

February 26, 2009

H 335. TAX FAIRNESS IN EDUCATION. Filed 2/26/09. *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.*

Amends Part 2 (regarding Individual Income Tax) of GS Chapter 105, Article 4, to enact new GS 105-151.33, adding an education expenses tax credit for eligible taxpayers.

Eligible taxpayers are those whose North Carolina taxable income is *less* than the following specified amounts:

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

Provides that taxpayers meeting the above-listed income limit requirements are allowed a credit against the tax imposed by Part 2 of GS Chapter 105, Article 4, for each of the taxpayer's dependent children who (1) is a resident of North Carolina and (2) is for one or two semesters during the taxable year, lawfully educated in grades K through 12 in a nonpublic school or in a public school that charges tuition in accordance with GS 115C-366.1. Defines *dependent child* to mean a child for whom the taxpayer is entitled to deduct a personal exemption under Section 151(c)(1)(B) of the Internal Revenue Code (Code) for the taxable year. Provides that for initial eligibility for the tax credit, the eligible dependent child must have been enrolled in and attended at least two semesters in a public school in the taxable year that immediately preceded the taxable year for which the credit is sought.

Sets the credit amount at \$1,250 per semester. Provides that for the purposes of this proposed section, there are two semesters in each calendar year; a spring semester consisting of the first six months of the calendar year, and a fall semester consisting of the second six months of the calendar year. States that a child is considered to have been educated in a school for a semester if the child was educated in that school for a period of more than three months during that semester.

Provides that a taxpayer may be disqualified from claiming the credit for any semester during which the taxpayer's dependent child met any of the following conditions: (1) spent any time enrolled in a public school other than one at which tuition is charged under GS 115C-366.1, (2) spent any time enrolled as a full-time student at a postsecondary educational institution, or (3) was 18 years or older during the entire semester.

Requires the taxpayer to submit the following information to the Secretary of Revenue in order to claim the tax credit: (1) name, address, and Social Security number for each child for whom the credit is claimed and the name and address of the school or schools in which the child was educated for more than three months each semester; (2) the taxpayer's certification that the child did not meet any of the disqualifying conditions set out in the proposed new section; (3) the name of the school administrative unit in which the child resides; and (4) the amount of tuition paid per semester to a public school at which tuition is charged under GS 115C-366.1.

Provides that if the amount of the credit is more than the amount of tax imposed under Part 2, then the Secretary of Revenue must refund the excess to the taxpayer. Directs that the refundable excess is governed by the provisions governing a refund of overpayment by the taxpayer of a tax that is imposed in Part 2.

The preceding provisions become effective for taxable years beginning on or after January 1, 2009, and apply to semesters beginning on or after July 1, 2009.

Amends GS 115C-429(b) to confer discretionary authority on the board of county commissioners to appropriate funds for the education expenses of resident children under age 18 who are educated in nonpublic schools. Limits the amount that may be appropriated to no more than \$500 per child per year. Provides that a county that chooses to appropriate funds for these education expenses of resident children in nonpublic schools must issue the funds to the individual who would be entitled to a personal exemption under section 151(c)(1)(B) of the Code for each qualifying child.

Makes conforming change to GS 153A-149(b)(7).

Unless otherwise indicated, effective July 1, 2009.

Intro. by Stam, McComas, Killian.

GS 105, 115C, 153A