

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH30088-MC-102 (2/23)

Short Title: Tax Credits for Children with Disabilities.

(Public)

Sponsors: Representatives Stam and Wiley (Primary Sponsors).

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 FOR CHILDREN WITH DISABILITIES WHO REQUIRE SPECIAL EDUCATION AND RELATED SERVICES OUTSIDE THE REGULAR CLASSROOM AND WHO ARE ENROLLED IN AND ATTENDING NONPUBLIC SCHOOLS OR PUBLIC SCHOOLS AT WHICH TUITION IS CHARGED AND TO CREATE A FUND FOR SPECIAL EDUCATION AND RELATED SERVICES.

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:

"§ 105-151.33. 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 enrolled in and attending grades K through 12 in a nonpublic 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 as defined by G.S. 115C-106.3(1) who has spent at least two semesters in a taxable year in a public school, who while enrolled in and attending a public school was determined to require an individualized education program as defined by G.S. 115C-106.3(8) that requires at least daily special education and related 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. For the initial eligibility for the tax credit, the eligible dependent child shall have been enrolled in and attended at least two semesters in a public school in the immediately preceding taxable year.

(b) Amount. – The credit is equal to the amount the taxpayer paid for tuition and special education and related services expenses, not to exceed three thousand dollars (\$3,000) per semester. For home schools, as defined in G.S. 115C-563(a), the credit is equal to the amount the taxpayer paid for special education and related services 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 taxable year. The spring semester is the first six months of the taxable year, and the fall semester is the second six months of the taxable year. An eligible dependent child is enrolled in a school for a semester if the eligible dependent child is enrolled in and attending that school for more than 80 days during that semester.



1 (b) The State Board of Education shall use the revenue in the Fund only for special
2 educational and related services for children with disabilities."

3 **SECTION 3.** The Department of Revenue shall report to the Revenue Laws Study
4 Committee and the Joint Legislative Education Oversight Committee on the administration of
5 G.S. 105-151.33, as enacted by Section 1 of this act. The report is due by January 1, 2010, and
6 shall include the following:

- 7 (1) The number and amount of credits taken under G.S. 105-151.33.
- 8 (2) Any concerns relating to the administration of G.S. 105-151.33 or taxpayer
9 compliance with the requirements of that section.
- 10 (3) Any other matter with respect to G.S. 105-151.33 the Department wishes to
11 address.

12 **SECTION 4.** This act is effective for taxable years beginning on or after January 1,
13 2009, and applies to semesters beginning on or after July 1, 2009, except that transfers under
14 G.S. 105-151.33(h) shall not be made before the 2010-2011 fiscal year. This act expires
15 December 31, 2013.