

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 2059

Short Title: Tax Credits for Children with Special Needs. (Public)

Sponsors: Senators Graham; Berger of Rockingham, Brock, Brunstetter, Cowell,
Goodall, Hunt, Malone, Preston, and Snow.

Referred to: Finance.

May 28, 2008

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR PART OF
THE EXPENSE OF AVOIDED PUBLIC EDUCATION FOR CHILDREN WITH
SPECIAL NEEDS WHO REQUIRE SPECIAL EDUCATION AND RELATED
SERVICES OUTSIDE THE REGULAR CLASSROOM AND TO AUTHORIZE
COUNTIES TO APPROPRIATE FUNDS FOR THESE 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:

"§ 105-151.31. Education expenses credit.

(a) Credit. – A taxpayer is allowed a credit against the tax imposed by this Part for each of the taxpayer's eligible 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 in other than a public school or in a public school at which tuition is charged in accordance with G.S. 115C-366.1. As used in this section, the term 'eligible dependent child' means a child with a disability who has spent at least two semesters in a year in a public school at which tuition is not charged, who while enrolled in a public school at which tuition is not charged was determined to require an individualized education program that requires at least daily special instructional or therapeutic services received outside the regular classroom and for whom the taxpayer is entitled to deduct a personal exemption under section 151(c) of the Code for the taxable year.

(b) Amount. – The credit is equal to the amount the taxpayer paid for tuition and other educational and therapeutic expenses, not to exceed three thousand dollars (\$3,000) per 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 any time enrolled as a full-time student in a postsecondary
7 educational institution.

8 (2) Was 22 years or older during the entire semester.

9 (e) Reduction of Credit. – The amount of the credit is reduced for any semester
10 in which the eligible dependent child spent any time enrolled in a public school other
11 than a public school at which tuition is charged in accordance with G.S. 115C-366.1.
12 The amount of the reduction is a percentage equal to the percentage of the semester that
13 the child spent enrolled in a public school other than a public school at which tuition is
14 charged in accordance with G.S. 115C-366.1.

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

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

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

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

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

28 (5) A certification that the child is a child with special needs who requires
29 special education and related services signed by the person who made
30 that determination.

31 (6) A listing of the tuition and other educational and therapeutic expenses
32 on which the amount of the credit is based.

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

39 **SECTION 2.** The Department of Revenue shall report to the Revenue Laws
40 Study Committee on the administration of G.S. 105-151.31, as enacted by Section 1 of
41 this act. The report is due by January 1, 2008, and shall include the following:

42 (1) The number and amount of credits taken under G.S. 105-151.31.

43 (2) Any concerns relating to the administration of G.S. 105-151.31 or
44 taxpayer compliance with the requirements of that section.

1 (3) Any other matter with respect to G.S. 105-151.31 the Department
2 wishes to address.

3 **SECTION 3.** G.S. 115C-429(b) reads as rewritten:

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

11 The board of county commissioners may also, in its discretion, appropriate funds for
12 the educational expenses of resident children under age 22 with special needs who
13 require special education and related services and are educated in nonpublic schools. If
14 a county chooses to appropriate funds for this purpose, the county shall issue the funds
15 to the individual who would be entitled to deduct a personal exemption under section
16 151(c) of the Code with respect to each child. The amount appropriated may not exceed
17 five hundred dollars (\$500.00) per child per year."

18 **SECTION 4.** G.S. 153A-149(b)(7) reads as rewritten:

19 "(7) Schools. – To provide for the county's share of the cost of
20 kindergarten, elementary, secondary, and postsecondary public
21 education and to provide funds for children with special needs who
22 require special education and related services and are educated in
23 nonpublic schools. ~~post-secondary public education.~~"

24 **SECTION 5.** Section 1 of this act is effective for taxable years beginning on
25 or after January 1, 2008, and applies to semesters beginning on or after July 1, 2008.
26 The remainder of this act becomes effective July 1, 2008.