

**Report Title:**

Education; Charter Schools; Recodification

**Description:**

Omnibus public charter schools recodification. Creates a new chapter on charter school governance. (SB2719 HD1)



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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 PART I

2 SECTION 1. The purpose of this Act is to improve Hawaii's  
3 charter school system by adopting many of the proposals  
4 developed by the task force on charter school governance  
5 established by Act 87, Session Laws of Hawaii 2005, including:

- 6 (1) Providing consistency and clarity for statutes  
7 relating to the administration and governance of  
8 charter schools by recodifying and reorganizing the  
9 statutes into a new chapter;
- 10 (2) Renaming new century charter schools and new century  
11 conversion charter schools as "charter schools" and  
12 "conversion charter schools", respectively;
- 13 (3) Clarifying that conversion charter schools fall under  
14 the category of "charter schools" but distinguishing  
15 between the procedures for establishing start-up  
16 charter schools and conversion charter schools by  
17 creating separate sections for each;



- 1 (4) Renaming the charter school authorization panel as the  
2 charter school oversight panel, expanding its  
3 membership, and assigning it the responsibilities of  
4 charter school review and ongoing oversight;
- 5 (5) Limiting the number of new charter schools that may be  
6 established based in part on the number of existing  
7 charter schools that receive accreditation from the  
8 Western Association of Schools and Colleges;
- 9 (6) Establishing a cap on the amount a nonprofit  
10 organization is required to contribute annually per  
11 pupil, toward the operation of a conversion charter  
12 school;
- 13 (7) Clarifying the powers and duties of the local school  
14 boards of charter schools;
- 15 (8) Clarifying and enhancing the powers and duties of the  
16 charter school administrative office and its executive  
17 director;
- 18 (9) Allowing civil service employees of conversion charter  
19 schools to receive the same rights, privileges, and  
20 benefits of civil service employees in the department  
21 of education, allowing exempt civil service employees  
22 of start-up and conversion charter schools to receive



1 the same as those of exempt civil service employees of  
2 the department, and ensuring the retention of civil  
3 service status when charter school employees move to  
4 other department positions;

5 (10) Clarifying funding and financing mechanisms for  
6 charter schools;

7 (11) Ensuring proper accountability of charter schools;

8 (12) Providing for collective bargaining for charter school  
9 employees; and

10 (13) Amending other parts of the Hawaii Revised Statutes to  
11 maintain consistency with the provisions of the new  
12 chapter relating to charter schools.

13 SECTION 2. The Hawaii Revised Statutes is amended by  
14 adding a new chapter to read as follows:

15 "CHAPTER 302B

16 PUBLIC CHARTER SCHOOLS

17 §302B-1 Purpose. The purpose of this chapter is to  
18 authorize the establishment of a charter school system and set  
19 forth standards for the governance, administration, support,  
20 financing, autonomy, and accountability for charter schools,  
21 including start-up charter schools and conversion charter  
22 schools.



1           The charter school system is an important complement to the  
2 department of education's school system, one that empowers local  
3 school boards and their charter schools by allowing more  
4 autonomy and flexibility and placing greater responsibility at  
5 the school level. The charter school system is made up of the  
6 board of education, charter school administrative office, the  
7 charter school oversight panel, and individual charter schools  
8 with differing visions, missions, and approaches meeting the  
9 various needs and desires of Hawaii's communities.

10           The purposes of the charter school system include but are  
11 not limited to:

- 12           (1) Providing administrators, parents, students, and  
13 teachers with expanded alternative public school  
14 choices in the types of schools, educational programs,  
15 opportunities, and settings, including services to  
16 underserved populations, geographical areas, or  
17 communities; and
- 18           (2) Encouraging and, when resources and support are  
19 provided, serving as a research venue for the  
20 development, use, and dissemination of alternative and  
21 innovative approaches to educational governance,



1 financing, administration, curriculum, technology, and  
2 teaching strategies.

3 **§302B-2 Definitions.** Whenever used in this chapter,  
4 unless the context otherwise requires:

5 "Authorizer" means a board, panel, or agency designated by  
6 the legislature with the powers and duties to:

- 7 (1) Review applications for new charter schools; and
- 8 (2) Issue or deny new charters.

9 "Board" means the board of education, which has the  
10 authority to authorize charter schools.

11 "Charter school" refers to those public schools holding  
12 charters to operate as charter schools, including start-up and  
13 conversion charter schools, under this chapter, with the  
14 flexibility to implement alternative frameworks with regard to  
15 curriculum, facilities management, instructional approach,  
16 length of the school day, week, or year, and personnel  
17 management.

18 "Charter school oversight panel" means the panel  
19 established in section 302B-4, with the powers and duties to  
20 oversee, review, and revoke a charter.

21 "Conversion charter school" means:



1 (1) Any department of education school that has converted  
2 to a charter school and is managed and operated in  
3 accordance with section 302B-7;

4 (2) Any department of education school that has converted  
5 to a charter school and is managed and operated by a  
6 nonprofit organization in accordance with section  
7 302B-7; or

8 (3) For purpose of this chapter only, a newly-created  
9 school, consisting of programs or sections of existing public  
10 school populations that are part of a separate Hawaiian language  
11 immersion program and using existing public school facilities.

12 "Department" means the department of education.

13 "Detailed implementation plan" means a performance contract  
14 between the charter school oversight panel and the charter  
15 school in which the rights, duties, responsibilities, collective  
16 bargaining role, support, resources, and expectations of the  
17 charter school oversight panel, other state agencies, and the  
18 charter school are identified.

19 "Executive director" means the executive director of the  
20 charter school administrative office.

21 "Local school board" means the autonomous governing body of  
22 a charter school that receives the charter and is responsible



1 for the financial and academic viability of the charter school,  
2 implementation of the charter, the organization and management  
3 of the school, the curriculum, and compliance with applicable  
4 federal and state laws. The local school board shall have the  
5 power to negotiate supplemental collective bargaining agreements  
6 with exclusive representatives of their employees.

7 "Nonprofit organization" means a private, nonprofit, tax-  
8 exempt entity that:

9 (1) Is recognized as a tax-exempt organization under  
10 Section 501(c)(3) of the Internal Revenue Code of  
11 1986, as amended; and

12 (2) Is domiciled in this state.

13 "Office" means the charter school administrative office.

14 "Organizational viability" means that a charter school:

15 (1) Has been duly constituted in accordance with its  
16 charter;

17 (2) Has a local school board established in accordance  
18 with law and its charter;

19 (3) Employs sufficient faculty and staff to provide the  
20 necessary educational program and support services and  
21 to operate the facility in accordance with its  
22 charter;





- 1 (4) Maintains accurate and comprehensive records regarding  
2 students and employees as determined by the office;
- 3 (5) Meets appropriate standards of student achievement;
- 4 (6) Cooperates with the board, the charter school  
5 oversight panel and office requirements in conducting  
6 their respective functions;
- 7 (7) Complies with applicable federal, state, and county  
8 laws and requirements;
- 9 (8) In accordance with the office guidelines and  
10 procedures, is financially sound and fiscally  
11 responsible in its use of public funds, maintains  
12 accurate and comprehensive financial records, operates  
13 in accordance with generally accepted accounting  
14 practices, and maintains a sound financial plan;
- 15 (9) Operates within the scope of its charter and fulfills  
16 obligations and commitments of its charter;
- 17 (10) Complies with all health and safety laws and  
18 requirements; and
- 19 (11) Complies with all office directives, policies, and  
20 procedures.

21 "Start-up charter school" means a new charter school that  
22 was created under section 302B-6 by any community, group of



1 teachers and administrators, or entity recognized as a nonprofit  
2 organization.

3       **§302B-3 Existing charter schools.** Any charter school  
4 holding a charter to operate under part IV, subpart D, of  
5 chapter 302A as that subpart existed before the effective date  
6 of this Act shall be considered a charter school for the  
7 purposes of this chapter.

8       **§302B-4 Charter school oversight panel; establishment;  
9 powers and duties.** (a) There is established the charter school  
10 oversight panel, which shall be placed within the office for  
11 administrative purposes only.

12       (b) The charter school oversight panel shall be composed  
13 of nine members, including:

- 14       (1) Two licensed teachers regularly engaged in teaching;  
15       (2) Two educational officers;  
16       (3) One member or former member of a charter school local  
17             school board;  
18       (4) The chairperson of the board or the chairperson's  
19             designee;  
20       (5) The executive director or the executive director's  
21             designee;



1 (6) A representative of Hawaiian-culture-focused schools;  
2 and

3 (7) A representative from a University of Hawaii  
4 department or program providing services to Hawaiian-  
5 focused or Hawaiian immersion charter schools.

6 (c) Except for the chairperson of the board and the  
7 executive director, the board shall appoint the members of the  
8 charter school oversight panel pursuant to section 26-34, from a  
9 list of qualified nominees submitted to the board by the charter  
10 schools, agencies, and organizations representative of the  
11 constituencies of the charter school oversight panel. To the  
12 extent possible, the charter school oversight panel membership  
13 shall include members from all islands. Nominations to the  
14 charter school oversight panel shall be submitted to the charter  
15 school administrative office which shall certify which category  
16 of membership each nominee would qualify to serve, and then  
17 transmit the names and their qualifications to the board.

18 (d) Appointed charter school oversight panel members shall  
19 serve not more than three consecutive three-year terms; provided  
20 that the initial terms of the appointed members that commence  
21 after June 30, 2006, shall be staggered, as follows:

22 (1) Three members to serve three-year terms;



1 (2) Two members to serve two-year terms; and

2 (3) One member to serve a one-year term.

3 (e) Charter school oversight panel members shall receive  
4 no compensation. When panel duties require that a panel member  
5 take leave of the panel member's duties as a state employee, the  
6 appropriate state department shall allow the panel member to be  
7 placed on administrative leave with pay and shall provide  
8 substitutes, when necessary, to perform that panel member's  
9 duties. Panel members shall be reimbursed for necessary travel  
10 expenses incurred in the conduct of official panel business.

11 (f) The charter school oversight panel shall establish  
12 operating rules which shall include conflict of interest  
13 provisions for members whose school of employment or local  
14 school board membership are before the panel.

15 (g) The chairperson of the charter school oversight panel  
16 shall be designated by the members of the panel.

17 (h) The powers and duties of the charter school oversight  
18 panel shall be to:

19 (1) Review applications for new charter schools in  
20 accordance with 302B-6 and 302B-7;

21 (2) Make recommendations to the board for the issuance of  
22 new charters; provided that the recommendations shall



- 1 take effect after thirty days unless they are  
2 overridden by the board;
- 3 (3) Ensure that charters, detailed implementation plans,  
4 and performance contracts are designed to maximize  
5 school financial and academic success and long term  
6 organizational viability;
- 7 (4) Adopt reporting requirements for charter schools;
- 8 (5) Periodically review existing charter school  
9 operations, approve significant amendments to the  
10 charter and detailed implementation plan, and make  
11 recommendations to the board; provided that the  
12 recommendations shall take effect after thirty days  
13 unless they are overridden by the board;
- 14 (6) Respond to annual self-evaluation reports from charter  
15 schools;
- 16 (7) Provide an annual report to the board, legislature,  
17 and charter schools no later than March 1 of each  
18 year;
- 19 (8) Adopt operating procedures and administrative rules,  
20 policies, and guidelines;
- 21 (9) Develop procedures for the closing of a charter school  
22 and the transfer of appropriate assets to the State;



1 (10) Monitor the assistance support charter schools receive  
2 from other state agencies; and

3 (11) If necessary, revoke a charter; provided that in the  
4 event of a revocation, a charter school may appeal to  
5 the board; provided further that the board shall  
6 respond to the appeal within thirty days; provided  
7 further that the revocation shall take effect thirty  
8 days after the appeal unless it is overridden by the  
9 board.

10 (i) The office shall provide for the staff support and  
11 expenses of the charter school oversight panel. The office  
12 shall submit to the legislature annual appropriation requests to  
13 fund the operations of the panel.

14 (j) The charter school oversight panel may adopt  
15 administrative rules in accordance with chapter 91 to implement  
16 this chapter.

17 **§302B-5 Limit on charter schools.** (a) Beginning in July  
18 2007, the board, with the recommendation of the charter school  
19 oversight panel, may authorize one new start-up charter school  
20 for each existing start-up charter school that has received a  
21 three or more year accreditation from the Western Association of



1 Schools and Colleges or a comparable accreditation authority as  
2 determined by the charter school oversight panel; and

3 (b) Beginning in July 2006, the total number of conversion  
4 charter schools authorized by the board, with the recommendatio  
5 of the charter school oversight panel, shall not exceed twenty-  
6 five conversion charter schools; provided that this limit shall  
7 not apply to department of education schools in restructuring  
8 that are seeking to convert to charter schools in accordance  
9 with the federal No Child Left Behind Act of 2001 (Public Law  
10 107-110).

11 **§302B-6 Start-up charter schools; establishment.** (a) New  
12 start-up charter schools may be established by the creation of a  
13 new school pursuant to this section.

14 (b) Any community, group of teachers, group of teachers  
15 and administrators, or entity recognized as a nonprofit  
16 organization may submit a letter of intent to the charter school  
17 administrative office to form a charter school, establish an  
18 interim local school board as its governing body, and develop a  
19 detailed implementation plan pursuant to subsection (d).

20 (c) The following shall be the process for receiving a  
21 charter:



- 1           (1) On or before September 1st, those who seek to apply  
2           for a charter school with the intent of opening its  
3           doors and beginning operations as a start-up charter  
4           school in the coming school year shall submit a letter  
5           of intent signed by members of the interim local  
6           school board.
- 7           (2) On or before October 1st, the office shall transmit to  
8           the interim school board the application form and  
9           guidelines for completing the application.
- 10          (3) On or before December 15 in the year the applicant  
11          seeks to open and begin operations as a start-up  
12          charter school the interim local school board shall  
13          submit its completed application to the charter school  
14          administrative office.
- 15          (4) The office shall have ten working days to review the  
16          application for completeness and inform the interim  
17          local school board if the application is complete or,  
18          if the application is deficient, a written statement  
19          of the elements of the application that need to be  
20          completed.
- 21          (5) The interim local school board shall have ten working  
22          days to resubmit its complete application.





- 1           (6) Upon receipt of a completed application, the executive  
2           director shall convene the charter school oversight  
3           panel to begin review of the application. The  
4           executive director may provide the charter school  
5           oversight panel with a recommendation based on review  
6           of the application.
- 7           (7) On or before February 15 in the year the applicant  
8           seeks to open and begin operations as a start-up  
9           charter school, the charter school oversight panel  
10          shall notify the applicant of any revisions it may  
11          require in order to recommend approval to the board.
- 12          (8) On or before May 1st in the year the applicant seeks  
13          to open a start-up charter school, the charter school  
14          oversight panel shall transmit its recommendation to  
15          the board for its decision to either grant or deny the  
16          charter.
- 17          (9) On or before June 15 in the year the applicant seeks  
18          to begin operations as a conversion charter school,  
19          the board shall, by majority vote, either issue or  
20          deny the charter; provided that if the board does not  
21          approve the application and issue a charter, the  
22          board:



- 1 (A) Shall clearly identify in writing its reasons for  
2 not issuing the charter;
- 3 (B) Shall allow the local school board to revise its  
4 plan, in accordance with the board's reasons for  
5 rejecting the plan, and resubmit the amended  
6 plan; and
- 7 (C) May issue a provisional approval if the board  
8 determines that the applicant may reasonably be  
9 expected to expeditiously resolve any remaining  
10 findings impeding the issuance of a charter. The  
11 provisional approval shall be effective for one  
12 year. The board may extend the provisional  
13 approval beyond a period of one year.
- 14 (10) Upon receipt of an amended plan, the board's decision  
15 shall be final.
- 16 (11) No start-up charter school may begin operation if the  
17 board has not issued at least a provisional approval  
18 of its charter on or before July 1st.
- 19 (12) If the board is unable to issue a charter before July  
20 1st, the applicant may resubmit its application in the  
21 following year.



1 (d) The application to become a start-up charter school  
2 shall include a detailed implementation plan that meets the  
3 requirements of this subsection and section 302B-10. The plan  
4 shall include the following:

5 (1) A description of employee rights and management issues  
6 and a framework for addressing those issues that  
7 protects the rights of employees;

8 (2) A plan for identifying, recruiting, and retaining  
9 highly-qualified instructional faculty;

10 (3) A plan for identifying, recruiting, and selecting  
11 students that is not exclusive, elitist, or  
12 segregationist;

13 (4) The curriculum and instructional framework to be used  
14 to achieve student outcomes, including an assessment  
15 plan;

16 (5) A plan for the assessment of student, administrative  
17 support, and teaching personnel performance that:

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

19 (B) Incorporates or exceeds the educational content  
20 and performance standards developed by the  
21 department of education for the public school  
22 system;



1 (C) Includes a system of faculty and staff  
2 accountability that holds faculty and staff both  
3 individually and collectively accountable for  
4 their performance and that is at least equivalent  
5 to the average system of accountability in public  
6 schools throughout the State; and

7 (D) Provides for program audits and annual financial  
8 audits;

9 (6) A governance structure for the school that  
10 incorporates a conflict of interest policy and a plan  
11 for periodic training to carry out the duties of local  
12 school board members;

13 (7) A financial plan based on the most recent fiscal  
14 year's per-pupil charter school allocation that  
15 demonstrates the ability to meet the financial  
16 obligations of one-time start-up costs and ongoing  
17 costs such as monthly payrolls, faculty recruitment,  
18 professional development, and facilities costs; and

19 (8) A facilities plan.

20 (e) The charter school oversight panel may adopt rules  
21 pursuant to chapter 91 to further guide the charter school  
22 oversight panel's review process.



1           **§302B-7 Conversion charter schools; establishment.** (a)

2 Conversion charter schools may be established by the charter  
3 school oversight panel pursuant to this section.

4           (b) Any department public school, school community  
5 council, group of teachers, or group of teachers and  
6 administrators may submit a letter of intent to the charter  
7 school administrative office to convert a departmental school to  
8 a charter school, establish an interim local school board as its  
9 governing body, and develop a detailed implementation plan  
10 pursuant to subsection (d).

11           (c) The following shall be the process for receiving a  
12 charter:

13           (1) On or before September 1st, those who seek to apply  
14 for a conversion charter with the intent of operating  
15 as a charter schools in the coming school year shall  
16 submit a letter of intent signed by members of the  
17 interim local school board.

18           (2) On or before October 1st, the office shall transmit to  
19 the interim school board the application form and  
20 guidelines for completing the application.

21           (3) On or before December 15 in the year the applicant  
22 seeks to begin operations as a conversion charter



1 school the interim local school board shall submit its  
2 completed application to the office. The application  
3 shall include certification and documentation that the  
4 application and the proposed detailed implementation  
5 plan was approved by a majority of the votes cast by  
6 existing administrative, support, and teaching  
7 personnel, and parents of students at the proposed  
8 conversion charter school.

9 (4) The office shall have ten working days to review the  
10 application for completeness and inform the interim  
11 local school board if the application is complete or,  
12 if the application is deficient, a written statement  
13 of the elements of the application that need to be  
14 completed.

15 (5) The interim local school board shall have ten working  
16 days to resubmit its complete application.

17 (6) Upon receipt of a completed application, the executive  
18 director shall convene the charter school oversight  
19 panel to begin review of the application. The  
20 executive director may provide the charter school  
21 oversight panel with a recommendation based on review  
22 of the application.



- 1           (7) On or before February 15 in the year the applicant  
2           seeks to begin operations as a conversion charter  
3           school, the charter school oversight panel shall  
4           notify the applicant of any revisions it may require  
5           in order to recommend approval to the board.
- 6           (8) On or before May 1st in the year the applicant seeks  
7           to open a start-up charter school, the charter school  
8           oversight panel shall transmit its recommendation to  
9           the board for its decision to either grant or deny the  
10          charter.
- 11          (9) On or before June 15 in the year the applicant seeks  
12          to begin operations as a conversion charter school,  
13          the board shall, by majority vote, either issue or  
14          deny the charter; provided that if the board does not  
15          approve the application and issue a charter, the  
16          board:
- 17                (A) Shall clearly identify in writing its reasons for  
18                not issuing the charter;
- 19                (B) Shall allow the local school board to revise its  
20                plan, in accordance with the board's reasons for  
21                rejecting the plan, and resubmit the amended  
22                plan; and



1 (C) May issue a provisional approval if the board  
2 determines that the applicant may reasonably be  
3 expected to expeditiously resolve any remaining  
4 findings impeding the issuance of a charter. The  
5 provisional approval shall be effective for one  
6 year. The board may extend the provisional  
7 approval beyond a period of one year.

8 (10) Upon receipt of an amended plan, the board's decision  
9 shall be final.

10 (11) No conversion school may begin operation if the board  
11 has not issued at least a provisional approval of its  
12 charter on or before July 1st.

13 (12) If the board is unable to issue a charter before July  
14 1st, the applicant may resubmit its application in the  
15 following year.

16 (d) The application to become a conversion charter school  
17 shall include a detailed implementation plan that meets the  
18 requirements of this subsection and section 302B-10. The plan  
19 shall include the following:

20 (1) A description of employee rights and management issues  
21 and a framework for addressing those issues that  
22 protects the rights of employees;





- 1           (2) A plan for identifying, recruiting, and retaining  
2           highly-qualified instructional faculty;
- 3           (3) A plan for identifying, recruiting, and selecting  
4           students that is not exclusive, elitist, or  
5           segregationist;
- 6           (4) The curriculum and instructional framework to be used  
7           to achieve student outcomes, including an assessment  
8           plan;
- 9           (5) A plan for the assessment of student, administrative  
10          support, and teaching personnel performance that:
- 11          (A) Recognizes the interests of the general public;
- 12          (B) Incorporates or exceeds the educational content  
13          and performance standards developed by the  
14          department of education for the public school  
15          system;
- 16          (C) Includes a system of faculty and staff  
17          accountability that holds faculty and staff both  
18          individually and collectively accountable for  
19          their performance and that is at least equivalent  
20          to the average system of accountability in public  
21          schools throughout the State; and



1 (D) Provides for program audits and annual financial  
2 audits;

3 (6) A governance structure for the school that  
4 incorporates a conflict of interest policy and a plan  
5 for periodic training to carry out the duties of  
6 local school board members;

7 (7) A financial plan based on the most recent fiscal  
8 year's per-pupil charter school allocation that  
9 demonstrates the ability to meet the financial  
10 obligations of one-time start-up costs and ongoing  
11 costs such as monthly payrolls, faculty recruitment,  
12 professional development, and facilities costs; and

13 (8) A facilities plan.

14 (e) The charter school oversight panel may adopt rules  
15 pursuant to chapter 91 to further guide the charter school  
16 oversight panel's review process.

17 (f) A nonprofit organization may submit a letter of intent  
18 to the charter school administrative office to convert a  
19 department of education school to a charter school, operate and  
20 manage the school, establish a local school board as its  
21 governing body, and develop a detailed implementation plan  
22 pursuant to subsection (c); provided that:



- 1           (1) The local school board as the governing body of the  
2           conversion charter school shall be composed of the  
3           board of directors of the nonprofit organization and  
4           not the participants specified in section 302B-8. The  
5           nonprofit organization may also appoint advisory  
6           panels of community representatives for each school  
7           managed by the organization, with whom the  
8           organization may consult; provided that these panels  
9           shall not have governing authority over the school and  
10          shall serve only in an advisory capacity to the  
11          nonprofit organization;
- 12          (2) The detailed implementation plan for each conversion  
13          charter school to be operated by the nonprofit  
14          organization shall be formulated, developed, and  
15          submitted by the nonprofit organization and shall be  
16          approved by a majority of the votes cast by existing  
17          administrative, support, and teaching personnel, and  
18          parents of the students of the proposed conversion  
19          charter school;
- 20          (3) The board of directors of the nonprofit organization,  
21          as the governing body for the conversion charter



1 school that it operates and manages, shall have the  
2 same protections that are afforded to the state board;

3 (4) Any conversion charter school that is managed and  
4 operated by a nonprofit organization shall be eligible  
5 for the same federal and state funding as other public  
6 schools; provided that the nonprofit organization  
7 makes a minimum annual contribution of \$1 per pupil  
8 toward the operation of a conversion charter school  
9 for every \$4 per pupil allocated by the office for the  
10 operation of the conversion charter school; provided  
11 further that in no event shall the nonprofit  
12 organization be required to contribute more than the  
13 total required contribution per pupil per year.

14 "Total required contribution" means:

15 (A) \$1,500 for school years 2006-2007 through 2010-  
16 11;

17 (B) \$1,650 for school years 2011-2012 through 2015-  
18 2016; and

19 (C) \$1,815 for school years 2016-2017 through 2020-  
20 2021.

21 (5) If, at any time, the board of directors of the  
22 nonprofit organization governing the conversion



1 charter school votes to discontinue its relationship  
2 with the charter school, the charter school may submit  
3 an application to the charter school oversight panel  
4 to continue as a conversion school without the  
5 participation of the nonprofit organization; and

6 (6) If, at any time, the conversion charter school  
7 dissolves or the charter is revoked, the State shall  
8 have first right, at no cost to the State, to all the  
9 assets and facilities of the conversion charter  
10 school.

11 (g) Any nonprofit organization that seeks to manage or  
12 operate a conversion charter school as provided in subsection  
13 (f) shall comply with the following at the time of application:

14 (1) Have bylaws or policies that describe the manner in  
15 which business is conducted and policies that relate  
16 to the management of potential conflict of interest  
17 situations;

18 (2) Have experience in the management and operation of  
19 public or private schools, or, to the extent  
20 necessary, agree to obtain appropriate services from  
21 another entity or entities possessing such experience;



1           (3) Comply with all applicable federal, state, and county  
2           laws, including licensure or accreditation, as  
3           applicable; and

4           (4) Comply with any other requirements prescribed by the  
5           department of education to ensure adherence with  
6           applicable federal, state, and county laws and the  
7           purposes of this chapter.

8           (h) The process for review and approval of a conversion  
9           charter school to be operated by a nonprofit organization shall  
10          be the same as for other conversion charter schools pursuant to  
11          (c).

12          (i) Any existing programs or sections of existing public  
13          school populations of a department school that are part of a  
14          separate Hawaiian language immersion program and using existing  
15          public school facilities may apply to become a charter school  
16          using the same process as described above; provided that the  
17          application for consideration as a Hawaiian immersion conversion  
18          charter school shall include certification and documentation  
19          that the application and the proposed detailed implementation  
20          plan was approved by a majority of the votes cast by existing  
21          administrative, support, and teaching personnel, and parents of  
22          students of the entire department school at which the proposed



1 Hawaiian immersion conversion charter school is located. This  
2 type of school, for purposes of this chapter only, shall be  
3 categorized as a conversion charter school. Any Hawaiian  
4 immersion charter school that has received a charter prior to  
5 July 1, 2006, shall be considered a conversion charter school  
6 for purposes of this chapter.

7 **§302B-8 Local school boards; powers and duties.** (a) All  
8 local school boards, with the exception of those of conversion  
9 charter schools that are established, managed, and operated by a  
10 nonprofit organization pursuant to section 302B-7(f), shall be  
11 composed of, at a minimum, one representative from each of the  
12 following participant groups:

- 13 (1) Principals;
- 14 (2) Instructional staff members selected by the school  
15 instructional staff;
- 16 (3) Support staff selected by the support staff of the  
17 school;
- 18 (4) Parents of students attending the school selected by  
19 the parents of the school;
- 20 (5) Student body representatives selected by the students  
21 of the school; and
- 22 (6) The community at large.



1 (b) No chief executive officer, chief administrative  
2 officer, executive director, or otherwise designated head of a  
3 school may serve as the chair of the local school board.

4 (c) The local school board shall be the autonomous  
5 governing body of a charter school that receives the charter and  
6 shall be responsible for the financial and academic viability of  
7 the charter school, implementation of the charter, the  
8 organization and management of the school, the curriculum, and  
9 compliance with applicable federal and state laws. The local  
10 school board shall have the power to negotiate supplemental  
11 collective bargaining agreements with exclusive representatives  
12 of their employees.

13 (d) Local school boards shall be exempt from chapter 103D,  
14 but shall develop internal policies and procedures for the  
15 procurement of goods, services, and construction, consistent  
16 with the goals of public accountability and public procurement  
17 practices. Charter schools are encouraged to use the provisions  
18 of chapter 103D where possible; provided that the use of one or  
19 more provisions of chapter 103D shall not constitute a waiver of  
20 the exemption from chapter 103D and shall not subject the  
21 charter school to any other provision of chapter 103D. Charter  
22 schools shall account for funds expended for the procurement of





1 goods and services, and this accounting shall be available to  
2 the public.

3 (e) Charter schools and their local school boards shall be  
4 exempt from chapter 92; provided that the local school boards  
5 shall make available the notices, agendas, documents to be voted  
6 upon and previously approved minutes of public meetings:

7 (1) At a publicly accessible area in the local school  
8 board or charter school's administrative office so as  
9 to be available for review during regular business  
10 hours; and

11 (2) On the local school board's or charter school's  
12 Internet web site not less than six days prior to the  
13 public meeting, unless a waiver is granted by the  
14 charter school administrative office executive  
15 director in the case of an emergency;

16 provided further that charter schools and their local school  
17 boards shall adopt internal procedures to facilitate and  
18 encourage public decision making, transparency, accountability,  
19 reasonable access to records, school and community participation  
20 and open discussion. Charter schools are encouraged to use the  
21 provisions of chapter 92 where possible; provided that the use  
22 of one or more provisions of chapter 92 shall not constitute a



1 waiver of the exemption from chapter 92 and shall not subject  
2 the charter school to any other provision of chapter 92.

3 (f) The State shall afford the local school board of any  
4 charter school the same protections as the State affords to the  
5 board.

6 **§302B-9 Charter school administrative office.** (a) There  
7 is established a charter school administrative office, which  
8 shall be attached to the department for administrative purposes  
9 only. The office shall be administered by an executive  
10 director, who shall be appointed without regard to chapters 76  
11 and 89 by the board based upon the recommendations of an  
12 organization of charter schools operating within the State or  
13 from a list of nominees submitted by the charter schools. The  
14 board may hire the executive director on a multi-year contract.  
15 The executive director may hire necessary staff without regard  
16 to chapters 76 and 89 to assist in the administration of the  
17 office.

18 (b) The executive director, under the direction of the  
19 board and in consultation with the charter schools, shall be  
20 responsible for the internal organization, operation, and  
21 management of the charter school system, including:



- 1           (1) Preparation and execution of the budget for the  
2           charter schools, including submission of the budget  
3           request to the board, the governor, and the  
4           legislature;
- 5           (2) Allocation of annual appropriations to the charter  
6           schools and distribution of federal funds to charter  
7           schools;
- 8           (3) Compliance with applicable state laws related to the  
9           administration of the charter schools;
- 10          (4) Preparation of contracts between the charter schools  
11          and the department of education for centralized  
12          services to be provided by the department;
- 13          (5) Preparation of contracts between the charter schools  
14          and other state agencies for financial or personnel  
15          services to be provided by the state agencies to the  
16          charter schools;
- 17          (6) Provide independent analysis and recommendations on  
18          charter school issues;
- 19          (7) Representation of charter schools and the charter  
20          school system in communications with the board, the  
21          governor, and the legislature;



- 1 (8) Communicate positions, policies, and views of the  
2 board regarding charter schools to policymakers,  
3 charter schools, and the public;
- 4 (9) Advocate for, assist, and support the development,  
5 growth, progress, and success of charter schools and  
6 the charter school system;
- 7 (10) Facilitate training and oversee administrative support  
8 for the charter school oversight panel;
- 9 (11) Implement the policies and rules of the charter school  
10 oversight panel;
- 11 (12) Establish a dispute resolution and mediation panel;  
12 and
- 13 (13) Upon request by one or more charter schools, assist in  
14 the negotiation of a collective bargaining agreement  
15 with the exclusive representative of its employees.
- 16 (c) The executive director shall be evaluated annually and  
17 separately by the board and the charter schools.
- 18 (d) The salary of the executive director and staff shall  
19 be set by the board based upon the recommendations of charter  
20 schools within the State; provided that the salaries and  
21 operational expenses of the charter school administrative office  
22 shall be paid from the annual charter school appropriation and



1 shall not exceed two per cent of the total allocation in any  
2 fiscal year.

3 (e) The charter school administrative office shall include  
4 in its annual budget request additional funds to cover the  
5 estimated costs of:

6 (1) Vacation and sick leave accrued by employees  
7 transferring to a charter school from another state  
8 agency or department;

9 (2) The cost of substitute teachers needed when a teacher  
10 is out on vacation or sick leave;

11 (3) Adjustments to enrollments;

12 (4) Costs associated with arbitration in the grievance  
13 process; and

14 (5) Costs associated with the charter school oversight  
15 panel.

16 (f) The charter school administrative office may withhold  
17 funds for unauthorized charter school enrollments that are  
18 inconsistent with approved detailed implementation plans.

19 (g) The charter school administrative office may carry  
20 over funds from previous year allocations. Funds distributed to  
21 charter schools shall be considered expended.



1           **§302B-10 Exemptions from state laws.** (a) Charter schools  
2 shall be exempt from all state laws in conflict with this  
3 chapter, except those regarding:

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

5                   (A) The exclusive representatives defined in chapter  
6                   89 and the local school board of the charter  
7                   school may enter into supplemental agreements  
8                   that contain cost and noncost items to facilitate  
9                   decentralized decisionmaking;

10                   (B) The agreements shall be funded from the current  
11                   allocation or other sources of revenue received  
12                   by the charter school; provided that collective  
13                   bargaining increases for employees shall be  
14                   allocated by the department of budget and finance  
15                   to the charter school administrative office for  
16                   distribution to charter schools; and

17                   (C) These supplemental agreements may differ from the  
18                   master contracts negotiated with the department  
19                   of education;

20           (2) Discriminatory practices under section 378-2; and

21           (3) Health and safety requirements.



1 (b) Charter schools and the charter school administrative  
2 office shall be exempt from chapter 103D, but shall develop  
3 internal policies and procedures for the procurement of goods,  
4 services, and construction, consistent with the goals of public  
5 accountability and public procurement practices. Charter  
6 schools are encouraged to use the provisions of chapter 103D  
7 where possible; provided that the use of one or more provisions  
8 of chapter 103D shall not constitute a waiver of the exemption  
9 from chapter 103D and shall not subject the charter school to  
10 any other provision of chapter 103D. Charter schools shall  
11 account for funds expended for the procurement of goods and  
12 services, and this accounting shall be available to the public.

13 (c) Charter schools and their local school boards shall be  
14 exempt from chapter 92; provided that the local school boards  
15 shall make available the notices, agendas, documents to be voted  
16 upon and previously approved minutes of public meetings:

17 (1) At a publicly accessible area in the local school  
18 board or charter school's administrative office so as  
19 to be available for review during regular business  
20 hours; and

21 (2) On the local school board's or charter school's  
22 Internet web site not less than six days prior to the



1 public meeting, unless a waiver is granted by the  
2 charter school administrative office executive  
3 director in the case of an emergency;  
4 provided further that charter schools and their local school  
5 boards shall adopt internal procedures to facilitate and  
6 encourage public decision making, transparency, accountability,  
7 reasonable access to records, school and community participation  
8 and open discussion. Charter schools are encouraged to use the  
9 provisions of chapter 92 where possible; provided that the use  
10 of one or more provisions of chapter 92 shall not constitute a  
11 waiver of the exemption from chapter 92 and shall not subject  
12 the charter school to any other provision of chapter 92.

13 (d) Any charter school, prior to the beginning of the  
14 school year, may enter into an annual contract with any  
15 department for centralized services to be provided by that  
16 department.

17 (e) Notwithstanding any law to the contrary, as public  
18 schools and entities of the State, charter schools shall not  
19 bring suit against any other entity or agency of the State.

20 **§302B-11 Civil service status; employee rights.** (a)  
21 Civil service employees of department schools shall retain their  
22 civil service status upon the conversion of their school to a





1 conversion charter school. Positions in a conversion charter  
2 school that would be civil service in a department public  
3 school, shall be civil service positions and subject to chapter  
4 76. Civil service employees of a conversion charter school  
5 shall retain their civil service status in the department's  
6 human resources civil service system and shall be entitled to  
7 all rights, privileges, and benefits as other civil service  
8 employees employed by the department. Exempt civil service  
9 employees, as provided in section 76-16(b), of a start-up  
10 charter school and conversion charter school shall retain their  
11 status in the department's human resources system for support  
12 services personnel and shall be entitled to all rights,  
13 privileges, and benefits as other exempt civil service employees  
14 employed by the department. An employee with civil service  
15 status at a conversion charter school who transfers, is  
16 promoted, or takes a voluntary demotion to another civil service  
17 position within the department shall be entitled to all of the  
18 rights, privileges, and benefits of continuous, uninterrupted  
19 civil service.

20 (b) The State shall afford administrative, support, and  
21 instructional employees in charter schools full participation in  
22 the State's systems for retirement, workers' compensation,



1 unemployment insurance, temporary disability insurance, and  
2 health benefits in accordance with the qualification  
3 requirements for each.

4 (c) The department, to the extent possible, shall provide  
5 its position listings to the office and any interested local  
6 school board of any charter school.

7 (d) The department, in conjunction with the office, shall  
8 facilitate and encourage the movement of instructional personnel  
9 between the department and charter schools; provided that:

10 (1) Comparable and verifiable professional development and  
11 employee evaluation standards and practices, as  
12 determined and certified by the office, are in place  
13 in charter schools for instructional staff;

14 (2) Licensed charter school teachers or highly qualified  
15 individuals, as determined by the department, who are  
16 not yet tenured in the department and are entering or  
17 returning to the department after full-time employment  
18 of no less than one full school year at a charter  
19 school, shall be subject to no more than one year of  
20 probationary status; and

21 (3) Tenured department licensed teachers or highly  
22 qualified individuals, as determined by the



1 department, who transfer to charter schools shall not  
2 be required to serve a probationary period.

3 **§302B-12 Administration of workers' compensation.** The  
4 department of human resources development shall administer  
5 workers' compensation claims for employees of charter schools,  
6 who shall be covered by the same workers' compensation system as  
7 other public employees. The department of human resources  
8 development shall process, investigate, and make payments on  
9 claims; provided that:

10 (1) Charter schools shall compile the preliminary claim  
11 form and forward it to the department of human  
12 resources development; and

13 (2) The department of human resources development shall  
14 receive no more than 0.07 per cent of the EDN 600  
15 appropriation to process these workers' compensation  
16 claims.

17 **§302B-13 Funding and finance.** (a) Beginning with fiscal  
18 year 2006-2007, and each fiscal year thereafter, the office  
19 shall submit a request for general fund appropriations for each  
20 charter school based upon:

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



- 1           (2) A per-pupil amount for each regular education and  
2           special education student, which shall be equivalent  
3           to the total per-pupil cost based upon average  
4           enrollment in all cost categories, including  
5           comprehensive school support services but excluding  
6           special education services, and for all means of  
7           financing except federal funds, as reported in the  
8           most recently published department of education  
9           consolidated annual financial report; provided that  
10          the legislature may make an adjustment to the per-  
11          pupil allocation for the purposes of this section; and  
12          (3) Those fringe benefit costs requested shall be included  
13          in the department of budget and finance's annual  
14          budget request. No fringe benefit costs shall be  
15          charged directly to or deducted from the charter  
16          school per-pupil allocations.

17          The legislature shall make an appropriation based upon the  
18          budget request; provided that the legislature may make  
19          additional appropriations for fringe, workers' compensation, and  
20          other employee benefits, facility costs, and other requested  
21          amounts.



1           The governor, pursuant to chapter 37, may impose  
2 restrictions or reductions on charter school appropriations  
3 similar to those imposed on other public schools.

4           (b) Charter schools shall be eligible for all federal  
5 financial support to the same extent as all other public  
6 schools. The department shall provide the office with all  
7 federal grant proposals that include charter schools as  
8 potential recipients and timely reports on federal grants  
9 received for which charter schools may apply. Federal funds  
10 received by the department for charter schools shall be  
11 transferred to the office for distribution to charter schools in  
12 accordance with the federal requirements. If administrative  
13 services related to federal grants and subsidies are provided to  
14 the charter school by the department, the charter school shall  
15 reimburse the department for the actual costs of the  
16 administrative services in an amount that does not exceed six  
17 and one-half per cent of the charter school's federal grants and  
18 subsidies.

19           Any charter school shall be eligible to receive any  
20 supplemental federal grant or award for which any other public  
21 school may submit a proposal, or any supplemental federal grants  
22 limited to charter schools; provided that if department



1 administrative services, including funds management, budgetary,  
2 fiscal accounting, or other related services, are provided with  
3 respect to these supplemental grants, the charter school shall  
4 reimburse the department for the actual costs of the  
5 administrative services in an amount that shall not exceed six  
6 and one-half per cent of the supplemental grant for which the  
7 services are used.

8 All additional funds that are generated by the local school  
9 boards, not from a supplemental grant, shall be held separate  
10 and apart from allotted funds and may be expended at the  
11 discretion of the local school boards.

12 (c) To enable charter schools to access state funding  
13 prior to the start of each school year, foster their fiscal  
14 planning, and enhance their accountability, the office shall:

15 (1) Provide fifty per cent of a charter school's per-pupil  
16 allocation based on the charter school's projected  
17 student enrollment no later than July 20 of each  
18 fiscal year; provided that the charter school shall  
19 submit to the office a projected student enrollment no  
20 later than May 15 of each year;

21 (2) Provide an additional forty per cent of a charter  
22 school's per-pupil allocation no later than November



1 15 of each year; provided that the charter school  
2 shall submit to the office:

3 (A) Student enrollment as verified on October 15 of  
4 each year; provided that the student enrollment  
5 shall be verified on the last business day  
6 immediately prior to October 15 should that date  
7 fall on a weekend;

8 (B) An accounting of the percentage of student  
9 enrollment that transferred from public schools  
10 established and maintained by the department;  
11 provided that these accountings shall also be  
12 submitted by the office to the legislature no  
13 later than twenty days prior to the start of each  
14 regular session;

15 and

16 (3) The remaining ten per cent per-pupil allocation of a  
17 charter school no later than January 1 of each year as  
18 a contingency balance to ensure fiscal accountability;  
19 provided that that charter school oversight panel may  
20 adopt administrative rules in accordance with chapter  
21 91 to make adjustments in allocations based on non-  
22 compliance with office administrative procedures and



1 charter school oversight panel-approved accountability  
2 requirements.

3 (d) The department shall provide appropriate transitional  
4 resources to a conversion charter school for its first year of  
5 operation as a charter school based upon the department's  
6 allocation to the school for the year prior to the conversion.

7 (e) No start-up charter school or conversion charter  
8 school may assess tuition.

9 **§302B-14 Weighted student formula.** (a) Notwithstanding  
10 section 302B-13 and beginning on September 1, 2006, charter  
11 schools shall elect whether to receive allocations according to  
12 the department's weighted student formula adopted pursuant to  
13 section 302A-1303.6; provided that:

14 (1) All charter schools, as a group, with each local  
15 school board being accorded one vote, shall elect, by  
16 greater than two-thirds agreement among the local  
17 school boards, whether to receive allocations through  
18 the department's weighted student formula;

19 (2) Any election by charter schools to receive department  
20 allocations, or not to receive allocations, through  
21 the department's weighted student formula shall be  
22 made by September 1 of each even-numbered year, and





1 the election shall apply to the fiscal biennium  
2 beginning July 1 of the following year; and

3 (3) The election to receive allocations, or not to receive  
4 allocations, through the department's weighted student  
5 formula shall be communicated to the department  
6 through the office.

7 (b) The charter schools, through the office, may propose  
8 to the board an alternative weighted student formula, approved  
9 of by more than two-thirds of the local school boards, with each  
10 local school board being accorded one vote, to be administered  
11 by the office and to apply to the per-pupil allocation for  
12 charter schools.

13 **§302B-15 Accountability; probationary status; revocation**  
14 **of charter.** (a) Every charter school shall conduct annual  
15 self-evaluations that shall be submitted to the office within  
16 sixty working days after the completion of the school year, or  
17 in accordance with administrative rules. The self-evaluation  
18 process shall include but not be limited to:

19 (1) The identification and adoption of benchmarks to  
20 measure and evaluate administrative and instructional  
21 programs;



1           (2) The identification of any innovations or research that  
2           may assist other public schools;

3           (3) The identification of any administrative and legal  
4           barriers to meeting the adopted benchmarks, and  
5           recommendations for improvements and modifications to  
6           address the barriers;

7           (4) An evaluation of student achievement within the  
8           charter school; and

9           (5) A profile of the charter school's enrollment and the  
10          community it serves, including a breakdown of regular  
11          education and special education students; and

12          (6) An evaluation of the school's organizational  
13          viability.

14          (b) The charter school oversight panel shall conduct  
15 multi-year evaluations of charter schools that have been  
16 chartered for four or more years, and may conduct special  
17 evaluations at any time. The charter school oversight panel  
18 shall adopt rules pursuant to chapter 91 for its evaluations,  
19 including a schedule of such evaluations.

20          (c) The charter school oversight panel may place a charter  
21 school on probationary status based upon the findings of its  
22 evaluation, provided that:



- 1 (1) The charter school and the office are involved in  
2 substantive discussions with the charter school  
3 oversight panel regarding the evaluation;
- 4 (2) The notice of probation is delivered to the charter  
5 school and specifies the deficiencies requiring  
6 corrections, the probation period, and monitoring and  
7 reporting requirements;
- 8 (3) For deficiencies related to student performance, a  
9 charter school shall be allowed two years to improve  
10 student performance; and
- 11 (4) For deficiencies related to financial plans, a charter  
12 school shall be allowed one year to develop a sound  
13 financial plan.

14 The charter school shall remain on probationary status  
15 until the panel charter school oversight votes to either remove  
16 the charter school from probationary status or revoke its  
17 charter.

18 The charter school oversight panel shall adopt  
19 administrative rules pursuant to chapter 91 for placing charter  
20 schools on probation and for revoking a charter.

21 (d) If a charter school fails to resolve deficiencies by  
22 the end of the probation period, the charter school oversight



1 panel, by two-thirds vote, may revoke the charter. The charter  
2 school oversight panel may revoke the charter for serious  
3 student or employee health or safety deficiencies in accordance  
4 with rules adopted by the charter school oversight panel,  
5 provided that:

6 (1) The charter school is given notice of specific health  
7 or safety deficiencies and is afforded an opportunity  
8 to present its case to the charter school oversight  
9 panel;

10 (2) The chairperson of the charter school oversight panel  
11 appoints a task group to visit the charter school and  
12 conduct meetings with its local school board and its  
13 school community to gather input;

14 (3) Two-thirds of the charter school oversight panel vote  
15 to revoke the charter;

16 (4) The best interest of the school's students guide all  
17 decisions; and

18 (5) After a decision to revoke a charter, the charter  
19 school shall be allowed to remain open until a plan  
20 for an orderly shut-down or transfer of students and  
21 assets is developed and executed;



1 provided further that in the event of a revocation, a charter  
2 school may appeal to the board; provided further that the board  
3 shall respond to the appeal within thirty days; provided further  
4 that the revocation shall take effect thirty days after the  
5 appeal unless it is overridden by the board.

6 (e) If there is an immediate concern for student or  
7 employee health or safety at a charter school, the charter  
8 school oversight panel, in consultation with the office, may  
9 adopt an interim restructuring plan that may include appointment  
10 of an interim local school board, an interim local school board  
11 chairperson, or a principal to temporarily assume operations of  
12 the school; provided that the charter schools' stakeholders and  
13 community are given the first opportunity to appoint a new local  
14 school board which shall appoint a new interim principal.

15 (f) The executive director shall adopt administrative  
16 rules to supplement accountability measures incorporated in the  
17 written performance contracts required under sections 302B-5 and  
18 302B-6.

19 (g) If, at any time, a charter school dissolves or the  
20 charter is revoked, the State of Hawaii shall have first right,  
21 at no cost to the State, to all the assets and facilities of the  
22 charter school, except as otherwise provided by law.



1           **§302B-16 Responsibilities of department of education;**  
2 **special education services.** (a) The department shall  
3 collaborate with the office to develop a system of technical  
4 assistance related to compliance with federal and state laws and  
5 access to federal and state funds. The department and the  
6 office shall collaborate to develop a list of central services  
7 that the department may offer for purchase by a charter school  
8 at an annual cost to be negotiated between an individual charter  
9 school and the department. The department shall enter into a  
10 contract with a charter school to provide these services, which  
11 shall be re-negotiated on an annual basis.

12           (b) The department shall be responsible for the provision  
13 of a free, appropriate public education. Any charter school  
14 that enrolls special education students or identifies one of its  
15 students as eligible for special education shall be responsible  
16 for providing the educational and related services required by a  
17 student's individualized education program. The programs and  
18 services for the student shall be determined collaboratively by  
19 the student's individualized education program team and the  
20 student's parents or legal guardians.

21           If the charter school is unable to provide all of the  
22 required services, then services to the student shall be



1 provided by the department in accordance with the student's  
2 individualized educational program. The department shall  
3 collaborate with the office to develop guidelines related to the  
4 provision of special education services and resources to each  
5 charter school. The department shall review all of the current  
6 individualized education programs of special education students  
7 enrolled in a charter school and may offer staff, funding, or  
8 both, to the charter school based upon a per-pupil weighted  
9 formula implemented by the department and used to allocate  
10 resources for special education students in the public schools.

11 **§302B-17 Sports.** The department shall provide students at  
12 charter schools with the same opportunity to participate in  
13 athletics provided to students at other public schools. If a  
14 student at a charter school wishes to participate in a sport for  
15 which there is no program at the charter school, the department  
16 shall allow that student to participate in a comparable program  
17 of any public school in the complex in which the charter school  
18 is located."

19 SECTION 3. Part IV, subpart D, of chapter 302A, Hawaii  
20 Revised Statutes, is repealed.

21 PART II



1 SECTION 4. The purpose of this part is to make conforming  
2 amendments to various sections of the Hawaii Revised Statutes in  
3 accordance with the provisions of part I of this Act.

4 SECTION 5. Chapter 89, Hawaii Revised Statutes, is amended  
5 by adding a new section to be appropriately designated and to  
6 read as follows:

7 **"§89- Charter school collective bargaining; bargaining**  
8 **unit; employer; exclusive representative.** (a) Employees of  
9 charter schools shall be assigned to an appropriate bargaining  
10 unit as specified in section 89-6; provided that if a charter  
11 school employee's job description contains the duties and  
12 responsibilities of an employee that could be assigned to more  
13 than one bargaining unit, the duties and responsibilities that  
14 are performed by the employee for the majority of the time,  
15 based on the employee's average workweek, shall be the basis of  
16 bargaining unit assignment for the employee.

17 (b) For the purpose of negotiating a collective bargaining  
18 agreement for charter school employees who are assigned to an  
19 appropriate bargaining unit, the employer shall be determined as  
20 provided in section 89-6(d).

21 (c) For the purpose of negotiating a memorandum of  
22 agreement or a supplemental agreement that only applies to





1 employees of a charter school, the employer shall mean the local  
2 school board, subject to the conditions and requirements  
3 contained in the applicable sections of this chapter governing  
4 any memorandum of agreement or supplemental agreement.

5 (d) Pursuant to this chapter, the exclusive representative  
6 shall mean the employee organization certified by the Hawaii  
7 labor relations board as the collective bargaining agent to  
8 represent all employees in an appropriate bargaining unit  
9 without discrimination and without regard to employee  
10 organization membership.

11 (e) Negotiations over matters covered by this section  
12 shall be conducted between the employer and exclusive  
13 representative pursuant to this chapter. Cost items that are  
14 appropriated for and approved by the legislature and contained  
15 in a collective bargaining agreement, memorandum of agreement,  
16 or supplemental agreement covering, wholly or partially,  
17 employees in charter schools shall be allocated by the  
18 department of budget and finance to the charter school  
19 administrative office for distribution to charter schools.  
20 However, if the charter school administrative office deems it  
21 appropriate, the cost items may be funded from a charter



1 school's existing allocation or other sources of revenue  
2 received by a charter school."

3 SECTION 6. Section 26-35.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) For purposes of this section, "member" means any  
6 person who is appointed, in accordance with the law, to serve on  
7 a temporary or permanent state board, including members of the  
8 local school board of any [~~new century~~] charter school  
9 [~~established under section 302A 1182 or new century conversion~~  
10 ~~charter school~~] established under [~~section 302A 1191,~~] chapter  
11 302B, council, authority, committee, or commission, established  
12 by law or elected to the board or the board of trustees of the  
13 employees' retirement system under section 88-24; provided that  
14 "member" shall not include any person elected to serve on a  
15 board or commission in accordance with chapter 11 other than a  
16 person elected to serve on the board."

17 SECTION 7. Section 89-6, Hawaii Revised Statutes, is  
18 amended by amending subsection (g) to read as follows:

19 "(g) The following individuals shall not be included in  
20 any appropriate bargaining unit or be entitled to coverage under  
21 this chapter:

22 (1) Elected or appointed official;



- 1           (2) Member of any board or commission; provided that  
2                   nothing in this paragraph shall prohibit a member of a  
3                   collective bargaining unit from serving on a local  
4                   school board of a charter school, established under  
5                   chapter 302B;
- 6           (3) Top-level managerial and administrative personnel,  
7                   including the department head, deputy or assistant to  
8                   a department head, administrative officer, director,  
9                   or chief of a state or county agency or major  
10                  division, and legal counsel;
- 11          (4) Secretary to top-level managerial and administrative  
12                  personnel under paragraph (3);
- 13          (5) Individual concerned with confidential matters  
14                  affecting employee-employer relations;
- 15          (6) Part-time employee working less than twenty hours per  
16                  week, except part-time employees included in  
17                  bargaining unit (5);
- 18          (7) Temporary employee of three months' duration or less;
- 19          (8) Employee of the executive office of the governor or a  
20                  household employee at Washington Place;
- 21          (9) Employee of the executive office of the lieutenant  
22                  governor;



- 1 (10) Employee of the executive office of the mayor;
- 2 (11) Staff of the legislative branch of the State;
- 3 (12) Staff of the legislative branches of the counties,  
4 except employees of the clerks' offices of the  
5 counties;
- 6 (13) Any commissioned and enlisted personnel of the Hawaii  
7 national guard;
- 8 (14) Inmate, kokua, patient, ward, or student of a state  
9 institution;
- 10 (15) Student help;
- 11 (16) Staff of the Hawaii labor relations board;
- 12 (17) Employee of the Hawaii national guard youth challenge  
13 academy; or
- 14 (18) Employees of the office of elections."

15 SECTION 8. Section 302A-101, Hawaii Revised Statutes, is  
16 amended as follows:

17 1. By adding three new definitions to be appropriately  
18 inserted and to read:

19 "Charter school administrative office" means the office  
20 established in section 302B-8 responsible for the internal  
21 organization, operation, and management of the charter school  
22 system.



1       "Charter school oversight panel" means the panel  
2 established in section 302B-4 that oversees charter schools,  
3 reviews charter school operations, and reviews or revokes  
4 charters.

5       "Charter schools" means public schools holding charters to  
6 operate as charter schools, as defined in chapter 302B."

7       2. By amending the definition of "public schools" to read:

8       "Public schools" means all academic and noncollege type  
9 schools established and maintained by the department and [new  
10 ~~century~~] charter schools chartered by the [~~board of education,~~  
11 charter school oversight panel, in accordance with law."

12       3. By repealing the definition of "new century charter  
13 schools".

14       [~~"New century charter schools" means public schools~~  
15 ~~chartered by the board of education with the flexibility to~~  
16 ~~implement alternative frameworks with regard to curriculum,~~  
17 ~~facilities management, instructional approach, length of the~~  
18 ~~school day, week, or year, and personnel management." ]~~

19       SECTION 9. Section 302A-411, Hawaii Revised Statutes, is  
20 amended by amending subsection (a) to read as follows:



1           "(a) The department shall establish and maintain junior  
2 kindergartens and kindergartens with a program of instruction as  
3 a part of the public school system; provided that:

4           (1) Attendance shall not be mandatory; and

5           (2) [~~New century charter~~] Charter schools [~~and new century~~  
6 ~~conversion charter schools~~] established under chapter  
7 302B shall be excluded from mandatory participation in  
8 the program."

9           SECTION 10. Section 302A-1106.5, Hawaii Revised Statutes,  
10 is amended to read as follows:

11           [+]§302A-1106.5[+] **Board of education; community meetings.**

12 (a) The board shall hold not less than two community meetings  
13 annually in each departmental school district in addition to  
14 their regular meetings to discuss and receive input from the  
15 community on public education and public library issues. The  
16 board chairperson shall designate board members to attend the  
17 community meetings. These community meetings shall not be held  
18 for the purpose of formulating educational policy. The  
19 community meetings shall be exempt from sections 92-2.5, 92-7,  
20 92-9, and 92-41, provided that the board shall give written  
21 public notice of each community meeting. The meeting notice  
22 shall indicate the date, time, and place of the meeting, and



1 shall be filed in the office of the lieutenant governor and in  
2 the board's office for public inspection six calendar days  
3 before the meeting. The notice shall also be posted at the site  
4 of the meeting.

5 (b) The board shall include or solicit input from the  
6 charter school administrative office in any substantive  
7 discussion of charter school issues, including but not limited  
8 to developing policies, procedures, or guidelines, rulemaking,  
9 and decisions."

10 SECTION 11. Section 302A-1124, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) The department, through the board and its  
13 superintendent, shall establish a school community council  
14 system under which each public school, excluding [~~new century~~]  
15 charter schools [~~and new century conversion charter schools,~~]  
16 established under chapter 302B, shall create and maintain a  
17 school community council. Each school community council shall:

18 (1) Review and evaluate the school's academic plan and  
19 financial plan, and either recommend revisions of the  
20 plans to the principal, or recommend the plans for  
21 approval by the complex area superintendent;



- 1 (2) Ensure that the school's academic and financial plans  
2 are consistent with the educational accountability  
3 system under section 302A-1004;
- 4 (3) Participate in principal selection and evaluation, and  
5 transmit any such evaluations to the complex area  
6 superintendent; and
- 7 (4) Provide collaborative opportunities for input and  
8 consultation."

9 SECTION 12. Section 302A-1302, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 **"§302A-1302 School-based budget flexibility. (a)**  
12 Beginning with the 1995-1997 fiscal biennium, the department  
13 shall implement school-based budget flexibility for schools,  
14 complexes, and learning support centers. The flexibility shall  
15 be limited to the school-based budgeting program [~~EDN-100~~  
16 (EDN100)] of the department for all schools except [~~new century~~  
17 charter schools [~~defined in section 302A-101 and new century~~  
18 ~~conversion charter schools defined in section 302A-1191.~~]  
19 established under chapter 302B.

20 (b) Beginning in fiscal year [~~2004-2005,~~] 2006-2007, and  
21 every year thereafter, the charter school administrative office  
22 shall distribute the allocations due to a [~~new century~~] charter





1 school [~~or new century conversion charter school pursuant to~~  
2 ~~sections 302A-1185 and 302A-1191,~~] established under chapter  
3 302B directly to the [~~new century charter school or new century~~  
4 ~~conversion~~] charter school."

5 SECTION 13. Section 302A-1303.6, Hawaii Revised Statutes,  
6 is amended to read as follows:

7 "[~~+~~]**§302A-1303.6**[~~+~~] **Weighted student formula.** Based upon  
8 recommendations from the committee on weights, the board of  
9 education, not less than annually, shall adopt a weighted  
10 student formula for the allocation of moneys to public schools  
11 [~~which~~] that takes into account the educational needs of each  
12 student. The department, upon the receipt of appropriated  
13 moneys, shall use the weighted student formula to allocate funds  
14 to public schools. Principals shall expend moneys provided to  
15 the principals' schools. This section shall only apply to [~~new~~  
16 ~~century charter schools and new century conversion~~] charter  
17 schools for fiscal years in which the [~~new century charter~~  
18 ~~schools and new century conversion~~] charter schools elect  
19 pursuant to section [~~302A-1182.5~~] 302B-13 to receive allocations  
20 according to the weighted student formula."

21 SECTION 14. Section 302A-1505, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:



1            "(b) Prior to informing the department about the school's  
 2 repair and maintenance needs, the school's principal shall  
 3 consider the recommendations made by the school community  
 4 council or the local school board, if the school is a [~~new~~  
 5 ~~century~~] conversion charter school[~~-~~] established under chapter  
 6 302B."

7            SECTION 15. Section 302A-1507, Hawaii Revised Statutes, is  
 8 amended by amending subsection (a) to read as follows:

9            "(a) There is established a classroom cleaning project in  
 10 all public schools, excluding [~~new century~~] charter schools [~~and~~  
 11 ~~new century conversion charter schools.~~] established under  
 12 chapter 302B. Each school, through its school community  
 13 council, may develop mechanisms to provide for classroom  
 14 cleaning, including but not limited to having parent, student,  
 15 or other community groups clean the classrooms on a regular,  
 16 continuing basis."

#### 17                                 PART III

18            SECTION 16. The purpose of this part is to amend various  
 19 sections of the Hawaii Revised Statutes relating to education  
 20 and the department of education to further the ability of the  
 21 State's charter schools to act independently of the department



1 of education and the public schools that the department  
2 establishes and operates.

3 SECTION 17. Section 302A-301, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) There is established in the state treasury a trust  
6 fund to be known as the incentive and innovation grant trust  
7 fund to provide incentive and innovation grants to qualified  
8 schools[-], including charter schools. Expenditures from the  
9 trust fund shall be made by the department and shall be subject  
10 to the allotment and expenditure plan required under section 37-  
11 34.5. Notwithstanding any other law to the contrary, tax  
12 deductible donations may be made to, and received by, this trust  
13 fund."

14 SECTION 18. Section 302A-1128, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§302A-1128 Department powers and duties.** (a) The  
17 department shall have entire charge and control and be  
18 responsible for the conduct of all affairs pertaining to public  
19 instruction[7] in the public schools the department establishes  
20 and operates, including operating and maintaining the capital  
21 improvement and repair and maintenance programs for department  
22 and school facilities. The department may establish and maintain



1 schools for secular instruction at such places and for such  
2 terms as in its discretion it may deem advisable and the funds  
3 at its disposal may permit. The schools may include high  
4 schools, kindergarten schools, schools or classes for pregrade  
5 education, boarding schools, Hawaiian language medium education  
6 schools, and evening and day schools. The department may also  
7 maintain classes for technical and other instruction in any  
8 school where there may not be pupils sufficient in number to  
9 justify the establishment of separate schools for these  
10 purposes.

11 (b) The department shall regulate the courses of study to  
12 be pursued in all grades of the public schools it establishes  
13 and operates, and classify them by methods the department deems  
14 proper; provided that:

15 (1) The course of study and instruction shall be regulated  
16 in accordance with the statewide performance standards  
17 established under section 302A-201;

18 (2) All pupils shall be progressively competent in the use  
19 of computer technology; and

20 (3) The course of study and instruction for the first  
21 twelve grades shall provide opportunities for all



1 students to develop competency in a language in  
2 addition to English.

3 The department shall develop statewide educational policies and  
4 guidelines based on this subsection without regard to chapter  
5 91.

6 For the purposes of this subsection, the terms  
7 "progressively competent in the use of computer technology" and  
8 "competency in a language in addition to English" shall be  
9 defined by policies adopted by the board. The board shall  
10 formulate statewide educational policies allowing the  
11 superintendent to exempt certain students from the requirements  
12 of paragraphs (2) and (3) without regard to chapter 91.

13 (c) Nothing in this section shall interfere with those  
14 persons attending a summer school."

15 SECTION 19. Section 302A-1402, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[~~§~~]**302A-1402**[~~§~~] **Custodian of federal funds.** The  
18 director of finance is designated as custodian of all funds  
19 received as the state apportionment under any federal  
20 appropriations for public educational purposes and the director  
21 shall disburse the funds, pursuant to the requirements,  
22 restrictions, and regulations of the federal acts under which



1 the funds may be provided, on vouchers approved by the board, or  
2 by any subordinate thereunto duly authorized by the board~~[-]~~, or  
3 as appropriate, by the charter school administrative office."

4 SECTION 20. Section 302A-1403, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~§~~]**302A-1403**[~~§~~] **Authority to secure federal funds.** The  
7 department, the charter school administrative office, the  
8 director of finance, and governor may take such steps and  
9 perform such acts as may be necessary or proper [~~in order~~] to  
10 secure any such federal funds for the purposes specified in  
11 sections 302A-1401 and 302A-1402."

12 SECTION 21. Section 302A-1404, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) The department and the charter school administrative  
15 office, as appropriate, may retain and expend federal indirect  
16 overhead reimbursements for discretionary grants in excess of  
17 the negotiated rate for such reimbursements as determined by the  
18 director of finance and the superintendent~~[-]~~ or the director of  
19 finance and the executive director of the charter school  
20 administrative office."

21 PART IV



1           SECTION 22. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 23. This Act shall take effect on July 1, 2020;  
4 provided that the amendments made to section 89-6(g), Hawaii  
5 Revised Statutes, by section 7 of this Act shall not be repealed  
6 when sections 89-6, Hawaii Revised Statutes, is repealed and  
7 reenacted on July 1, 2008, pursuant to section 8 of Act 245,  
8 Session Laws of Hawaii 2005.

