

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 344

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

Sponsors: Representatives Stam, Randleman, Jordan, and Jones (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Education, if favorable, Finance.

March 15, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN INDIVIDUAL INCOME TAX CREDIT FOR CHILDREN WITH  
DISABILITIES WHO REQUIRE SPECIAL EDUCATION 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), 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 the preceding two semesters in a public school.

(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.

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

- (1) Spent any time enrolled as a full-time student taking at least 12 hours of academic credit in a postsecondary educational institution.
- (2) Was 22 years or older during the entire semester.





1 "Fund for Special Education and Related Services.

2 "**§ 115C-472.15. Fund for Special Education and Related Services.**

3 (a) The Fund for Special Education and Related Services is established as a special  
4 revenue fund under the control and direction of the State Board of Education. Interest and other  
5 investment income earned by the Fund accrue to it, and revenue in the Fund does not revert.  
6 The Fund consists of money credited to it under G.S. 105-151.33.

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

9 **SECTION 4.** The Department of Revenue shall report to the Revenue Laws Study  
10 Committee and the Joint Legislative Education Oversight Committee on the administration of  
11 G.S. 105-151.33, as enacted by Section 1 of this act. The report is due by January 1, 2012, and  
12 shall include the following:

- 13 (1) The number and amount of credits taken under G.S. 105-151.33.
- 14 (2) Any concerns relating to the administration of G.S. 105-151.33 or taxpayer  
15 compliance with the requirements of that section.
- 16 (3) Any other matter with respect to G.S. 105-151.33 the Department wishes to  
17 address.

18 **SECTION 5.** Sections 1, 3, and 4 of this act are effective for taxable years  
19 beginning on or after January 1, 2011, and apply to semesters beginning on or after July 1,  
20 2011, except that transfers under G.S. 105-151.33(h) shall not be made before the 2012-2013  
21 fiscal year. Section 2 of this act is effective for taxable years beginning on or after January 1,  
22 2016, and applies to semesters beginning on or after July 1, 2016. The remainder of this act is  
23 effective when it becomes law.