

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 335

Short Title: Tax Fairness in Education. (Public)

Sponsors: Representatives Stam, McComas, Killian, Barnhart (Primary Sponsors);
Blackwood, Dollar, Gulley, Hilton, Starnes, and Steen.

Referred to: Education, if favorable, Finance.

March 2, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR PART OF THE
3 EXPENSE OF AVOIDED PUBLIC EDUCATION AND TO AUTHORIZE COUNTIES
4 TO APPROPRIATE FUNDS FOR CHILDREN EDUCATED OTHER THAN IN PUBLIC
5 SCHOOLS.

6 The General Assembly of North Carolina enacts:

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

9 "**§ 105-151.33. Education expenses credit.**

10 (a) Credit. – A taxpayer whose North Carolina taxable income is less than the amount
11 listed in subsection (e) of this section is allowed a credit against the tax imposed by this Part for
12 each of the taxpayer's dependent children who is a resident of this State and who, for one or
13 two semesters during the taxable year, is educated lawfully in grades K through 12 other than
14 in a public school or is educated lawfully in grades K through 12 in a public school at which
15 tuition is charged in accordance with G.S. 115C-366.1. As used in this section, the term
16 'dependent child' means a child for whom the taxpayer is entitled to deduct a personal
17 exemption under section 151(c)(1)(B) of the Code for the taxable year. For the initial eligibility
18 for the tax credit, the eligible dependent child shall have been enrolled in and attended at least
19 two semesters in a public school in the immediately preceding taxable year.

20 (b) Amount. – The credit amount is one thousand two hundred fifty dollars (\$1,250) per
21 semester. For a child educated in a public school at which tuition is charged in accordance with
22 G.S. 115C-366.1, the credit amount may not exceed the amount of tuition the taxpayer paid to
23 educate the child for the applicable semester.

24 (c) Semesters. – For the purposes of this section, there are two semesters during each
25 calendar year. The spring semester is the first six months of the calendar year, and the fall
26 semester is the second six months of the calendar year. A child is educated in a school for a
27 semester if the child is educated in that school for more than three months during that semester.

28 (d) Disqualification. – A taxpayer may not qualify for a tax credit for any semester
29 during which the taxpayer's child for whom the credit would otherwise be claimed met any of
30 the following conditions:

- 31 (1) Spent any time enrolled in a public school other than a public school at
32 which tuition is charged in accordance with G.S. 115C-366.1.
33 (2) Spent any time enrolled as a full-time student in a postsecondary educational
34 institution.
35 (3) Was 18 years or older during the entire semester.



1 (e) Limitation. – A taxpayer is not eligible for a credit under this section unless the
 2 taxpayer's North Carolina taxable income is less than the amount specified in this subsection:

<u>Filing Status</u>	<u>North Carolina Taxable Income</u>
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000

8 (f) Information. – In order to claim the credit allowed by this section, the taxpayer must
 9 provide the following to the Secretary:

- 10 (1) The name, address, and social security number of each child for whom the
 11 credit is claimed and the name and address of the school or schools in which
 12 the child was educated for more than three months each semester.
- 13 (2) The taxpayer's certification that the child did not meet any of the
 14 disqualifying conditions set out in this section.
- 15 (3) The name of the local school administrative unit in which the child resides.
- 16 (4) The amount of tuition paid to a public school at which tuition is charged in
 17 accordance with G.S. 115C-366.1 for each semester a child for whom the
 18 credit is claimed was educated in the school.

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

25 **SECTION 2.** G.S. 115C-429(b) reads as rewritten:

26 "(b) The board of county commissioners shall complete its action on the school budget
 27 on or before July 1, or such later date as may be agreeable to the board of education. The
 28 commissioners shall determine the amount of county revenues to be appropriated in the county
 29 budget ordinance to the local school administrative unit for the budget year. The board of
 30 county commissioners may, in its discretion, allocate part or all of its appropriation by purpose,
 31 function, or project as defined in the uniform budget format.

32 The board of county commissioners may also, in its discretion, appropriate funds for the
 33 education expenses of resident children under age 18 who are educated in nonpublic schools. If
 34 a county chooses to appropriate funds for this purpose, the county shall issue the funds to the
 35 individual who would be entitled to deduct a personal exemption under section 151(c)(1)(B) of
 36 the Code with respect to each child. The amount appropriated may not exceed five hundred
 37 dollars (\$500.00) per child per year."

38 **SECTION 3.** G.S. 153A-149(b)(7) reads as rewritten:

39 "(7) Schools. – To provide for the county's share of the cost of kindergarten,
 40 elementary, secondary, and postsecondary public education and to provide
 41 funds for children educated in nonpublic schools. ~~post secondary public~~
 42 ~~education."~~

43 **SECTION 4.** Section 1 of this act is effective for taxable years beginning on or
 44 after January 1, 2009, and applies to semesters beginning on or after July 1, 2009. The
 45 remainder of this act becomes effective July 1, 2009.