

NEIL ABERCROMBIE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
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INFORMATIONAL SUBMITTAL

DATE: April 10, 2014
TO: Catherine Payne, Chairperson
FROM: Tom Hutton, Executive Director
AGENDA ITEM: Update on 2014 Legislative Session

I. DESCRIPTION

Status update for the 2014 Legislative Session.

II. UPDATE

The 2014 Legislative Session opened on January 15, 2014. As of second decking on April 4, staff is tracking 20 bills relating to, affecting, or of interest to charter schools. A comprehensive list of bills currently being tracked is attached as **Exhibit A**.

The Legislature is finished with hearings, and the deadline for bills to cross back over to their original chambers is today. Bills that are still alive and that the House and Senate disagree on will head into conference during the next two weeks where their final drafts are negotiated prior to heading to each chamber for a final vote. Staff submitted written testimony on the following bills, the latest versions of which are attached here as **Exhibit B**:

- HB1551, Relating to Education: Staff only comments to the Senate Committee on Education (“EDU”), but staff did not submit testimony to the Senate Committee on Ways and Means (“WAM”) on HB1551 SD1. This measure would establish an Instructional Office of Hawaiian Studies within the Department of Education (“DOE”). WAM passed this measure with amendments, and HB1551 SD2 awaits crossover and conference.
- HB1676 HD1, Relating to Early Learning: Staff submitted testimony in support to EDU but did not submit testimony to WAM on HB1676 HD1 SD1. The companion bill to SB2236, this measure would include charter schools among the public schools at which the Governor’s

office can fund preschool programs. WAM passed this measure unamended, and it awaits crossover and conference.

- HB1700 HD1, Relating to the State Budget: Staff submitted testimony in support to WAM. This measure is the supplemental budget bill and is of great significance to charter schools. WAM passed this measure with amendments, and HB1700 HD1 SD1 awaits conference.
- HB1745 HD2 SD1, Relating to Education: Staff submitted testimony in support to WAM on this measure, the Commission's charter school omnibus "clean-up" bill. WAM passed this measure with amendments, and HB1745 HD2 SD2 awaits crossover and conference.
- HB1971 HD2 SD1, Relating to Labor: Staff submitted testimony in support to the Senate Committee on Judiciary and Labor ("JDL") and WAM. This measure would allow charter school employees to receive certain employee benefits and supports offered to DOE employees. JDL/WAM passed this measure unamended, and it awaits crossover and conference.
- HB2576 HD1 SD1, Relating to Education: Staff submitted testimony in support to WAM. This measure would establish an income tax credit and a special fund for the development of charter school facilities. WAM passed this measure with amendments, and HB2576 HD1 SD2 awaits crossover and conference.
- SB2236 SD2, Relating to Early Learning: Staff submitted testimony in support to the House Committee on Education ("EDN"). This measure would include charter schools among the public schools at which the Governor's office can fund preschool programs. EDN passed this measure unamended; however, the House Committee on Finance ("FIN") did not schedule a hearing by the deadline, and the measure is now dead.
- SB2331 SD2, Relating to Teachers: Staff submitted testimony in support to EDN. This measure would, among other things, clarify Commission and charter school powers and responsibilities as to the Hawaii Teachers Standards Board. EDN passed this measure with amendments, and SB2331 SD2 HD1 awaits crossover and conference.
- SB2516 SD2, Relating to Facilities Funding for Charter Schools: Staff submitted testimony in support to FIN. This measure would appropriate general funds to the Commission to allocate to charter schools for facilities. FIN passed this measure with amendments, and SB2516 SD2 HD1 awaits crossover and conference.
- SB2517 SD2, Relating to Charter Schools: Staff submitted testimony in support to FIN. This measure would authorize the Commission to request general obligation bonds and allocate the proceeds for charter school facilities purposes. FIN passed this measure with amendments, and SB2517 SD2 HD1 awaits crossover and conference.
- SB2518 SD2, Relating to Education: Staff submitted testimony in support to EDN. The companion bill to HB1745, this measure is the Commission's charter school omnibus "clean-up" bill. EDN passed this measure with amendments; however, FIN did not schedule a hearing by the deadline, and the measure is now dead.

Of foremost important now are the following issues:

- Passage of HB1745, the Commission “clean-up” bill;
- A separate appropriation for the Commission’s budget in addition to, rather than funded from, the per-pupil funding for schools; and
- Some form of additional investment in charter school facilities.

The importance of the charter schools and their communities in advocating with legislators for funding at this stage cannot be exaggerated.

Exhibit A

2014 Bills Being Tracked as of April 7, 2014

Bill	Report Title	Description
HB224 HD3 SD2	OHA Package; Hawaiian Language Immersion Program; Student Assessment (\$)	Requires the DOE to develop annual assessments in the Hawaiian language in language arts and mathematics to be administered to students in grades three through six of the DOE's Hawaiian language immersion program and in science to be administered to students in grade four of the DOE's Hawaiian language immersion program. Requires the DOE, with the Hawaiian language community, to establish procedures for the development of the assessments. Report to the 2014 legislature.
HB1551 SD2	Department of Education; Hawaiian Education Programs; Appropriation (\$)	Establishes the instructional office of Hawaiian studies for the purpose of providing instruction to public school students on Hawaiian history, culture, arts, and language. Makes an appropriation for the instructional office of Hawaiian studies.
HB1676 HD1 SD1	Executive Office on Early Learning; Department of Education; Charter Schools; Public Preschools; Appropriation (\$)	Authorizes charter high schools to charge tuition to foreign students who study online with the school and attend the school for at least one semester to earn a diploma in accordance with DOE standards.
HB1700 HD1 SD1	State budget.	To adjust and request appropriations for Fiscal Biennium 2013-15 funding requirements for operations and capital improvement projects of Executive Branch agencies and programs.
HB1745 HD2 SD2	Education; Charter Schools	Allows administrative, support, and instructional employees in charter schools to fully participate in the State's systems for certain employee benefits and additional supports and incentives offered by the Department of Education.
HB1756 HD1 SD2	Youth; After-school Programs; R.E.A.C.H. Program; Appropriation (\$)	Establishes the resources for enrichment, athletics, culture, and health (R.E.A.C.H.) program in the office of youth services to provide a standardized framework and funding for after-school programs in public middle and intermediate schools. Establishes a revolving fund to receive fees and other moneys to supplement the costs of administering and operating the program. Appropriates funds for establishing the R.E.A.C.H. program to provide funding for after-school programs in middle and intermediate public schools. Establishes one full-time equivalent (1.0 FTE) position to support the program and appropriates funds for that position.
HB1776 HD2 SD1	Education; Physical Examination; Appropriation (\$)	Requires children to undergo a physical examination prior to attending kindergarten, sixth grade, and ninth grade beginning with the 2015-2016 school year. Makes an appropriation to the department of education.

Bill	Report Title	Description
HB1796 HD2 SD1	Restraint of Children in School; Seclusion	Establishes conditions and procedures for the use of restraint and seclusion in schools.
HB1868 SD1	School Buildings; Emergency Shelters (\$)	Authorizes the issuance of general obligation bonds to fund the retrofitting of public school buildings so they can also be used as emergency shelters.
HB1971 HD2 SD1	Civil Service Status; Employee Rights; Charter Schools	Appropriates funds for the state public charter school commission to allocate to charter schools for facilities projects based, in part, on the need and performance of the charter schools. Requires annual reporting the legislature.
HB2243 HD1 SD1	Hawaii Criminal Justice Data Center; Criminal History Checks	Allows qualified entities to conduct state and national fingerprint-based criminal history record checks on their applicants, employees, and volunteers who provide care for children, vulnerable adults, or the disabled, and to receive the results directly.
HB2276 HD1 SD2	Early Childhood Education Program	Establishes the Early Childhood Education Program within the Early Learning System established by section 302L-2, Hawaii Revised Statutes.
HB2576 HD1 SD2	Hawaii Charter School Facility Development Special Fund; Tax Credit; Appropriation (\$)	Authorizes the executive office on early learning to enter into agreements with the department of education and charter schools for use of vacant or underutilized classrooms as public preschool classrooms. Makes an appropriation.
SB2134 SD1 HD1	Education; Special Education; Individuals with Disabilities Education Act	Amends various sections of chapter 302A, HRS, to comply with the requirements of the federal Individuals with Disabilities Education Act.
SB2288 SD2 HD1	Education; Housekeeping	Amends or repeals various provisions of chapter 302A, Hawaii Revised Statutes, for housekeeping and other purposes.
SB2331 SD2 HD1	Hawaii Teacher Standards Board; Department of Education; State Public Charter School Commission; Teacher Licensing	Appropriates funds for the state public charter school commission to allocate to charter schools for facilities projects based, in part, on the need and performance of the charter schools. Requires annual reporting the legislature.

Bill	Report Title	Description
SB2516 SD2 HD1	Charter Schools; Facilities; Appropriation (\$)	Authorizes the state public charter school commission to request the issuance of general obligation bonds from the director of finance and to allocate the proceeds for the design, planning, construction, repair, and maintenance of public charter school facilities. Creates a working group to determine criteria for and to prioritize the allocation of general obligation bond proceeds to the public charters schools. Specifies that public charter school facilities funded through the proceeds of general obligation bonds are owned by the State. Requires the state public charter school commission to report annually to the legislature. Authorizes the issuance of general obligation bonds to the state public charter school commission. Repeals on June 30, 2024.
SB2517 SD2 HD1	State Public Charter School Commission; Facilities Funding; General Obligation Bonds; Appropriation (\$)	Authorizes the state public charter school commission to assess fees for help offset its operating costs. Clarifies the legal status of an approved charter applicant. Makes various amendments to the charter school law for clarity and consistency.
SB2768 SD2 HD2	Kindergarten; Early Learning; School Readiness; Individualized Assessments; Appropriation (\$)	Makes kindergarten mandatory for a child who will be at least five years of age on July 31 of the school year. Requires the department of education, in collaboration with the executive office on early learning, to develop a statewide kindergarten readiness program. Establishes an individualized kindergarten readiness assessment system. Makes an appropriation to the department of education.
HCR95	Department of Education; Division Into Two or More Local Educational Agencies	Requesting a study on the feasibility of dividing the Department of Education into two or more local educational agencies and the effects of such a division on the State's public education system.

Exhibit B

Commission Testimony

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FOR: HB1551 Relating to Education
DATE: Monday, March 17, 2014
TIME: 1:20 p.m.
COMMITTEE(S): Senate Committee on Education
Senate Committee on Hawaiian Affairs
ROOM: Conference Room 414
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony with comments only on HB1551

Chairs Tokuda and Shimabukuro, Vice Chairs Kidani and Hee, and members of the Committees:

The State Public Charter School Commission appreciates the opportunity to offer these comments on HB1551, which would statutorily establish an Instructional Office of Hawaiian Studies within the Department of Education.

The Commission appreciates the provision in the bill indicating that the proposed office “may assist public charter schools in providing instruction to students on Hawaiian history, culture, arts, and language.” Hawaii’s seventeen Hawaiian-focused and Hawaiian immersion public charter schools have been among those at the forefront of such education, and continued collaboration between the Department and the charter school community on strengthening our collective support of these programs will serve Hawaii’s keiki well.

The Commission does note that the Board of Education has approved amendments to its Policies 2104 and 2105 that, among other things, are intended address the general purposes of this measure. Those amendments have been developed with participation from the charter school community, which will continue to be engaged in the process of seeing the policies through to fruition.

Thank you for the opportunity to provide this testimony.

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FOR: HB 1676 HD1 Relating to Early Learning
DATE: Wednesday, March 12, 2014
TIME: 3:00 p.m.
COMMITTEE(S): Senate Committee on Education
ROOM: Conference Room 414
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support

Chair Tokuda, Vice Chair Kidani, and members of the Committee:

The State Public Charter School Commission supports this measure, which would include public charter schools along with Department of Education (DOE) schools among those with which the Executive Office on Early Learning is authorized to enter into agreements to use vacant or underutilized classrooms for public preschool classrooms statewide.

The Commission applauds the recognition of charter schools embodied in this measure and notes that several charter schools are experienced providers of pre-K programs, while other pre-K services are provided on or next to charter school campuses by the non-profit organization affiliated with that charter school or by other providers. Some of the campuses at which such services are provided serve precisely the kind of at-risk populations that the bill prioritizes.

Thank you for the opportunity to provide this testimony.

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FOR: HB1700 HD1 Relating to the State Budget
DATE: Tuesday, March 18, 2014
TIME: 9:00 a.m.
COMMITTEE(S): Senate Committee on Ways and Means
ROOM: Conference Room 211
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support of HB1700 HD1

Chair Ige, Vice Chair Kidani, and members of the Committee:

The State Public Charter School Commission appreciates this opportunity to submit this testimony concerning funding for the charter school system during this supplemental budget year.

The testimony we submitted to the Committee for the pre-session budget briefing describes in detail the Commission’s supplemental budget requests and how they support the ongoing improvements that are being made to Hawaii’s charter school system. In addition, we would like respectfully to call the Committee’s attention to two highlights relating to budgeting for charter schools:

- The Commission has requested a statutory clarification that the Commission’s operating budget shall be appropriated separately from, and in addition to, the charter schools’ per pupil funding. This clarification is included in SB 2518 SD2 as passed by the Committee and would require the appropriation of the second fiscal year amount of the Commission’s biennial budget. With this change, charter schools would receive additional per pupil funding to apply to their operational needs.
- Currently before the 2014 Legislature are several proposals to help address the great unfinished business of Hawaii’s chartering system: how to assist with charter school

facilities. These include HB 2576 HD1 as reported out by the Committee, as well as two Senate measures, SB 2516 SD2 and SB 2517 SD2. Collectively these proposals offer several funding vehicles for supporting the varied facilities requirements of Hawaii's differently situated charter schools and helping ensure that all of Hawaii's children are provided suitable learning environments.

The State Public Charter School Commission thanks the Committee for your continuing support of Hawaii's 33 public charter schools, their 10,400 students, and their over 1,300 employees and for the opportunity to provide this testimony.

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FOR: HB 1745 HD2 SD1 Relating to Education
DATE: Friday, March 28, 2014
TIME: 9:35 a.m.
COMMITTEE(S): Senate Committee on Ways and Means
ROOM: Conference Room 211
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support

Chair Ige, Vice Chair Kidani, and members of the Committee:

The State Public Charter School Commission supports this bill, which incorporates the Commission’s request to the Legislature for various revisions to Hawaii’s charter school statute, Hawaii Revised Statutes (“HRS”) Chapter 302D.

Among other changes, this bill would:

- Clarify that the Commission’s budget shall be appropriated separately from, and in addition to, appropriations made to charter schools—this was the expectation when the new charter school law, Act 130 of 2012, was enacted and replaced the previous formula under which the Charter School Administrative Office (“CSAO”) had been funded with two percent of the per-pupil funds appropriated for schools;
- Expressly allow the Commission to reconstitute a charter school’s governing board under certain exigent circumstances, including unlawful or unethical conduct by governing board members or school personnel or other circumstances that raise serious

doubts about the current board's ability to fulfill its statutory, contractual, or fiduciary duties;

- Authorize the Commission to assess fees of non-state entities as may help cover certain operating costs;
- Strengthen certain provisions relating to potential conflicts of interest on charter school governing boards, including by providing for "cooling off" periods and addressing vendors and contractors that provide goods or services to the school;
- Clarify the legal status of an approved charter applicant before the school opens to students;
- Resolve a legal question that has been raised as to the Commission's intended allocation to charter schools of some federal Impact Aid funds for their facilities needs, by clarifying that a 1935 state statute that could be interpreted as restricting hitherto allowable uses of federal funds by authorizers and charter schools never was intended to do so, as a hallmark of the charter sector greater flexibility in spending but higher-stakes accountability for the results of spending decisions;
- Clarify that for purposes of certain statutorily allowed delegations of state authority intended to reduce administrative burdens, the executive director of the Commission shall be deemed the department head for the Commission and the charter schools unless otherwise specifically provided, to resolve the current lack of such a designation in the charter sector that has left the Commission and charter schools unable to make use of these delegations of authority; and
- Clarify that the current express statutory authorization to submit budget requests for charter school facilities was never intended to restrict the Commission's ability to support the schools' facilities needs in other ways.

We would like to point out that the bill currently contains a typographical error. We respectfully request that Section 15 of the bill be corrected to that the new proposed HRS 302-25(f) refer not to HRS 302A-1402 but to 302A-1401, as intended.

Thank you for the opportunity to provide this testimony.

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FOR: HB1971 HD2 SD1 Relating to Labor
DATE: Tuesday, April 1, 2014
TIME: 10:00 a.m.
COMMITTEE: Senate Committee on Judiciary and Labor
Senate Committee on Ways and Means
ROOM: Conference Room 211
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support

Chairs Hee and Ige, Vice Chairs Shimabukuro and Kidani, and members of the Committees:

The State Public Charter School Commission appreciates the opportunity to offer this testimony in support of House Bill 1971 HD2, Relating to Labor. This measure would amend HRS § 302D-26 to provide that the State shall afford charter school employees full participation in several types of employee benefits not currently listed in that provision, including supports and incentives offered Department of Education (DOE) employees pursuant to master collective bargaining agreements, in accordance with the qualification requirements for each benefit and subject to the relevant provisions of any supplemental collective bargaining agreements entered into between the charter school and its employees. It also would require the DOE and the Commission to identify all such employee incentives and bonuses.

Under HRS § 302D-28, standard fringe benefits for charter school employees are funded directly by the Department of Budget and Finance (B&F), rather than being paid for out of charter school budgets. Under the statute, these benefits currently include retirement, workers' compensation, unemployment insurance, temporary disability insurance, and health benefits.

Master collective bargaining agreements are negotiated by the DOE with the exclusive representatives of all public school employees, including charter school employees, but charter

school governing boards and the exclusive representatives are empowered under HRS § 302D-25 to negotiate supplemental agreements that differ from the master contracts, in order to facilitate decentralized decision-making. The agreements are funded from state allocations to schools or the schools' other sources of revenue, except that collective bargaining increases provided for by the Legislature in collective bargaining appropriation bills are allocated by B&F to the Commission for distribution to the schools.

Our present understanding of the current status and funding relative to charter school employees of each of the benefits, supports, and incentives that the bill would add to the list of those to be provided by the State is as follows:

- **Sick leave, vacation:** As these benefits already are funded by B&F to the extent they are paid out as part of regular payroll, we are uncertain of the reason for their inclusion in the bill.
- **Leave-sharing:** State agencies currently are allowed by HRS § 78-26 to offer leave-sharing, and the 2013-2017 master agreement between the DOE and the Hawaii State Teachers Association (HSTA) now includes a new provision for the sharing of maternity and paternity leave. That contract provision currently applies only to DOE teachers, and our understanding is that extending it to all BU 5 employees and allowing for such leave-sharing among teachers in all DOE and charter schools would require resolving significant operational issues that may also entail some expense to the DOE and the Commission. Our estimate for Commission expenses related to compatibility of human resources software platform would be a one-time expense of \$25,000.
- **Hard-to-staff incentives:** These were not funded in the collective bargaining appropriation for the HSTA contract, and the eight charter schools whose faculties would qualify for these incentives would be hard-pressed to provide them without the funding. We estimate the necessary appropriation for this benefit at \$316,500 in each of FY 2014 and 2015, increasing to \$633,000 in FY 2016 assuming the same number of teachers. The Commission would propose to allocate the appropriated funding on a school-specific basis to those schools that actually pay the incentives, rather than across the board to all charter schools as part of the charter school per-pupil funding formula under HRS § 302D-28.
- **National Board certification incentives:** At this point the Commission is aware of six teachers serving in charter schools who qualify for these incentives, which are statutorily provided for under HRS § 302A-706, rather than via collective bargaining. Two of these teachers serve in hard-to-staff charter schools, which entitles them to an additional \$5,000 per year. We estimate the appropriation for this benefit would amount to about \$100,000 per year. The Commission would propose to allocated this funding, too, on a school-specific basis to those schools that actually pay the

incentives, rather than across the board to all charter schools as part of the charter school per-pupil funding formula under HRS § 302D-28.

- **Special education teacher incentives:** We are not sure what incentives are referred to here, as the DOE generally employs and compensates the special education teachers who serve in charter schools. We assume that the recruitment and retention incentives provided for under the HSTA master agreement must be provided and funded by the DOE.
- **Bonuses for completion of probation:** Teacher bonuses for completion of teacher probation after execution of the HSTA master agreement have not yet been earned by current probationary teachers and thus have not yet been funded. Many charter schools do not provide tenure to their teachers, although some of these schools have indicated that they may nonetheless pay these bonuses. Based on the number of charter teachers annually who would be entering their seventh semester as teachers and thus would be entitled to a bonus for completing probation if such a bonus were in fact offered by the school, the annual cost would be \$122,500.
- **Teacher licensing fees:** Payment of teacher licensing fees for tenured teachers is not effective until the 2014-2015 school year. Again, most charter school teachers are not tenured, and the DOE teacher evaluation ratings required to qualify for this benefit may not correspond to those used by the charter schools' individual teacher evaluation systems, which are not the same as the DOE's. Based on the number of charter teachers annually who would have taught for at least six semesters at the charter school and whose teacher licenses would come due and be paid by the school if this benefit were in fact offered by the school, the annual cost would be \$106,750.

The Commission gratefully acknowledges the fact that the bill stipulates that the State shall afford charter school employees these additional benefits, incentives, and supports in accordance not only with the requirements for each such benefit but also in accordance with the provisions of any supplemental collective bargaining agreements entered into pursuant to HRS § 302D-25. This language would preserve the discretion of charter schools and their employees to negotiate compensation packages that differ from those under the master agreements, while hopefully ensuring that the necessary state funding is provided if in fact the school and its employees adhere to those master agreements.

The Commission respectfully requests that the Committee amend the bill to enumerate, for planning purposes, the specific and finite list of benefits, supports, and incentives that the State shall afford to charter school employees. The current open-ended "including but not limited to" language could result in unpredictable costs to the State, unfunded mandates on charter schools, and unintended encroachments on charter school autonomy. This revision would first afford the DOE and the Commission the opportunity to identify any additional items as the bill now contemplates. A Section 1 of the bill revised as follows would accomplish this purpose:

SECTION 1. Section 302D-26, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The State shall afford administrative, support, and instructional employees in charter schools full participation in the State's systems for retirement, workers' compensation, unemployment insurance, temporary disability insurance, sick leave, vacation, leave sharing, and health benefits, as well as hard-to-staff incentives, national board certification incentives, special education teacher incentives, bonuses for completion of probation, and teacher licensing fees offered by the department to its own employees, in accordance with the qualification requirements for each[.] and with the provisions of any supplemental agreements entered into pursuant to section 302D-25."

Thank you for the opportunity to provide this testimony.

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FOR: HB2576 HD1 SD1 Relating to Education
DATE: Friday, March 28, 2014
TIME: 9:15 a.m.
COMMITTEE(S): Senate Committee on Ways and Means
ROOM: Conference Room 211
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support

Chair Tokuda, Vice Chair Kidani, and members of the Committee:

The State Public Charter School Commission is pleased to submit this testimony in support of this measure to establish a charter school facilities fund and a state income tax credit for taxpayers who make contributions to the development of charter school facilities, and authorize the use of funds not only to fund projects but also to secure loans from private lending institutions for financially stable charter schools.

The need to address facilities costs is arguably the single greatest unaddressed challenge for Hawaii’s chartering system. Currently, start-up charter schools must pay for the costs of their facilities from out of their already stretched operational funds.

The Commission currently is implementing a Facilities Pilot Program for the awarding of funds to charter schools for relatively small-scale facilities projects and has allocated approximately \$680,000 of federal Impact Aid funds to this program from out of a temporary but sizable increase in such funds for the current fiscal year. Funds for the pilot program are planned for distribution around the beginning of the 2014 academic year.

Despite some controversy, the Commission has seized this opportunity to move ahead with the initiative, in order to demonstrate that a program of investing in charter school facilities will

prove a sound investment for the public, and to allow the system to work through any legal and practical issues before any additional state funds are invested.

This measure would build upon the momentum, and benefit from the experienced gained by, the Commission's pilot program. In this sense it complements two measures previously reported out by this Committee. SB 2516 SD2, Relating to Facilities Funding for Charter Schools, would simply make a general fund appropriation for charter school facilities needs, based in part on charter school need and performance. SB 2517 SD2, Relating to Charter Schools, would authorize the Commission to request the issuance of general obligation bonds from the Director of Finance and establish a charter school facilities funding working group, including the Director of Finance and the Chairs of the Senate Committee on Ways and Means and the House Committee on Finance, to determine criteria for and to prioritize the allocation of fund to the schools. We believe all of these proposals, which result from discussions of the informal interagency working group on charter school funding convened by Education Committee Chair Jill Tokuda after the 2013 legislative session, merit the Legislature's continued consideration.

The Commission requests that this measure be advanced for discussion purposes. We note that the bill has been amended in an attempt to address the concern raised by some testifiers about "double-dipping" where a tax credit is created for an already tax deductible donation. We hope that this revision will fully address that particular concern, not only as to credit for in-kind contributions but also as to monetary contributions.

The Commission acknowledges that both the revised projections by the Council on Revenues and the Office of the Auditor's review of the special fund proposed in this bill complicate the prospects for this and other proposals. Nevertheless, we remain hopeful that among the various proposals currently in motion in the Legislature a way can finally be found to make a start in addressing this longstanding problem.

Thank you for the opportunity to provide this testimony.

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FOR: SB 2236 SD2 Relating to Early Learning
DATE: Friday, March 14, 2014
TIME: 2:00 p.m.
COMMITTEE(S): House Committee on Education
ROOM: Conference Room 309
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support of SB 2236 SD2

Chair Takumi, Vice Chair Ohno, and Members of the Committee:

The State Public Charter School Commission supports this measure, which would include public charter schools along with Department of Education (DOE) schools among those with which the Executive Office on Early Learning is authorized to enter into agreements to use vacant or underutilized classrooms for public preschool classrooms statewide.

The Commission applauds the recognition of charter schools embodied in this measure and notes that several charter schools themselves are experienced providers of pre-K programs, while other pre-K services are provided on or next to charter school campuses by the non-profit organization affiliated with that charter school or by another provider. These include programs serving the kind of rural and lower income communities that the State’s early learning initiatives prioritize.

Thank you for this opportunity to provide this testimony.

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FOR: SB 2331 SD2 Relating to Teachers
DATE: Wednesday, March 12, 2014
TIME: 2:00 p.m.
COMMITTEE(S): House Committee on Education
ROOM: Conference Room 309
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support

Chair Takumi, Vice Chair Ohno, and members of the Committee:

The State Public Charter School Commission appreciates the opportunity to offer these comments on SB 2331 SD2, Relating to Teachers, which would make various revisions to sections of Chapter 302A, Hawaii Revised Statutes (HRS), dealing with the Hawaii Teacher Standards Board (HTSB).

The Commission supports the proposed revisions in the bill that relate specifically to the Commission and the public charter schools. Among other things, these revisions would clarify the respective powers and responsibilities of the Department of Education, the Commission, and the charter schools as to teacher licensure issues.

Thank you for the opportunity to provide this testimony.

NEIL ABERCROMBIE
GOVERNOR



CATHERINE PAYNE
CHAIRPERSON

STATE OF HAWAII
STATE PUBLIC CHARTER SCHOOL COMMISSION
(‘AHA KULA HO‘ĀMANA)

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FOR: SB2516 SD2 Relating to Facilities Funding for Charter Schools
DATE: Friday, March 28, 2014
TIME: 3:00 p.m.
COMMITTEE(S): House Committee on Finance
ROOM: Conference Room 308
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support of SB2516 SD2

Chair Luke, Vice Chairs Nishimoto and Johanson, and members of the Committee:

The State Public Charter School Commission is pleased to submit this testimony in strong support of this measure, which would make a general fund appropriation for the Commission to allocate to charter schools for facilities projects, based, in part, on the need and performance of the respective schools.

The need to address facilities costs is arguably the single greatest unaddressed challenge for Hawaii’s chartering system. Currently, start-up charter schools must pay for the costs of their facilities from out of their already stretched operational funds.

As noted in the bill’s findings, the Commission currently is implementing a Facilities Pilot Program for the awarding of funds to charter schools for relatively small-scale facilities projects and has allocated approximately \$680,000 of federal Impact Aid funds to this program from out of a temporary but sizable increase in such funds for the current fiscal year. Funds for the pilot program are planned for distribution around the beginning of the 2014 academic year.

Despite some controversy among some schools over this initiative, the Commission has seized the opportunity to move forward, in an attempt to demonstrate that a program for charter school facilities will prove a sound investment for the public, and, importantly, to allow the system to work through any legal and practical issues before any additional state funds are

invested. The appropriation envisioned in this bill would enable the Commission to continue this program after the federal Impact Aid funds awarded in the pilot are exhausted.

We note that this year, as in past years, the Commission also submitted on the schools' behalf capital improvement project (CIP) requests totaling some \$31 million. Eligibility for these requests is limited to start-up charter schools located on state land. We believe that these projects are meritorious, but, as in past years, so far none has been included in the budget. The Commission recognizes that there have been questions regarding CIP funding for charter schools, and we would welcome the opportunity to collaborate with the Legislature, the Department of Budget and Finance, and others to identify and address those questions. If in the meantime, however, traditional CIP projects for start-up charters are not to be considered, and if some means of state financing cannot be utilized by some schools, in our view it is all the more important that several options for providing incremental support for the charter schools' varied facilities needs be implemented.

In this regard the Commission notes that another measure before this Committee, SB 2517 SD2, Relating to Charter Schools, would authorize the Commission to request the issuance of general obligation bonds from the Director of Finance for charter school facilities needs. We address this proposal in separate testimony, but to the extent that the financing mechanism proposed under that measure would be unavailable for certain types of equally compelling charter school facilities costs, we would respectfully request that, at least for discussion purposes at this stage in the legislative process, the Committee consider the two proposals to be complementary, rather than mutually exclusive.

The Commission also believes that a third proposal for charter school facilities support that was reported out by this Committee is worthy of the Legislature's continued consideration. HB 2576 HD1 SD1, Relating to Education, would make an appropriation for a charter school facilities funding but also would establish an income tax credit for taxpayers who make contributions to the development of charter school facilities and would allow funds to be used for credit enhancement as well as project financing.

The Commission acknowledges that revised projections by the Council on Revenues complicate the prospects for these proposals. Nevertheless, we remain hopeful that among the various proposals currently in motion in the Legislature, a way can finally be found to make a start in addressing this longstanding problem.

Thank you for the opportunity to provide this testimony.

NEIL ABERCROMBIE
GOVERNOR



CATHERINE PAYNE
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FOR: SB2517 SD2 Relating to for Charter Schools
DATE: Friday, March 28, 2014
TIME: 3:00 p.m.
COMMITTEE(S): House Committee on Finance
ROOM: Conference Room 308
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Testimony in support of SB2517 SD2

Chair Luke, Vice Chairs Nishimoto and Johanson, and members of the Committee:

The State Public Charter School Commission is pleased to submit this testimony in strong support of this measure, which would authorize the Commission to request the issuance of general obligation bonds from the Director of Finance and to allocate the proceeds for public charter school facilities needs.

The need to address facilities costs is arguably the single greatest unaddressed challenge for Hawaii’s chartering system. Currently, start-up charter schools must pay for the costs of their facilities from out of their already stretched operational funds.

The Commission currently is implementing a Facilities Pilot Program for the awarding of funds to charter schools for relatively small-scale facilities projects and has allocated approximately \$680,000 of federal Impact Aid funds to this program from out of a temporary but sizable increase in such funds for the current fiscal year. Funds for the pilot program are planned for distribution around the beginning of the 2014 academic year.

Despite some controversy among some schools over this initiative, the Commission has seized the opportunity to move ahead, in an attempt to demonstrate that support for charter school facilities needs will prove a sound investment for the public, and, importantly, to allow the

system to work through legal and practical issues before any additional state funds are invested.

We note that this year, as in past years, the Commission also submitted on the schools' behalf capital improvement project (CIP) requests totaling some \$31 million. Eligibility for these requests is limited to start-up charter schools located on state land. We believe these projects to be meritorious, but, as in past years, so far they have not been included in the budget. The Commission recognizes that there have been questions regarding traditional CIP funding for charter schools and would welcome the opportunity to identify and work through those questions with the Legislature, the Department of Budget and Finance, and others.

In that regard, we particularly welcome the provisions of this legislation that (1) would create a charter school facilities funding working group, including the Director of Finance and the Chairs of the Senate Committee on Ways and Means and the House Committee on Finance, to determine criteria for and to prioritize the allocation of the bond proceeds to the schools, and (2) stipulate that public charter school facilities funded in whole or in part through the bond proceeds shall be owned by the State.

The Commission notes that another measure before this Committee, SB 2516 SD2, Relating to Facilities Funding for Charter Schools, would make a general fund appropriation for charter schools. We address this proposal in separate testimony, but to the extent that general obligation bond financing or traditional CIP funding would be unavailable for certain types of compelling charter school facilities costs, we would respectfully request that the Committee consider these two proposals to be complementary, rather than mutually exclusive.

In addition, the Commission also believes that a third proposal for charter school facilities previously reported out by this Committee remains worthy of continued consideration. HB 2576 HD1 SD1, Relating to Education, would make an appropriation for a charter school facilities costs but also would establish an income tax credit for taxpayers who make contributions to the development of charter school facilities and would authorize the use of funds for securing loans from private lending institutions for financially stable charter schools.

Finally, the Commission would like to acknowledge that the revised projections by the Council on Revenues complicate the prospects for these proposals. Nevertheless, we remain hopeful that among the various proposals currently in motion in the Legislature, a way can finally be found to make a start in addressing this longstanding problem.

Thank you for the opportunity to provide this testimony.

NEIL ABERCROMBIE
GOVERNOR



CATHERINE PAYNE
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FOR: SB 2518 SD2, Relating to Education
DATE: Friday, March 14, 2014
TIME: 2:00 p.m.
COMMITTEE(S): House Committee on Education
ROOM: Conference Room 309
FROM: Tom Hutton, Executive Director
State Public Charter School Commission

Written testimony in support

Chair Takumi, Vice Chair Ohno, and members of the Committee:

The State Public Charter School Commission (“Commission”) supports this bill, which incorporates the Commission’s request to the Legislature for various revisions to Hawaii’s charter school statute, Hawaii Revised Statutes (“HRS”) Chapter 302D.

Among other changes, this bill would:

- Clarify that the Commission’s budget shall be appropriated separately from, and in addition to, appropriations made to charter schools—this was the expectation when the new charter school law, Act 130 of 2012, was enacted and replaced the previous formula under which the Charter School Administrative Office (“CSAO”) had been funded with two percent of the per-pupil funds appropriated for schools;
- Expressly allow the Commission to reconstitute a charter school’s governing board under certain exigent circumstances, including unlawful or unethical conduct by governing board members or school personnel or other circumstances that raise serious

doubts about the current board's ability to fulfill its statutory, contractual, or fiduciary duties;

- Authorize the Commission to assess fees of non-state entities as may help cover operating costs;
- Strengthen certain provisions relating to potential conflicts of interest on charter school governing boards, including by providing for "cooling off" periods and addressing vendors and contractors that provide goods or services to the school; and
- Clarify the legal status of an approved charter applicant before the school opens to students.

As a result of some new developments in the Commission's ongoing revamping of Hawaii's chartering system, we respectfully request some revisions to the bill, which we have submitted to Committee staff. Among other things, these changes would:

- Replace the current draft of the new section on the start-up period for a newly approved school, to provide that the new state entity is created before the school opens. The Department of the Attorney General advises the Commission that this is desirable to enable the school to engage in transactions necessary for a successful start-up, such as entering into employment agreements, leases, etc., with the advice of that department. The new proposed provision would stipulate that the new entity shall draw no charter school funds nor employ state employees during this start-up period.
- Reconcile contradictory provisions in the current statute as to Commissioner conflicts of interest by merging them into one provision applicable to trustees of all authorizers. Under this new provision, employees, trustees, and vendors of charter schools authorized by the authorizer would not be eligible to serve as trustees of that authorizer, and trustees who formerly had such roles would be required to disclose them.
- Clarify the intent of language related to the academic performance framework for charter schools.
- Clarify the intent of current language related to the timeframe for a charter school's contract renewal process.

- Clarify that a 1935 state statute that could be interpreted as restricting hitherto allowable uses of federal funds by authorizers and charter schools never was intended to do so, as authorizers and charter schools generally enjoy greater flexibility in spending but higher-stakes accountability for the results of their spending decisions. This would resolve a legal question that has been raised as to the Commission's intended allocation to charter schools of some federal Impact Aid funds for their facilities needs.
- Clarify that for purposes of certain statutorily allowed delegations of authority intended to reduce administrative burdens, the executive director of the Commission shall be deemed the department head for the Commission and the charter schools unless otherwise specifically provided. The current lack of such a designation in the charter sector has left the Commission and charter schools unable to make use of these delegations of authority.
- Clarify that express statutory authorization to submit budget requests for charter school facilities is not intended to restrict the Commission's ability to support the schools' facilities needs in other ways.

Thank you for the opportunity to provide this testimony.