

JAN 25 2006

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 PART I

2 SECTION 1. The legislature finds that Hawaii's public
3 charter schools often have difficulty finding suitable
4 facilities to rent or lease for their instructional and
5 administration facilities. New charter schools have even more
6 difficulty in renting or leasing facilities, as landlords are
7 reluctant to enter into a rental or lease agreement with a new
8 charter school or its associated nonprofit organization.

9 The purpose of this part is to provide an incentive to a
10 landlord to rent or lease property to a new century charter
11 school or its associated nonprofit organization by providing a
12 tax credit to the landlord.

13 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§235- Tax credit for landlords leasing or renting to a
17 charter school or its associated nonprofit organization. (a)

18 There shall be allowed to each taxpayer that is a qualifying



1 landlord and subject to the taxes imposed by this chapter, a tax
2 credit in the amount of up to fifteen per cent of the income
3 generated by a property or portion of a property that the
4 landlord rents or leases to a new century charter school or its
5 associated nonprofit organization. The landlord shall rent or
6 lease a property at fifteen per cent below the market rate for
7 comparable rentals or leases. The amount of the tax credit
8 shall be equal to the difference between the below market rate
9 the landlord is charging the school or nonprofit organization
10 and the market rate for a comparable rental.

11 (b) The tax credit shall be deductible from the taxpayer's
12 net income tax liability imposed by this chapter for the taxable
13 year in which the tax credit is properly claimed. The tax
14 credit may be claimed for only one year.

15 (c) The director of taxation shall prepare forms as may be
16 necessary to claim a credit under this section. The director
17 may also require the taxpayer to furnish information to
18 ascertain the validity of the claim for credit made under this
19 section and may adopt rules as necessary to effectuate the
20 purposes of this section pursuant to chapter 91.

21 (d) This section does not apply to new century conversion
22 charter schools."



PART II

1
2 SECTION 3. The legislature finds that lack of facilities
3 funding is a significant financial and operational challenge for
4 new century charter schools. Current funding for new century
5 charter schools is calculated on a per-pupil allocation for each
6 regular education and special education student based upon
7 average enrollment in all cost categories, as published in the
8 department of education's consolidated annual financial report.
9 However, there is no allocation for charter schools to establish
10 and maintain the school facilities. The capacity to provide a
11 long-term physical location, infrastructure maintenance, and
12 building improvements contributes to the successful development
13 and stability of individual charter schools.

14 The purpose of this part is to provide additional funding
15 for new century charter schools to use for rent or lease costs
16 and repair, maintenance, and improvement costs for charter
17 school facilities.

18 SECTION 4. Chapter 302A, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "§302A- Facilities funding for new century charter
22 schools. (a) The department of education shall allocate funds



1 to new century charter schools for the purpose of facilities
2 rent or lease costs and repair, maintenance, and improvement
3 costs. The amount provided shall be calculated on a per-pupil
4 basis. The formula for the allocation shall be based on a five-
5 year average of the department of education's debt service level
6 as provided in the department's most recent consolidated annual
7 financial report. The allocation for facilities is in addition
8 to any other per-pupil allocation currently authorized under
9 this chapter and received by the charter schools.

10 (b) The allocation shall not be subject to any charges or
11 other withholding by any state department or agency, including
12 the charter school administrative office. In the event that a
13 state department or agency, including the charter school
14 administrative office, provides substantive services to a
15 charter school for facilities acquisition, maintenance, or
16 improvement, there shall be a memorandum of agreement between
17 the individual charter school and the relevant state department
18 or agency to determine the fee to be paid by the individual
19 charter school to the state department or agency.

20 (c) To enable new century charter schools to access state
21 funding prior to the start of each school year, foster their
22 fiscal planning, and enhance their accountability, the



1 department shall allocate funds on the same schedule as the per
2 pupil general allocation pursuant to section 302A-1185(c). This
3 section does not apply to new century conversion charter
4 schools."

5 SECTION 5. 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 rent or lease costs and repair, maintenance, or improvement
9 costs for new century charter school facilities.

10 SECTION 6. The sum appropriated shall be expended by the
11 department of education for the purposes of this Act.

12 PART III

13 SECTION 7. The purpose of this part is to allow charter
14 schools to receive a percentage of the impact fees paid by
15 residential developers to the counties.

16 SECTION 8. Section 46-144, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§46-144 Collection and expenditure of impact fees.** (a)
19 Collection and expenditure of impact fees assessed, imposed,
20 levied, and collected for development shall be reasonably
21 related to the benefits accruing to the development. To



1 determine whether the fees are reasonably related, the impact
2 fee ordinance or board rule shall provide that:

3 (1) Upon collection, the fees shall be deposited in a
4 special trust fund or interest-bearing account. The
5 portion that constitutes recoupment may be transferred
6 to any appropriate fund;

7 (2) Collection and expenditure shall be localized to
8 provide a reasonable benefit to the development. A
9 county or board shall establish geographically limited
10 benefit zones for this purpose; provided that zones
11 shall not be required if a reasonable benefit can be
12 otherwise derived. Benefit zones shall be appropriate
13 to the particular public facility and the county or
14 board. A county or board shall explain in writing and
15 disclose at a public hearing reasons for establishing
16 or not establishing benefit zones;

17 (3) Except for recoupment, impact fees shall not be
18 collected from a developer until approval of a needs
19 assessment study that sets out planned expenditures
20 bearing a substantial relationship to the needs or
21 anticipated needs created by the development;



1 (4) Impact fees shall be expended for public facilities of
2 the type for which they are collected and of
3 reasonable benefit to the development; and

4 (5) Within six years of the date of collection, the impact
5 fees shall be expended or encumbered for the
6 construction of public facility capital improvements
7 that are consistent with the needs assessment study
8 and of reasonable benefit to the development.

9 (b) Notwithstanding any other law to the contrary, any
10 developer upon whom impact fees are assessed, based upon an
11 approved needs assessment study, under subsection (a) may pay
12 all or a portion of the impact fees directly to pre-existing new
13 century charter schools operating within the same benefit zone
14 as the residential development. This subsection shall not apply
15 to new century conversion charter schools."

16 PART IV

17 SECTION 9. Public charter schools have great difficulty
18 with leasing affordable land on which to locate schools due to
19 prohibitive costs and zoning restrictions. The legislature
20 believes that charter schools, with their status as public
21 schools and state agencies, should have access to state-held



1 lands and buildings and enjoy comparable rates and conditions as
2 those afforded other state agencies.

3 The purpose of this part is to encourage the State to enter
4 into long-term leases of lands and buildings with charter
5 schools for the location of school facilities.

6 SECTION 10. Chapter 171, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§171- Lease to public charter schools. Notwithstanding
10 any limitations to the contrary, the board of land and natural
11 resources may lease to new century charter schools, at nominal
12 consideration, by direct negotiation and without recourse to
13 public auction, public lands and buildings under the control of
14 the department of land and natural resources. Except as
15 provided in this section, the terms and conditions of sections
16 171-33 and 171-36 shall apply. The lands and buildings leased
17 under this section shall be used by the charter schools for
18 educational purposes only. This section shall not apply to new
19 century conversion charter schools."

20 PART V

21 SECTION 11. Section 302A-1185, Hawaii Revised Statutes, is
22 amended to read as follows:



1 **"§302A-1185 New century charter schools; funding.** (a)

2 Beginning with the fiscal year 2005-2006 budget request, and
3 each budget request thereafter, the charter school
4 administrative office shall submit a request for general fund
5 appropriations for each new century charter school based upon:

6 (1) The actual and projected enrollment figures in the
7 current school year for each charter school;

8 (2) A per-pupil amount for each regular education and
9 special education student, which shall be equivalent
10 to the total per-pupil cost based upon average
11 enrollment in all cost categories, including
12 comprehensive school support services but excluding
13 special education services, and for all means of
14 financing except federal funds, as reported in the
15 most recently published department of education
16 consolidated annual financial report, provided that
17 the legislature may make an adjustment to the per-
18 pupil allocation for the purposes of this section; and

19 (3) Those fringe benefit costs requested shall be included
20 in the department of budget and finance's annual
21 budget request. No fringe benefit costs shall be



1 charged directly to or deducted from the charter
2 school per-pupil allocations.

3 The legislature shall make an appropriation based upon the
4 budget request; provided that the legislature may make
5 additional appropriations for fringe, workers' compensation,
6 and other employee benefits, facility costs, and other requested
7 amounts. The governor, pursuant to chapter 37, may impose
8 restrictions or reductions on charter school appropriations
9 similar to those imposed on other public schools.

10 (b) All federal financial support for new century charter
11 schools shall be no less than all other public schools; provided
12 that if administrative services related to federal grants and
13 subsidies are provided to the charter school by the department,
14 the charter school shall reimburse the department for the actual
15 costs of the administrative services in an amount that does not
16 exceed six and one-half per cent of the charter school's federal
17 grants and subsidies. The department shall provide the charter
18 school administrative office with all federal grant proposals
19 that include charter schools as potential recipients and timely
20 reports on federal grants received for which charter schools may
21 apply. Federal funds received by the department for charter
22 schools shall be transferred to the charter school



1 administrative office for distribution to charter schools in
2 accordance with the federal requirements.

3 Any new century charter school shall be eligible to receive
4 any supplementary financial grant or award for which any other
5 public school may submit a proposal, or any supplemental federal
6 grants limited to new century charter schools; provided that if
7 department administrative services, including funds management,
8 budgetary, fiscal accounting, or other related services, are
9 provided with respect to these supplementary grants, the charter
10 school shall reimburse the department for the actual costs of
11 the administrative services in an amount that does not exceed
12 six and one-half per cent of the supplementary grant for which
13 the services are used.

14 All additional funds that are generated by the local school
15 boards, not from a supplementary grant, shall be separate and
16 apart from allotted funds and may be expended at the discretion
17 of the local school boards.

18 (c) To enable new century charter schools to access state
19 funding prior to the start of each school year, foster their
20 fiscal planning, and enhance their accountability, the charter
21 school administrative office shall:



- 1 (1) Provide fifty per cent of a new century charter
2 school's per pupil allocation based on the new century
3 charter school's projected student enrollment no later
4 than July 20 of each fiscal year; provided that the
5 new century charter school shall submit to the charter
6 school administrative office a projected student
7 enrollment no later than May 15 of each year;
- 8 (2) Provide an additional forty per cent of a new century
9 charter school's per pupil allocation no later than
10 November 15 of each year; provided that the new
11 century charter school shall submit to the charter
12 school administrative office:
- 13 (A) Student enrollment as verified on October 15 of
14 each year, provided that the student enrollment
15 shall be verified on the first day of business
16 immediately prior to October 15 should that date
17 fall on a weekend; and
- 18 (B) An accounting of the percentage of student
19 enrollment who transferred from public schools
20 established and maintained by the department,
21 provided that these accountings shall also be
22 submitted by the charter school administrative



1 office to the legislature no later than twenty
2 days prior to the convening of each regular
3 session; and

4 (3) Provide the remaining ten per cent per pupil
5 allocation of a new century charter school no later
6 than January 1 of each year as a contingency balance
7 to ensure fiscal accountability.

8 (d) The department shall provide appropriate transitional
9 resources to a new century conversion charter school for its
10 first year of operation as a charter school based upon the
11 department's allocation to the school for the year prior to the
12 charter school's conversion.

13 (e) No new century charter school or new century
14 conversion charter school may assess tuition.

15 (f) The department shall transfer, no later than November
16 15, additional funds of not less than eighty per cent of the
17 additional per-pupil allocation to EDN 600 for new century
18 charter schools in which student enrollment, verified on or
19 immediately prior to October 15 as provided for by subsection
20 (c), exceeds the new century charter schools' preliminary
21 projected student enrollment, in an amount corresponding to the
22 number of additional students and the per-pupil allocation. The



1 charter school administrative office shall transfer, no later
2 than November 15, excess funds of not more than eighty per cent
3 of the excess per-pupil allocation to EDN 100 for new century
4 charter schools in which student enrollment, verified on or
5 immediately prior to October 15 as provided for by subsection
6 (c), fails to equal or exceed the new century charter schools'
7 preliminary projected student enrollment, in an amount
8 corresponding to the number of additional students and the per-
9 pupil allocation.

10 (g) Notwithstanding any law to the contrary, the
11 department of education shall reimburse individual new century
12 charter schools for costs incurred by the charter school for
13 rent or lease and utilities payments. The sum shall be provided
14 not less than two months prior to the end of the fiscal year and
15 shall reflect only the actual expenses incurred. To qualify for
16 the reimbursement, each charter school shall report its actual
17 rent or lease and utilities expenses to the charter school
18 administrative office and provide documentation in such form and
19 timeframe as the executive director may require that actual
20 expenses were incurred and payments made. The amount of
21 reimbursement by the department of education under this
22 subsection shall not be subject to any charges or withholding by



1 any state department or agency, including the charter school
2 administrative office. This subsection shall not apply to new
3 century conversion charter schools."

4 SECTION 12. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of \$, or so
6 much thereof as may be necessary for fiscal year 2006-2007, to
7 reimburse new century charter schools for the rent or lease and
8 utilities expenses.

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

11 PART VI

12 SECTION 14. The legislature finds that, given the State's
13 limited resources, the lack of facilities funding is one the
14 biggest challenges facing Hawaii's charter schools. To help
15 minimize the financial burden on the State for underwriting
16 facilities, the legislature believes it can help to leverage
17 scarce public resources through a partnership similar to the
18 Hawaii 3R's program. Like the Hawaii 3R's program, the
19 partnership would be:

- 20 (1) A public-private partnership;



1 (2) Initially be incubated under the fiscal agency of an
2 existing 501(c)(3) or similar nonprofit organization;
3 and

4 (3) Attract private investment through the use of tax
5 credits, including federal tax credits.

6 While the Hawaii 3R's program focuses on repair and
7 maintenance, the charter school facilities fund partnership
8 would focus on providing below market loans to charter schools
9 for buildings and capital improvements of their facilities. The
10 purpose of the partnership or financing "hui" would be to create
11 and administer a revolving loan fund.

12 The Los Angeles charter school new market loan fund could
13 serve as the model for Hawaii's initiative. The Los Angeles
14 charter school new market loan fund makes loans possible with
15 funding from the private sector. As an added incentive,
16 businesses, communities, and financial lenders are able to take
17 advantage of federal community development and tax credits under
18 the federal Community Reinvestment Act and the federal new
19 markets tax credit program. The fund has also partnered with
20 Excellence Education Through Charter Schools, a nonprofit
21 research and development corporation, to underwrite and service
22 each loan.



1 The fund initially focused on fostering investment in low-
2 income areas, defined in the federal census tract as areas with
3 eighty per cent or less of the state's median income. If Hawaii
4 were to use the same criteria, eleven of Hawaii's twenty-seven
5 existing charter schools could qualify for loans under this
6 model. In addition to the low-income requirement, Hawaii could
7 also permit schools with a concentration of native Hawaiians to
8 be considered applicants in a pilot program of this nature.

9 Potential partners from the public and nonprofit sectors
10 could include the office of the governor, the department of
11 business, economic development, and tourism, the department of
12 land and natural resources, the department of Hawaiian
13 homelands, the office of Hawaiian affairs, the task force on
14 charter school governance, and the Kamehameha Schools. Private
15 partners could include the Bank of Hawaii and American Savings
16 Bank, who have already expressed a preliminary, tentative
17 interest in technical financial assistance to charter schools
18 through the Kamehameha Schools' Hoolako Like program. Potential
19 organizations that could serve as incubators include the Hawaii
20 Charter School Network or the Hawaii Community Loan Fund.



1 For the purpose of assuring the long-term viability of the
2 charter school facilities fund partnership, the State may also,
3 in the long run, provide ongoing support by:

4 (1) Requiring a designated individual within a state
5 agency to facilitate the identification and assignment
6 of vacant state lands and property for the purpose of
7 establishing a facility for a new century charter
8 school;

9 (2) Allowing the non-profit organization administering the
10 loan fund to issue municipal bonds in order to raise
11 money for the loan fund; and

12 (3) Appropriating modest funding to help underwrite the
13 cost of administering the fund.

14 The purpose of this part is to provide seed money to help
15 establish the charter schools facilities fund partnership, whose
16 initial planning, organization, and development shall be
17 undertaken by the charter school administrative office.

18 SECTION 15. The charter school administrative office shall
19 prepare and submit a progress report, including any proposed
20 legislation, to the legislature no later than twenty days prior
21 to the convening of the regular session of 2007.



1 SECTION 16. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$, or so
 3 much thereof as may be necessary for fiscal year 2006-2007, as
 4 seed funds for the charter school administrative office to plan,
 5 organize, and develop the charter schools facilities fund
 6 partnership.

7 SECTION 17. The sum appropriated shall be expended by the
 8 department of education for the purposes of this Act.

9 SECTION 18. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 19. This Act shall take effect upon its approval,
 12 provided that:

- 13 (1) Section 2 shall apply to the taxable years beginning
- 14 after December 31, 2005; and
- 15 (2) Sections 5, 6, 12, 13, and 17 shall take effect on
- 16 July 1, 2006.

17
 INTRODUCED BY: Norman Satomai



Report Title:

Education; Charter Schools

Description:

Provides a tax credit, rent or lease costs and maintenance, repair or improvement costs of charter school facilities. Allows developers to pay impact fees to charter schools. Allows charter schools to lease state lands and buildings. Provides seed money to establish the charter schools facilities fund partnership.

