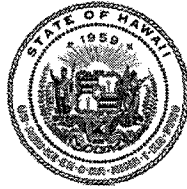


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## SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TAXATION

### TESTIMONY REGARDING SB 2164 SD 1 RELATING TO EDUCATION

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: FEBRUARY 12, 2008**

**TIME: 1:15PM**

**ROOM: 224**

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This legislation provides a tax credit for persons that make contributions to charter school repairs, maintenance, or development.

The Committee on Education amended the measure by having the Charter School Review Panel in charge of recordkeeping and information relating to this tax credit.

The Department of Taxation (Department) provides comments on this legislation.

#### **I. THE DEPARTMENT SUPPORTS CHARTER SCHOOL FACILITIES IMPROVEMENTS**

Encouraging the development of charter schools is an important public policy. As the Administration has stated time and again, charter schools are a vibrant, vital, and successful alternative to traditional public schools. Legislation such as this, which seeks to direct support to the charter school movement, are important measures that deserve consideration.

#### **II. A CHARITABLE DEDUCTION CAN ALREADY BE CLAIMED FOR GOODS.**

The Department points out that a charitable tax deduction is already allowed for donations of goods to qualifying educational institutions. This legislation would result in a double tax benefit. No deduction is allowed for services. Correspondingly, however, no income tax is paid by the donor.

#### **III. DONORS OF SERVICES WILL BE CHARGED INCOME TAX.**

Under this bill, persons that donate services will be entitled to a credit for services performed. This credit will be considered income for their services and will be subject to income tax. The Department questions the attractiveness of such credits where the benefit will be diluted because income tax will have to be paid.

#### **IV. THE DEPARTMENT POINTS OUT ADMINISTRATIVE CONCERNS**

The Department's primary concern with this legislation is the administrative difficulty that may arise based upon how the credit is currently drafted.

**CONCERN OVER INFLATED IN-KIND SERVICES**—The Department recognizes that this legislation requires that the in-kind services must be certified by the Department of Accounting & General Services. However, the concern that in-kind services will not be grossly over-inflated for purposes of claiming the credit may not be sufficiently tempered as written. The Department suggests the Committee further discern the issue of potential fraud and abuse. The Department is also concerned about the level of resources necessary to administer this component of the credit.

**OTHER AGENCY INVOLVEMENT**—The Department very much appreciates that this legislation delegates determination matters to the experts involved, namely the Charter School Review Panel. The Department points out that it cannot share tax information with the Review Panel, however the Review Panel is free to share information with the Department.

#### **V. REVENUE ESTIMATE**

This legislation could potentially result in revenue loss of approximately \$250,000 in FY2009, and annually thereafter. This is the maximum potential loss, but actual claims are expected to be minimal.

Also, general fund balances will decrease by \$2.5M in FY2009 due to a reallocation of monies into the Charter Schools facilities fund.

The tax credit will most likely be of negligible impact – the similar current credit for public schools yielded claims valuing \$4,300 in tax year 2005. However there potentially is a \$250,000 revenue loss.



## KAMEHAMEHA SCHOOLS

Testimony to the Senate Committee on Economic Development and Taxation

Hearing Date: Tuesday, February 12

1:15p.m. – Conference Room 224

**Shawn Malia Kana'iaupuni, PhD**  
**Director, Public Education Support (PEdS) Division**  
Kamehameha Schools

Tuesday, February 12, 2008

Re: SB 2164, SD1 Relating to Education

Good afternoon Chair Fukunaga, Vice Chair Espero and members of the Senate Committee on Economic Development and Taxation. My name is Shawn Malia Kana'iaupuni, PhD, Director, Public Education Support (PEdS) Division of Kamehameha Schools. Thank you for this opportunity to testify on SB 2164, SD1.

Kamehameha Schools has been a collaborator in the charter school movement for more than six years. As part of our Education Strategic plan, KS hopes to significantly impact more Hawaiian children ages 0-8 and grades 4-16+, and their families/ caregivers over the next five years, in collaboration with others whenever possible.

Currently, Kamehameha Schools collaborates with nonprofit tax-exempt organizations, including `Aha Pūnana Leo, OHA, KALO and Ho`okāko`o Corporation, to assist a total of 14 start-up and 3 conversion charters. Kamehameha Schools believes that this collaboration provides more positive educational choices and ultimately academic achievement for Hawaiian students. Through these collaborations, Kamehameha Schools currently assists more than 2,300 students in 13 communities statewide within the public education system.

In a recently released report entitled, "Longitudinal Outcomes for Hawaiian-focused charter schools," the Kamehameha Schools research team concluded that Hawaiian-focused charter schools are implementing viable educational strategies, making significant gains over time for the lowest-achieving students. Supporting and replicating the successful strategies found in Hawaiian-focused charter schools may generate a promising return on investment for Hawaiian education throughout the public school system.

Kamehameha Schools supports the SB 2164, SD1 which is to provide a greater measure of support for charter schools.

We appreciate this opportunity to submit comments on SB 2164, SD1 and support the initiatives of the legislature to further enhance charter schools.

**Linda Lingle**  
Governor

**Reshela DuPuis, Ph.D.**  
Executive Director



**Charter School Administrative Office**  
1111 Bishop Street, Suite 516  
Honolulu, Hawaii 96813  
Tel: 586-3775 Fax: 586-3776

February 12, 2008

To: Senate Committee On Economic Development And Taxation  
Senator Carol Fukunaga, Chair  
Senator Will Espero, Vice Chair

Fr: Reshela DuPuis, Ph.D.  
Executive Director  
Hawai'i Charter School Administrative Office

Re: SB 2164, SD1: Relating To Education, the Hawaii Charter School Facilities Fund

Mahalo for giving us the opportunity to testify on this bill.

The Charter School Administrative Office (CSAO) and the Charter School Review Panel (CSRP) strongly support the intention of the Legislature to provide innovative, cost-effective facilities funding mechanisms, as well as direct facilities funding, for Hawai'i's public charter schools and we appreciate this committee's attention to this critical issue.

However, both the CSAO and the leadership of the CSRP would like to express our concerns about several provisions in SB2164, SD1. Among these are section §235g, which, in the current version of the bill, would require the CSRP to verify and maintain taxpayer records related to eligible taxpayers' allowable tax credits for a wide variety of facilities-related contributions made to charter schools accessing the fund; to issue certificates to those contributing taxpayers, verifying their contributions, with the understanding that those taxpayers must present these certificates to the department of taxation in order to receive their tax credit; to discontinue verifying taxpayers' contributions when such contributions reach a total of \$2.5 million in each year; and to report the total amount of verified contributions, as well as the cessation of the Panel's issuance of verification certificates, to the department of taxation each year.

Under the Act 115, enacted in 2007, which amended §302B-3 and created the CSRP in its present form, the Charter School Review Panel primarily is intended by the Legislature to serve as the State's charter authorizer for new public charter schools. All of the Panel's duties and responsibilities relate directly to the issuance and maintenance of charters, and the monitoring and oversight of the charter school system and the Charter School Administrative Office. The Panel's members are volunteers, appointed both from within the charter system and from the business, financial and educational sectors. The CSRP has neither the resources nor the professional expertise to take on the responsibility of collecting, verifying and maintaining records related to taxpayers' contributions to capital improvement projects or other major construction or repair projects, nor is it the appropriate authority for the Legislature to task with issuing legal and binding certificates related to tax credits allowed for contributions to construction projects. We believe these proposed provisions in SB2164 should be amended such that the CSRP is not tasked with these responsibilities. Neither do we believe that the Charter School Administrative Office, whose duties under §302B are to support, advocate for, provide technical assistance to and represent charter schools and the charter school system, is the appropriate authority to take on the contribution monitoring and tax credit verification responsibilities outlined in this section of the proposed bill.

Further, both the CSAO and the leadership of the CSRP have concerns about language in the proposed legislation that would house the facilities fund and any assets earned by it in an existing community non-profit, Kanu O Ka 'Āina Learning 'Ohana (KALO), that is closely linked to a single charter school, Kanu O Ka 'Āina Public Charter School (KANU), located in Waimea on the Big Island. We believe that a charter school facilities fund developed as envisioned in this bill should more rightly be housed either in an existing non-profit unaffiliated with any individual charter school and that has expertise in managing such a fund, or in a new non-profit specifically developed and mandated by the legislature to serve all charter schools in the system equally. Of similar concern is language proposed in this bill which would place management of the facilities fund completely and totally within KALO, instead of in a non-profit organization or agency that draws its membership from across the State's entire charter school system. We respectfully request that this committee amend the language of this section of the bill to house the fund in and mandate its management by an agency or organization with state-wide, inclusive membership that is truly representative of the entire charter school system, which is currently composed of thirty individual community-based charter schools on five islands.

Language in the proposed legislation related to the establishment of a Hawaii charter school facilities fund advisory board, (§302-B[d]), is also of great concern to both the CSAO and the leadership of the CSRP. In its current form, SB2164, SD1, calls for this advisory board to solicit funds; establish criteria for the expenditure of those funds; review grant and loan proposals using criteria established by the KALO board; and make recommendations to the KALO board for grants, loans, and other specific expenditures from the fund. As currently written, the bill proposes that two (2) of the five (5) members of this advisory panel be appointed by KALO, two (2) from the Hawai'i

Charter School Network, and one (1) from the CSAO. Again, we respectfully request that the committee amend the language of this section of the proposed legislation to provide for the appointment of members to the advisory board from the Charter School Review Panel, as well as the Hawai'i Charter School Network and Nā Lei Na'auao Hawaiian Charter School Alliance, both of whose overlapping membership is composed of charter schools from across the state. As the state agency responsible for administration of the charter school system, we do not feel that the CSAO is an appropriate authority to appoint members to the facilities fund advisory board.

Both the CSAO and the CSRP would like to reiterate our strong support for this committee's and the Legislature's intention to provide both direct facilities funding and innovative funding mechanisms for charter school facilities. We urge the committee and the Legislature to continue your support of charter schools and the charter school system, and to amend this bill as necessary to establish charter-system-wide, fully inclusive management of the facilities fund and to task an appropriate agency, with professional expertise in monitoring tax credit contributions to such a fund, to fulfill those monitoring functions called for in the bill.

Mahalo for your consideration of this testimony.