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Senate Education & Workforce Development Committee  
April 30, 2013  
Testimony on House Bill 3093

Chair Hass and members of the committee, for the record I am Cindy Hunt Government and Legal Affairs Manager for the Oregon Department of Education. Today I am here to provide information about HB 3093.

**HB 3093 addresses fiscal accountability and other issues that arose regarding public charter schools as a result of a joint investigation conducted by the Department of Education and Department of Justice.**

**Background:**

In March 2010, the Department of Education and Department of Justice began a joint investigation into the activities of the “AllPrep” charter schools. The investigation focused on the misappropriation of State School Funds and federal grant funds. This investigation led to the Department of Justice filing in January, 2013 a \$20 million racketeering complaint against Tim King and Norm Donohue who operated these schools through their nonprofit corporation Ed Choices. Below is an excerpt from the complaint which summarizes the various laws that the defendants are charged with violating:

“While associated with the Enterprise . . . ., the Defendants participated directly and indirectly in said Enterprise through a pattern of racketeering activity constituting more than two violations of falsifying business records under ORS 165.080(1), more than two violations of unsworn falsification under ORS 164.015, more than two violations of wire fraud under 18 USC 1343, and more than two violations of money laundering under ORS 164.170(1)(b)(B)(i).”

Also through the investigation, the Department of Education identified areas in state law that should be amended to address some of the issues that arose regarding these schools. These areas include:

- Audits
- Sound financial management systems
- Grounds for termination and plans to correct financial related deficiencies
- Evaluation of charter applicants based on the prior history of the applicant

Prior to the investigation, none of the “AllPrep” Charter schools had submitted annual audits as required. Eventually, the audits that were received by the school district and the Department highlighted financial improprieties in the charter schools and would have served as a warning to both the school’s sponsors and the Department the schools were not meeting state laws. Unlike school districts, current state law does not specifically allow the Department to withhold State School Funds for failure to submit an audit. Additionally, failure to submit an audit is not specific grounds for termination of a school.

For the 2011-12 fiscal year, the Department has received 67 charter school audits with 57 charter audits still outstanding. These audits were due December 30, 2012.

After many of the financial improprieties of the AllPrep schools were discovered, some of the sponsoring districts had concerns about the fiscal management of the schools. Each of the schools hired new directors and recruited new board members to oversee the school. After the schools' reorganization, although many of the sponsoring districts had grounds for termination, many desired to instead work closely with the schools to address the financial improprieties and hold the schools more accountable. HB 3093 addresses this by allowing a sponsor and school to agree to a plan to correct deficiencies in the case of a school failing to maintain financial stability or failure to maintain a sound financial management system. HB 3093 also allows a sponsor to withhold in trust up to 50 percent of the moneys owed a school pending compliance with a plan to correct deficiencies.

**Summary of the provisions of HB 3093:**

Section 1.

- Specifies that failure to have an audit prepared is grounds for termination of a charter school.

Section 2 and 3.

- Allows the Department to withhold State School Funds from a public charter school if the school does not submit an annual audit.
- Imposes the same penalties on charter schools for failure to submit an audit as imposed on school districts.

Section 4.

- Specifies that failure to have an audit prepared is grounds for termination of a charter school.
- Makes failure to maintain sound financial management system immediate grounds for termination.
- Allows sponsor and charter school to agree to develop a plan to correct deficiencies if grounds for termination includes failure to maintain financial stability or failure to maintain sound financial management system.
- Allows sponsor to withhold up to 50 percent of moneys owed to charter school and hold moneys in trust pending completed plan.

Section 5.

- Allows school district to consider prior history, if any, of a charter applicant in operating a public charter school or in providing educational services.
- Some of our charter school applicants have a long history of successful operation of a school. While other charter school applicants have a negative history of operation of a school. A district should be allowed to consider both of these histories when evaluated a charter application for a new school.

Thank you for this opportunity to testify and I'd be happy to respond to questions.



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## Oregon charter school founders accused in \$20 million racketeering lawsuit



By Betsy Hammond, The Oregonian

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Tim King and Norm Donohoe, who ran a chain of taxpayer-funded charter schools across small-town Oregon from their headquarters in Clackamas, scammed the state out of \$17 million and must repay that plus \$2.7 million more, the state said in a court filing this week.

The legal claim, brought Thursday by the Oregon Department of Justice in Marion County Circuit Court, accuses the pair of racketeering, money laundering and other fraud from 2007 to 2010.

King and Donohoe, who were the director and president, respectively, of a nonprofit they named EdChoices, submitted false, incomplete and misleading records about how many students were enrolled in the schools and how they were spending the state's money, state prosecutors say in the complaint.

"It's not true," Donohoe said when reached after 5 p.m. Friday. He said EdChoices' attorney would need to speak for him but was not available after hours. King could not be reached for comment.

The pair opened and operated at least 10 charter schools that went by various and changing names, including Baker Web Academy, Estacada Early College and Sheridan AllPrep Academy. Most were launched under the name AllPrep. They existed under agreements with the school boards in Estacada, Sisters, Baker City, Sheridan, Burns and Marcola, but enrolled students from across the state in their online programs.

The state provided startup grants of up to \$450,000 per charter school. The state Department of Education also paid about \$6,000 a year for each student enrolled, relying on the charter school operators to document the number. The state now says those records were "erroneous, false and misleading."

King was the charismatic front man for AllPrep when the schools' unraveling finances prompted state regulators in the education and justice departments to begin asking questions in spring 2010. He quickly stepped down. Donohoe said Friday that he doesn't know how to reach him.

Some of the schools abruptly closed during the school year, leaving students and teachers in a lurch. Others have since stopped operating. Still others operate under new auspices.

Before starting AllPrep schools, King was a former teacher paid to create and run three North Clackamas School District charter schools: New Urban High, Clackamas Middle College and Clackamas Web Academy. Those schools are still operating, though King left in 2008.

The district discovered a trail of financial problems, including hundreds of thousands of dollars in questioned expenditures, only after his departure. The three schools agreed in 2009 to repay the district almost \$400,000, a debt load that crimped their operations. But the state did not file a legal claim against King.

With AllPrep, King and Donohoe secured each small-town school board's agreement to let them start charter schools in those districts. The boards unknowingly agreed to turn over 20 percent to 25 percent of the per-student funding from the state to EdChoices, the state alleges.

When King sought startup grants to launch the schools, he agreed many times in writing to abide by the terms, including spending them only on allowable expenses at that particular school. He eventually won more than \$2 million in such grants, but did not spend all the money as promised and fraudulently mingled funds from different schools to benefit EdChoices, the state says.

King and his wife filed for bankruptcy in Oregon in 2011.

The state is demanding that King and Donohoe repay all the money their schools received in grants and per-student funding, on the grounds it all was obtained under racketeering and false claims, even though the schools did legitimately educate some students. That adds up to \$17 million.

In addition, the claim demands \$2.7 million in damages for breach of contract plus attorney fees and the costs of investigation and litigation.

-- Betsy Hammond

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