

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 954  
Committee Substitute Favorable 6/6/95

Short Title: Parental Choice in Education.

(Public)

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Sponsors:

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Referred to:

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April 12, 1995

A BILL TO BE ENTITLED

AN ACT TO PERMIT PARENTS TO CHOOSE THE EDUCATIONAL SETTING  
THAT BEST HELPS THEIR CHILD LEARN.

The General Assembly of North Carolina enacts:

Section 1. Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-151.11A. Education expenses credit.**

(a) Amount. – A taxpayer who is a resident of this State is allowed a credit against the tax imposed by this Division for each of the taxpayer's children over the age of five and under the age of 18 whom the taxpayer claims as a dependent under section 151 of the Code for the taxable year and who, for one or more semesters during the taxable year, is educated other than in a public school or is educated in a public school at which tuition is charged in accordance with G.S. 115C-366.1.

The credit amount for taxable years beginning in 1996 is one hundred dollars (\$100.00) per semester; the credit amount thereafter is five hundred dollars (\$500.00) per semester. For a child educated in a public school at which tuition is charged in accordance with G.S. 115C-366.1, the credit amount may not exceed the amount of tuition the taxpayer paid to educate the child for the applicable semester.

1 For the purposes of this section, a taxpayer's child includes a stepchild and a child for  
2 whom the taxpayer is the guardian. The credit allowed by this section does not apply to  
3 postsecondary education.

4 (b) Semesters. – For the purposes of this section, there are two semesters during  
5 each taxable year. A child is educated in a school for the first semester if the child is  
6 educated in that school for more than three months during the first half of the taxable  
7 year. A child is educated in a school for the second semester if the child is educated in  
8 that school for more than three months during the second half of the taxable year. A  
9 taxpayer may not qualify for a tax credit for any semester during which the taxpayer's  
10 child for whom a credit is claimed spent any time enrolled in a public school other than  
11 (i) enrollment for specific courses and activities available to nonpublic school students  
12 pursuant to G.S. 115C-47(39) or (ii) enrollment in a public school at which tuition is  
13 charged in accordance with G.S. 115C-366.1.

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

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

20 (2) The taxpayer's certification that the child was not, at any time during a  
21 semester for which the credit is claimed, enrolled in a public school  
22 other than (i) enrollment for specific courses and activities available to  
23 nonpublic school students pursuant to G.S. 115C-47(39) or (ii)  
24 enrollment in a public school at which tuition is charged in accordance  
25 with G.S. 115C-366.1.

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

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

31 (d) Credit Refundable. – If the credit allowed by this section exceeds the amount  
32 of tax imposed by this Division for the taxable year reduced by the sum of all credits  
33 allowable, the Secretary shall refund the excess to the taxpayer. The refundable excess is  
34 governed by the provisions governing the refund of an overpayment by the taxpayer of  
35 the tax imposed by this Division. In computing the amount of tax against which multiple  
36 credits are allowed, nonrefundable credits shall be subtracted before refundable credits.

37 (e) Distribution to State Board of Education. – On or before July 15 of each year,  
38 the Secretary shall credit to the State Board of Education an amount equal to the credit  
39 amount for the preceding calendar year multiplied by the amount by which the number of  
40 credits allowed under this section during the preceding fiscal year exceeds twice the  
41 number of students enrolled in nonpublic school as of the end of the fall 1995 semester,  
42 as certified by the Division of Nonpublic Education of the Office of the Governor. The  
43 Secretary shall provide the State Board of Education the information supplied in the

1 statements received under subsection (c) of this section at the time the funds are credited.  
2 The Secretary shall draw from collections under this Division the amount to be credited  
3 under this subsection plus the cost of administering this subsection."

4       Sec. 2. The State Board of Education shall disburse funds received from the  
5 Secretary of Revenue under G.S. 105-151.11A to eligible local school administrative  
6 units in accordance with G.S. 115C-438. A local school administrative unit is eligible for  
7 a distribution under this section if the State Board of Education determines that during the  
8 next school year it will make its courses and activities available reasonably and on a  
9 reasonable cost basis to nonpublic school students whose parents or guardians qualify for  
10 credits under G.S. 105-151.11A. The State Board of Education shall allocate the funds to  
11 eligible local school administrative units in proportion to the number of children who  
12 reside in each unit and do not attend public school, as shown by information provided by  
13 the Secretary of Revenue pursuant to G.S. 105-151.11A, and for whom a credit was  
14 allowed under that statute during the preceding fiscal year.

15       Sec. 3. G.S. 115C-47 is amended by adding two new subdivisions to read:

16       "(38) To lease property to a nonpublic school. – A local board of  
17 education may, in its discretion or at the direction of the board of  
18 commissioners of the county in which the property is located, lease  
19 real property to a nonpublic school for school purposes. Such a  
20 lease is declared to be a public purpose.

21       (39) To receive additional State funds by making courses and activities  
22 available to certain nonpublic school students. – A local board of  
23 education may receive funds pursuant to G.S. 105-151.11A only if it  
24 makes its courses and activities available reasonably and on a  
25 reasonable cost basis to nonpublic school students whose parents or  
26 guardians qualify for tax credits pursuant to G.S. 105-151.11A."

27       Sec. 4. G.S. 115C-429(b) reads as rewritten:

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

35       The board of county commissioners may also, in its discretion, appropriate a fair  
36 share of funds for the education expenses of children who attend nonpublic schools. The  
37 county shall issue these funds to the parent or guardian of such a child."

38       Sec. 5. G.S. 143-3.3 is amended by adding a new subsection to read:

39       "(k) Assignment of Tax Refund to Pay Tuition. – An individual who is a resident of  
40 this State and who has a child over the age of five and under the age of 18 may assign to  
41 a nonpublic school in which the child is enrolled that individual's right to a possible tax  
42 refund under Division II of Article 4 of Chapter 105 of the General Statutes. An  
43 assignment under this subsection may be made only to secure the individual's repayment

1 of a loan made by the school to pay the tuition of the individual's child. An individual  
2 may make only one assignment under this subsection each taxable year and the  
3 assignment shall apply to only one taxable year. Both parents must make the assignment  
4 if the refund will be made pursuant to a joint tax return.

5 The assignment must be in writing and must be filed with the Department of Revenue  
6 with the individual's tax return for the taxable year, and when filed becomes irrevocable.  
7 The Department of Revenue shall issue an assigned tax refund jointly to the taxpayer and  
8 to the nonpublic school to which the taxpayer assigned the refund and shall mail the  
9 refund to the school. If the amount of a tax refund assigned under this subsection  
10 exceeds the amount of the loan it secures, the school shall pay the excess to the  
11 taxpayer."

12 Sec. 6. G.S. 105-266 is amended by adding a new subsection to read:

13 "(f) Assignment. – A taxpayer may not assign an expected refund except as  
14 provided in G.S. 143-3.3. The Secretary shall issue an assigned refund jointly to the  
15 taxpayer and the assignee and shall mail the refund to the assignee pursuant to G.S. 143-  
16 3.3."

17 Sec. 7. G.S. 153A-149(b)(7) reads as rewritten:

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

22 Sec. 8. G.S. 115C-366 is amended by adding a new subsection to read:

23 "(d1) A student domiciled in one local school administrative unit shall be assigned to  
24 a public school in another local school administrative unit if the following conditions are  
25 met:

- 26 (1) The board of education of the local school administrative unit in  
27 which the public school is located receives a written request on  
28 behalf of the student at least one year before the beginning of the  
29 school year in which this assignment would occur;  
30 (2) The written request identifies the public school; and  
31 (3) The board of education determines the public school will have  
32 capacity for the student.

33 The board of education shall make its determination no later than 30 days before the  
34 beginning of the school year in which the assignment would occur. The assignment shall  
35 be effective only for one school year, but shall be renewed annually if the board  
36 determines the public school has capacity for the student. The local board of education  
37 may charge tuition in accordance with G.S. 115C-366.1."

38 Sec. 9. Sections 1, 5, and 6 of this act become effective for taxable years  
39 beginning on or after January 1, 1996. Section 2 of this act and G.S. 115C-47(39), as  
40 enacted by Section 3 of this act, become effective January 1, 1997. Sections 4 and 7 of  
41 this act become effective January 1, 1996. The remainder of this act is effective upon  
42 ratification.