 under the program, the student remains eligible to receive
3 educational scholarships until high school graduation or the
4 student reaches 19 years of age, but would require scholarship
5 granting organizations to determine income eligibility every
6 other year; to require all participating private schools to be
7 accredited by one of the six regional accrediting agencies,
8 the National Council for Private School Accreditation,
9 AdvancEd, the American Association of Christian Schools, or
10 one of their partner accrediting agencies, within three years
11 from the date their notice of intent to participate in the
12 scholarship program is filed with the Department of Revenue or
13 the effective date of this Act, whichever is later; to allow
14 certain pass-through entities, such as Subchapter S
15 corporations and limited liability companies, to make
16 contributions to scholarship granting organizations and to
17 allow the credit earned by the entity to pass through to and
18 be claimed by its owners, and to expand the definition of
19 "individual taxpayer" to include the individual owners of
20 these pass-through entities; to clarify and confirm that
21 donors making contributions to scholarship granting
22 organizations cannot earmark their contribution for a
23 particular school or to fund scholarships for a particular
24 student or group of students; to prohibit scholarship granting
25 organizations from making lump sum, block grants, or other
26 similar payments to otherwise qualifying schools; to remove
27 the current \$7,500 annual limitation on contributions made to

1 scholarship granting organizations by individual taxpayers; to
2 increase the cumulative amount of tax credits available in a
3 calendar year to \$35,000,000; to allow taxpayers to make
4 contributions to scholarship granting organizations before the
5 due date, with extensions, of a timely filed 2014 tax return
6 but reserve tax credits against the remaining balance of the
7 2014 cumulative amount of tax credits available; to clarify
8 and confirm that scholarship granting organizations may use up
9 to five percent of their revenues from donations for
10 administrative or operating expenses in the year of donation
11 or any subsequent year; to require scholarship granting
12 organizations to spend on educational scholarships the
13 scholarship funds on hand at the beginning of a calendar year
14 by the end of the academic year ending within the next
15 succeeding calendar year, for example, a scholarship granting
16 organization's scholarship funds on hand on January 1, 2015,
17 must be spent on educational scholarships by June 30, 2016; to
18 amend the deadline for the annual reports required to be filed
19 by scholarship granting organizations with the Department of
20 Revenue and provide for additional quarterly reports to be
21 filed with the Department of Revenue; to require that such
22 reports be made publicly available on the Department of
23 Revenue's website; to require the State Department of
24 Education and local boards of education to provide
25 verification that an eligible student is zoned to attend a
26 particular public school; to change the release date for
27 unaccounted scholarship funds from September 15 to May 15 of

1 each calendar year; to prohibit so-called lock-up agreements
2 between scholarship granting organizations and otherwise
3 qualifying schools that would limit or prevent students who
4 received educational scholarships from other scholarship
5 granting organizations from attending that school; to require
6 scholarship granting organizations to submit annual
7 verification to the Department of Revenue of the policies and
8 procedures used to determine a student's eligibility for an
9 educational scholarship and to clarify and confirm that
10 scholarship granting organizations, not schools, are
11 responsible for determining student eligibility; to require
12 qualifying schools to provide information on financial
13 viability prior to receiving educational scholarship payments;
14 to require participating schools to comply with the Alabama
15 Child Protection Act of 1999; and to provide for a limited
16 retroactive effective date.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

20 "§16-6D-4.

21 "For the purposes of this chapter, the following
22 terms shall have the following meanings:

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

25 "(2) DEPARTMENT OF REVENUE. The Alabama Department
26 of Revenue.

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

17 "~~(2)~~(4) ELIGIBLE STUDENT.

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

19 "a.1. Is a member of a ~~household~~ family whose total
20 annual income the calendar year before he or she receives an
21 educational scholarship under this program does not exceed ~~an~~
22 ~~amount equal to 150 percent of the median household income~~ 185
23 percent of the federal poverty level, the federally recognized
24 threshold for receiving free or reduced priced lunch, as
25 established from time to time by the U.S. Department of Health
26 and Human Services. Once a student receives an educational
27 ~~scholarship under this program, the student shall remain~~

1 ~~eligible regardless of household income until the student~~
2 ~~graduates high school or reaches 19 years of age.~~

3 "b.2. Was eligible to attend a public school in the
4 preceding semester or is starting school in Alabama for the
5 first time.

6 "c.3. Resides in Alabama while receiving an
7 educational scholarship.

8 "b. A scholarship granting organization shall
9 determine the eligibility of a student under subparagraph 1.
10 of paragraph a. every other academic year in which a student
11 receives an educational scholarship; provided, however, that
12 once a student receives an educational scholarship under this
13 program the student shall otherwise remain eligible to receive
14 educational scholarships until the student graduates high
15 school or reaches 19 years of age.

16 "~~(3)(5) FAILING SCHOOL. A public K-12 school that is~~
17 ~~one or more 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 percent of each
13 category of public K-12 elementary, middle, junior high, or
14 high schools in the state standardized assessment in reading
15 and math. This paragraph may not be construed as 30 percent of
16 the total of all schools but rather 10 percent of each
17 category of school, elementary, middle, junior high, and high,
18 such that there shall be no more than 10 percent of all public
19 K-12 schools listed at one time.

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

7 ~~"(6)(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 ~~"(7)(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 ~~"(8) LOW-INCOME ELIGIBLE STUDENT. A student of a~~
14 ~~family with income equal to or less than two times the federal~~
15 ~~poverty level.~~

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

1 "~~(10)~~(12) PARENT. The parent or ~~legal~~ guardian of a
2 student, with authority to act on behalf of the student, ~~who~~
3 claims. For purposes of Section 16-6D-8, the parent or
4 guardian shall claim the student as a dependent on his or her
5 Alabama state income tax return.

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

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

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

5 "c.3. Has a minimum 180-day school year, or its
6 hourly equivalent.

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

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

11 "f.6. Requires all candidates for graduation to take
12 the American College Test before graduation.

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

19 "h.8. Does not subject special education students to
20 the same testing or curricular requirements as regular
21 education students if it is not required in the individual
22 plan for the student.

23 "i.9. Maintains a current website that describes the
24 school, ~~and~~ the instructional program of the school, and the
25 tuition and mandatory fees charged by the school, updated
26 prior to the beginning of each semester.

1 "~~j~~.10. Annually affirms on forms prescribed by the
2 scholarship granting organization and the department its
3 status financially and academically and provide other relative
4 information as required by the scholarship granting
5 organization or as otherwise required in this chapter.

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

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

27 "§16-6D-9.

1 "(a) (1) ~~A~~ An individual taxpayer who files a state
2 income tax return and is not claimed as a dependent of another
3 taxpayer, a taxpayer subject to the corporate income tax
4 levied by Chapter 18 of Title 40, an Alabama S corporation as
5 defined in Section 40-18-160, or a Subchapter K entity as
6 defined in Section 40-18-1 may claim a credit for a
7 contribution made to a scholarship granting organization. If
8 the credit is claimed by an Alabama S corporation or
9 Subchapter K entity, the credit shall pass through to and may
10 be claimed by any taxpayer eligible to claim a credit under
11 this subdivision who is a shareholder, partner, or member
12 thereof, based on the taxpayer's pro rata or distributive
13 share, respectively, of the credit. No credit may be claimed
14 for a contribution made to a scholarship granting organization
15 if the contribution is restricted or conditioned in any way by
16 the donor including, but not limited to, requiring the
17 scholarship granting organization to direct all or part of the
18 contribution to a particular qualifying school or to grant an
19 educational scholarship to a particular eligible student.

20 "(2) The tax credit may be claimed by an individual
21 taxpayer or a married couple filing jointly in an amount equal
22 to 100 percent of the total contributions the taxpayer made to
23 a scholarship granting organization for educational
24 scholarships during the taxable year for which the credit is
25 claimed, up to 50 percent of the tax liability of the
26 individual taxpayer, not to exceed seven thousand five hundred
27 dollars (\$7,500) per taxpayer or married couple filing

1 jointly. For purposes of this section, an individual taxpayer
2 includes an individual who is a shareholder of an Alabama S
3 corporation or a partner or member of a Subchapter K entity
4 that made a contribution to a scholarship granting
5 organization.

6 "(3) The tax credit may be claimed by a ~~corporate~~
7 taxpayer subject to the Alabama corporate income tax in an
8 amount equal to 100 percent of the total contributions the
9 taxpayer made to a scholarship granting organization for
10 educational scholarships during the taxable year for which the
11 credit is claimed, up to 50 percent of the tax liability of
12 the taxpayer. The cumulative amount of tax credits issued
13 pursuant to subdivision (2) and this subdivision shall not
14 exceed ~~twenty-five~~ thirty-five million dollars ~~(\$25,000,000)~~
15 (\$35,000,000) annually, based on the calendar year. A taxpayer
16 making one or more otherwise tax-creditable contributions
17 before the due date, with extensions, of a timely filed 2014
18 tax return may elect to treat all or a portion of such
19 contributions as applying to and creditable against its 2014
20 Alabama income tax liability, if the taxpayer properly
21 reserves the credit on the website of the Department of
22 Revenue or another method provided by the Department of
23 Revenue. The amount creditable against the taxpayer's 2014
24 income tax liability shall be limited to the lesser of the
25 amount so designated or the remaining balance, if any, of the
26 cumulative amount of the twenty-five million dollars
27 (\$25,000,000) of tax credits available for the 2014 calendar

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

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

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

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

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

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

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

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

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

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

24 "g. Ensure that scholarship funds on hand at the
25 beginning of a calendar year are spent on educational
26 scholarships by the end of the academic year ending within the
27 next succeeding calendar year. Any scholarship funds on hand

1 at the beginning of a calendar year that are not spent on
2 educational scholarships by the end of the academic year
3 ending within the next succeeding calendar year shall revert
4 back to the At-Risk Student Program in the annual Education
5 Trust Fund Appropriations bill to be distributed to local
6 boards of education on the basis determined by the State
7 Department of Education in furtherance of support to
8 underperforming schools.

9 "g.h. Ensure that at least 75 percent of first-time
10 recipients of educational scholarships were not continuously
11 enrolled in a private school during the previous academic
12 year.

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

18 "i.j. Ensure that educational scholarships are
19 portable during the ~~school~~ academic year and can be used at
20 any qualifying school that accepts the eligible student
21 according to the wishes of the parent. If ~~a~~ an eligible
22 student transfers to another qualifying school during ~~a school~~
23 an academic year, the educational scholarship amount may be
24 prorated.

25 "j.k. Publicly report to the Department of Revenue
26 by ~~June~~ September 1 of each year all of the following
27 information prepared by a certified public accountant

1 regarding their ~~grants~~ educational scholarships funded in the
2 previous ~~calendar~~ academic year:

3 "1. The name and address of the scholarship granting
4 organization.

5 "2. The total number and total dollar amount of
6 contributions received during the previous ~~calendar~~ academic
7 year.

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

17 "1. Publicly report to the Department of Revenue, by
18 the 15th day after the close of each calendar quarter, all of
19 the following:

20 "1. The total number of scholarships awarded and
21 funded during the quarter.

22 "2. The names of the qualifying schools that
23 received funding for educational scholarships during the
24 quarter, the total amount of funds paid to each qualifying
25 school, and the total number of scholarship recipients
26 enrolled in each qualifying school during the quarter.

1 "3. The total number of eligible students zoned to
2 attend a failing school who received educational scholarships
3 from the scholarship granting organization during the quarter.

4 "4. The total number of first time scholarship
5 recipients who were continuously enrolled in a nonpublic
6 school prior to receiving an educational scholarship from that
7 scholarship granting organization during the quarter.

8 "k.m. Ensure that educational scholarships are not
9 provided for students to attend a school with paid staff or
10 board members, or relatives thereof, in common with the
11 scholarship granting organization.

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

16 "m.o. Ensure that educational scholarships are
17 provided only to students who ~~would otherwise~~ are zoned to
18 attend a failing school so that the student can attend a
19 ~~nonpublic school or a nonfailing public~~ qualifying school.
20 ~~Provided, however, that any~~ To ensure compliance with the
21 immediately preceding sentence, the local board of education
22 for the county or municipality in which an eligible student
23 applying for a scholarship resides, upon written request by a
24 parent, shall provide written verification that a particular
25 address is in the attendance zone of a specified public
26 school. The State Department of Education shall provide
27 written verification of enrollment in a failing school under

1 this chapter. Once an eligible student receives an educational
2 scholarship under this program, the student shall remain
3 eligible to receive educational scholarships in subsequent
4 academic years, regardless of whether the eligible student is
5 zoned to attend a failing school, subject to requirements of
6 paragraph b. of subdivision (4) of Section 16-6D-4. Any
7 scholarship funds unaccounted for on ~~September~~ May 15th of
8 each calendar year may be made available to ~~low-income~~
9 eligible students to defray the costs of attending a
10 qualifying school, whether or not the student is ~~assigned~~
11 zoned to attend a failing school.

12 "n.p. Ensure that no donations are directly made to
13 benefit specifically designated scholarship recipients or to
14 particular qualifying schools.

15 "g. Submit to the Department of Revenue annual
16 verification of the scholarship granting organization's
17 policies and procedures used to determine scholarship
18 eligibility. The verification shall confirm that the
19 scholarship granting organization, and not one or more
20 qualifying schools accepting educational scholarship
21 recipients, is determining whether scholarship applicants are
22 eligible to receive educational scholarships.

23 "r. Submit to the Department of Revenue annual
24 verification that none of its actions or policies restricts a
25 parent's educational choice by limiting or prohibiting the
26 enrollment of eligible students in a qualifying school if

1 those eligible students received educational scholarships from
2 other scholarship granting organizations.

3 "(2) Financial accountability standards.

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

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

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

14 "b. All ~~participating~~ qualifying nonpublic schools
15 shall demonstrate financial viability, if they are to receive
16 donations of fifty thousand dollars (\$50,000) or more during
17 the ~~school~~ academic year, by doing either of the following:

18 "1. Filing with the scholarship granting
19 organization ~~before the start of the school~~ prior to receipt
20 of the first educational scholarship payment for that academic
21 year a surety bond payable to the scholarship granting
22 organization in an amount equal to the aggregate amount of
23 contributions expected to be received during the ~~school~~
24 academic year.

25 "2. Filing with the scholarship granting
26 organization ~~before the start of the school~~ prior to receipt
27 of the first educational scholarship payment for that academic

1 year financial information that demonstrates the financial
2 viability of the ~~participating~~ qualifying nonpublic school.

3 "(c) (1) Each scholarship granting organization shall
4 annually collect and submit to the Department of Revenue with
5 the annual report required by paragraph i. of subdivision (1)
6 of subsection (b) written verification from ~~participating~~
7 qualifying nonpublic schools that accept its educational
8 scholarship students that those schools do all of the
9 following:

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

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

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

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

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

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

22 "(2) By August 1 of each year, each qualifying
23 nonpublic school shall provide to each scholarship granting
24 organization from which it receives educational scholarships
25 annual verification that the qualifying nonpublic school is in
26 compliance with the Alabama Child Protection Act of 1999,
27 Chapter 22A of this title. Any qualifying nonpublic school

1 failing to provide such annual verification shall be
2 prohibited from participating in the scholarship program. Each
3 scholarship granting organization shall annually submit to the
4 Department of Revenue with the annual report required by
5 paragraph i. of subdivision (1) of subsection (b) copies of
6 the written verifications it receives from each qualifying
7 nonpublic school.

8 "~~(2)~~(3) Academic accountability standards. There
9 shall be sufficient information about the academic impact
10 educational scholarship tax credits have on participating
11 students in order to allow parents and taxpayers to measure
12 the achievements of the tax credit scholarship program, and
13 therefore:

14 "a. Each scholarship granting organization shall
15 ensure that ~~participating~~ qualifying schools that accept its
16 educational scholarship students shall do all of the
17 following:

18 "1. Annually administer ~~either~~ the state achievement
19 tests ~~or nationally recognized norm-referenced tests~~ that
20 measure learning gains in math and language arts to all
21 participating students in grades that require testing under
22 the accountability testing laws of the state for public
23 schools. The scholarship granting organization shall work with
24 the State Department of Education to ensure compliance with
25 this subparagraph.

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

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

7 "4. Provide the test results to the Department of
8 Revenue on an annual basis, beginning with the first year of
9 testing.

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

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

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

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

21 "2. Collect all test results.

22 "3. Provide the test results and associated learning
23 gains to the public via a state website after the third year
24 of test and test-related data collection. The findings shall
25 be aggregated by the grade level, gender, family income level,
26 number of years of participation in the tax credit scholarship
27 program, and race of the student.

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

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

9 "(3) The Department of Revenue shall provide a
10 standardized format for a scholarship granting organization to
11 report the information required in ~~paragraph~~ paragraphs i. and
12 j. of subdivision (1) of subsection (b).

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

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

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

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

4 "(8) The Department of Revenue shall publish and
5 make publicly available on its website all annual and
6 quarterly reports required to be filed with it by scholarship
7 granting organizations under paragraphs i. and j. of
8 subdivision (1) of subsection (b).

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

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

16 "(3) All qualifying nonpublic schools participating
17 in the tax credit scholarship program shall maintain a current
18 website that describes the school, the instructional program
19 of the school, and the tuition and mandatory fees charged by
20 the school, updated prior to the beginning of each semester.

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

24 "(g) (1) Nothing in this section shall be construed
25 to force any public school, school system, or school district
26 or any nonpublic school, school system, or school district to
27 enroll any student. No qualifying school may enter into any

1 agreement, whether oral or written, with a scholarship
2 granting organization that would prohibit or limit an eligible
3 student from enrolling in the school based on the identity of
4 the scholarship granting organization from which the eligible
5 student received an educational scholarship.

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

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

21 "(h) Nothing in this chapter shall affect or change
22 the athletic eligibility rules of student athletes governed by
23 the Alabama High School Athletic Association or similar
24 association."

25 Section 2. (a) Except as provided in subsection (b),
26 this act shall become effective immediately following its
27 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, regarding the continuing eligibility of a student
5 once he or she receives an educational scholarship, and
6 paragraph e. of subdivision (1) of subsection (b) of Section
7 16-6D-9, regarding the clarification that scholarship granting
8 organizations may use up to five percent of scholarship
9 donations for administrative and operating expenses, shall be
10 retroactively effective to and as of March 14, 2013, the
11 effective date of the Alabama Accountability Act of 2013.