

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE DRH70245-LY-34 (1/5)

Short Title: Tax Fairness in Education.

(Public)

Sponsors: Representative Stam.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR PART OF  
THE EXPENSE OF AVOIDED PUBLIC EDUCATION AND TO AUTHORIZE  
COUNTIES TO APPROPRIATE FUNDS FOR CHILDREN EDUCATED OTHER  
THAN IN PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

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

**"§ 105-151.29. Education expenses credit.**

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

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

(c) Semesters. – For the purposes of this section, there are two semesters during each calendar year. The spring semester is the first six months of the calendar year, and the fall semester is the second six months of the calendar year. A child is educated in a

1 school for a semester if the child is educated in that school for more than three months  
 2 during that semester.

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

6 (1) Spent anytime enrolled in a public school other than a public school at  
 7 which tuition is charged in accordance with G.S. 115C-366.1.

8 (2) Spent anytime enrolled as a full-time student in a postsecondary  
 9 educational institution.

10 (3) Was 18 years or older during the entire semester.

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

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

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

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

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

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

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

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

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

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

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

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

10 "(7) Schools. – To provide for the county's share of the cost of  
11 kindergarten, elementary, secondary, and postsecondary public  
12 education and to provide funds for children educated in nonpublic  
13 schools. ~~post-secondary public education.~~"

14 **SECTION 4.** Section 1 of this act is effective for taxable years beginning on  
15 or after January 1, 2006, and applies to semesters beginning on or after July 1, 2006.  
16 The remainder of this act becomes effective July 1, 2006.