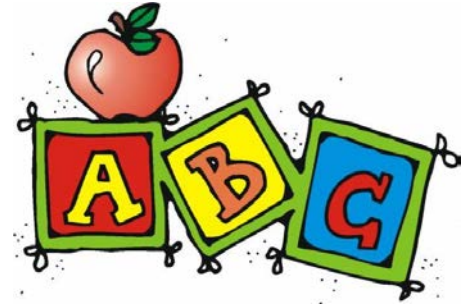


# HB2576

# HD1



Measure Title: RELATING TO EDUCATION.

Report Title: Hawaii Charter School Facility Development Special Fund; Tax Credit; Appropriation (\$)

Description: Establishes a special fund for the development of charter school facilities. Establishes an income tax credit for taxpayers who make contributions to the development of charter school facilities. Appropriates funds for the Hawaii charter school facility development special fund. Effective July 1, 2014. (HB2576 HD1)

Companion:

Package: None

Current Referral: EDU, WAM

Introducer(s): ITO

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON EDUCATION  
ON  
HOUSE BILL NO. 2576, H.D. 1

March 17, 2014

RELATING TO EDUCATION

House Bill No. 2576, H.D. 1, establishes a Hawaii Charter School Facility Development Special Fund into which shall be deposited contributions from Hawaii taxpayers for the development of charter school facilities. In exchange for these contributions, Hawaii taxpayers will receive an unspecified tax credit. The bill also includes an unspecified general fund appropriation for fiscal year 2014-2015 and a similar unspecified Hawaii Charter School Facility Development Special Fund appropriation for fiscal year 2014-2015.

While the Department of Budget and Finance does not take any position on the policy of the Hawaii Public Charter School Facility Development program, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. There are specific concerns with this approach as it relates to the special fund structure and the availability of a tax credit. Special funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2576, H.D. 1, it is difficult to determine whether the special fund will be self-sustaining in consideration of the potential costs of public

charter school facility development and the unknown amount of funding to be derived from taxpayer contributions. This would be particularly problematic if the proceeds from the special fund were to fund long-term capital projects requiring debt.

This bill also requires the State Public Charter School Commission (Commission) to keep an accounting of all taxpayer contributions and issue a certificate to taxpayers who participate in this program in order to claim their tax credit. The bill does not provide any funding for this requirement and it is unknown at this time the Commission's resource requirements to implement this accounting system related to the proposed Hawaii Charter School Facility Development Special Fund.

The tax credit established in this bill will result in an unknown loss of general fund tax revenues. The Department of Taxation could not provide any tax loss estimates as its unknown how many taxpayers will contribute towards the proposed Hawaii Charter School Facility Development Special Fund. The Department has considered the recent Council on Revenues' (COR) forecast that projects flat revenue growth in the current fiscal year and significantly reduces the rate of growth of tax revenues to the general fund over the next 5 fiscal years. In this respect, the Department would advise against House Bill No. 2576, H.D. 1. The State should support investment into education - whether private, public, conventional or chartered. However, the COR has already identified increased in general fund revenues have peaked and, therefore, coupled with the COR forecast of declining overall tax revenues, increases beyond current funding levels here will compromise the funding availability for other public services and programs.

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
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FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

To: The Honorable Jill N. Tokuda, Chair  
and Members of the Senate Committee on Education

Date: Monday, March 17, 2014

Time: 3:00 P.M.

Place: Conference Room 414, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. 2576, H.D. 1 Relating to Education

The Department of Taxation (Department) appreciates the intent of H.B. 2576, H.D. 1, to support our State's educational system and presents the following comments for the Committee's consideration.

H.B. 2576, H.D. 1 creates a charter school special fund and also creates a nonrefundable income tax credit for contributions of money or in-kind services for the development of charter school facilities. The tax credit portion of this measure, if approved, applies to taxable years beginning after December 31, 2013.

The Department notes that contributions of money or in-kind services for the development of school facilities are already likely eligible under the charitable deduction provisions. This tax credit would be incentivizing activities that are already incentivized by the tax system. In other words, this bill may provide double tax benefits for the same donation; a taxpayer would be able to first reduce their taxable income with a deduction, then offset their tax liability owed to the State with a credit.

The Department also requests that this bill be amended to apply to taxable years beginning no earlier than January 1, 2015, to give the Department time to make necessary changes to the tax forms. In addition, the Department notes that retroactive application of the credit will not serve to incentivize the contributions contemplated by this measure.

Thank you for the opportunity to provide comments.

NEIL ABERCROMBIE  
GOVERNOR



CATHERINE PAYNE  
CHAIRPERSON

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

<http://CharterCommission.Hawaii.Gov>  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: 586-3775 Fax: 586-3776

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FOR: HB2576 HD1 Relating to Education  
DATE: Monday, March 17, 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

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**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 Chair Tokuda after the 2013 legislative session, merit the Legislature's continued consideration.

The Commission requests that this measure be advanced for discussion purposes, with an amendment remedying the concern raised by some testifiers about "double-dipping" where a tax credit is created for an already tax deductible donation.

The Commission acknowledges that both the revised projections by the Council on Revenues and the Office of the Auditor's review of 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 be found to finally make a start in addressing this longstanding problem.

Thank you for the opportunity to provide this testimony.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Charter school facility development tax credit

BILL NUMBER: HB 2576, HD-1

INTRODUCED BY: House Committee on Education

EXECUTIVE SUMMARY: Establishes an income tax credit of \_\_\_% of the value of contributions of in-kind goods and services to the newly proposed Hawaii charter school development special fund. The enactment of this measure may allow taxpayers to double-dip, namely take the deduction and the credit at the same time. This measure would also establish another special fund. The problem with special funds is that once the money is deposited to the special fund, lawmakers tend to lose oversight over how the moneys are being used and the moneys would be tied up and would not be available for many other pressing needs of the state.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a credit for contributions of money or in-kind services for the development of charter school facilities. The credit shall be equal to \_\_\_% of the value of contributions of in-kind goods and services to the Hawaii charter school development special fund; provided such contributions of in-kind services claimed by a taxpayer do not exceed \$\_\_\_\_\_ for a taxable year.

Credits in excess of a taxpayer's income tax liability may be used against the taxpayer's income tax liability until exhausted. Delineates recordkeeping, verification, and certification requirements of the state public charter school commission. When the total amount of certified contributions reaches \$\_\_\_\_\_, the state public charter school commission shall discontinue certifying contributions and notify the department of taxation. Stipulates that the amount of total certified contributions shall not exceed \$\_\_\_\_\_ for each taxable year.

Adds a new section to HRS chapter 302D to establish the Hawaii charter school facility development special fund which shall be used for: (1) the acquisition, planning, design, improvement, construction, equipping, furnishing, administering, operating, and maintaining of charter school facilities; or (2) pledged by the state public charter school commission to secure loans from private lending institutions for financially stable charter schools.

Also appropriates \$\_\_\_\_\_ in general funds for fiscal 2015 to be deposited into the Hawaii charter school facility development special fund. Also appropriates \$\_\_\_\_\_ out of the Hawaii charter school facility development special fund for fiscal 2015 to support the development of charter school facilities. The appropriations shall take effect on July 1, 2014.

EFFECTIVE DATE: Tax years beginning after December 31, 2013

STAFF COMMENTS: This measure establishes an income tax credit to encourage taxpayers to make contributions of money or in-kind services to the Hawaii charter school facility special development fund. However, the tax system is a poor means of achieving such social goals. Providing such credits against state taxes merely reduces state revenues which may necessitate a shift in the tax burden to other taxpayers who are not able to claim the credit.

It should also be noted that taxpayers making contributions to a government program or those that may be nonprofit educational organizations (IRC 501(c)(3)), i.e., a charter school, may take the contribution as a deduction. Thus, if a contributor itemizes deductions, he or she may be able to double-dip, namely take the deduction and the credit at the same time.

The proposed measure would establish another special fund. The problem with special funds is that once the money is deposited to the special fund, lawmakers tend to lose oversight over how the moneys are being used. Moneys in a special fund would be tied up and would not be available for many other pressing needs of the state. Such moneys in a special fund would also circumvent the excess revenues and expenditure ceiling provisions in the Hawaii Constitution. This money, although sitting in the coffers of state government, is not counted as part of the general fund surplus and spending from the fund is not counted as general fund spending.

Digested 3/14/14





KAMEHAMEHA SCHOOLS®  
The Senate  
Twenty-Seventh Legislature 2014  
State of Hawai'i

TO: Honorable Jill N. Tokuda, Chair  
Honorable Michelle N. Kidani, Vice Chair  
Members of the Committee on Education

DATE: Monday, March 17, 2014  
TIME: 3:00 p.m.  
PLACE: Conference Room 414  
Hawai'i State Capitol

FROM: Kamehameha Schools

**RE: HOUSE BILL 2576, HD1, RELATING TO EDUCATION**

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

Thank you for this opportunity to testify on HB 2576, HD1, relating to education. Kamehameha Schools strongly supports the efforts of the legislature to enhance the education opportunities across the state. We, therefore, support HB 2576, HD1, which establishes a special fund for the development of charter school facilities and establishes an income tax credit for taxpayers who make contributions to the development of charter school facilities. This bill also appropriates funds for the Hawaii charter school facility development special fund.

Kamehameha Schools supports promoting the achievement and success of Hawai'i's public school students and, as such, has been a collaborator with the Hawai'i public charter schools for over a decade. Through our work with public charter schools, we hope to significantly impact more children and their families through education. We believe charter schools provide positive choices for education and ultimately enhance both achievement and engagement for students across Hawai'i.

Financial support for the charter school system is crucial in maintaining the services these schools provide. We ask that you help to provide our state's most innovative educators with the strong support and stable foundation they need continue their positive growth. We believe efforts to improve the public charter school system improve access to education and, ultimately, enhance education for all of Hawai'i's children.

Thank you for the opportunity to testify on this measure.



Monday, March 17, 2014  
3:00 PM  
Conference Room 414

TESTIMONY TO  
THE SENATE COMMITTEE  
ON EDUCATION

**RE: HB 2576 HD1 – Relating to Education**

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

My name is Robert Witt, President and Chief Executive Officer of the Hawaiian Educational Council (HEC). In a partnership between HEC and the Polynesian Voyaging Society (PVS), Nainoa Thompson and I have founded the Mālama Honua Learning Center (MHLC), a public charter school committed to providing the students of Hawai`i a rigorous, values-based, and place-based education. MHLC stands to provide the community with a school dedicated to indigenous cultural values that nourish goodness; in addition to helping students develop into wise, compassionate navigators of their learning, lives and 21st century global world.

**HEC is in strong support of HB 2576 HD1**, a bill for an act which would establish a special fund for the development of charter school facilities and establish an income tax credit for taxpayers who make contributions to the development of charter school facilities.

HEC, as well as the Hawaii Association of Independent Schools (HAIS), an organization of which I am the Executive Director, believe in the public purpose of education and that families should have choices when it comes to the education of their children. Charter schools in Hawaii provide that option for our families who otherwise may not be able to find a public school that shares their educational values.

Charter schools currently receive less funding than their DOE counterparts for the education of their students and are left to their own devices to raise additional revenue to make up the difference. More importantly, charter schools must use these same operational funds to build new facilities or for the upkeep of their current ones, thereby stretching their already limited funds further. The added worry of paying for capital costs should not detract from a school administrators job of overseeing the delivery of a sound educational program.

Thank you for the opportunity to testify in strong support of this measure.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [EDU Testimony](#)  
**Cc:** [nataliachambers2008@yahoo.com](mailto:nataliachambers2008@yahoo.com)  
**Subject:** Submitted testimony for HB2576 on Mar 17, 2014 15:00PM  
**Date:** Sunday, March 16, 2014 3:27:23 PM

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**HB2576**

Submitted on: 3/16/2014

Testimony for EDU on Mar 17, 2014 15:00PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Natalia Chambers	Individual	Support	No

Comments: Our schools deserve equal facilities funding. Please consider that this is in the best interest of our children.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)