SB301

135584-3

By Senators Allen and Beason

RFD: Finance and Taxation Education

First Read: 14-FEB-12
SYNOPSIS: This bill would provide an income tax credit for certain qualifying educational expenses incurred by the parents or guardians of students enrolled in qualified nonpublic private schools or church schools in the state.

A BILL

TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. For the purposes of this act, the following words shall have the following meanings:

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

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

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

(4) LOW INCOME. Where the total adjusted gross income of all taxpayers in a household does not exceed 175 percent of the federal poverty level. On the effective date of
this act, low income for a family of four is thirty-nine thousand one hundred thirty-five dollars ($39,135).

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

a. Be in existence for at least three years.

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

c. Have a minimum 178-day school year.

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

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

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

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

h. Require students in high school grades 9 to 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.

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

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

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

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

(b) If the amount of the allowable tax credit exceeds the tax imposed on the taxpayer for the taxable year, the excess may be carried over for credit imposed on the taxpayer in the two succeeding taxable years until the total amount of the tax credit has been taken.
(c) Amounts claimed under this section may not also be itemized as deductions for the same tax year when computing Alabama taxable income.

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

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

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

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

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

(b) The department shall promulgate rules and develop any tax forms, directions, and worksheets as necessary
to effectuate the intent of this act. The rules shall provide for all of the following:

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

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

a. The name of the qualified school.

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

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

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

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

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

g. The printed name and signature of the person issuing the receipt on behalf of the qualified school.
(c) Regardless of what documentation the department may require from a taxpayer before authorizing a tax credit pursuant to this act, no school shall be required to provide information to the department in an effort to facilitate the access of a taxpayer to the tax credit. A qualified school, at the request of a guardian, may provide documentation to the department as necessary for the guardian taxpayer to claim the tax credit.

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

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

(b) It is the intent of the Legislature that the tax credits authorized by this act not result in any additional regulation of nonpublic schools or affect the decisions of any
taxpayer regarding the education of his or her dependent
children, except to the minimal extent necessary to provide
for the efficient administration of the tax credit.

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

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