

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 41

Short Title: Tax Fairness in Education. (Public)

Sponsors: Representatives Stam, Hager, Collins, and Brawley (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Education, if favorable, Finance.

February 7, 2011

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. As used in this section, the term 'dependent child' means a child for whom  
15 the taxpayer is entitled to deduct a personal exemption under section 151(c)(1)(B) of the Code  
16 for the taxable year. For the initial eligibility for the tax credit, the eligible dependent child  
17 shall have been enrolled in and attended at least two semesters in a public school in the  
18 immediately preceding taxable year.

19 (b) Amount. – The credit amount is one thousand two hundred fifty dollars (\$1,250) per  
20 semester.

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

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

28 (1) Spent any time enrolled in a public school.

29 (2) Spent any time enrolled as a full-time student in a postsecondary educational  
30 institution.

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

32 (e) Limitation. – A taxpayer is not eligible for a credit under this section unless the  
33 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>
<u>Married, filing jointly</u>	<u>\$100,000</u>



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1	<u>Head of Household</u>	<u>80,000</u>
2	<u>Single</u>	<u>60,000</u>
3	<u>Married, filing separately</u>	<u>50,000</u>

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

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

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

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

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

18 **SECTION 2.** G.S. 105-151.33(a), as enacted by this act, reads as rewritten:

19 "(a) Credit. – A taxpayer whose North Carolina taxable income is less than the amount  
20 listed in subsection (e) of this section is allowed a credit against the tax imposed by this Part for  
21 each of the taxpayer's dependent children who is a resident of this State and who, for one or  
22 two semesters during the taxable year, is educated lawfully in grades K through 12 other than  
23 in a public school. As used in this section, the term 'dependent child' means a child for whom  
24 the taxpayer is entitled to deduct a personal exemption under section 151(c)(1)(B) of the Code  
25 for the taxable year. For the initial eligibility for the tax credit, the eligible dependent child  
26 shall have been enrolled in and attended at least ~~two semesters~~one semester in a public school  
27 in the immediately preceding taxable year."

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

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

35 The board of county commissioners may also, in its discretion, appropriate funds for the  
36 education expenses of resident children under age 18 who are educated in nonpublic schools. If  
37 a county chooses to appropriate funds for this purpose, the county shall issue the funds to the  
38 individual who would be entitled to deduct a personal exemption under section 151(c)(1)(B) of  
39 the Code with respect to each child. The amount appropriated may not exceed one thousand  
40 dollars (\$1,000) per child per year."

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

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

46 **SECTION 5.** Section 1 of this act is effective for taxable years beginning on or  
47 after January 1, 2011, and applies to semesters beginning on or after July 1, 2011. Section 2 of  
48 this act is effective for taxable years beginning on or after January 1, 2016, and applies to  
49 semesters beginning on or after July 1, 2016. The remainder of this act becomes effective July  
50 1, 2011.