

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

2

HOUSE BILL 344
Committee Substitute Favorable 6/3/11

Short Title: Tax Credits for Children with Disabilities.

(Public)

Sponsors:

Referred to:

March 15, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR CHILDREN WITH
3 DISABILITIES WHO REQUIRE SPECIAL EDUCATION AND TO CREATE A FUND
4 FOR SPECIAL EDUCATION AND RELATED SERVICES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Part 2 of Article 4 of Chapter 105 of the General Statutes is amended
7 by adding a new section to read:

8 "**§ 105-151.33. Education expenses credit.**

9 (a) Credit. – A taxpayer is allowed a credit against the tax imposed by this Part for each
10 of the taxpayer's eligible dependent children who is a resident of this State and who for one or
11 two semesters during the taxable year is enrolled in grades kindergarten through 12 in a
12 nonpublic school or in a public school at which tuition is charged in accordance with
13 G.S. 115C-366.1. As used in this section, the term 'eligible dependent child' means a child who
14 meets all of the following criteria:

15 (1) Is a child with a disability as defined by G.S. 115C-106.3(1).

16 (2) Was determined to require an individualized education program as defined
17 by G.S. 115C-106.3(8).

18 (3) Receives special education or related services on a daily basis.

19 (4) Is a child for whom the taxpayer is entitled to deduct a personal exemption
20 under section 151(c) of the Code for the taxable year.

21 For the initial eligibility for the tax credit, for at least the preceding two semesters, the
22 eligible dependent child shall have been either (i) enrolled in a public school or (ii) receiving
23 special education or related services through the public schools as a preschool child with a
24 disability as defined by G.S. 115C-106.3(17). An eligible dependent child shall be reevaluated
25 every three years by the local educational agency in order to verify that the child continues to
26 be a child with a disability as defined by G.S. 115C-106.3(1).

27 (b) Amount. – The credit is equal to the amount the taxpayer paid for tuition and special
28 education and related services expenses, not to exceed three thousand dollars (\$3,000) per
29 semester. For home schools, as defined in G.S. 115C-563(a), the credit is equal to the amount
30 the taxpayer paid for special education and related services expenses, not to exceed three
31 thousand dollars (\$3,000) per semester.

32 (c) Semesters. – For the purposes of this section, there are two semesters during each
33 taxable year. The spring semester is the first six months of the taxable year, and the fall
34 semester is the second six months of the taxable year. An eligible dependent child is enrolled in
35 a school for a semester if the eligible dependent child is enrolled in that school for more than 70
36 days during that semester.



1 (d) Disqualification. – A taxpayer may not qualify for a credit for any semester during
2 which the taxpayer's eligible dependent child for whom the credit would otherwise be claimed
3 met any of the following conditions:

4 (1) Was placed in a nonpublic school or facility by a public agency at public
5 expense.

6 (2) Spent any time enrolled as a full-time student taking at least 12 hours of
7 academic credit in a postsecondary educational institution.

8 (3) Was 19 years or older during the entire semester.

9 (4) Graduated from high school prior to the end of the semester.

10 (e) Reduction of Credit. – The amount of the credit is reduced for any semester in
11 which the eligible dependent child spent any time enrolled in a public school. The amount of
12 the reduction is a percentage equal to the percentage of the semester that the eligible dependent
13 child spent enrolled in a public school.

14 (f) Information. – In order to claim the credit allowed by this section, the taxpayer shall
15 provide, when requested, the following to the Secretary:

16 (1) The name, address, and social security number of each eligible dependent
17 child for whom the credit is claimed and the name and address of the school
18 or schools in which the eligible dependent child was enrolled for more than
19 70 days each semester.

20 (2) The taxpayer's certification that the eligible dependent child did not meet
21 any of the disqualifying conditions set out in this section.

22 (3) The name of the local school administrative unit in which the eligible
23 dependent child resides.

24 (4) The amount of tuition paid to a public school at which tuition is charged in
25 accordance with G.S. 115C-366.1 for each semester the eligible dependent
26 child for whom the credit is claimed was enrolled in the school.

27 (5) The eligibility determination that the eligible dependent child is a child with
28 a disability who requires special education and related services.

29 (6) A listing of the tuition and special education and related services expenses
30 on which the amount of the credit is based.

31 (7) For home schools as defined in G.S. 115C-563(a), a listing of the special
32 education and related services expenses on which the amount of the credit is
33 based.

34 (g) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax
35 imposed by this Part for the taxable year reduced by the sum of all credits allowable, the
36 Secretary must refund the excess to the taxpayer. The refundable excess is governed by the
37 provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this
38 Part. In computing the amount of tax against which multiple credits are allowed, nonrefundable
39 credits are subtracted before refundable credits.

40 (h) Transfer. – At the end of each fiscal year, the Secretary shall transfer to the Fund for
41 Special Education and Related Services established under G.S. 115C-472.15 from the net
42 individual income tax collections under G.S. 105-134.2 an amount equal to two thousand
43 dollars (\$2,000) multiplied by the number of credits taken under this section during the fiscal
44 year.

45 (i) Definitions. – The following definitions apply in this section:

46 (1) "Special education" means specially designed instruction to meet the unique
47 needs of a child with a disability. The term includes instruction in physical
48 education and instruction conducted in a classroom, the home, a hospital, or
49 institution, and other settings.

- 1 beginning on or after January 1, 2016, and applies to semesters for which the credit is claimed
- 2 beginning on or after July 1, 2016. The remainder of this act is effective when it becomes law.