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Testimony of Piet van Lier, Senior Researcher,
before the Senate Finance Committee
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Good afternoon Chairman Widener, Ranking Member Skindell and members of the Senate Finance Committee. My name is Piet van Lier, and I am a researcher at Policy Matters Ohio, a nonpartisan state policy organization conducting research on issues facing working families in Ohio. Thank you for the opportunity to testify today about key elements of House Bill 153 and their impact on public education.

A revenue crisis

First, I must point out that Ohio's budget crisis is due in large part to a revenue shortfall resulting from tax changes passed in 2005 that have drained some $2 billion in revenue each year from the state's coffers. And according to the Ohio Department of Taxation, largely unexamined tax breaks, deductions and exemptions in the tax code will amount to more than $7 billion in foregone revenue each year.[1]

Deep spending cuts

The Kasich administration and the House have made a conscious decision to deal with the current budget crisis by cutting basic services that are vital to making Ohio stronger, including its public education system, rather than taking a more balanced approach that mixes cuts with new revenue. The impact of this decision for Ohio's public schools is fairly clear: cuts in state funding over the biennium will greatly magnify the loss of federal money that is no longer available, and drop state funding of public schools to 2003 levels. Adjusted for inflation, in fact, this proposal would provide nearly 20 percent less in state funds for education than was available in 2003. Such cuts are certain to cause great harm to our schools and significantly reduce our ability to provide a high quality education to Ohio children. They will also shift more of the responsibility for funding schools directly to local taxpayers.

For-profit operators and achievement

The proposal inserted by the Ohio House into HB 153 that would allow charter schools to be established as for-profit corporations is as concerning as the proposed funding cuts.

Research has documented the negative impact of for-profit charter managers on student achievement. For the 2009-10 school year, 45 percent of charter schools were in Academic Emergency or Academic Watch; charters managed by for-profit companies fared even worse, with 56 percent receiving one of the state's lowest two grades.[2] In 2009, researchers at the Education and the Public Interest Center and the Education Policy Research Unit found that states like Ohio where charters did not perform as well as comparable district schools had a higher percentage of schools operated by for-profit management companies.[3] This analysis was based on data from a 16-state "matched-peer" study of charter

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[1] See "Report to the Ohio Budget Planning and Management Commission" and "$7 Billion in Ohio Tax Breaks, and Nobody's Watching," both by Policy Matters Ohio at www.policymattersohio.org.
[2] *OEA Bargaining Advisory: A Brief Update on Charter Schools – 2010.* Ohio Education Association.
[3] Miron, G. & Applegate, B. (2009). *Review of "Multiple choice: Charter school performance in 16 states."* Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Retrieved May 13, 2011 from http://epicpolicy.org/thinktank/reviewmultiple-choice.

performance by the Center for Research on Education Outcomes at Stanford University, which found that charter schools in Ohio had significantly lower average student growth than did district schools.[4]

Given this poor track record, HB 153's radical proposal to provide direct control to for-profits defies all evidence and cannot be considered sound public policy. The bill as written would decrease transparency and accountability, even as it would funnel additional millions in public money to private coffers.

Other provisions in House Bill 153 as passed out of the Ohio House of Representatives would also contribute to weaker oversight and accountability of the charter sector. Particularly troubling are provisions that would:

- Limit the ability of sponsors to refuse to authorize and oversee charters while increasing the number of schools sponsors can sign contracts with;
- Expand the rights of charter operators at the expense of school governing authorities and sponsors;
- Allow charters to operate without sponsors or with the Ohio Department of Education as sponsor;
- Require ODE to approve charter applications within 30 days of receipt, set the deadline for required assurances about a school's readiness to open to only five days before opening, and waive contract deadlines for conversion schools, and allow 15-year contracts for charter schools;
- Set maximum term limits for governing board members at three years.

Since 2007, Ohio has taken steps to strengthen the charter sector, primarily through legislation that allows the state to close schools for poor academic performance; ODE also has gotten more serious about sponsor accountability. What the 129th General Assembly should do is continue to push for improvement by strengthening oversight and creating incentives and structures that encourage excellence. As currently written, HB 153 does the opposite, and will turn back the clock on what had been a positive, albeit slow, trend toward improvement of Ohio charter policy.

More research on for-profits

Policy Matters has had the opportunity to conduct extensive research on Ohio's charter sector, including one report on Imagine Schools, Inc., the nation's largest for-profit charter operator, and one on governance practices in the charter sector.

Imagine, with 11 schools in Ohio, has been under fire nationally for its approach to education. Our research showed that Imagine's academic record disqualified it from opening new schools in Ohio last year. Here is a summary of our findings from our May 2010 study of Imagine's record in Ohio:

- Low academic performance – none of the company's rated schools scored higher than a D on Ohio's report card. Most of the company's schools fared worse than nearby district schools by this measure;
- High rent and complex real estate deals – Through its wholly owned real estate subsidiary, Schoolhouse Finance, Imagine charges unusually high rent to its schools, and engages in real estate transactions that mask its profits. One Imagine school near Columbus paid the company (or rather, the company paid itself) $1.4 million in rent for the 2009-10 school year;
- Large schools and low salaries – Even as charter schools boast smaller size as an educational advantage, median enrollment for schools run by Imagine in Ohio is more than double that of non-digital charters in Ohio. Imagine's focus on the bottom line also means significantly lower salaries for teachers at its Ohio schools.

[4] Center for Research on Education Outcomes (CREDO), *Multiple Choice: Charter School Performance in 16 States*, June 2009. Stanford University. http://credo.stanford.edu.

Imagine's CEO, Dennis Bakke, made news in 2009 when a memo he wrote was published in news reports; in it, Bakke told Imagine managers and school leaders that Imagine-managed schools are "our schools" because the public money flowing to the schools is "our money." He also encouraged his employees to disregard and minimize the power of appointed school boards.

In Ohio, Imagine school board members have resigned in frustration over what they describe as corporate disregard for the governance role currently mandated by current Ohio law. "We finally concluded that what was desired from the administration [of the school] was for the board to be a rubber stamp rather than a governing body," said one former board member interviewed for this study.

Unfortunately, this problem is not unique to Imagine schools. Last year, 10 schools managed by White Hat, Ohio's largest for-profit charter management company, sued their operator, claiming that the Akron-based firm "wields total, unchecked and unconstitutional control over its client charter schools and their funding."[5] Management agreements White Hat signs with its charters require that each school pay White Hat a minimum of 96 percent of all school revenue, according to the lawsuit. Other operators similarly require that charter school boards sign over the bulk of their funds, or spend them with affiliates or subsidiaries.

These kinds of practices drain funds that could be better spent in the classroom. The Imagine schools we investigated, for example, spent only about 40 to 45 percent of revenue on classroom instruction, including teacher compensation and classroom materials, a much lower percentage than successful charter schools devote to instruction.

This diversion of funds to management, rent and occupancy costs leads to academic failure. Our report showed that, of the six Imagine schools rated by the state of Ohio in 2009, five were in Academic Emergency, the equivalent of an "F," while the sixth was in Academic Watch, a "D." (The rest of Imagine's Ohio schools were too new to receive ratings.) These ratings are substantially worse, in most cases, than those of the traditional public schools nearest Imagine schools. The same year, 19 of White Hat's 26 rated schools received Ds and Fs.

Authorized abuse

For a September 2010 report, Policy Matters reviewed management agreements, audits, websites, board lists and other charter school documents to see how Ohio measures up to governance standards put forth by national charter advocates. We found that many management organizations and the schools they operate in Ohio do not meet national criteria. This reflects poorly on Ohio law, policymakers, the state's charter schools and sponsors.

Our investigation found clear evidence that management organizations are in control, not the boards that are legally responsible for the schools. Management undercuts school board independence in a number of ways, such as controlling school revenues, setting up schools and picking board members, limiting board decision-making power, and reducing board ability to contract for independent services; such practices can make it next to impossible for boards to break free from the managers they ostensibly hire. The lack of meaningful oversight provided through Ohio's system of sponsors magnifies the law's shortcomings.

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[5] Candisky, Catherine. "Charter Schools sue to break contracts with White Hat," *The Columbus Dispatch*, May 17, 2010.

Our findings included:

- Board members serving on more charter boards than is allowed by state law;
- Poison pills (significant payment) required by operators if schools decide to not renew or terminate contracts, among other means used to permanently bind schools, and their streams of public money, to operators;
- Individuals and entities serving in roles that create conflicts of interest in school management and oversight;
- Various provisions requiring school boards to sign over most school revenues to operators and allowing boards to surrender governance authority.

Rather than correcting these shortcomings, HB 153 in its current form will foster practices that encourage even more abuse by weakening accountability and drawing a veil over the operations of charter schools.

Mandated closure

Current state law mandates closure for charter schools if they receive low grades from the state on their report cards over a period of years. This is a positive step toward ensuring that charters are serving Ohio's families and children well, and meeting their responsibilities as public schools. What's needed in addition, however, is a more proactive approach that does everything possible to ensure that ineffective charter schools don't open for business in the first place. This can only be done by strengthening oversight, not only of schools but of sponsors as well. Better charter policy won't be achieved by weakening oversight as the House is proposing.

Furthermore, the law mandating closure for poor academic performance has not been properly enforced. Perhaps the most glaring example of a company skirting the law occurred in Toledo last summer, when Paul Dunbar, a charter run by the Leona Group, a for-profit operator, was mandated to close by the end of June 2010 for poor academic achievement. By early July, a new Leona school, Northpointe Academy, had opened in the same building with the same principal and much of the same staff.

This kind of abuse has been possible under current law and will only become more common if the changes inserted by the House are signed into law.

Capacity at the state

Many provisions inserted into HB 153 by the House increase responsibilities of the Ohio Department of Education. These proposed new or extra duties include:

- Serving as a sponsor for charters, with no ability to charge fees as other entities can;
- Meeting new, shorter deadlines for approval of charter applications and opening of new schools;
- Re-testing core-subject-area teachers in all schools, including charters, that are ranked in the lowest 10 percent of schools state wide;
- Developing a framework for teacher evaluation by December 31, 2011

Increasing its responsibilities will likely strain the ability of ODE to adequately carry out its duties. ODE is already understaffed and straining to provide basic services. But HB 153 proposes significant cuts to funding for ODE staff who would carry out these and other responsibilities. Adding duties while cutting staff seems a reckless approach to good governance.

Voucher expansion

The House followed the lead of the executive proposal in expanding voucher availability to 60,000 by 2013. In addition, the House would increase voucher amounts in Cleveland and allow high school-age students to apply for vouchers there even if they had not participated in the program in earlier grades.

Last year's state tests showed mixed results for Ohio's EdChoice voucher program – according to data from the Ohio Department of Education, for example, voucher students scored better than district counterparts in Columbus, but not as well in Cincinnati and Toledo. In the Cleveland voucher program, district students outperformed voucher students on most state tests last year.[6] The only thorough review of an Ohio voucher program, the six-year study of the Cleveland program mandated by the state and conducted by Indiana University, found no significant advantage for voucher students.[7]

Research shows that students enrolling in Ohio's voucher programs include a large number of children who would have likely attended nonpublic schools even without the voucher.[8] These findings are particularly significant in today's budget climate, because similar trends in voucher participation under the proposed EdChoice expansion included in HB 153 would result in a redirection of funds away from district schools to pay for students who otherwise would not have generated such high levels of public funding for their education, and likely would have been able to attend nonpublic schools without taxpayer support. The House's proposals for Cleveland, similarly, would divert more funds to voucher students and could significantly exacerbate already tight budgets for districts and the state.

If the 60,000 cap were to be reached, it would mean an estimated $205 million in additional funding for the EdChoice program per year.[9] Based on current patterns of voucher participation, a significant portion of that would be money deducted from school districts to pay to educate students for whom the districts would not have borne any financial responsibility without the voucher program expansion. Policy Matters believes that these resources would be better spent improving public schools, particularly in the context of the current budget shortfall.

Conclusion

Taken together, an all-cuts approach to education in Ohio, the effective deregulation of the charter sector, and increases to voucher programs are part of a recipe for disaster. Rather than strengthening the public education system that serves 90 percent of Ohio's children, HB 153 threatens to undermine our state's future by devastating our public schools. The Ohio Senate, by raising new revenue, strengthening oversight of charters and limiting voucher expansion, can take a step toward providing our children and families with the foundation needed to participate fully in our democracy and our economy.

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[6] Ott, Thomas. "Cleveland students hold their own with voucher students on state tests." *The Cleveland Plain Dealer*, February 22, 2011.

[7] Plucker, et. al. 2006.

[8] See Plucker; also Schiller, Zach. *Where the Students Come From.* Policy Matters Ohio, September 2001.

[9] Assumes 80 percent of the new participating students in K-8, with the maximum voucher of $4,250 and 20 percent in high school, with the maximum voucher amount of $5,000. This estimated distribution of 80 percent K-8, 20 percent 9-12 is the actual distribution for the 2010-11 school year.