

NOTE: At the time of the vote, the Legislature did not have an available copy of the bill text as voted on. For your convenience, Vote Smart staff has created this updated version of the bill by incorporating changes made by published Committee Reports and/or Amendments into the available text. This updated version accurately reflects the state of the bill as voted on.

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

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

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

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

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

regardless of whether or not the student is zoned to
attend a

failing school, subject to the income eligibility
requirements

of Section 16-6D-4(4)a.1; to prohibit so-called lock-up
agreements between scholarship granting organizations
and

otherwise qualifying schools that would limit or
prevent

students who received educational scholarships from
other

scholarship granting organizations from attending that
school;

to require scholarship granting organizations to submit
annual

verification to the Department of Revenue of the
policies and

procedures used to determine a student's eligibility
for an

educational scholarship and to clarify and confirm that
scholarship granting organizations, not schools, are
responsible for determining student eligibility; to
require

scholarship granting organizations to verify that
priority is

given to eligible students zoned to attend failing
schools; to

require qualifying schools to provide information on
financial

viability prior to receiving educational scholarship
payments;

to require participating schools to comply with the
Alabama

Child Protection Act of 1999; and to provide for a limited

retroactive effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-6D-4.

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

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

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

"~~(1)-(3)~~ EDUCATIONAL SCHOLARSHIP.
~~SCHOLARSHIPS.~~

~~Grants~~ A grant made by a scholarship granting organization to an eligible student to cover all or part of the tuition and mandatory fees for one academic year charged by a qualifying school to ~~an~~ the eligible student receiving ~~a~~ the scholarship; provided, however, that an educational scholarship

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

"(2)(4) ELIGIBLE STUDENT.

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

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

~~scholarship under this program, the student shall remain eligible regardless of household income until the student graduates high school or reaches 19 years of age.~~

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

"e.3. Resides in Alabama while receiving an educational scholarship.

"b. A scholarship granting organization shall determine the eligibility of a student under subparagraph 1. of paragraph a. every other academic year in which a student receives an educational scholarship; provided that if the annual income of the family of a student who has received at least one educational scholarship exceeds 185 percent of the federal poverty level, the existing student shall remain eligible to receive educational scholarships until and unless the annual income of the family of the student exceeds 275 percent of the federal poverty level; provided further that no student who has received at least one educational scholarship shall be eligible to receive educational scholarships if the annual income of their family exceeds 275 percent of the federal poverty level.

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

"~~a. Is labeled as persistently low-performing~~

~~by the State Department of Education, in the then most recent United States Department of Education School Improvement Grant application.~~

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

~~"c. Does not exclusively serve a special population of students and, until June 1, 2017, has been listed three or more times during the then most recent six years in the lowest six percent of public K-12 schools on the state standardized assessment in reading and math or, on or after June 1, 2017, has, during the then most recent three years, earned at least one grade of "F" or, during the then most recent four years, earned at least three grades of "D" on the school grading system developed pursuant to Section 16-6C-2. In the event sufficient rules required to implement the grading system provided for by Section 16-6C-2 have not been implemented pursuant to the Alabama Administrative Procedure Act in time to provide a sufficient record to implement this subdivision by June 1, 2017, then a failing school shall be a school that has been~~

"b. Does not exclusively serve a special population of students and is listed in the lowest ~~10~~six percent of public K-12 schools ~~in~~ based on the state standardized assessment in reading and math.

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

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

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

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

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

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

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

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

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

"a. Either a public school outside of the resident school district that is not considered failing ~~under either state or federal standards~~ within the meaning of subdivision (5) or any nonpublic school as defined ~~in this chapter or that satisfies the compulsory attendance requirements provided in Section 16-28-7~~ in subdivision (11)

and that satisfies the requirements of this subdivision. A
qualified ~~qualifying~~ nonpublic school shall be accredited by
one of the six regional accrediting agencies or ~~, if not so~~
~~accredited~~, the National Council for Private School
Accreditation, AdvancEd, the American Association of Christian
Schools, or one of their partner accrediting agencies. A
nonpublic school shall have three years from the later of the
date the nonpublic school notified the Department of Revenue of
its intent to participate in the scholarship program or the
effective date of the act amending this subdivision, to obtain
the required accreditation and shall thereafter maintain
accreditation as required by this subdivision. During the
three-year period described in the immediately preceding
sentence, a nonpublic school that is not accredited shall
satisfy all of the following conditions until the nonpublic
school obtains accreditation:

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

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

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

"d.4. Has a day length of at least six and

one-half hours.

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

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

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

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

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

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

scholarship granting organization or as otherwise required in this chapter.

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

"(12)-(14) SCHOLARSHIP GRANTING ORGANIZATION.

An organization that provides or is approved to provide educational scholarships to eligible students attending qualifying schools of their parents' choice.

"§16-6D-9.

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

"(2) The tax credit may be claimed by an individual taxpayer or a married couple filing jointly in an amount equal to 100 percent of the total contributions the taxpayer 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 individual taxpayer, ~~not to exceed seven thousand five hundred dollars (\$7,500) per taxpayer~~ or married couple filing jointly. For purposes of this section, an individual taxpayer includes

an individual who is a shareholder of an Alabama S corporation
or a partner or member of a Subchapter K entity that made a
contribution to a scholarship granting organization.

"(3) The tax credit may be claimed by a corporate taxpayer subject to the Alabama corporate income tax in an amount equal to 100 percent of the total contributions the taxpayer 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 subject to the Alabama corporate income tax, an individual taxpayer, or a married couple filing jointly may carry forward a tax credit earned under the tax credit scholarship program for up to three taxable years.

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

on the calendar year. A taxpayer making one or more otherwise
tax-creditable contributions before the due date, with
extensions, of a timely filed 2014 tax return may elect to
treat all or a portion of such contributions as applying to and
creditable against its 2014 Alabama income tax liability, if
the taxpayer properly reserves the credit on the website of the
Department of Revenue or another method provided by the
Department of Revenue. The amount creditable against the
taxpayer's 2014 income tax liability shall be limited to the
lesser of the amount so designated or the remaining balance, if
any, of the cumulative amount of the twenty-five million
dollars (\$25,000,000) of tax credits available for the 2014
calendar year. No such contribution and election by a taxpayer
to reserve tax credits against the remaining balance of the
cumulative amount of tax credits available for 2014 shall
preclude the taxpayer from making additional contributions in
2015 and reserving those amounts against the cumulative amount
of tax credits available for 2015. 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.

"(6) No credit may be claimed for a
contribution made to a scholarship granting organization if the
contribution is restricted or conditioned in any way by the

donor including, but not limited to, requiring the scholarship granting organization to direct all or part of the contribution to a particular qualifying school or to grant an educational scholarship to a particular eligible student.

"(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 to eligible students.

"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, as in effect from time to time.

"c. Distribute periodic educational scholarship payments as checks made out and mailed to or directly deposited with 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 all determinations with respect to the eligibility of a student to receive an

educational scholarship shall be made by the scholarship granting organization. A scholarship granting organization shall not delegate any responsibility for determining the eligibility of a student for an educational scholarship or any other requirements it is subject to under this chapter to any qualifying school or an entity affiliated therewith.

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

~~"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 scholarship funds on hand at the beginning of a calendar year are expended on educational

scholarships by the end of the academic year ending within the next succeeding calendar year. Any scholarship funds on hand at the beginning of a calendar year that are not expended on educational scholarships by the end of the academic year ending within the next succeeding calendar year shall be turned over to and deposited with the State Department of Education for the benefit of its At-Risk Student Program to be distributed to local boards of education on the basis determined by the State Department of Education in furtherance of support to underperforming schools.

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

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

transfers to another qualifying school during ~~a school~~ an academic year, the educational scholarship amount may be prorated.

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

"3. The total number and total dollar amount of educational scholarships awarded and funded during the previous ~~calendar~~ academic year, the total number and total dollar amount of educational scholarships awarded and funded during the previous academic 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 academic year.

"1. Publicly report to the Department of

Revenue, by the 15th day after the close of each calendar quarter, all of the following information about educational scholarships granted during the quarter:

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

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

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

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

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

"~~l.n.~~. Ensure that educational 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.e.~~ Ensure that educational scholarships are provided only to eligible students who ~~would otherwise be~~ zoned to attend a failing school so that the eligible student can attend a ~~nonpublic school or a nonfailing public~~ qualifying school. ~~Provided, however, that any~~ To ensure compliance with the immediately preceding sentence, the local board of education for the county or municipality in which an eligible student applying for an educational scholarship resides, upon written request by a parent, shall provide written verification that a particular address is in the attendance zone of a specified public school. The State Department of Education shall provide written verification of enrollment in a failing school under this chapter. With respect to first time educational scholarship recipients, scholarship granting organizations shall give priority to eligible students zoned to attend failing schools over eligible students not zoned to attend failing schools. Any scholarship funds unaccounted for on ~~September 15th~~ July 31st of each calendar year may be made available to ~~low-income~~ eligible students to defray the costs of attending a qualifying school, whether or not the student is ~~assigned~~ zoned to attend a failing school. Any provision of this section to the contrary notwithstanding, once an eligible student receives an educational scholarship under this program,

scholarship funds may be made available to the student for educational scholarships until the student graduates from high school or reaches 19 years of age, regardless of whether the student is zoned to attend a failing school, subject to the income eligibility requirements of paragraph b. of subdivision (4) of Section 16-6D-4.

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

"q. Submit to the Department of Revenue annual verification of the scholarship granting organization's policies and procedures used to determine scholarship eligibility. The verification shall confirm that the scholarship granting organization, and not one or more qualifying schools accepting educational scholarship recipients or scholarship funds, is determining whether scholarship applicants are eligible to receive educational scholarships. The verification shall also confirm that the scholarship granting organization is giving priority to receive an educational scholarship to eligible students zoned to attend failing schools.

"r. Submit to the Department of Revenue annual verification that none of its actions or policies

restricts a parent's educational choice by limiting or prohibiting the enrollment of eligible students in a qualifying school if those eligible students received educational scholarships from other scholarship granting organizations.

"(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~~ qualifying nonpublic schools shall demonstrate financial viability, if they are to receive donations of fifty thousand dollars (\$50,000) or more during the ~~school~~ academic year, by doing either of the following: "1. Filing with the scholarship granting organization ~~before the start of the school~~ prior to receipt of the first educational scholarship payment for that academic year a surety bond payable to the scholarship granting

organization in an amount equal to the aggregate amount of ~~contributions~~ scholarship funds expected to be received during the ~~school~~ academic year.

"2. Filing with the scholarship granting organization ~~before the start of the school~~ prior to receipt of the first educational scholarship payment for that academic year financial information that demonstrates the financial viability of the ~~participating~~ qualifying nonpublic school."(c)(1) Each scholarship granting organization shall annually collect and submit to the Department of Revenue with the annual report required by paragraph k. of subdivision (1) of subsection (b) written verification from ~~participating~~ qualifying 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.

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

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

"~~(2)~~(3) Academic accountability standards.
There shall be sufficient information about the academic impact educational scholarship tax credits have on students participating in the tax credit scholarship program 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~~ qualifying schools that accept its educational scholarship students 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 students receiving an educational scholarship in grades that require testing under the accountability testing laws of the state for public schools, in order that the state can compare the academic achievement and learning gains of students receiving educational scholarships with students of the same socioeconomic and educational backgrounds who are taking the state achievement tests or nationally norm-referenced tests.

"2. Allow the costs of the testing ~~requirements~~ requirement 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 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.

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

"b. The Department of Revenue shall select an independent research organization, which may be a public or private entity or university, to analyze the results of the testing required by subparagraph a. of this paragraph every other academic year. The cost of analyzing and reporting on the test results to the Department of Revenue by the independent research organization shall be borne by all scholarship granting organizations in proportion to the total scholarship donations received for the two calendar years prior to the report being published. Scholarship granting organizations may

receive and use funds from outside sources to pay for its share of the biennial report.

1. The independent research organization shall report to the Department of Revenue every other year on the learning gains of students receiving educational scholarships and the report 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 receiving an educational scholarship. The report shall also include, to the extent possible, a comparison of the learning gains of students participating in the tax credit scholarship program to the statewide learning gains of public school students with socioeconomic and educational backgrounds similar to those students participating in the tax credit scholarship program.

2. The first report under this subparagraph shall be submitted to the Department of Revenue by September 1, 2016. Each biennial report thereafter shall be submitted to the Department of Revenue on September 1 of the year the report is due. All biennial reports required by this subparagraph shall be made published on the website of the Department of Revenue.

3. Each scholarship granting organization shall collect all test results from qualifying schools

accepting its scholarship recipients and turn over such test results to the independent research organization described in subparagraph b. of this paragraph by August 15 of each calendar year.

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

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

"(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.~~ paragraphs k. and l. 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 or a qualifying school from participating in the tax credit scholarship program if the Department of Revenue establishes that the scholarship granting organization or the qualifying school 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 or a qualifying school 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.

"(8) The Department of Revenue shall publish and make publicly available on its website all annual and quarterly

reports required to be filed with it by scholarship granting organizations under paragraphs k. and l. of subdivision (1) of subsection (b).

"(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.

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

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

"(g) (1) Nothing in this section shall be construed to force any public school, school system, or school district or any nonpublic school, school system, or school district to enroll any student. No qualifying school may enter into any agreement, whether oral or written, with a scholarship granting organization that would prohibit or limit an eligible student

from enrolling in the school based on the identity of the scholarship granting organization from which the eligible student received an educational scholarship.

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

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

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

" (i) The State Department of Education shall compile and maintain a database of test results and other reported information relating to the performance of each scholarship

recipient prior to receiving a scholarship and shall annually report the information to the Chair of the House Education Policy Committee and the Senate Education Policy Committee at each regular session of the Legislature.

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

Section 3. (a) Except as provided in subsection (b), this act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law, and shall apply retroactively to tax years or periods beginning on or after January 1, 2015.

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