

ORANGE COUNTY
BOARD OF EDUCATION

AGENDA ITEM ABSTRACT

Meeting Date: May 16, 2011

AGENDA ITEM No. 11-05-(2)-16

ACTION ITEM: (Y/N) Y

SUBJECT: RESOLUTION – Tax Credits for Children with Disabilities (House Bill 344)

INFO. CONTACT: G. Patrick Rhodes, Superintendent PHONE: 919-732-8126

ATTACHMENTS: 1. Resolution Opposing House Bill 344-Tax Credits for Children with Disabilities.

PURPOSE: The purpose of this item is to provide the Board of Education the opportunity to discuss and vote on a Resolution in Opposition to House Bill 344.

BACKGROUND: On April 28, 2011, a request was received from Leanne Winner, Director of Governmental Relations, with the North Carolina School Boards Association.

On Tuesday [April 26, 2011] the House Education Committee approved House Bill 344- Tax Credits for Children with Disabilities - by a vote of 25-17. The bill would provide parents of exceptional children who are enrolled in nonpublic schools with a refundable tax credit of up to \$6,000 per school year for the child's special education and related expenses.

Regarding this legislation, State Superintendent June Atkinson writes:

In addition to making it difficult for schools to maintain the most basic levels of operation, one legislative proposal sends a strong message that some want to encourage families of children with disabilities to pull their children from public schools – another way to decrease commitments to our state's future. This "incentivized pull-out" would offer a tax credit for students with disabilities who move from public schools to private schools. This is just a foot in the door to offering tax credits for all private school families, and would not expand existing services for students with disabilities at all. In fact, families who choose private schools for students with disabilities would quickly learn that the legal protections their children have in public schools are not available to them in private schools. And, students with disabilities for whom a special private school setting is the most appropriate one already have that option through their local public school. A total of 351 students with disabilities already receive private school placements for this reason. It is hard to imagine why it is a good idea to invite a group of students who most need a stable continuum of educational services to leave the system that provides it – unless the long-term goal is to chip away at public schools in general.

FINANCIAL IMPACT: The financial impact is unknown at this time.

RECOMMENDATION: The Superintendent recommends the Board of Education discuss the attached DRAFT Resolution and approve as presented.

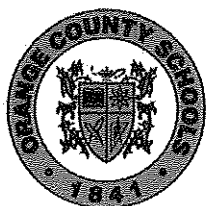
**Orange County
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**Resolution Opposing House Bill 344 – Tax Credits for Children with
Disabilities**

DRAFT

Whereas, House Bill 344- Tax Credits for Children with Disabilities- was passed by the House Education Committee on April 26, 2011; and

Whereas, House Bill 344 would provide parents of exceptional children enrolled in nonpublic schools with a refundable tax credit of up to \$6,000 per school year for special education and related services expenses; and

Whereas, in order for parents to qualify for the tax credit created by House Bill 344, their child would have to be: 1) initially enrolled in a public school and determined to require an individualized education plan (IEP) as provided by North Carolina law; 2) not older than 22 years old; and 3) not enrolled as a full-time student taking 12 hours of academic credit at a postsecondary educational institution; and

Whereas, public schools already pay for the cost of an exceptional child's placement and special education at a private school if they cannot offer services through an IEP that meet the child's needs; and

Whereas, the State of North Carolina provides LEAs with supplemental funding for the education of exceptional children at a flat, per-child rate (\$3,598.55 in 2010-11) without regard to the severity of the child's disability or the amount of resources actually necessary to meet the child's educational needs; and

Whereas, each tax credit taken by parents through House Bill 344 would reduce the funding available to public schools; and

Whereas, the Orange County School System received \$3,408,268 in supplemental funds to educate exceptional children in 2010-11; and

Whereas, some individualized education plans call for nothing more than additional testing time or small periods outside the classroom setting; parents of all children who have such individualized educational plans would be eligible for the credit in House Bill 344; and

Whereas, because private schools can enroll or not enroll whomever they so choose they would, under a tax credit program, have every incentive to enroll only those children who would present minimal drain on their resources or disruption of their school environment- such as those children whose IEP only calls for additional testing time or small periods outside the classroom; public schools, who do not turn away any children, would be left with the obligation to educate those exceptional children with the most severe disabilities who require the most resources; and

Whereas, public schools would therefore not only be obligated to educate the most difficult exceptional children, they would have to do so: 1) with fewer resources at their disposal; and 2) increased constraints on their use of existing resources, as they would receive the same amount of supplemental funding for their exceptional children regardless of the actual resources used or costs incurred to serve them; and

Whereas, private schools would not be accountable to the taxpayers incurring the expenses for an exceptional child's education under a tax credit program- they do not have to meet adequate yearly progress, employ highly qualified teachers, provide annual tests, disclose their budget or post annual report cards; and

Whereas, the Education for All Handicapped Children Act was passed by the United States Congress and signed into law in 1975, and was renamed the Individuals with Disabilities Education Act (IDEA) in 1990; and

Whereas, IDEA represented a major breakthrough in equal educational opportunity for all children because it ended what at the time was a common practice of public schools either excluding disabled children altogether or enrolling them but subsequently declining to provide them with special services they needed to be able to receive the same educational opportunities as other children; and

Whereas, since private schools are not required to provide special education services a tax credit program would roll back the progress achieved by IDEA by again allowing educational institutions to operate free of necessary oversight to ensure that exceptional children funded at taxpayer expense receive the educational services they need; and

Whereas, a tax credit program could complicate the IEP process through parents putting increased pressure on school officials to offer their child any type of IEP so as to allow them to possibly qualify for the tax credit in the future; and

Whereas, some children grow out of their disability, yet House Bill 344 contains no process for monitoring an exceptional child's continued status as a disabled child if enrolled at a private school or home school through a tax credit program, potentially creating situations in which taxpayers incur costs for the private school or home school education of a non-disabled child; and

Whereas, graduation from high school or receipt of a diploma of any kind is conspicuously absent from the list of events that would disqualify a child's parents for tax credit eligibility under House Bill 344; such an omission could create situations whereby tax credits are given to parents who claim to have their children enrolled in a home school and are incurring "related expenses," for their child's special education even after they have graduated high school; and

Whereas, for the reasons herein stated, House Bill 344 presents a direct threat to the fiscal health and viability of public education and the Orange County School System.

THEREFORE, BE IT RESOLVED, that the Orange County Board of Education strongly opposes House Bill 344 and respectfully requests that members of the North Carolina General Assembly vote against House Bill 344 should it come to a floor vote.

This the 16th day of May, 2011.

ORANGE COUNTY BOARD OF EDUCATION

Tony McKnight, Chair