

JAN 23 2006

---

---

# A BILL FOR AN ACT

RELATING TO HAWAIIAN EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that compared to Hawaii's  
2 other ethnic groups, native Hawaiians have the worst educational  
3 statistics. In each socio-economic setting, Hawaii's native  
4 public school students have higher rates of absences, retention  
5 at grade level, and dropouts, than their non-Hawaiian  
6 counterparts. Furthermore, from sixth grade on, Hawaiians far  
7 exceed all other major ethnic groups in retention at each grade  
8 level. This high level of grade retention among Hawaiian  
9 students accounts for the large number of students who reach age  
10 eighteen and drop out without completing school. Standardized  
11 achievement tests also consistently show Hawaiian students  
12 scoring lower than Hawaii's other major ethnic groups, as well  
13 as lower than the national norms.

14           While Hawaiians are underrepresented in gifted and talented  
15 programs and at Hawaii's colleges and universities, Hawaiians  
16 are drastically overrepresented among Hawaii's special education  
17 population. Approximately thirty-six per cent of all public  
18 school students of Hawaiian ancestry are currently classified as



1 special education students. Over half of these special  
2 education students are classified as learning disabled or  
3 severely emotionally disturbed, for whom the data reflects that  
4 most are initially labeled learning disabled. They experienced  
5 such frustration with school that they ended up as severely  
6 emotionally disturbed cases, when the core problem may  
7 originally have been the inability to integrate into a system,  
8 not just different but diametrically opposed to the student's  
9 culture, values, traditions, and practices. This educational  
10 failure of Hawaii's native population is directly related to the  
11 fact that native Hawaiians have the highest percentage of  
12 welfare recipients and un- or under-employed; the highest amount  
13 of incarcerated men, women, and youth; the highest drug, alcohol  
14 and physical abuse rates; the most homeless families; and the  
15 worst health statistics in the State.

16 The legislature further finds that as an indigenous people,  
17 the native people of Hawaii have a right to all levels and forms  
18 of education, including access to education in their own  
19 language, and the right to establish their educational systems  
20 and institutions according to their own customs and traditions.  
21 Furthermore, according to Article 1.7.1 of the Coolangatta  
22 Statement, ratified by thousands of indigenous educators at the



1 1999 World Indigenous Peoples Conference on Education in Hilo,  
2 "meaningful, empowering and culturally sustainable education for  
3 indigenous people will be possible only when indigenous people  
4 have the control (a fundamental right) and the resources (an  
5 inarguable responsibility of states/governments) to develop  
6 educational theories, curriculum, and practices that are  
7 indigenous and determine the environment within which this  
8 education can best occur."

9 The legislature further finds that according to section 4  
10 of article X of the state constitution, the State shall promote  
11 the study of Hawaiian culture, history, and language and provide  
12 for a Hawaiian education program consisting of language,  
13 culture, and history in public schools, and that the use of  
14 community expertise shall be encouraged as a suitable and  
15 essential means in furtherance of the Hawaiian education  
16 program. Data indicates minimal compliance in some instances  
17 and outright violation in others by the department of education  
18 regarding the constitutional mandate.

19 The legislature further finds that there is overwhelming  
20 evidence that the Hawaiian knowledge structure differs  
21 significantly from the western system of education and that the  
22 lower educational achievement of native Hawaiians from



1 kindergarten to the university level is a direct reflection of  
2 their cultural and educational incompatibility with the current  
3 educational system. Data also shows that when Hawaiian  
4 language, culture, and values are incorporated into the  
5 pedagogical process at all levels, education suddenly has  
6 relevance and meaning for Hawaiian children. As a result,  
7 Hawaiian students are able to learn, grow, and excel, both in  
8 academic settings, and in life thereafter.

9       Since the passage of Act 62, Session Laws of Hawaii 1999,  
10 which allowed for start-up charter schools, a dozen Hawaiian  
11 communities stretching from Kauai to Hawaii came together to  
12 utilize Hawaii's charter school law to create successful models  
13 of Hawaiian education, which demonstrate that Hawaiian  
14 communities are able to design and control quality models of  
15 education. This Native Hawaiian Charter School Alliance, called  
16 Na Lei Na'auao, has already procured millions of federal  
17 education dollars to collaborate on gifted and talented  
18 programs, curriculum development, a teacher certification cohort  
19 and a comprehensive action research project. Data relating to  
20 these Hawaiian-designed and controlled public schools confirms  
21 that culturally driven education significantly improves the  
22 educational achievement of Hawaiians. During the 2000-2001



1 school year, Kanu o ka Aina, a New Century Public Charter  
2 School, had the highest attendance in the State, with a student  
3 population that is over eighty-five per cent Hawaiian. Other  
4 data such as increases in grade point averages, parent and  
5 student satisfaction, success in college, and mainstreaming of  
6 special education students further support the notion that  
7 native Hawaiian students prefer a culturally driven approach to  
8 education. The vast majority of Na Lei Na'auao schools are  
9 located in rural communities with high concentrations of native  
10 Hawaiians, all of which also have high percentages of welfare  
11 recipients, adult prisoners, and incarcerated juveniles.  
12 Although resources are especially limited in these areas,  
13 Hawaiian educators and parents have taken on the tremendous  
14 challenge of starting these culturally driven charter schools  
15 because of the direct and profound needs of Hawaiian public  
16 school students in these areas.

17 The legislature acknowledges that Hawaii's public school  
18 system is too large and that decentralization has been  
19 recommended by various studies for over a decade. In an effort  
20 to initiate more community-based models of education, Act 62,  
21 Session Laws of Hawaii 1999, allowed for the establishment of  
22 twenty-five start-up charter schools. The purpose of these



1 schools is to provide alternative frameworks with regard to  
2 curriculum, facilities management, instructional approach,  
3 length of the school day, week, or year, and personnel  
4 management, in order to meet the needs of our diverse student  
5 population. While the existing law resulted in the chartering  
6 of a total of twenty-five charter schools, revisions to the law  
7 are necessary in order to further its intended success.  
8 According to Report No. 4, 2002 authored by the Legislative  
9 Reference Bureau in response to Senate Concurrent Resolution 113  
10 (2001), the current charter school law needs clarification  
11 pertaining to resources (for example, impact on the department  
12 of education budget, paying for facilities and utilities,  
13 withdrawing school funds directly), governance (including giving  
14 schools more independence, the legal status of schools, the  
15 employment status of staff, and legal representation for  
16 schools), compliance (for example, assistance without  
17 compliance, special education issues and monitoring schools for  
18 compliance), and start-up/shut-down (including appealing the  
19 denial of a charter, revoking a school's charter, and converting  
20 existing schools). Clarifications are also necessary regarding  
21 funding methodologies, allocations and procurement, and defining



1 the relationship between charters, the State, the board of  
2 education and the department of education.

3 The legislature further finds that the Hawaiian system of  
4 public education has been one of the worst in the nation for  
5 decades and is in desperate need of bold synergistic solutions,  
6 out-of-the-box thinking, and greatly enhanced public-private  
7 partnerships. In spite of abiding concerns regarding a wide  
8 variety of issues, charter schools offer one promising means of  
9 educational reform. As they permanently reside at the bottom of  
10 all indices of socio-economic welfare, few sectors within  
11 Hawaiian society could benefit as much from enhanced educational  
12 opportunities as the host culture of these islands - Hawaiians,  
13 as defined in section 10-2, Hawaii Revised Statutes. A Hawaiian  
14 charter school district, with adequate autonomy, could be a  
15 vehicle to help the Hawaiians and other people to help  
16 themselves by achieving self-determination of their own  
17 educational future.

18 The legislature supports a separate Hawaiian charter school  
19 district, which establishes and maintains schools that operate  
20 independently from the existing school district structure, as a  
21 method to accomplish all of the following:

- 22 (1) Improve native pupil learning;



- 1           (2) Increase learning opportunities for all pupils, with  
2           special emphasis on expanded cultural learning  
3           experiences for all pupils who are interested and  
4           responsive to culturally driven methods of teaching;
- 5           (3) Encourage use of different and innovative teaching  
6           methods based on indigenous educational paradigms;
- 7           (4) Provide parents and pupils with expanded choices in  
8           the types of educational opportunities that are  
9           available within the public school system; and
- 10          (5) Provide vigorous competition to stimulate continual  
11          improvements in Hawaii's public school system.

12          Finally, the legislature finds that the federal government  
13 strongly supports charter schools. However, due to the  
14 restriction in the existing charter school law which caps the  
15 number of start-up charter schools at twenty-five, a capacity  
16 which has already been reached, the existence of only one  
17 charter agency, and the fact that Hawaii has only one local  
18 educational agency, the State of Hawaii is consequently  
19 ineligible for millions of dollars of federal charter school  
20 funding.

21          The purpose of this Act is to create a noncontiguous  
22 Hawaiian charter school district of education under a Hawaiian





1 charter school council that focuses on the establishment of  
 2 twenty-five culturally-driven, family-oriented, and community-  
 3 based public schools in all areas with high concentrations of  
 4 native Hawaiians. This Act will potentially double Hawaii's  
 5 existing start-up charter schools, thereby assuring additional  
 6 federal funding. At the same time, it will provide communities  
 7 that have already submitted letters of intent to the board of  
 8 education the opportunity to begin the process of becoming  
 9 charter schools.

10 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
 11 amended by adding a new subpart to part IV to be appropriately  
 12 designated and to read as follows:

13 " . HAWAIIAN-FOCUSED CHARTER SCHOOLS

14 §302A-A Hawaiian charter school district; established.

15 (a) There is established a noncontiguous Hawaiian charter  
 16 school district that may consist of existing Hawaiian-focused  
 17 charter schools established pursuant to subpart D, as well as  
 18 other Hawaiian-focused charter schools, within all counties of  
 19 the State.

20 (b) This noncontiguous Hawaiian charter school district  
 21 shall have local educational agency status, in order to qualify  
 22 for federal funding.



1 (c) The Hawaiian charter school district shall be exempt  
2 from the provisions of chapter 103D, but shall develop rules for  
3 the procurement of goods, services, and construction, consistent  
4 with the goals of public accountability and public procurement  
5 practices. The Hawaiian charter school district shall account  
6 for funds expended for the procurement of goods and services,  
7 and its records shall be subject to chapter 92F.

8 (d) The Hawaiian charter school district, the schools  
9 contained within, and the Hawaiian charter school council shall  
10 be independent of and shall not be subject to the authority or  
11 control of the department of education, the board of education,  
12 and the superintendent of education pursuant to sections  
13 302A-1101 and 302A-1102.

14 **§302A-B Hawaiian charter school council; established.**

15 (a) The noncontiguous Hawaiian charter school district shall be  
16 monitored by an eight member Hawaiian charter school council  
17 whose members initially shall be appointed by the governor. The  
18 council's voting members shall be subject to section 26-34;  
19 provided that the governor shall appoint members as follows:

20 (1) Two members from a list of not less than five  
21 educators submitted by the Hawaiian Studies and  
22 Language section of the department of education;



1           (2) Four members from a list of not less than nine names  
2           submitted by existing Hawaiian-focused charter  
3           schools;

4           (3) One kupuna from a list of not less than four names  
5           submitted by existing Hawaiian-focused charter  
6           schools; and

7           (4) One non-voting student representative elected by the  
8           students of the existing Hawaiian-focused charter  
9           schools.

10 For purposes of this subsection, "kupuna" means a person with  
11 in-depth knowledge of the Hawaiian culture and history who can  
12 articulate that knowledge through stories, song, and dance.

13           (b) Once constituted, the Hawaiian charter school council  
14 shall elect its own chairperson from among its members and  
15 develop rules by which successor council members are to be  
16 appointed, elected, or removed.

17           (c) The Hawaiian charter school council shall be attached  
18 to the department for administrative purposes only, and shall  
19 constitute a second chartering agency under the board of  
20 education. All powers heretofore exercised by the board of  
21 education with regard to the chartering of Hawaiian-focused  
22 charter schools shall be transferred to the Hawaiian charter



1 school council. All charter schools contained within this  
2 noncontiguous Hawaiian charter school district shall meet both  
3 statewide and cultural student performance standards as  
4 developed and adopted by the Hawaiian charter school council.

5 (d) The Hawaiian charter school council may hire staff to  
6 assist in its purpose and to carry out administrative functions  
7 as it deems appropriate. To the extent practicable, the  
8 Hawaiian charter school council shall utilize the staff and  
9 resources of the board of education to carry out its intended  
10 purpose.

11 **§302A-C Funding for the Hawaiian charter school district.**

12 (a) The Hawaiian charter school district shall receive a flat  
13 per-pupil allocation set by statute to be provided in a separate  
14 appropriation; provided that:

15 (1) Beginning in fiscal year 2006-2007, and every year  
16 thereafter, the allocation shall be based on the  
17 department of education's previous year financial  
18 report, and include general funds, federal funds,  
19 special funds, and trust funds; provided further that  
20 the per-pupil allocation to the Hawaiian charter  
21 school district shall be at least equal to, and no



1 less than, the average per-pupil expenditure for all  
2 public school children; and

3 (2) Upon receipt of the allocation, the Hawaiian charter  
4 school district shall retain no more than ten per cent  
5 of each Hawaiian-focused charter school's allocation  
6 for administrative functions and forward the remainder  
7 in lumpsum payments to each Hawaiian-focused charter  
8 school.

9 (b) Prior to the start of each school year, the department  
10 of accounting and general services shall:

11 (1) Provide fifty per cent of a Hawaiian-focused charter  
12 school's per-pupil allocation based on the Hawaiian-  
13 focused charter school's projected student enrollment  
14 no later than July 15 of each year; provided that the  
15 Hawaiian-focused charter schools shall submit to the  
16 department of accounting and general services a  
17 projected student enrollment no later than May 15 of  
18 each year; and

19 (2) Provide the remaining per-pupil allocation based on  
20 the Hawaiian-focused charter schools' verified student  
21 enrollment no later than October 15 of each year;  
22 provided that the Hawaiian-focused charter schools



1           shall submit to the department a verified student  
2           enrollment no later than September 15 of each year.

3           (c) In accordance with the federal law, the Hawaiian  
4 charter school district shall receive a separate, equitable  
5 allocation from the department's program identification EDN 150  
6 and other special education funding, for special education  
7 students attending a Hawaiian-focused charter school and for  
8 students from the community with special education needs who do  
9 not attend a Hawaiian-focused charter school; provided that any  
10 increment to the per-pupil allocation made pursuant to this  
11 paragraph shall not exceed the increment available to all other  
12 public schools. This allocation shall be provided to the  
13 Hawaiian charter school district no later than July 1 of each  
14 year.

15           (d) All federal financial support for Hawaiian-focused  
16 charter schools allocated to the Hawaiian charter school  
17 district shall be no less than all other school districts;  
18 provided that if administrative services are provided to the  
19 Hawaiian charter school district by the department, the Hawaiian  
20 charter school district shall reimburse the department for the  
21 actual costs of the administrative services in an amount that



1 does not exceed six and one-half per cent of the Hawaiian  
2 charter school districts allocation.

3 (e) As a local educational agency, the Hawaiian charter  
4 school district shall be eligible to receive any supplementary  
5 financial grant or award for which any other local educational  
6 agency may submit a proposal, or any supplemental federal grants  
7 earmarked for local educational agencies.

8 (f) All additional funds that are generated by the  
9 Hawaiian charter school district, except funds from a  
10 supplementary grant, shall be separate and apart from allotted  
11 funds and may be expended at the discretion of the Hawaiian  
12 charter school district.

13 (g) If, at any time, the Hawaiian charter school district  
14 dissolves or is denied continuation, the State of Hawaii shall  
15 have first right, at no cost to the State, to all the assets and  
16 facilities of the Hawaiian charter school district.

17 **§302A-D Hawaiian-focused charter schools; establishment.**

18 (a) Up to a total of twenty-five new schools may be established  
19 as Hawaiian-focused charter schools. Hawaiian-focused charter  
20 schools may be established by:

21 (1) The creation of a new school pursuant to subsection

22 (d);



1           (2) An existing public school pursuant to subsection (c);  
2           or

3           (3) The creation of a new school, comprising programs or  
4           sections of existing public school populations and  
5           using existing public school facilities pursuant to  
6           subsection (d).

7           (b) As a prerequisite to the establishment or conversion  
8 to a Hawaiian-focused charter school under subsection (a),  
9 applicants for Hawaiian-focused charter school status shall  
10 assert in writing, in addition to any other requirements of this  
11 section, that the curriculum is based on culturally-driven  
12 approaches to education.

13           (c) Any public school or schools may submit a letter of  
14 intent to the Hawaiian charter school council to form a  
15 Hawaiian-focused charter school, establish a local school board  
16 as its governing body, and develop a detailed implementation  
17 plan pursuant to subsection (e); provided that:

18           (1) The local school board as its governing body shall be  
19           composed of, at a minimum, one representative from  
20           each of the following participant groups:

21           (A) Administration;





- 1 (B) Instructional staff members selected by the
- 2 school instructional staff;
- 3 (C) Support staff selected by the support staff of
- 4 the school;
- 5 (D) Parents of students attending the school selected
- 6 by the parents of the school;
- 7 (E) Student body representatives selected by the
- 8 students of the school; and
- 9 (F) The community at-large; and

10 (2) The detailed implementation plan shall be approved by  
11 sixty per cent of the school's existing  
12 administrative, support, and teaching personnel, and  
13 parents; provided that the school personnel may  
14 request their bargaining unit representative to  
15 certify and conduct the elections for their respective  
16 bargaining units.

17 (d) As an alternative to subsection (c), any community,  
18 group of teachers, group of teachers and administrators, entity  
19 recognized as a nonprofit organization under section 501(c)(3)  
20 of the Internal Revenue Code of 1986, as amended, or any program  
21 within an existing school may submit a letter of intent to the  
22 Hawaiian charter school council to form a Hawaiian-focused by



1 charter school, establish a local school board as its governing  
2 body, and develop a detailed implementation plan pursuant to  
3 subsection (e).

4 (e) The local school board, with the support and guidance  
5 of the superintendent, shall formulate and develop a detailed  
6 implementation plan that meets the requirements of this  
7 subsection and of section 302A-F. The plan shall include but  
8 not be limited to the following:

9 (1) A description of employee rights and management issues  
10 and a framework for addressing those issues that  
11 protect the rights of employees;

12 (2) A plan for identifying, recruiting, and selecting  
13 students that is not exclusive, elitist, or  
14 segregationist;

15 (3) The curriculum and instructional framework to be used  
16 to achieve educational standards, including an  
17 assessment plan;

18 (4) A comprehensive plan for the assessment of student,  
19 administrative support, and teaching personnel  
20 performance, that:

21 (A) Recognizes the interests of the general public;



- 1 (B) Incorporates or exceeds state educational content
- 2 and performance standards;
- 3 (C) Includes a system of faculty and staff
- 4 accountability that holds faculty and staff both
- 5 individually and collectively accountable for
- 6 their performance, and that is at least
- 7 equivalent to the average system of
- 8 accountability in public schools throughout the
- 9 State; and
- 10 (D) Provides for program audits and annual financial
- 11 audits;
- 12 (5) The governance structure of the school; and
- 13 (6) A plan for any necessary design, construction,
- 14 renovation, and management of facilities that is
- 15 consistent with the state facilities plan; provided
- 16 that if the facilities management plan includes use of
- 17 existing school facilities, the Hawaiian-focused
- 18 charter school shall receive authorization from the
- 19 administrator responsible for the facilities;
- 20 provided further that the final determination of use
- 21 shall fall within the board's discretion.



1           (f) The detailed implementation plan shall be submitted to  
2 the Hawaiian charter school council. Review procedures shall be  
3 as provided in this section. The Hawaiian charter school  
4 council may adopt rules pursuant to chapter 91 to further guide  
5 the review process.

6           (g) The Hawaiian charter school council shall have sixty  
7 working days to review the completed implementation plan for a  
8 proposed Hawaiian-focused charter school to ensure that it meets  
9 the requirements of subsection (e) and section 302A-F. Within  
10 forty-five working days, the Hawaiian charter school council  
11 shall issue a report of its preliminary findings to the local  
12 school board. If the Hawaiian charter school council  
13 subsequently determines that the implementation plan:

14           (1) Meets the requirements of subsection (e) and section  
15               302A-F, the Hawaiian charter school council, by the  
16               sixtieth working day, shall issue a charter and the  
17               implementation plan shall be converted to a written  
18               performance contract between the school and the  
19               Hawaiian charter school council; or

20           (2) Fails to meet the requirements of subsection (e) or  
21               section 302A-F, the Hawaiian charter school council:



1 (A) Shall notify the local school board of the  
2 finding in writing to enable the local school  
3 board to appropriately amend the plan to resolve  
4 the conflict; and

5 (B) May issue a provisional approval for a charter if  
6 the Hawaiian charter school council determines  
7 that the applicant may reasonably be expected to  
8 expeditiously resolve any remaining conflict or  
9 conflicts impeding the issuance of a charter.

10 The provisional approval shall be effective for  
11 one year. The Hawaiian charter school council  
12 may extend the provisional approval beyond a  
13 period of one year. If a charter is subsequently  
14 issued, the amended implementation plan shall be  
15 converted to a written performance contract  
16 between the school and the Hawaiian charter  
17 school council.

18 (h) An amended implementation plan shall be submitted  
19 within thirty working days of notification pursuant to  
20 subsection (g) (2) (A). The Hawaiian charter school council shall  
21 deny the issuance of a charter if the local school board does  
22 not submit an amended implementation plan within the thirty



1 working day period. The Hawaiian charter school council shall  
2 have thirty working days to review the amended implementation  
3 plan. If the amended implementation plan:

4 (1) Meets the requirements of subsection (e) and section  
5 302A-F, the Hawaiian charter school council, by the  
6 thirtieth working day, shall issue a charter to the  
7 proposed Hawaiian-focused charter school. If a  
8 charter is issued, the amended implementation plan  
9 shall be converted to a written performance contract  
10 between the school and the Hawaiian charter school  
11 council; or

12 (2) Fails to resolve any conflicts to the Hawaiian charter  
13 school council's satisfaction or involves new and  
14 different issues of conflict with subsection (e) or  
15 section 302A-F, the panel shall deny issuance of a  
16 charter.

17 (i) A local school board may file an appeal of the denial  
18 of an application for a charter with the Hawaiian charter school  
19 council. Within thirty working days, the Hawaiian charter  
20 school council shall issue a report of its findings and final  
21 determination to the local school board. If the implementation  
22 plan is approved, the Hawaiian charter school council shall



1 issue a charter and the implementation plan shall be converted  
2 to a written performance contract between the school and the  
3 Hawaiian charter school council.

4 (j) Hawaiian-focused charter schools shall not charge  
5 tuition.

6 **§302A-E Funding for the Hawaiian charter school district**

7 **schools.** (a) Hawaiian-focused charter schools shall receive a  
8 flat per-pupil allocation set by statute, excluding Hawaiian  
9 charter school district administrative withholdings of no more  
10 than ten per cent. This allocation shall be disbursed by the  
11 Hawaiian charter school district to the Hawaiian-focused charter  
12 schools within fifteen working days of receipt of the funds from  
13 the department of accounting and general services.

14 (b) Any additional funding for special education or  
15 funding for any other purposes received by the Hawaiian charter  
16 school district shall be disbursed to the Hawaiian-focused  
17 charter schools, excluding, if applicable, no more than ten per  
18 cent of administrative costs, within 15 working days of receipt  
19 of the funds.

20 (c) All federal financial support for Hawaiian-focused  
21 charter schools allocated to the Hawaiian-focused charter  
22 schools shall be no less than all other public schools; provided



1 that if administrative services are provided by the Hawaiian  
2 charter school district, the Hawaiian-focused charter schools  
3 shall reimburse the Hawaiian charter school district for the  
4 actual costs of the administrative services in an amount not to  
5 exceed ten per cent of the Hawaiian charter school district's  
6 allocation.

7 (d) All additional funds that are generated by the  
8 Hawaiian-focused charter schools, not from a supplementary  
9 grant, shall be separate and apart from allotted funds and may  
10 be expended at the discretion of the Hawaiian-focused charter  
11 schools.

12 (e) If, at any time, the Hawaiian-focused charter school  
13 dissolves or is denied continuation, the State shall have first  
14 right, at no cost to the State, to all the assets and facilities  
15 of the Hawaiian charter school district.

16 (f) Facilities subsidies shall be made available to  
17 Hawaiian-focused charter schools on the basis of equity and  
18 equality; provided that:

19 (1) Hawaiian-focused charter schools that pay rental fees  
20 shall receive facilities subsidies to pay their actual  
21 rental fees. Except as provided in paragraph (2),  
22 Hawaiian-focused charter schools that do not pay





1 rental fees shall not receive facilities subsidies;  
2 and

3 (2) Notwithstanding paragraph (1), facilities subsidies  
4 may be applied to mortgage payments if Hawaiian-  
5 focused charter schools build their own facilities or  
6 substantially renovate rental facilities. Hawaiian-  
7 focused charter schools that build their own  
8 facilities or that substantially renovate rented  
9 facilities shall receive facilities subsidies to pay  
10 their actual mortgage payment.

11 (g) Hawaiian-focused charter schools shall be eligible for  
12 capital improvement funds using the same process as other public  
13 schools.

14 (h) Hawaiian-focused charter schools shall be eligible to  
15 participate in tax-exempt bond programs.

16 **§302A-F Hawaiian district charter schools; exemptions.**

17 Schools designated as Hawaiian-focused charter schools shall be  
18 exempt from all applicable state laws, except those regarding:

19 (1) Collective bargaining under chapter 89; provided that:

20 (A) The exclusive representatives defined in chapter  
21 89 may enter into agreements that contain cost



1                   and noncost items to facilitate decentralized  
2                   decisionmaking;

3                   (B) The exclusive representatives and the local  
4                   school board of the Hawaiian-focused charter  
5                   school may enter into agreements that contain  
6                   cost and noncost items;

7                   (C) The agreements shall be funded from the current  
8                   allocation or other sources of revenue received  
9                   by the Hawaiian-focused charter school; and

10                  (D) These agreements may differ from the master  
11                  contracts;

12                  (2) Discriminatory practices under section 378-2; and  
13                  (3) Health and safety requirements.

14 Hawaiian-focused charter schools shall be exempt from chapter  
15 103D, but shall develop rules pursuant to chapter 91 for the  
16 procurement of goods, services, and construction, consistent  
17 with the goals of public accountability and public procurement  
18 practices. Where possible, however, the Hawaiian-focused  
19 charter school is encouraged to use the provisions of chapter  
20 103D; provided that the use of one or more provisions of chapter  
21 103D shall not constitute a waiver of the exemption of chapter  
22 103D and shall not subject the Hawaiian-focused charter school



1 to any other provision of chapter 103D. Hawaiian-focused  
2 charter schools shall account for funds expended for the  
3 procurement of goods and services, and its records shall be  
4 subject to chapter 92F.

5 **§302A-G Hawaiian-focused charter schools; accountability.**

6 (a) Each Hawaiian-focused charter school shall conduct self-  
7 evaluations annually. The self-evaluation process shall include  
8 but not be limited to:

- 9 (1) The identification and adoption of benchmarks to  
10 measure and evaluate administrative and instructional  
11 programs as provided in this section;
- 12 (2) The identification of any administrative and legal  
13 barriers to meeting the benchmarks, as adopted, and  
14 recommendations for improvements and modifications to  
15 address the barriers;
- 16 (3) The impact of any changes made upon the students of  
17 the Hawaiian-focused charter school; and
- 18 (4) A profile of the charter school's enrollment and  
19 community it serves.

20 Each Hawaiian-focused charter school shall submit a report of  
21 its self-evaluation to the Hawaiian charter school council  
22 within sixty working days after the completion of the school



1 year; provided that the Hawaiian charter school council shall  
2 have thirty working days to respond to any recommendation  
3 regarding improvements and modifications that would directly  
4 impact the Hawaiian charter school council.

5 (b) Every five years, the Hawaiian charter school council  
6 shall conduct an evaluation of the effectiveness of the  
7 Hawaiian-focused charter approach authorized under this section.  
8 Based on this evaluation, the Hawaiian charter school council  
9 shall directly report to the legislature and the governor with  
10 recommendations to modify, expand, or terminate the Hawaiian-  
11 focused charter school approach. The evaluation of the  
12 effectiveness of the Hawaiian-focused charter school approach  
13 shall include the following factors:

- 14 (1) If available, the pre- and post Hawaiian-focused  
15 charter school test scores of pupils attending charter  
16 schools and other pupil assessment tools;
- 17 (2) The level of parental satisfaction with the charter  
18 school approach compared with schools within the  
19 district in which the charter school is located;
- 20 (3) The impact of required parental involvement;
- 21 (4) The fiscal structure and practices of charter schools,  
22 as well as the relationship of these structures and



- 1 practices to school districts including the amount of  
2 revenue received from various public sources;
- 3 (5) An assessment of whether or not the charter school  
4 approach has resulted in increased innovation and  
5 creativity;
- 6 (6) Opportunities for teachers under the charter school  
7 approach;
- 8 (7) Whether or not there is an increased focus on low-  
9 achieving and gifted pupils;
- 10 (8) Any discrimination and segregation in charter schools;
- 11 (9) The governance, fiscal, liability, and accountability  
12 practices and related issues between charter schools  
13 and the board of education;
- 14 (10) The manner in which compliance with the conditions,  
15 standards, and procedures entered into under a charter  
16 are monitored;
- 17 (11) The assessment of how the exemption from laws  
18 governing schools allows charter schools to operate  
19 differently than schools operating under those laws;  
20 and
- 21 (12) The role and impact of collective bargaining on  
22 charter schools.



1           (c) Upon a determination by the Hawaiian charter school  
2 council that student achievement within a Hawaiian-focused  
3 charter school does not meet student performance standards, or  
4 that the Hawaiian-focused charter school is not fiscally  
5 responsible, a Hawaiian-focused charter school shall be placed  
6 on probationary status and shall have one year to bring student  
7 performance into compliance with statewide standards and improve  
8 the school's fiscal accountability. If a Hawaiian-focused  
9 charter school fails to meet its probationary requirements, or  
10 fails to comply with any of the requirements of this section,  
11 the Hawaiian charter school council, upon a two-thirds majority  
12 vote, may then deny the continuation of the Hawaiian-focused  
13 charter school.

14           (d) The Hawaiian charter school council may adopt  
15 guidelines to supplement accountability measures incorporated in  
16 the written performance contracts required under section  
17 302A-D(i).

18           **§302A-H Hawaiian-focused charter schools; administrative**  
19 **supervision.** Whenever any Hawaiian-focused charter school is  
20 established under section 302A-D, the following provisions shall  
21 apply except as otherwise specifically provided by this chapter:



- 1           (1) Following consultation with the Hawaiian-focused  
2           charter school, the Hawaiian charter school council  
3           shall represent the Hawaiian-focused charter school in  
4           communications with the governor and with the  
5           legislature;
- 6           (2) The financial requirements for state funds of the  
7           Hawaiian-focused charter school shall be submitted  
8           through the Hawaiian charter school council and  
9           included in a budget request separate from the  
10          department;
- 11          (3) The approval of all policies and rules adopted by the  
12          Hawaiian-focused charter school shall be preceded by  
13          an open public meeting pursuant to chapter 91;
- 14          (4) The employment, appointment, promotion, transfer,  
15          demotion, discharge, and job descriptions of all  
16          officers and employees of or under the jurisdiction of  
17          the Hawaiian-focused charter school shall be  
18          determined by the Hawaiian-focused charter school and  
19          applicable personnel laws and collective bargaining  
20          agreements;
- 21          (5) Except as set forth in this section, the board of  
22          education, the superintendent of education, or the

1 Hawaiian charter school council shall not have the  
 2 power to supervise or control the Hawaiian-focused  
 3 charter school in the exercise of its functions,  
 4 duties, and powers; and

5 (6) Local school boards may enter into an annual business  
 6 contract for centralized services to be provided by  
 7 the department prior to the beginning of each school  
 8 year.

9 **§302A-I Representation by attorney general.** The Hawaiian  
 10 charter school council, Hawaiian charter school district, and  
 11 Hawaiian-focused charter schools are entitled to legal services  
 12 and representation from the attorney general in state and  
 13 federal courts. The attorney general, upon request, shall  
 14 provide legal services and representation in the same manner and  
 15 to the same extent as provided to public schools, the  
 16 department, and the board of education.

17 **§302A-J Hawaiian-focused charter schools; mandate to**  
 18 **support.** The chair of the board of education charter school  
 19 committee, the superintendent of education, the key  
 20 representatives of the major divisions in the department, and  
 21 representatives from other departments providing related  
 22 services, including but not limited to the department of health,





1 department of accounting and general services, and  
2 representative from the unions, as well as individuals from the  
3 Hawaiian charter school district and Hawaiian-focused charter  
4 schools shall collaborate together on a system of technical  
5 assistance that will provide a baseline for success of each  
6 Hawaiian-focused charter school. In addition, the department,  
7 through the board of education and its superintendent, shall  
8 provide any other information and technical assistance upon  
9 request necessary to support the establishment and expansion of  
10 Hawaiian-focused charter schools and the Hawaiian charter school  
11 district."

12 SECTION 3. Section 26-35.5, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) For purposes of this section, "member" means any  
15 person who is appointed, in accordance with the law, to serve on  
16 a temporary or permanent state board, including members of the  
17 Hawaiian charter school council, local school board of any new  
18 century charter school established under section 302A-1182, or  
19 new century conversion charter school established under section  
20 302A-1191, council, authority, committee, or commission,  
21 established by law or elected to the board of education or the  
22 board of trustees of the employees' retirement system under



1 section 88-24; provided that "member" shall not include any  
2 person elected to serve on a board or commission in accordance  
3 with chapter 11 other than a person elected to serve on the  
4 board of education."

5 SECTION 4. There is appropriated out of the general  
6 revenues of the State of Hawaii the sum of \$ , or so  
7 much thereof as may be necessary for fiscal year 2006-2007, for  
8 the purpose of funding the establishment of a noncontiguous  
9 Hawaiian school district, a Hawaii charter school council, and  
10 necessary staff for the Hawaiian charter school district and  
11 council.

12 SECTION 5. The sum appropriated shall be expended by the  
13 department of education for the purposes of this Act.

14 SECTION 6. In codifying the new sections added by  
15 section 2 of this Act, the revisor of statutes shall substitute  
16 appropriate section numbers for the letters used in designating  
17 the new sections in this Act.

18 SECTION 7. New statutory material is underscored.



1 SECTION 8. This Act shall take effect upon its approval;  
 2 provided that sections 4 and 5 shall take effect on July 1,  
 3 2006.

4

INTRODUCED BY:

Françoise Clavin Oakland  
 A.S.T.  
 R. Bruce Kohb  
 Clavin & Gosh  
 Simon Mendoza Kim



SB2147

**Report Title:**

Hawaiian Focused Charter Schools

**Description:**

Establishes a noncontiguous Hawaiian charter school district under the board of education to be monitored by a Hawaiian charter school council.

