

Date: 03/12/2008

Committee: Senate Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent of Education

Title of Bill: HB 0602, HD2, HSCR919-08 RELATING TO EDUCATION

Purpose of Bill: Requires that \$90,000,000 be deposited into the state treasury in each fiscal year to the credit of the State Educational Facilities Improvement Special Fund for public school capital improvement program needs by repealing the sunset date for Act 304, Session Laws of Hawaii 2006. (HB602 HD2)

Department's Position: The Department of Education strongly supports this measure. The State Educational Facilities Improvement Special Fund (SEFI) is used to plan, design, acquire lands, construct, and maintain public school facilities and other facilities under the jurisdiction of the Department of Education (DOE), except public libraries.

By statutorily establishing the minimum amount to be deposited into the SEFI at \$90 million, we can be assured that at least \$90 million of capital improvement program funds appropriated by the Legislature will be allotted for the DOE to expend. If the sunset date of June 30, 2008 for Act 304/SLH 2006 is not repealed, appropriations exceeding \$45 million are not assured of being released to the DOE, directly affecting our ability to deliver to the schools the projects appropriated by the Legislature.

Thank you for the opportunity to testify.

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON EDUCATION
ON
HOUSE BILL NO. 602, H.D. 2

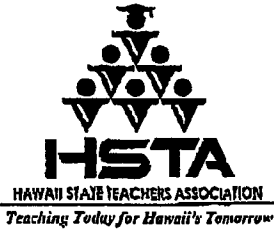
March 12, 2008

RELATING TO EDUCATION

This bill seeks to repeal the sunset date of June 30, 2008, for Act 304, SLH 2006, Relating to Education, which increased the amount of general excise tax revenues required to be deposited into the State Educational Facilities Improvement special fund each fiscal year from \$45 million to \$90 million for public school capital improvement program needs.

We oppose this bill.

Any proposal to provide mandatory revenue diversion of funds limits the State's ability to fund priorities and could negatively impact the State's general fund financial plan. We urge this committee to instead follow the more financially sound approach of providing funding for public school capital improvement requirements based on need, funding ability, and statewide priorities.



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**TESTIMONY BEFORE THE SENATE COMMITTEE ON
EDUCATION**

RE: HB 602, HD2 – RELATING TO EDUCATION.

March 12, 2008

**ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Sakamoto and Members of the Committee:

The Hawaii State Teachers Association strongly supports HB 602, HD2.

This bill would repeal the sunset date of Act 304, Session Laws of Hawaii 2006, which provided \$90,000,000 of tax revenues into a State Educational Facilities Improvement Special Fund for the purpose of improving school facilities. The Association believes the educational environment is an important factor in determining, the quality of education provided to Hawaii's children. Research indicates a strong correlation between a clean, comfortable environment and productivity. Accordingly, I'm sure you'll agree that an environment conducive to learning will lead to greater academic success—something we all support.

We strongly urge the committee to pass this bill.

Thank you for the opportunity to testify.

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SUBJECT: GENERAL EXCISE, Make permanent earmarking for school facilities special fund

BILL NUMBER: HB 602, HD-2

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends Act 304, SLH 2006, to repeal the June 30, 2008 sunset date which earmarks \$90 million in general excise tax revenues and the proceeds from the sale of general obligation bonds to be deposited to the state educational facilities improvement special fund.

EFFECTIVE DATE: June 29, 2008

STAFF COMMENTS: The legislature by Act 304, SLH 2006, increased the amount of general excise tax revenues or general obligation bond proceeds earmarked for the state educational facilities improvement special fund from \$45 million to \$90 million for public school capital improvement needs. Act 304 also provided that this increased earmarking shall be repealed on June 30, 2008, which this measure proposes to repeal.

The earmarking provisions of this law were established more than a decade ago when the state general fund was flush with cash surpluses. While the rationale was to secure dedicated funding for educational facilities, the real intent of this provision was to hide those surplus funds from public scrutiny, creating the illusion that there was no surplus. However, when the economy turned sour as the Japanese bubble burst, lawmakers took back the general excise tax revenues and replaced the funding source with the proceeds of bond sales. The level of earmarking at the time was \$90 million. However, when pressed for an estimate of how much the department could reasonably undertake in the construction of facilities, it was discovered that the department could only handle about \$45 million in projects each year. The level of earmarking was thus reduced to \$45 million in 1999 and increased to \$90 million in 2006.

Rather than perpetuating this practice of earmarking tax revenues or bond proceeds, lawmakers should repeal the special fund and the earmarking for this purpose. This would force the board of education to explain why they are not capable of delivering badly needed school facilities on a timely basis.

Even the 1989 Tax Review Commission noted that use of this type of special fund financing is a "departure from Hawaii's sound fiscal policies and should be avoided." It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Seconding the Commission's harsh criticism was the State Auditor's report issued in February of 1991

that recognized that the “tax is levied on the general public rather than specific beneficiaries of the program,” and thus the fund did not reflect a “direct link between user benefits and user charges.” The Auditor recommended that the fund be repealed and that educational facilities should be funded through the normal capital improvements appropriations process. Rather than perpetuating the improper use of special funds, the legislature should take the advice of the Auditor and repeal the state educational facilities improvement special fund. Now more than ever, lawmakers should repeal the automatic funding mechanism and make administrators justify their expenditures for the construction of educational facilities or explain their inability to do so.

This would force the board and department of education to deliver these repairs on a timely basis or explain why they could not do the necessary repairs and maintenance. With the automatic earmarking, there is no reason to return each year to the legislature and be held accountable for the lack of action. This is called accountability.

Digested 3/10/08

LATE

Senate Committee on Education
Wednesday, March 12, 2008, 2 pm hearing, room 225

Joint Testimony of Na Lei Naʻāuao Native Hawaiian Charter
School Alliance and the Hawaiʻi Charter School Network

In strong support of HB 602 HD 2 with proposed amendments

Chair Sakamoto and members of the committee:

I am here as the representative of Na Lei Naʻāuao Native Hawaiian Charter School Alliance and the Hawaiʻi Charter School Network, two membership organizations that represent 29 out of 30 charter schools. We are in strong support of this bill with amendments.

The purpose section of this bill states that the "purpose of this Act is to require that \$90,000,000 continue to be deposited into the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund for public school capital improvement program needs." Since charter schools are public schools that service approximately 4% of the public school student population, we feel it is only fair that 4% of that amount be dispersed to charter schools. We recommend a new section in the bill to read as follows:

"Section #. Act 304, Session Laws of Hawaii 2006, is amended by amending section 2 to read as follows:

SECTION 2. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

"**§237-31 Remittances.** All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

(1) The sum from all general excise tax revenues realized by the State that represents the difference between [~~\$45,000,000~~] \$90,000,000 and the proceeds from the sale of any general obligation bonds authorized for that fiscal

year for the purposes of the state educational facilities improvement special fund shall be deposited in the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund for public school capital improvement program needs, provided that a percentage of that deposit shall be allocated to the Charter Schools Administrative Office for dispersal to charter schools based upon criteria established by the Charter School Review Panel, provided further that the percentage of the total allocation to the state educational facilities improvement special fund allocated to the Charter Schools Administrative

**Joint Testimony of Na Lei Naʻauao Native Hawaiian Charter School Alliance and the Hawaiian Charter School Network
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Office shall be equal to the percentage of public school students served by charter schools; and

(2) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund."

We would also request the committee consider utilizing this measure as a vehicle for two new parts to resurrect language from other measures, so that we still have the language alive in both chambers. Both of these new parts are restricted to the single purpose of the bill, public school financing.

The first new part is an amended version of the language from the constitutional amendments for special purpose revenue bond bills, SB 2296 and HB 2794, heard in the Education committees of both chambers. The Attorney General expressed concerns that general revenues cannot be used to repay special purpose revenue bonds. Therefore, we would like to provide language eliminating references to special purpose revenue bond financing for charter schools

and community development financial institutions. Instead, we would like to provide language that expands the eligible recipients of such funding from non-profits that support charter schools to non-profits that support public schools. The committee should also be aware that the Hawaii Association of Independent Schools stands ready to provide assistance with the implementation of this initiative based on their experience in doing so with the independent schools.

The second new part requested is an amended version of HB 2561, the House companion to SB 2164, the Hawai'i Charter School Facilities Fund bills. HB 2561 was heard in the House Committee on Education but did not cross over to the Senate. The primary changes we would recommend is that it not be a special fund, that it not be attached to the Charter Schools Administrative Office, that it be placed with "a single membership organization composed of all charter schools chartered in the State of Hawaii," and that Kanu o ka y'Äina Learning y'Ohana operate it.

What follows is a more detailed explanation of the proposed new part regarding the Hawaii Charter School Facilities Fund bill language:

**Joint Testimony of Na Lei Na'yauao Native Hawaiian Charter School Alliance and the Hawaiian Charter School Network
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1) Global find and replace, finding all references to Kanu o ka y'Äina Learning y'Ohana as the administrator of the fund with the definition "a single membership organization composed of all charter schools chartered in the State of Hawaii." Na Lei Na'yauao Native Hawaiian Charter School Alliance and the Hawai'i Charter School Network

have recently agreed in principle to unite in a Hawai'i Charter Schools Network, operated by a Hawai'i Charter School Network expanded to include board representation for all charter schools in the State of Hawai'i. This amendment is intended to eliminate perceptions of partiality that accrue with having Kanu o ka y'Äina Learning

ŷOhana named in statute as the administrator. However, the membership organizations I represent are comfortable with having an expanded network sub-contract the management of this initiative back out to Kanu o ka ŷĀina Learning ŷOhana as that entity has the capacity, expertise and resources already invested to operate the Hawaii Charter School Facilities Fund.

2) Removing all references to Hawaii 3R's as a model, as the Senate Committee on Economic Development and Taxation removed the tax credit provisions.

3) The measure was reported out of the Senate Ways and Means Committee with the Hawaii Charter School Facilities Fund as a special fund attached to the Charter Schools Administrative Office (CSAO). The CSAO does not have the capacity to engage in this and the program design requires the nimbleness and innovation of the private, non-profit sector. Accordingly, we request all that all such references be amended to keep the fund with an expanded Hawaiŷi Charter Schools Network, operated by Kanu o ka ŷĀina Learning ŷOhana.

4) Amend the appointment mechanism for the advisory fund to include the CSAO director as an ex officio, no-voting member, four appointments by "a single membership organization composed of all charter schools chartered in the State of Hawaii" and one appointment by the Charter School Review Panel. Clarify that the board's role is an oversight one, not an operational one. Add developing relationships with potential applicants to the fund as a board role.

5) Technical, non-substantive amendments in the purpose section, primarily to update currently incorrect references to other bills which are no longer alive.