

1 SB301
2 135584-3
3 By Senators Allen and Beason
4 RFD: Finance and Taxation Education
5 First Read: 14-FEB-12

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8 SYNOPSIS: This bill would provide an income tax credit
9 for certain qualifying educational expenses
10 incurred by the parents or guardians of students
11 enrolled in qualified nonpublic private schools or
12 church schools in the state.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to state income tax; to provide an income
19 tax credit for certain qualifying educational expenses
20 incurred by parents or guardians of students enrolled in
21 qualified nonpublic private schools or church schools for tax
22 years beginning January 1, 2012; to limit the tax credits to
23 those households with total annual adjusted gross income of
24 \$60,800 or less; to specify the obligations of the
25 Commissioner of Revenue and the Department of Revenue in
26 implementing this act.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. For the purposes of this act, the
2 following words shall have the following meanings:

3 (1) ACADEMIC INSTRUCTION. Instruction in reading,
4 writing, mathematics, science, English and literature,
5 philosophy, foreign languages, social studies, including art
6 and music history, geography, economics, government and
7 citizenship, and other subjects traditionally taught to
8 elementary and secondary age students.

9 (2) ELIGIBLE STUDENT. A student who is five years of
10 age on or before September 1 and who may not turn 19 years of
11 age on or after September 1, except for special education
12 students who shall be three years of age on or before
13 September 1 and may not turn 21 years of age on or before
14 September 1. Additionally, the student shall be in grade 9,
15 10, 11, or 12 and shall be making progress toward graduation
16 with his or her class, with the exception of special education
17 students. Commencing in 2013, students in grade 8 shall be
18 eligible for the credit and, each year following, students in
19 another grade level, in descending order, shall be added until
20 all qualifying students in grades 1-12, inclusive, are
21 eligible for the credit.

22 (3) GUARDIAN. The parent or person legally
23 responsible for ensuring compliance by each child in his or
24 her care with state mandatory education laws.

25 (4) LOW INCOME. Where the total adjusted gross
26 income of all taxpayers in a household does not exceed 175
27 percent of the federal poverty level. On the effective date of

1 this act, low income for a family of four is thirty-nine
2 thousand one hundred thirty-five dollars (\$39,135).

3 (5) QUALIFIED SCHOOL. A private school or church
4 school as defined in Section 16-28-1, Code of Alabama 1975,
5 that satisfies the compulsory attendance requirements provided
6 in Sections 16-28-3 and 16-28-7, Code of Alabama 1975. A
7 qualified school shall be accredited by one of the six
8 regional agencies, the American Association of Christian
9 Schools, the Alabama Independent School Association, or a
10 member of the National Council for Private School
11 Accreditation or, if not so accredited, shall satisfy all of
12 the following conditions:

13 a. Be in existence for at least three years.

14 b. Have average daily attendance of at least 85
15 percent over a two-year time period.

16 c. Have a minimum 178-day school year.

17 d. Have a school day length of at least six and
18 one-half hours.

19 e. Require all students in grades K to 11 to take
20 the Stanford Achievement Test or its equivalent.

21 f. Require all candidates for graduation to take the
22 American College Test (ACT) before graduation.

23 g. Have at least one teacher employed for every 20
24 students enrolled.

25 h. Require students in high school grades 9 to 12 to
26 earn a minimum of 24 Carnegie credits before graduating,
27 including 16 credits in core subjects and additional

1 requirements in health and physical education, fine arts,
2 computer studies, and foreign language.

3 i. Not subject special education students to the
4 same testing or curricular requirements as regular education
5 students.

6 j. Maintain a current website that describes the
7 school and the instructional program of the school.

8 (6) QUALIFYING EDUCATIONAL EXPENSES. Tuition paid to
9 a nonpublic school that is necessary for required academic
10 instruction.

11 Section 2. (a) For Alabama tax years commencing
12 January 1, 2012, a taxpayer shall be allowed a nonrefundable
13 credit against any tax levied pursuant to Section 40-18-2,
14 Code of Alabama 1975, for up to 75 percent of the qualifying
15 educational expenses incurred during the tax year on behalf of
16 each eligible student for which he or she is the guardian and
17 who is enrolled in a qualified school. A taxpayer who is a
18 member of a low income household may claim the credit for up
19 to 100 percent of the qualifying educational expenses
20 incurred.

21 (b) If the amount of the allowable tax credit
22 exceeds the tax imposed on the taxpayer for the taxable year,
23 the excess may be carried over for credit imposed on the
24 taxpayer in the two succeeding taxable years until the total
25 amount of the tax credit has been taken.

1 (c) Amounts claimed under this section may not also
2 be itemized as deductions for the same tax year when computing
3 Alabama taxable income.

4 Section 3. (a) The tax credit allowed per eligible
5 child enrolled in a qualified school shall be limited for any
6 taxpayer who is not a member of a low income household as
7 follows:

8 (1) For the 2012 tax year, a maximum credit of five
9 hundred dollars (\$500) per child, not exceeding six hundred
10 fifty dollars (\$650) per household.

11 (2) For the 2013 tax year, a maximum credit of six
12 hundred dollars (\$600) per child, not exceeding seven hundred
13 fifty dollars (\$750) per household. For following tax years,
14 the State Department of Revenue shall adjust the maximum
15 credit allowed to account for inflation.

16 (b) The members of a household where the total
17 adjusted gross income of all taxpayers in the household is
18 greater than sixty thousand eight hundred dollars (\$60,800)
19 per year may not claim the tax credit provided by this act.

20 Section 4. (a) The State Department of Revenue may
21 require a taxpayer to submit copies of receipts and other
22 similar financial documentation with his or her state income
23 tax return as necessary to confirm eligibility for the tax
24 credit.

25 (b) The department shall promulgate rules and
26 develop any tax forms, directions, and worksheets as necessary

1 to effectuate the intent of this act. The rules shall provide
2 for all of the following:

3 (1) Modification of state individual tax forms,
4 directions, and worksheets to provide a convenient way for
5 taxpayers to claim a credit under this chapter.

6 (2) The creation of a standardized receipt for use
7 by each qualified school in documenting qualifying educational
8 expenses. The receipt shall be provided by the qualified
9 school to the guardian of each enrolled student at the end of
10 each period of academic instruction for which qualifying
11 expenses have been incurred. The receipt shall be dated and
12 shall include all of the following information:

13 a. The name of the qualified school.

14 b. The applicable enrollment period for which
15 expenses were incurred.

16 c. The total amount of expenses incurred during the
17 enrollment period.

18 d. The total amount of qualifying educational
19 expenses incurred during the enrollment period.

20 e. The amount paid by the guardian taxpayer toward
21 the qualifying educational expenses incurred during the
22 enrollment period.

23 f. For any amount paid toward a qualified
24 educational expense, the amount of the payment and the name of
25 the person making the payment.

26 g. The printed name and signature of the person
27 issuing the receipt on behalf of the qualified school.

1 (c) Regardless of what documentation the department
2 may require from a taxpayer before authorizing a tax credit
3 pursuant to this act, no school shall be required to provide
4 information to the department in an effort to facilitate the
5 access of a taxpayer to the tax credit. A qualified school, at
6 the request of a guardian, may provide documentation to the
7 department as necessary for the guardian taxpayer to claim the
8 tax credit.

9 (d) In the case of a qualified school which is a
10 church school as defined in Section 16-28-1, Code of Alabama
11 1975, the school, at the request of the guardian, may provide
12 written affirmation that it satisfies the definition of a
13 qualified school pursuant to Section 1. The affirmation shall
14 be written on church school letterhead, signed by the chief
15 operating officer of the church school, and attached to the
16 enrollment form required to be filed by the guardian with the
17 local superintendent of education pursuant to Section 16-28-7,
18 Code of Alabama 1975.

19 Section 5. (a) With the exception of the financial
20 documentation requirements of Section 4, this act may not be
21 construed as subjecting a qualified school to any additional
22 general or local law or rule not otherwise applicable to a
23 nonpublic school in the state on the effective date of this
24 act.

25 (b) It is the intent of the Legislature that the tax
26 credits authorized by this act not result in any additional
27 regulation of nonpublic schools or affect the decisions of any

1 taxpayer regarding the education of his or her dependent
2 children, except to the minimal extent necessary to provide
3 for the efficient administration of the tax credit.

4 Section 6. The Commissioner of Revenue shall
5 annually calculate the total amount of tax credits claimed and
6 authorized pursuant to this act and, on or before the
7 fifteenth day of each regular session, shall report the same
8 to the State Director of Finance, the Chair of the House Ways
9 and Means Education Committee, and the Chair of the Senate
10 Finance and Taxation Education Committee.

11 Section 7. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law.