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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. The legislature finds that article X, section 1  
2 of the Constitution of the State of Hawaii clearly indicates  
3 that the State has a constitutional obligation to support  
4 charter school facilities. In relevant part, it states that  
5 "[t]he State shall provide for the establishment, support and  
6 control of a statewide system of public schools free from  
7 sectarian control, a state university, public libraries and such  
8 other educational institutions as may be deemed desirable,  
9 including physical facilities therefor."

10           Department of education schools that convert to charter  
11 school status have pre-existing facilities and remain on the  
12 department's regular repair and maintenance and capital  
13 improvement program schedules. Furthermore, presently, all  
14 Hawaii 3R's projects must be selected from the department of  
15 education repair and maintenance backlog unfunded list, which  
16 only includes department of education-operated conversion  
17 charter schools. Start-up charter schools, however, receive no



1 such support and only received legislative appropriations for  
2 facilities assistance once, after the 2006 session, in the  
3 amount of \$660 per pupil.

4 Except for that single occasion, all of the twenty-three  
5 start-up charter schools have always been forced to pay for  
6 occupancy costs out of a per pupil allocation that is already  
7 significantly lower than that provided to the department of  
8 education-operated schools.

9 Although not intended to serve as the exclusive, sole means  
10 of meeting the State's constitutional obligation to support  
11 charter school facilities, the legislature finds that  
12 innovative, cost-effective public-private partnerships are  
13 promising means of addressing this issue. The legislature  
14 further finds that a program similar to Hawaii 3R's would  
15 provide a mechanism to leverage scarce public resources with  
16 private resources and to use state investments to leverage  
17 federal funding to provide support to the construction, repair,  
18 and maintenance of charter school facilities, which often is  
19 unavailable absent state funding.

20 The legislature further finds that:



1 (1) Any charter school in the State may participate in  
2 programs of the fund, be they start-up or conversion;  
3 and

4 (2) The charter school administrative office may  
5 prioritize funding for projects that exhibit best  
6 practices in green building or sustainable  
7 construction, rehabilitation, repair, and maintenance.

8 Kanu o ka aina learning ohana is in the process of  
9 examining the feasibility of establishing a community  
10 development financial institution to support charter school  
11 facility financing. The legislature may consider transferring  
12 the Hawaii charter school facilities fund and related tax credit  
13 reporting responsibilities from the department of education to  
14 such a community development financial institution upon its  
15 establishment.

16 The legislature further finds that this program aligns well  
17 with another measure under consideration this legislative  
18 session to authorize the State to issue special purpose revenue  
19 bonds, and to use the proceeds from those bonds to assist  
20 charter schools, non-for-profit corporations supporting charter  
21 schools, and community development financial institutions  
22 supporting charter schools.



1           The purpose of this Act is to support the funding of  
2 charter school facilities by establishing a program similar to  
3 the Hawaii 3R's. This is accomplished by creating the Hawaii  
4 charter school facilities fund, which will support only charter  
5 schools, not-for-profit corporations supporting charter schools,  
6 and community development financial institutions supporting  
7 charter schools. This program differs from Hawaii 3R's in that:

- 8           (1) It would be expanded to include acquisition,  
9                   predevelopment, rehabilitation, construction, and  
10                   other capital improvement projects, in addition to  
11                   repair and maintenance; and
- 12           (2) It would accommodate the greater complexity of capital  
13                   improvement projects.

14           SECTION 2. Chapter 302B, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17           "§302B- Hawaii charter school facilities fund. (a)

18           There is established in the state treasury the Hawaii charter  
19           school facilities fund, into which shall be deposited:

- 20           (1) Appropriations by the legislature to the Hawaii  
21           charter school facilities fund;



1       (2) Contributions, grants, endowments, gifts in cash or  
2       otherwise, loans, and bond financing from all sources,  
3       including corporations or other businesses,  
4       foundations, government, individuals, and other  
5       interested parties; and

6       (3) Income and capital gains earned by the fund.

7       (b) The fund shall be administered by the charter schools  
8       administrative office, and the moneys in the fund shall be used  
9       only for the specific purposes for which the fund is  
10      established, pursuant to this section.

11      (c) The office shall spend moneys from the fund in the  
12      form of either grants, loans, or contracts to charter schools,  
13      nonprofit corporations that benefit charter schools, or  
14      contracts with private vendors for the repair, maintenance,  
15      acquisition, predevelopment, rehabilitation, construction, or  
16      other capital improvement projects of charter school facilities,  
17      or facilities administered, operated, or developed by nonprofit  
18      corporations for the support of charter schools in Hawaii in  
19      accordance with this section.

20      (d) There is established the Hawaii charter school  
21      facilities fund advisory board within the charter schools  
22      administrative office, for administrative purposes. The board



1 shall consist of the executive director of the office, who shall  
2 serve as an ex-officio member, and five members who shall be  
3 appointed without regard to section 26-34. Kanu o ka aina  
4 learning ohana shall appoint two members, the Hawaii charter  
5 school network shall appoint two members, and the office shall  
6 appoint one member. The Hawaii charter school facilities fund  
7 advisory board shall be responsible for:

- 8 (1) Soliciting and otherwise raising funds for the Hawaii  
9 charter school facilities fund;
  - 10 (2) Establishing criteria for the expenditure of funds;
  - 11 (3) Reviewing grant and loan proposals using criteria  
12 established by the office;
  - 13 (4) Making recommendations for grants, loans, and other  
14 specific expenditures; and
  - 15 (5) Engaging in other activities necessary to support the  
16 prudent and efficient operation of the Hawaii charter  
17 school facilities fund.
- 18 (e) In managing the Hawaii charter school facilities fund,  
19 the office shall exercise ordinary business care and prudence,  
20 given the facts and circumstances prevailing at the time of  
21 action or decision. In so doing, the office shall consider the  
22 fund's long- and short-term needs in carrying out its purposes,



1 its present and anticipated financial requirements, expected  
2 total return on its investments, price trends, and general  
3 economic conditions.

4 (f) There may be an endowment component of the Hawaii  
5 charter school facilities fund, and the office may accumulate  
6 net income which shall be added to the principal.

7 (g) The use of any state moneys may be restricted by the  
8 legislature in appropriating moneys to the Hawaii charter school  
9 facilities fund.

10 (h) Any organization submitting a proposal to the office  
11 for moneys shall meet the following standards at the time of  
12 application and:

13 (1) Be:

14 (A) A for-profit organization duly registered under  
15 the laws of the State;

16 (B) A nonprofit organization determined by the  
17 Internal Revenue Service to be exempt from the  
18 federal income tax; or

19 (C) An agency of the State or a county;

20 (2) Have experience with the project or in the program  
21 area for which the proposal is being made; and



1       (3) Be licensed and accredited, as applicable, in  
2       accordance with the requirements of federal, state,  
3       and county governments.

4       (i) Organizations or agencies to which moneys are awarded  
5       shall agree to comply with the following conditions prior to  
6       receiving the award:

7       (1) Use persons qualified to engage in the activity to be  
8       funded;

9       (2) Comply with the applicable federal, state, and county  
10       laws; and

11       (3) Comply with any other requirements prescribed by the  
12       office to ensure adherence by the recipient of the  
13       award with applicable federal, state, and county laws,  
14       ordinances, rules, and regulations, and with the  
15       purposes of this section.

16       (j) Chapter 103D shall not apply to organizations or  
17       agencies that apply for grants or contracts under this section;  
18       provided that the office shall be held accountable for the use  
19       of the funds.

20       (k) The Hawaii charter school facilities fund shall be  
21       audited annually by an independent auditor. The results of each  
22       annual audit shall be submitted to the department of budget and





1 finance not later than thirty days from the date the office  
2 receives the audit results. The charter school administrative  
3 office shall retain for a period of three years and permit the  
4 department of budget and finance, state legislators, and the  
5 auditor, or their duly authorized representatives, to inspect  
6 and have access to any documents, papers, books, records, and  
7 other evidence that is pertinent to the Hawaii charter school  
8 facilities fund.

9 (1) For every dollar of state moneys granted by the Hawaii  
10 charter school facilities fund to the project, there shall be a  
11 minimum of \$1 in value matched by private, federal, or county  
12 sources; provided that this matching value may include:

13 (1) The fair market value of contributions of in-kind  
14 goods and services;

15 (2) Federal funding intended for charter schools that  
16 passes through the department as the federally-  
17 designated state education agency or local education  
18 agency;

19 (3) Federal funding that passes through any agency, board,  
20 panel, or other subdivision of the State for the  
21 benefit of charter schools; and



1       (4) Any funding from the office of Hawaiian affairs, as a  
2       quasi-state agency, that did not originate as general  
3       revenues appropriated to it by the legislature.

4       (m) The charter school administrative office shall submit  
5       an annual report to the legislature on the progress of the fund  
6       no later than twenty days prior to the convening of each regular  
7       session."

8       SECTION 3. Section 36-27, Hawaii Revised Statutes, is  
9       amended to read as follows:

10       "**§36-27 Transfers from special funds for central service**  
11       **expenses.** Except as provided in this section, and  
12       notwithstanding any other law to the contrary, from time to  
13       time, the director of finance, for the purpose of defraying the  
14       prorated estimate of central service expenses of government in  
15       relation to all special funds, except the:

16       (1) Special out-of-school time instructional program fund  
17       under section 302A-1310;

18       (2) School cafeteria special funds of the department of  
19       education;

20       (3) Special funds of the University of Hawaii;

21       (4) State educational facilities improvement special fund;



- 1 (5) Convention center enterprise special fund under
- 2 section 201B-8;
- 3 (6) Special funds established by section 206E-6;
- 4 (7) Housing loan program revenue bond special fund;
- 5 (8) Housing project bond special fund;
- 6 (9) Aloha Tower fund created by section 206J-17;
- 7 (10) Funds of the employees' retirement system created by
- 8 section 88-109;
- 9 (11) Unemployment compensation fund established under
- 10 section 383-121;
- 11 (12) Hawaii hurricane relief fund established under chapter
- 12 431P;
- 13 (13) Hawaii health systems corporation special funds and
- 14 the subaccounts of its regional system boards;
- 15 (14) Tourism special fund established under section
- 16 201B-11;
- 17 (15) Universal service fund established under chapter 269;
- 18 (16) Emergency and budget reserve fund under section
- 19 328L-3;
- 20 (17) Public schools special fees and charges fund under
- 21 section 302A-1130(f);
- 22 (18) Sport fish special fund under section 187A-9.5;



- 1 (19) Neurotrauma special fund under section 321H-4;
- 2 (20) Deposit beverage container deposit special fund under  
3 section 342G-104;
- 4 (21) Glass advance disposal fee special fund established by  
5 section 342G-82;
- 6 (22) Center for nursing special fund under section 304A-  
7 2163;
- 8 (23) Passenger facility charge special fund established by  
9 section 261-5.5;
- 10 (24) Solicitation of funds for charitable purposes special  
11 fund established by section 467B-15;
- 12 (25) Land conservation fund established by section 173A-5;
- 13 (26) Court interpreting services revolving fund under  
14 section 607-1.5;
- 15 (27) Trauma system special fund under section 321-22.5;
- 16 (28) Hawaii cancer research special fund;
- 17 (29) Community health centers special fund; [~~and~~]
- 18 (30) Emergency medical services special fund; and
- 19 (31) Hawaii charter school facilities fund established  
20 under section 302B- ;

21 shall deduct five per cent of all receipts of all other special  
22 funds, which deduction shall be transferred to the general fund



1 of the State and become general realizations of the State. All  
2 officers of the State and other persons having power to allocate  
3 or disburse any special funds shall cooperate with the director  
4 in effecting these transfers. To determine the proper revenue  
5 base upon which the central service assessment is to be  
6 calculated, the director shall adopt rules pursuant to chapter  
7 91 for the purpose of suspending or limiting the application of  
8 the central service assessment of any fund. No later than  
9 twenty days prior to the convening of each regular session of  
10 the legislature, the director shall report all central service  
11 assessments made during the preceding fiscal year."

12 SECTION 4. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$ or so  
14 much thereof as may be necessary for fiscal year 2008-2009 for  
15 the Hawaii charter school facilities fund.

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

18 SECTION 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2008.



**Report Title:**

Charter School Facilities Fund; Charter School Administrative Office; Appropriation

**Description:**

Establishes the Hawaii charter school facilities fund for funding the repair, maintenance, and other facilities needs of charter schools. Appropriates funds for the Hawaii charter school facilities fund. (SB2164 SD3)

