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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1           SECTION 1. Six years ago, the Legislature enacted Act 62,  
2 Session Laws of Hawaii 1999, to test a new approach for improving  
3 the quality and effectiveness of the State's public schools. The  
4 act authorized the creation of a new kind of public school for  
5 this purpose, public charter schools, and cloaked each charter  
6 school with express authority to act independently of the  
7 department of education, to devise and implement curriculum and  
8 programs tailored to the individual needs of its students.

9           Notwithstanding the commitment to achieving the independence  
10 and innovations in educational programming the act contemplated,  
11 basic operational demands have prevented charter schools from  
12 making meaningful progress toward these goals. Funding has been  
13 inadequate and not disbursed on a timely basis, in large part  
14 because the original funding formula was not well conceived.  
15 Charter schools have also been given only limited, if any, access  
16 to facilities, equipment, centralized services, and other state  
17 resources other public schools and state agencies enjoy.

1 Most critically, the charter schools have been frustrated in  
2 their efforts by the inconsistent and uncoordinated provisions of  
3 law that govern them, making necessary a comprehensive revision  
4 of the State's education laws, including the 1999 laws that  
5 authorized the establishment of charter schools.

6 This Act has four purposes: (1) to reiterate the objectives  
7 of the State's public charter schools; (2) to set out the powers  
8 and responsibilities of charter schools clearly; (3) to allow for  
9 the establishment of additional new charter schools; and (4) to  
10 provide charter schools with the resources they need to educate  
11 their students. This Act shall be known as "The Charter School  
12 Opportunities Act of 2006."

13 PART I

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

16 "CHAPTER 302B

17 PUBLIC CHARTER SCHOOLS

18 **§302B-1 Purpose.** The purposes of this chapter are to  
19 authorize the establishment of public charter schools, and to  
20 establish the public charter school authority as a separate  
21 subsystem of the State's single statewide system of public  
22 schools for the governance and to provide administrative  
23 organization and support for all public charter schools.

1           The legislature's underlying objectives in authorizing the  
2 establishment of public charter schools is to:

- 3           (1) Improve student learning;
- 4           (2) Encourage the use of different and innovative teaching  
5           methods;
- 6           (3) Create new professional opportunities for teachers,  
7           including the opportunity to be responsible for the  
8           learning program at the school site;
- 9           (4) Provide parents and students with expanded choices in  
10           the types of educational opportunities that are  
11           available within the State's statewide system of public  
12           schools; and
- 13           (5) Provide a venue for promoting the study of Hawaii's  
14           culture, history, and language.

15           In enacting this chapter, it is the intention of the  
16 legislature to provide public charter schools with sufficient  
17 resources and support, and clear directions for their governance  
18 and administration to sustain their efforts to develop an  
19 alternative learning environment, school setting, curriculum, and  
20 educational services specifically suited to the needs of their  
21 students, and provide parents and students with an additional  
22 academic choice.

1           **§302B-2 Definitions.** Whenever used in this chapter, unless  
2 the context otherwise requires:

3           "Charter school" refers to those public schools holding  
4 charters to operate as charter schools under this chapter, or  
5 holding charters to operate as new century charter schools issued  
6 under section 302A-1182(g), or new century conversion charter  
7 schools issued under section 302A-1191(g), before these  
8 respective subsections were repealed by Act \_\_\_\_, Session Laws of  
9 Hawaii 2006.

10           "Chartering board" or "board" means the public school  
11 chartering board established by section 302B-4.

12           "Complex" means each of the geographic areas of the  
13 department of education supervised by a complex area  
14 superintendent.

15           "Department" means the department of education.

16           "Director" means the executive director of the charter  
17 school administrative office.

18           "Office" means the charter school administrative office.

19           **§302B-3 Charter schools authorized.** (a) To encourage the  
20 development and use of innovative educational settings and  
21 programs to improve student achievement in the public schools,  
22 the public school chartering board may issue up to a charters  
23 authorizing the establishment and operation of charter schools.

1 (b) Charter schools are state instrumentalities, part of  
2 the State's single statewide system of public schools, and an  
3 alternative means of providing students with the public education  
4 the State is required to provide under article X of the State  
5 Constitution.

6 (c) As public schools, charter schools shall be free from  
7 sectarian control, and shall not discriminate on the basis of  
8 race, religion, sex, or ancestry.

9 (d) As public schools, charter schools shall not charge  
10 tuition, but may require the payment of fees on the same basis  
11 and to the same extent as other public schools.

12 (e) Except to be subject to the statewide educational  
13 policies of the board of education applicable to charter schools,  
14 and the administrative control of the public school chartering  
15 board for purposes of ensuring their compliance with the  
16 requirements of this chapter, the provisions of their charters,  
17 and the budget and federal financial assistance consolidation  
18 processes of section 302B-7, every charter school shall be deemed  
19 an independent and autonomous public school and shall be  
20 responsible for its own operation including, but not limited to  
21 the preparation of an annual operating budget and a fiscal plan,  
22 personnel management, comprehensive recordkeeping, and timely and  
23 accurate reporting.

1 (f) Charter schools shall not be required to pay  
2 assessments levied by any county, nor shall they be required to  
3 pay state taxes of any kind. An applicant's or charter school  
4 operator's organization as a nonprofit corporation pursuant to  
5 chapter 414D shall not affect the charter school's status as a  
6 public school or as a state instrumentality for any purpose under  
7 state law.

8 (g) Except as limited by this chapter, charter schools may:

9 (1) Own, lease, transfer or otherwise acquire, hold, or  
10 dispose of any real, personal, or mixed property, or  
11 any interest therein, provided that the acquisition is  
12 reviewed beforehand by the attorney general and the  
13 charter school acquires the property or interest at its  
14 own risk with no interest or responsibility accruing to  
15 the State, and provided further that the State shall  
16 have first right of refusal to acquire all the assets  
17 of a charter school purchased with state or federal  
18 funds, if the school is dissolved or has its charter  
19 revoked; and

20 (2) Make and execute contracts and other instruments  
21 necessary for their operation, including pledges,  
22 assignments or encumbrances of its assets to be used as  
23 collateral for loans or extensions of credit, provided

1           that any financial obligation or liability a charter  
2           school incurs in connection with this power shall be  
3           payable solely from moneys and property of the charter  
4           school and shall not constitute a general obligation of  
5           the State, or be secured directly or indirectly by the  
6           full faith and credit of the State or the general  
7           credit of the State, or by any revenue or taxes of the  
8           State.

9           (h) Charter schools shall satisfy all achievement standards  
10          established by and made applicable to them by the public school  
11          chartering board, board of education, or state statutes, and any  
12          standards the federal government may impose as a condition for  
13          federal funding or otherwise.

14          (i) Charter schools may serve one or more of the grades  
15          kindergarten through twelve, and shall limit admission to  
16          students within the grade levels served.

17          (j) Any charter school that enrolls special education  
18          students or identifies one of its students as eligible for  
19          special education shall be responsible for providing the  
20          educational and related services required by a student's  
21          individualized education plan; provided that if the charter  
22          school is unable to provide all of the required services itself  
23          or by one or more contracts with an appropriate service provider

1 or providers, then services to the student shall be provided by  
2 the authority in the least restrictive environment to the student  
3 and according to services determined by the student's  
4 individualized educational plan.

5 **§302B-4 Governance of public charter schools; charter**  
6 **school authority established.** (a) The public charter school  
7 authority is established as a subsystem of the State's single  
8 statewide system of public schools. The authority shall be  
9 responsible for providing administrative support and direction  
10 for the efficient operation and management of public charter  
11 schools. The authority shall be placed within the department of  
12 education for administrative purposes only. The authority shall  
13 constitute a local educational agency for purposes of all federal  
14 laws, federal educational programs, and federal funding programs,  
15 and shall serve as the central support system for the overall  
16 administration of education policy, compliance with federal and  
17 state laws, and the preparation of a budget for all public  
18 charter schools.

19 (b) The authority shall be headed by the public school  
20 chartering board. The board shall consist of nine members,  
21 including one member of the board of education designated by the  
22 chairperson of the board of education to serve for at least one  
23 year, the comptroller or the comptroller's designee, the

1 director, the dean of the university of Hawaii's college of  
2 education or the dean's designee, and five members appointed by  
3 the governor pursuant to section 26-34. Of the members appointed  
4 by the governor, one member shall be a parent of a student  
5 enrolled at a public charter school, one member shall have  
6 business or fiscal work experience, one member shall be a  
7 licensed teacher, one member shall be a current or retired  
8 administrator of a private school, and one member shall have been  
9 nominated by an organization of charter schools operating within  
10 the State.

11 (c) Board members shall receive no compensation. Members  
12 shall be reimbursed for necessary travel expenses incurred in the  
13 conduct of official board business.

14 (d) The chairperson shall be elected by a majority of the  
15 members of the board, and the office's staff shall provide  
16 administrative support for the board.

17 (e) The authority is authorized and shall be responsible  
18 for:

19 (1) Developing statewide educational policies and  
20 objectives for the administration and management of  
21 public charter schools;

22 (2) Reviewing all applications to establish a charter  
23 school, or to renew a school's charter;

- 1 (3) Issuing, renewing, and revoking charters;
- 2 (4) Receiving and investigating complaints against
- 3 charter schools;
- 4 (5) Prescribing remedial action plans for charter schools
- 5 when necessary or appropriate;
- 6 (6) Providing information about the availability of federal
- 7 funds and federal programs in which charter schools may
- 8 participate, as well as technical assistance to assist
- 9 charter schools in complying with all federal and state
- 10 laws, and maximizing their access to federal and state
- 11 funds;
- 12 (7) Overseeing charter schools to ensure their compliance
- 13 with the provisions of their charters, this chapter,
- 14 all other applicable state and federal laws, and all
- 15 statewide educational policies of the board of
- 16 education that are applicable to charter schools and
- 17 not superseded by provisions of this chapter;
- 18 (8) Preparing the budgets of the office and the chartering
- 19 board;
- 20 (9) Reviewing the budgets of the individual charter schools
- 21 and consolidating them with the budgets of the office
- 22 and chartering board, into a single budget for the

- 1 public charter school authority, for submission to the  
2 governor, through the board of education;
- 3 (10) Disbursing all appropriations made for the public  
4 charter school authority, including the office, the  
5 chartering board, and the charter schools;
- 6 (11) To the extent permitted by federal law, preparing and  
7 submitting to the relevant federal agencies all  
8 requests for federal financial support charter schools  
9 are entitled to make or receive;
- 10 (12) To the extent permitted by federal law, receiving and  
11 disbursing all federal grants and subsidies awarded to  
12 charter schools or for their operation;
- 13 (13) Preparing, consolidating, and submitting all requests  
14 for federal financial support and assistance for or  
15 from charter schools, to the department for inclusion  
16 in the State's applications for federal assistance,  
17 when applications are required to be made through the  
18 department only;
- 19 (14) Representing charter schools in communications with the  
20 superintendent, the board of education, the governor,  
21 and the legislature; and
- 22 (15) Designating and authorizing the board of regents of the  
23 university of Hawaii and any other public agency to act

1 as a chartering authority and issue charters under  
2 section 302B-16.

3 (f) The authority, through its board, may delegate all of  
4 its powers and responsibilities to the director except the power  
5 to designate entities to act as a chartering authority under  
6 subsection (e)(15).

7 (g) The authority may adopt rules pursuant to chapter 91  
8 necessary for the purposes of this chapter.

9 **§302B-5 Charter school administrative office; executive**  
10 **director.** A charter school administrative office is established  
11 within the authority to provide day-to-day support for all of the  
12 authority's functions and responsibilities. The office shall be  
13 administered by an executive director who shall be appointed by  
14 and serve at the pleasure of the public school chartering board,  
15 without regard to chapters 76, 89 and 377. The executive  
16 director may hire necessary staff without regard to chapters 76  
17 and 89 to assist in the administration of the office. The salary  
18 of the executive director and staff shall be set by the public  
19 school chartering board. The director shall perform all tasks  
20 assigned by this chapter or delegated by the chartering board  
21 pursuant to section 302B-4(f).

22 **§302B-6 Admission and enrollment of students.** Any child  
23 who is qualified for admission to a department school is

1 qualified for admission to a charter school. Charter schools  
2 shall enroll each eligible student who submits a timely  
3 application, unless the number of applications exceeds the  
4 capacity of a school's grade level or facility capacity. Charter  
5 schools shall have written admissions policies that include  
6 provisions for determining admission when applications exceed  
7 capacity. If more students apply than can be accommodated,  
8 students may be accepted from among applicants by a random  
9 selection process, or by enrollment preferences for returning  
10 students, students residing in the school district in which the  
11 charter school is located, and siblings of students already  
12 enrolled in the charter school.

13 A charter school may refuse admission to any student who has  
14 been expelled or suspended from a department school until the  
15 period of suspension or expulsion from that school has expired,  
16 consistent with the requirements of due process.

17 Students may withdraw from a charter school at any time.

18 **§302B-7 Funding and fiscal support.** (a) The authority  
19 shall prepare an annual budget for the public charter school  
20 authority, including the office, the chartering board, and all  
21 public charter schools, for submission to the board of education  
22 for inclusion, without modification or reduction by the board of  
23 education, in the budget the department submits to the director

1 of finance and governor. The budget request shall include  
2 separate requests to cover expenses for instructional activities,  
3 including special education and support services, employment  
4 taxes and fringe benefits, and for facilities, utilizing  
5 appropriations in the general appropriations act for the most  
6 recently completed, next immediate fiscal year, and derived as  
7 follows:

8 (1) The budget requests for instructional activities, and  
9 facilities, respectively, shall be based upon:

10 (A) The total enrollment of regular education and  
11 special education students at charter schools,  
12 verified as of October 15 of the current school  
13 year;

14 (B) The sums appropriated to the department for  
15 physical plant operations and maintenance,  
16 instructional activities and facilities,  
17 respectively, less so much of such sums as are  
18 appropriated for employment taxes and fringe  
19 benefits, in all cost categories, and for all  
20 means of financing except federal funds; and

21 (C) The total enrollment of regular education and  
22 special education students enrolled in the schools

1                    established and maintained by the department for  
2                    that fiscal year;

3            (2) The budget request for employment taxes and fringe  
4            benefits shall be based upon:

5            (A) The total number of employees employed by the  
6            authority as of October 15 of the current school  
7            year;

8            (B) The sums appropriated to the department for  
9            employment taxes and fringe benefits; and

10           (C) The total number of positions authorized to the  
11           department for that fiscal year, in all cost  
12           categories, for all means of financing;

13 provided that the authority may include any other amounts,  
14 including amounts for collectively bargained increases, and  
15 capital improvements, as it deems necessary.

16           (b) Each charter school shall prepare an annual budget for  
17 the next fiscal year and submit it to the director by October 1  
18 of each year. The submission shall include separate amounts to  
19 cover expenses for instructional activities, including special  
20 education and support services, employment taxes and fringe  
21 benefits, and for facilities.

22           (c) The funds appropriated by the legislature shall be  
23 subject to any reduction or restrictions the governor may impose

1 under chapter 37, and allotted to the authority by the director  
2 of finance. After retaining any amounts appropriated specifically  
3 for a specified purpose by the legislature for expenditure by the  
4 authority, and two per cent of all other funds appropriated for  
5 the authority, including the office and the charter schools, the  
6 remaining portion of the funds allotted shall be disbursed by the  
7 director to the charter schools as follows:

8 (1) Based upon each charter school's projected enrollment  
9 for the upcoming school year, up to its fifty per cent  
10 share of the funds allotted shall be disbursed to each  
11 charter school no later than July 20, provided the  
12 charter school submitted a projected student enrollment  
13 to the office no later than May 15 of that year;

14 (2) Based upon each charter school's verified student  
15 enrollment as of October 15, up to its forty per cent  
16 share of the funds allotted shall be disbursed to each  
17 charter school no later than November 15, provided the  
18 charter school submitted to the office:

19 (A) A student enrollment verified as of October 15 or  
20 as of the day before October 15, if October 15  
21 should fall on a weekend; and

22 (B) The percentage of its verified October 15 student  
23 enrollment who transferred to the charter school

1 from a public school established and maintained by  
2 the department in that school year; and

3 (3) Based upon each charter school's verified student  
4 enrollment as of October 15, up to its ten per cent of  
5 share of the sum remaining shall be disbursed to each  
6 charter school no later than January 1 of each year.

7 Any sum appropriated but not disbursed in accordance with this  
8 process may be further disbursed to the charter schools on a pro  
9 rata basis or any other basis the director, consistent with  
10 directions from the chartering board, determines is appropriate.

11 All sums disbursed to charter schools shall be deemed expended  
12 for purposes of chapter 37 and this chapter.

13 (d) Appropriations may be used to pay personnel, and for  
14 facilities, materials, supplies, equipment, insurance,  
15 fringe benefits, and other goods and services each charter school  
16 purchases directly, or to contract for services provided by other  
17 state agencies or private vendors, including nonprofit and for-  
18 profit providers, provided that sums appropriated for specific  
19 purposes, including special education and support services, and  
20 facilities, shall be expended for those specified purposes only.

21 (e) Charter schools shall have complete discretion to  
22 expend any funds they generate themselves, or receive from  
23 sources other than appropriations by the legislature and federal

1 grants, subsidies, or other forms of federal financial  
2 assistance, provided that annual fiscal reports identifying the  
3 amounts generated or received, and the purposes for which they  
4 were spent are provided to the director, authority, governor, and  
5 legislature twenty days prior to the convening of each regular  
6 legislative session.

7 (f) The director shall satisfy all of the requirements of  
8 chapter 37 that the director of finance deems necessary, provided  
9 that the director of finance shall accord the director the same  
10 deference accorded the department for budget and fiscal planning  
11 under that chapter.

12 (g) All funds appropriated and allotted to, or otherwise  
13 received by a charter school shall be deposited in a depository  
14 within the State in accounts insured by the Federal Deposit  
15 Insurance Corporation.

16 (h) All appropriations not expended or allotted by the  
17 authority in the fiscal year for which they are made shall not  
18 lapse until June 30 of the first fiscal year of the next fiscal  
19 biennium and may be disbursed or expended in the same manner  
20 specified in subsection (c) for sums remaining after  
21 appropriations are disbursed under that subsection. The director  
22 shall submit a report to the director of finance and the  
23 legislature, ninety days after the close of each fiscal year,

1 which shall be prepared in the form prescribed by the director of  
2 finance and shall identify the total amount of funds that will  
3 carry over to the next fiscal year.

4 **§302B-8 Reporting, assessments and review.** (a) Each  
5 charter school shall submit an annual report to the director no  
6 later than the first day of August of each year for the preceding  
7 school year. The annual report shall include

- 8 (1) A profile of its enrollment and the community it  
9 serves, including a breakdown of regular education and  
10 special education students served;
- 11 (2) A self-assessment that measures and compares its  
12 performance against the statewide performance standards  
13 of the board of education, its students' achievement  
14 against statewide student content and performance  
15 standards, graduation rates, dropout rates, attendance  
16 rates, a comparison of the number of applicants versus  
17 school capacity, its students' performance on  
18 standardized tests, college entry rates, total spending  
19 per student and administrative spending per student;
- 20 (3) A discussion of the progress made towards achieving the  
21 mission statement and other goals set forth in its  
22 charter;

1           (4) Any administrative and legal barriers it encountered in  
2           its operations during the school year, with  
3           recommendations for removing or minimizing those  
4           barriers; and

5           (5) A certified financial statement setting forth, by  
6           appropriate categories, the revenues and expenditures  
7           for the preceding school year, including a copy of the  
8           most recent independent fiscal audit of the school.

9           **§302B-9 Laws applicable to charter schools.** (a) Charter  
10 schools shall be exempt from all state statutes, including the  
11 provisions of chapter 92, and implementing rules applicable to a  
12 public school, including the provisions of chapter 302A, unless  
13 they are restated in this chapter, or made applicable to charter  
14 schools by express reference.

15           (b) The following laws are applicable to charter schools:

16           (1) Chapter 88 for the provision of employee retirement  
17           benefits;

18           (2) Chapter 87A for the provision of employee health  
19           insurance benefits;

20           (3) Chapter 88E and section 78-30 to allow employees to  
21           participate in the State's deferred compensation plan,  
22           and other cafeteria plans;

- 1           (4) Chapters 383, 386, 387, and 392 to afford employees  
2           unemployment insurance, workers compensation, minimum  
3           wage and other fair labor standards, and temporary  
4           disability insurance benefits;
- 5           (5) Federal, state and county laws prohibiting  
6           discrimination;
- 7           (6) Federal, state and county laws to protect health and  
8           safety, including but not limited to section 302A-  
9           601.5, for purposes of requiring criminal history  
10          record checks for all employees of charter schools,  
11          section 302A-1154 regarding immunization, section 302A-  
12          1159 regarding physical examinations, and all county  
13          zoning and building code requirements but not the  
14          provisions of chapters 205 and 343 relating to state  
15          land use classifications and impacts on the environment  
16          when the parcel a charter school owns, buys, sells,  
17          leases, or uses is less than 15 acres;
- 18          (7) Chapter 377, for purposes of affording the employees of  
19          charter schools the opportunity to bargain  
20          collectively, and notwithstanding that chapter's  
21          exception of the State, political subdivisions of the  
22          State, and employees of the State and its political  
23          subdivisions from its provisions;

1 (8) Chapter 76 relating to the civil service, to ensure all  
2 of the rights, privileges, and benefits of continuous,  
3 uninterrupted civil service to those employees of  
4 charter schools who were employed as civil service  
5 employees in a department school prior to their  
6 school's conversion to a charter school, or who fill  
7 positions that continue to be civil service positions  
8 because they were civil service positions prior to  
9 their charter school's conversion from a department  
10 school; and

11 (9) All laws that make exceptions for public schools,  
12 including section 302A-1126.

13 (d) Charter schools shall be exempt from chapter 103D, the  
14 state procurement code, but the director shall develop internal  
15 policies and procedures for the procurement of goods, services,  
16 and construction consistent with goals of public accountability  
17 and public procurement practices.

18 **§302B-10 Actions by or against charter schools. (a)**

19 Charter schools may sue or be sued in their own names, provided  
20 that charter schools shall not bring suit against the State or  
21 any agency or instrumentality of the State. Notwithstanding any  
22 other law to the contrary, all claims arising out of the acts or  
23 omissions of a charter school or its officers, or its employees,

1 including claims permitted against the State under chapter 661,  
2 and claims for torts permitted against the State under chapter  
3 662, may be brought only pursuant to this section, only against  
4 the charter school, and only in the manner provided for suits  
5 against the State. Further, only claims permitted against the  
6 State may be brought against a charter school, and all defenses  
7 available to the State as well as all limitations on actions  
8 brought by or against the State, shall be applicable to any suit  
9 that is brought, and the rights and remedies conferred by this  
10 section shall be exclusive and shall not be construed to  
11 authorize any other claim, suit, or action against the State. A  
12 judgment entered against a charter school, or a compromise or  
13 settlement of any claim made by or on behalf of a charter school  
14 shall not constitute a general obligation of the State, or be  
15 secured directly or indirectly by the full faith and credit of  
16 the State or the general credit of the State, or by any revenue  
17 or taxes of the State. Further, a judgment or compromise or  
18 settlement of any claim shall constitute a complete bar to any  
19 action brought by reason of the same subject matter against the  
20 State or any officer or employee of the charter school, or the  
21 State.

22 (b) Money judgments awarded against a charter school, and  
23 monetary claims compromised or settled by or on behalf of a

1 charter school may be payable by the State but only after the  
2 judgment or claim is submitted to the legislature by the  
3 director, and funds are appropriated by the legislature for that  
4 purpose.

5 (c) No civil liability shall attach to the members of the  
6 chartering board, the members of the board of education, or  
7 executive director or employees, individually or collectively, of  
8 the public charter schools authority or charter school  
9 administrative office, for any act or omission of a charter  
10 school.

11 (d) The director may appoint or retain by contract one or  
12 more attorneys who are independent of the attorney general, to  
13 provide legal services for charter schools. The director may fix  
14 the compensation of the attorneys appointed pursuant to this  
15 section. Attorneys appointed or retained by contract shall be  
16 exempt from chapters 76 and 89. Nothing in this subsection  
17 precludes the director from requesting and securing legal  
18 services from the attorney general upon mutual agreement,  
19 provided that the services are provided by attorneys who are not  
20 assigned to furnish legal services to the department.

21 **§302B-11 Transfers of educational, personnel and other**  
22 **records between the authority and the department.** The department  
23 and the authority shall ensure that the educational and other

1 records of a student, or the personnel and other records of an  
2 employee, who transfers to a public charter school from a public  
3 school established and maintained by the department, or from a  
4 public charter school to a public school established and  
5 maintained by the department, are transferred to or from the  
6 school the student or employee transfers from or to. Until such  
7 transfers are completely effected, officials from the department  
8 may inspect the records held by the authority or a charter  
9 school, and officials from the authority or a charter school may  
10 inspect the records held by the department, as though the  
11 authority or charter school officials were officials of the  
12 department or the department officials were officials of the  
13 authority or charter school.

14 **§302B-12 Responsibilities of department of education. (a)**  
15 By March 1 of each year, the department shall submit a list to  
16 the director of vacant and unused public school facilities and  
17 portions of excess equipment, and facilities that may be used for  
18 the operation of a charter school. Costs to rent, improve,  
19 modify, operate and maintain a vacant or unused facility shall be  
20 subject to negotiation between the charter school and the  
21 school's principal, if the facility is part of a public school,  
22 or the charter school and the district business and fiscal  
23 officer responsible for the facility.

1           (b) By July 1 of each year, the superintendent of education  
2 and the director shall develop a list of centralized services,  
3 including but not limited to payroll preparation, cafeteria  
4 services, information and communications support services,  
5 unemployment, workers compensation and temporary disability  
6 claims management services, school level maintenance and repair  
7 services, school custodian services, student transportation  
8 services, equipment leasing and rentals, procurement services,  
9 including access to procurement price lists for equipment,  
10 supplies and services, for which charter schools may contract  
11 with the departments of education, human resources development,  
12 and accounting and general service to provide at cost. Charter  
13 schools may also contract with private providers for these  
14 services.

15           (c) Students enrolled in charter schools shall have the  
16 same opportunity to participate in athletics provided to students  
17 at other public schools. If a charter school student wishes to  
18 participate in a sport for which there is no program at a charter  
19 school, the department shall allow that student to participate in  
20 a comparable program of any other public school in the complex in  
21 which the charter school is located.

22           (d) The department shall provide the authority and charter  
23 schools with information about the availability of federal funds

1 and federal programs in which charter schools may participate,  
2 and collaborate with the director to develop and implement a  
3 system of technical assistance related to compliance, to assist  
4 charter schools in complying with all federal and state laws, and  
5 accessing federal and state funds.

6 (e) To the extent permitted by federal law, the department  
7 shall include all requests for federal financial assistance  
8 prepared by the executive director of the charter school  
9 administrative office, in the department's applications for  
10 federal assistance, without revision or reductions, provided that  
11 the director's requests may be commensurately reduced by the  
12 proportion of total charter school students to total department  
13 school students for which the request is made, to accommodate any  
14 federally prescribed cap.

15 (f) The department shall provide appropriate transitional  
16 resources for the first year of operation of a new charter school  
17 that was a department school in the previous year and converted  
18 to a charter school, based upon the department's allocation to  
19 the school for the year prior to its conversion to a charter  
20 school.

21 **§302B-13 Cooperation of other state agencies.** (a) By March  
22 1 of each year, the comptroller and the official designated by  
23 the president of the university of Hawai'i shall each submit a

1 list to the director of excess equipment, and vacant and unused  
2 state facilities and portions of facilities that may be used for  
3 the operation of a charter school. Costs to rent, improve,  
4 modify, operate and maintain a vacant or unused facility shall be  
5 subject to negotiation between the charter school and the  
6 comptroller or the president's designee.

7 (b) The department of the attorney general shall promptly  
8 respond to the public school chartering board's requests for  
9 federal and state criminal records history checks.

10 (c) State agencies shall make all services, particularly  
11 centralized services, including audit services, building repair  
12 and alterations, risk management, workers compensation and  
13 temporary disability claims management, office leasing, equipment  
14 leasing and rentals, surplus property management, procurement  
15 price lists, available to charter schools in the same manner they  
16 make them available to other state agencies, whether at no cost,  
17 for a fee, or the transfer of appropriations.

18 **§302B-14 Applications for initial charters.** (a) An  
19 application to establish a charter school may be submitted by  
20 teachers, parents, school administrators, community residents or  
21 any combination thereof, in conjunction with an educational  
22 institution including an existing public or private school, a  
23 college or a university, or a nonprofit organization under

1 section 501(c)(3) of the Internal Revenue Code of 1986, as  
2 amended, or a for-profit entity authorized to do business in this  
3 state. Applications to establish a charter school affiliated with  
4 a for-profit entity shall specify the extent of the entity's  
5 participation in the management and operation of the charter  
6 school.

7 (b) The information provided in the application shall be  
8 consistent with the provisions of this chapter and other  
9 applicable laws, and, as appropriate should address the  
10 following:

- 11 (1) A mission statement for the school and a description  
12 of an educational program that implements one or more  
13 of the purposes described in section 302B-1;
- 14 (2) A description of student achievement goals for the  
15 school's educational program and the methods to be used  
16 to assess whether students have attained the skills and  
17 knowledge specified for those goals. The educational  
18 program shall meet or exceed the student performance  
19 standards adopted by the board of education for other  
20 public schools;
- 21 (3) The proposed governance structure of the school,  
22 including a list of members of the school's initial  
23 local school board, a description of the

- 1 qualifications, terms and method of appointment or  
2 election of local school board members, the  
3 organizational structure of the school, and the  
4 processes to be followed by the school to promote  
5 parental and staff involvement in school governance;
- 6 (4) Admission policies and procedures for the school, which  
7 shall be consistent with the requirements of this  
8 chapter;
- 9 (5) A proposed annual operating and capital budget prepared  
10 in accordance with the requirements of section 302B-7,  
11 and a fiscal plan for the school, including supporting  
12 evidence that the fiscal plan is sound and that  
13 sufficient start-up funds will be available to the  
14 charter school;
- 15 (6) A system of accounts and accounting that ensures that  
16 funds and assets appropriated or provided by the State  
17 or the United States, and expenses or disbursements  
18 paid therewith, are distinguishable from funds, assets  
19 or expenses generated, acquired or paid by the charter  
20 school from other sources;
- 21 (7) Requirements and procedures for programmatic and  
22 independent fiscal audits at least once every three

1 years, with such audits being comparable in scope to  
2 those required of other state agencies;

3 (8) The hiring and personnel policies and procedures of the  
4 school, including the qualifications to be used in the  
5 hiring of teachers, school administrators and other  
6 school employees, a description of staff  
7 responsibilities, a compensation schedule, and a  
8 description of employee rights and benefits;

9 (9) The rules and procedures by which students may be  
10 disciplined, including but not limited to expulsion or  
11 suspension from the school, which shall be consistent  
12 with the requirements of due process and with federal  
13 laws and regulations governing the placement of  
14 students with disabilities;

15 (10) The number of students to be served by the school, and  
16 the minimum number of teachers to be employed at the  
17 school;

18 (11) Information regarding the facilities to be used by the  
19 school, including the location of the school, if known,  
20 and the means by which pupils will be transported to  
21 and from the school. If the facilities to be used by  
22 the proposed school are not known at the time the  
23 application is submitted, the applicant shall notify

1 the chartering board within ten business days of  
2 acquiring facilities for the school; provided that the  
3 charter school must obtain a certificate of occupancy  
4 for the facilities prior to the date on which  
5 instruction is to commence at the school;

6 (12) A description of the ages and grade levels to be served  
7 by the school;

8 (13) Identification and background information on all  
9 applicants and proposed members of the local school  
10 board;

11 (14) The school calendar and school day schedule, which  
12 shall provide at least as much instruction time during  
13 a school year as required of other public schools;

14 (15) Types and amounts of insurance coverage to be obtained  
15 by the school, which shall include adequate insurance  
16 for liability, property loss and the personal injury of  
17 students;

18 (16) The term for the charter the applicant seeks, which  
19 shall not exceed five years;

20 (17) Evidence of adequate community support for and interest  
21 in the charter school to allow the school to reach its  
22 anticipated enrollment, and an assessment of the

- 1           projected programmatic and fiscal impact of the school  
2           on other public and nonpublic schools in the area;
- 3       (18) Methods and strategies for serving students with  
4           disabilities in compliance with all federal laws and  
5           regulations relating thereto;
- 6       (19) A description of the residential facilities, if any,  
7           provided by the charter school;
- 8       (20) The name and contact information for the person  
9           authorized by the applicant to sign the application for  
10          the applicant, and to receive and respond to any  
11          question or request for additional information about  
12          the application from the chartering board;
- 13       (21) If the application is from an existing department  
14          school, the application shall indicate that
- 15           (A) It has been approved by a majority of the votes  
16               cast by existing administrative, support, and  
17               teaching personnel, and parents; provided that the  
18               school personnel may request their bargaining unit  
19               representative to certify and conduct the  
20               elections for their respective bargaining units;  
21               and
- 22           (B) Its local school board as its governing body is or  
23               will be composed of, at a minimum, one

1 representative from each of the following  
2 participant groups:

- 3 (i) Principals;
- 4 (ii) Instructional staff members selected by the  
5 school instructional staff;
- 6 (iii) Support staff selected by the support staff  
7 of the school;
- 8 (iv) Parents of students attending the school  
9 selected by the parents of the school;
- 10 (v) Student body representatives selected by the  
11 students of the school; and
- 12 (vi) The community at-large; and

13 (22) Any other information the applicant deems relevant to  
14 the application for a charter.

15 (c) The person who signs the application for the applicant  
16 shall submit a full set of fingerprints to the office for the  
17 purpose of obtaining a state and federal criminal history records  
18 check. The department of the attorney general is authorized to  
19 provide this information to the federal bureau of investigation  
20 and to perform a state and federal criminal history records check  
21 on each applicant and report the results to the chartering board.

22 (d) All applications shall be submitted to the office. At  
23 the direction of the chartering board, the director may forward

1 applications for review and processing under this section, to a  
2 chartering authority designated by the board, in which case every  
3 reference to the board in section 302B-16 shall be a reference to  
4 the designated chartering authority.

5 **§302B-15 Charter renewals.** Charters may be renewed for a  
6 term of up to five additional years. Applications for renewal  
7 shall be submitted to the office no later than six months prior  
8 to the expiration of a charter, provided that the chartering  
9 board may waive such deadline for good cause shown. A renewal  
10 application shall include:

- 11 (1) A report of the progress of the charter school in  
12 achieving the educational objectives set forth in the  
13 charter, including the results of the school's student  
14 assessments for each year of its operation;
- 15 (2) A detailed financial statement in the form prescribed  
16 by the director that discloses the school's annual  
17 administrative and instructional costs, and other  
18 operating expenses to allow the board to compare the  
19 school's costs to similar costs incurred by other  
20 public and private schools. The director shall provide  
21 the form for this report;

1 (3) Written submissions from the charter school's parents  
2 and students to indicate their level of satisfaction  
3 with the school's operations;

4 (4) Updates to the applicant's original application as  
5 appropriate; and

6 (5) Any other information the chartering board requests.

7 **§302B-16 Issuance of charters.** (a) The chartering board  
8 or an entity the board designates and authorizes to act as a  
9 chartering authority under section 302B-4, shall have sixty  
10 working days to review an application for an initial charter or  
11 to renew a charter, after which it shall either issue a charter,  
12 issue a one year provisional charter, or reject the application  
13 for a charter or to renew a charter. The board shall be assisted  
14 in its review by the staff of the office.

15 (b) Not later than thirty calendar days after receiving an  
16 application for an initial charter or an application to renew a  
17 charter, the chartering board shall hold a public hearing on the  
18 application for the purpose of receiving information from the  
19 community, including parents and students, as well as  
20 administrators, teachers, and staff if the applicant is a  
21 department school, in order to assess the level of support for  
22 the application.

1 (c) The chartering board shall not issue or renew a charter  
2 unless it finds that:

3 (1) The charter school described in the application meets  
4 all of the requirements of this chapter, and all other  
5 applicable laws, including applicable rules;

6 (2) The applicant can reasonably be expected to operate the  
7 school in an educationally and fiscally sound manner;  
8 and

9 (d) The chartering board is not required to approve an  
10 application, and may require an applicant to modify or supplement  
11 an application as a condition of approval of the application. If  
12 the chartering board rejects an application, the chartering board  
13 shall prepare a written decision describing all of its reasons  
14 for not issuing a charter or a provisional charter. The written  
15 decision and a certificate of service indicating the day the  
16 decision was mailed to the applicant, shall be mailed to the  
17 applicant's authorized representative. Copies of the written  
18 decision shall also be filed in the office, and the office of the  
19 board of education.

20 (e) If the chartering board determines that the applicant  
21 may reasonably be expected to expeditiously resolve concerns  
22 impeding the issuance of a charter, the board may issue a  
23 provisional charter which shall be effective for one year. The

1 provisional charter may be extended beyond that one year period,  
2 or converted to a non-provisional charter as soon as all  
3 outstanding issues have been resolved.

4 (f) If a majority of the chartering board agrees that a  
5 charter or a provisional charter should be issued or renewed, the  
6 office shall prepare, and the applicant's authorized  
7 representative and the director as chairperson of the board shall  
8 execute, a written agreement which shall constitute the school's  
9 charter. The agreement or charter shall set out all of the terms  
10 and conditions for the school's operation, including all of the  
11 commitments regarding all of the items included or addressed in  
12 the school's application, and all other terms and conditions  
13 required by applicable laws or agreed to by the applicant and the  
14 chartering board. In addition, the charter shall include the  
15 specific commitments of the chartering board relating to its  
16 obligations to oversee the charter school. One copy of the  
17 charter shall be on file in the office.

18 **§302B-17 Revocation of a charter; probationary status.** (a)

19 By a two-thirds majority vote of its members, the chartering  
20 board may revoke a charter school's charter and terminate its  
21 operations upon any of the following grounds:

22 (1) The school fails to satisfy the achievement standards  
23 established by the public school chartering board,

1 board of education, or state statutes, or any standards  
2 the federal government may impose as a condition for  
3 federal funding or otherwise;

4 (2) Serious violations of applicable laws, including  
5 discrimination against employees and intentional  
6 interference with their rights or receipt of benefits;

7 (3) A pattern and practice of materially and substantially  
8 failing to satisfy provisions of its charter, including  
9 fiscal mismanagement, that undermines its ability to  
10 operate the school in an educationally and fiscally  
11 sound manner; or

12 (4) Ignoring or failing to fully effect remedial orders  
13 issued by the chartering board or the board of  
14 education under this section or section 302B-18.

15 (b) The chartering board shall provide the charter school's  
16 local school board with a written notice of intent to revoke the  
17 school's charter. This preliminary notice shall include a  
18 statement of reasons for the proposed revocation, including  
19 problems which the charter school may address to avoid the  
20 revocation, and specify a period of at least ninety days during  
21 which the charter school will be allowed to address and correct  
22 the problems cited in the preliminary notice.

1 (c) At the end of the period specified in the preliminary  
2 notice, the chartering board may place the school on probationary  
3 status to allow the implementation of a remedial action plan, or  
4 issue a notice of revocation. Every remedial action plan shall  
5 specify a tentative revocation date. The authority shall provide  
6 technical and advisory support to assist a charter school in  
7 complying with a remedial action plan. A notice of revocation  
8 shall be issued on the date specified in the remedial action  
9 plan, if a charter school fails to satisfy all of the terms and  
10 conditions of the remedial action plan after the school has been  
11 placed on probationary status.

12 (d) A notice of revocation shall specify the effective date  
13 of revocation, and inform the school of its right to appeal the  
14 chartering board's decision to revoke the school's charter under  
15 section 302B-19. If the chartering board's decision to revoke  
16 the school's charter is not appealed, the school shall proceed  
17 with its dissolution pursuant to the procedures set out in its  
18 charter.

19 **§302B-18 Complaints against charter schools; remedial**  
20 **orders.** Any individual or group with a complaint about a charter  
21 school's operation or management, or a school's alleged violation  
22 of the provisions of this chapter, its charter, or any other  
23 provision of law, shall first present the complaint to the

1 school's local school board. If, after presentation of the  
2 complaint to the local school board, the individual or group  
3 determines that the board has not adequately addressed their  
4 complaint, they may present the complaint to the director of the  
5 charter schools administrative office, who shall investigate and  
6 respond. If, after presentation of the complaint to the  
7 director, the individual or group determines that the director  
8 has not adequately addressed their complaint, they may present  
9 the complaint to the chartering board, which shall investigate  
10 and respond. The chartering board shall have the power and the  
11 duty to issue appropriate remedial orders to charter schools to  
12 effectuate the provisions of this section.

13 **§302B-19 Appeals from decisions of the chartering board.**

14 (a) An applicant or a charter school adversely affected by a  
15 decision of the public school chartering board may request that  
16 the board of education review the decision of the chartering  
17 board by filing a notice of appeal from the decision in the  
18 office of the board of education within thirty days of the day  
19 the chartering board mailed its decision to the applicant or  
20 charter school. The notice of appeal shall identify the decision  
21 the applicant or charter school challenges, and include a brief  
22 statement of the reasons the applicant or charter school contends  
23 the chartering board's decision is erroneous.

1 (b) The board of education shall afford the applicant or  
2 the charter school a hearing in accordance with chapter 91. The  
3 chartering board shall be a party to the hearing, and shall be  
4 given notice of the hearing and allowed to defend its decision  
5 through the director.

6 (c) When the appeal is from the unilateral imposition of a  
7 condition, or the denial of an application for an initial charter  
8 or to renew a charter, the board of education shall affirm the  
9 decision of the chartering board if it finds and concludes that  
10 the condition or conditions the chartering board imposed are  
11 necessary to ensure the best interests of students and the  
12 community, or the applicant has not satisfied all of the  
13 requirements for the issuance or renewal of a charter.

14 (d) When the appeal is from a decision to revoke and  
15 terminate a charter, the board of education shall affirm the  
16 chartering board's decision if, after the charter school has had  
17 an opportunity to be heard, the board finds and concludes that  
18 one or more grounds for termination specified in section 302B-17  
19 exists."

20 PART III

21 SECTION 3. The purpose of this part is to propose  
22 amendments to the Hawaii Revised Statutes relating to education  
23 and the department of education to further the ability of the

1 State's public charter schools to act independently of the  
2 department of education and the public schools that the  
3 department establishes and maintains.

4 SECTION 4. Section 13-1, of the Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) The board of education shall consist of [~~thirteen~~  
7 ~~members who~~] fifteen members. The thirteen elected members shall  
8 be elected by the registered voters of two at-large school board  
9 districts as follows:

10 First school board district: the island of Oahu, comprised  
11 of the 11<sup>th</sup> through the 48<sup>th</sup> and a portion of the 49<sup>th</sup> (that  
12 portion found on the island of Oahu) representative districts,  
13 and the

14 Second school board district: the islands of Hawaii, Maui,  
15 Lanai, Molokai, Kahoolawe, Kauai, and Niihau, comprised of the  
16 1st through the 10<sup>th</sup>, a portion of the 49<sup>th</sup> (that portion found on  
17 the island of Kauai), and the 50<sup>th</sup> and 51<sup>st</sup> representative  
18 districts."

19 SECTION 5. Section 13-3, Hawaii Revised Statutes, is amended  
20 by amending subsection (a) to read as follows:

21 "(a) [~~Members~~] Elected members of the board of education  
22 shall be nominated at a primary election and elected at the  
23 general election. Except as otherwise provided by this chapter,

1 the candidates for the board of education shall be elected in the  
2 manner prescribed by this title.

3 (1) Nomination papers, preparation of. The chief election  
4 officer shall prepare nomination papers in such a  
5 manner that a candidate desiring to file for election  
6 to the board of education shall be able to specify  
7 whether the candidate is seeking a seat requiring  
8 residency in a particular departmental school district  
9 or a seat without such residency requirement.

10 (2) Ballot. The school board ballot shall be prepared in  
11 such a manner as to afford every voter eligible to vote  
12 in a school board district race the opportunity to vote  
13 for each and every candidate seeking election from that  
14 school board district.

15 The school board ballot shall contain the names of all  
16 board candidates arranged alphabetically in a  
17 nonpartisan manner; provided that the names of  
18 candidates seeking seats requiring residency in a  
19 particular departmental school district shall be  
20 grouped alphabetically according to departmental school  
21 districts.

22 (3) Primary election. Two candidates receiving the most  
23 votes for each available seat shall be nominated for

1 the general election. If, after the close of filing of  
2 nomination papers, there are only two qualified  
3 candidates for any seat requiring residency in a  
4 particular departmental school district, the chief  
5 election officer shall declare those two candidates  
6 duly nominated for the general election. The names of  
7 those two candidates shall not appear on the primary  
8 election ballot.

9 (4) General election. Each voter in the general election  
10 shall be entitled to receive the school board ballot  
11 and to vote for the number of seats available in the  
12 respective school board districts."

13 SECTION 6. Section 13-4, Hawaii Revised Statutes, is amended  
14 by amending subsection (a) to read as follows:

15 "(a) The term of office of elected members of the board  
16 shall be for four years beginning on the day of the special  
17 election held in conjunction with the general election of the  
18 year in which they are elected and ending on the day of the  
19 special election held in conjunction with the second general  
20 election after their election, except as provided in subsection  
21 (c). Members of the board may be re-elected without restriction  
22 as to the number of terms. The voting member of the board of

1 education appointed by the governor shall be appointed in the  
2 manner provided in section 26-34."

3 SECTION 7. Section 26-12, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 **"§26-12 Department of education.** [~~The department of~~  
6 ~~education shall be headed by an executive board to be known as~~  
7 ~~the board of education.~~  
8 ~~Under policies established by the board, the superintendent shall~~  
9 ~~administer programs of education and public instruction~~  
10 ~~throughout the State, including education at the preschool,~~  
11 ~~primary, and secondary school levels, adult education, school~~  
12 ~~library services, health education and instruction (not including~~  
13 ~~dental health treatment transferred to the department of health),~~  
14 ~~and such other programs as may be established by law. The state~~  
15 ~~librarian, under policies established by the board of education,~~  
16 ~~shall be responsible for the administration of programs relating~~  
17 ~~to public library services and transcribing services for the~~  
18 ~~blind.]~~

19 (a) The department of education shall be headed by an  
20 executive board to be known as the board of education. As  
21 provided by law, the board of education shall formulate  
22 educational policies for the State's single statewide public  
23 school system. The public charter school authority established

1 in chapter 302B is placed in the department for administrative  
2 purposes as defined in section 26-35.

3 (b) The department shall:

4 (1) Serve as the State's state educational agency for  
5 purposes of all federal laws, federal educational  
6 programs, and federal funding programs, and as the  
7 central support system responsible for the overall  
8 administration of statewide educational policy,  
9 development of standards for compliance with federal  
10 laws, and the submission of a single budget for the  
11 public schools, including the public charter schools;

12 (2) Serve as the local educational agency for all of the  
13 State's public schools other than its public charter  
14 schools, for purposes of all federal laws, federal  
15 educational programs, and federal funding programs, and  
16 serve as the central support system responsible for the  
17 overall administration of education policy, compliance  
18 with federal and state laws, and the preparation of a  
19 budget for the department and all public schools other  
20 than public charter schools;

21 (3) Through the superintendent of education, provide for  
22 the internal organization, operation, and management,  
23 and administer all programs of education and public

1 instruction, including education at the preschool,  
 2 primary, and secondary school levels, adult education,  
 3 school library services, and such other programs as may  
 4 be established by law, in all public schools other than  
 5 public charter schools;

6 (4) Provide support to the public charter school authority  
 7 and the State's public charter schools, as it is  
 8 authorized, directed, able to, or required by statute;  
 9 and

10 (5) Have control, through the state librarian, over the  
 11 operation and management of the public library system.

12 (c) The functions and authority heretofore exercised by the  
 13 department of education (except dental health treatment  
 14 transferred to the department of health), library of Hawaii,  
 15 Hawaii county library, Maui county library, and the transcribing  
 16 services program of the bureau of sight conservation and work  
 17 with the blind, as heretofore constituted are transferred to the  
 18 public library system established by [~~this chapter.~~] Act 1,  
 19 Second Special Session Laws of Hawaii 1959.

20 (d) The management contract between the board of  
 21 supervisors of the county of Kauai and the Kauai public library  
 22 association shall be terminated at the earliest time after  
 23 November 25, 1959, permissible under the terms of the contract

1 and the provisions of this paragraph shall constitute notice of  
2 termination, and the functions and authority heretofore exercised  
3 by the Kauai county library as heretofore constituted and the  
4 Kauai public library association over the public libraries in the  
5 county of Kauai shall thereupon be transferred to the public  
6 library system established by [~~this chapter.~~] Act 1, Second  
7 Special Session Laws of Hawaii 1959.

8 (e) The management contracts between the trustees of the  
9 library of Hawaii and the Friends of the Library of Hawaii, and  
10 between the library of Hawaii and the Hilo library and reading  
11 room association, shall be terminated at the earliest time after  
12 November 25, 1959, permissible under the terms of the contracts,  
13 and the provisions of this paragraph shall constitute notice of  
14 termination.

15 (f) Upon the termination of the contracts, the State or the  
16 counties shall not enter into any library management contracts  
17 with any private association; provided that in providing library  
18 services the board of education may enter into contracts approved  
19 by the governor for the use of lands, buildings, equipment, and  
20 facilities owned by any private association.

21 (g) Notwithstanding any law to the contrary, the board of  
22 education may establish, specify the membership number and quorum  
23 requirements for, appoint members to, and disestablish a

1 commission in each county to be known as the library advisory  
2 commission, which shall in each case sit in an advisory capacity  
3 to the board of education on matters relating to public library  
4 services in their respective county."

5 SECTION 8. Section 28-8.3, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "**§28-8.3 Employment of attorneys.** (a) No department of  
8 the State other than the attorney general may employ or retain  
9 any attorney, by contract or otherwise, for the purpose of  
10 representing the State or the department in any litigation,  
11 rendering legal counsel to the department, or drafting legal  
12 documents for the department; provided that the foregoing  
13 provision shall not apply to the employment or retention of  
14 attorneys:

- 15 (1) By the public utilities commission, the labor and  
16 industrial relations appeals board, and the Hawaii  
17 labor relations board;
- 18 (2) By any court or judicial or legislative office of the  
19 State;
- 20 (3) By the legislative reference bureau;
- 21 (4) By any compilation commission that may be constituted  
22 from time to time;

- 1 (5) By the real estate commission for any action involving
- 2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the trustees for any action involving the travel
- 6 agency recovery fund;
- 7 (8) By the office of Hawaiian affairs;
- 8 (9) By the department of commerce and consumer affairs for
- 9 the enforcement of violations of chapters 480 and 485;
- 10 (10) As grand jury counsel;
- 11 (10) As grand jury counsel;
- 12 (11) By the Hawaiian home lands trust individual claims
- 13 review panel;
- 14 (12) By the Hawaii health systems corporation or any of
- 15 its facilities;
- 16 (13) By the auditor;
- 17 (14) By the office of ombudsman;
- 18 (15) By the insurance division;
- 19 (16) By the University of Hawaii;
- 20 (17) By the Kahoolawe island reserve commission;
- 21 (18) By the division of consumer advocacy; ~~for~~
- 22 (19) By the office of elections;
- 23 ~~(20)~~ By the campaign spending commission; ~~for~~

1           (21) By the public charter school authority established in  
2                                   section 302B-4; or

3           ~~+(21)+~~ (22) By a department, in the event the attorney  
4                                   general, for reasons deemed by the attorney general  
5                                   good and sufficient, declines, to employ or retain an  
6                                   attorney for a department; provided that the governor  
7                                   thereupon waives the provision of this section.

8           (b) For purposes of this section the term "department"  
9                                   includes any department, board, commission, agency, bureau, or  
10                                  officer of the State.

11           (c) Every attorney employed by any department on a full-  
12                                  time basis, except an attorney employed by the public utilities  
13                                  commission, the labor and industrial relations appeals board, the  
14                                  Hawaii labor relations board, the office of Hawaiian affairs, the  
15                                  Hawaii health systems corporation, the department of commerce and  
16                                  consumer affairs in prosecution of consumer complaints, insurance  
17                                  division, the division of consumer advocacy, the University of  
18                                  Hawaii, the Hawaiian home lands trust individual claims review  
19                                  panel, the charter school administrative office, or as grand jury  
20                                  counsel, shall be a deputy attorney general.

21           (d) All attorneys retained by contract, whether by the  
22                                  attorney general or a department, shall be retained in accordance

1 with chapter 103D~~[.]~~ unless the retention is otherwise excepted  
2 from chapter 103D."

3 SECTION 9. Section 89-6(g), Hawaii Revised Statutes, is  
4 amended to read as follows:

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

- 8 (1) Elected or appointed official;
- 9 (2) Member of any board or commission excluding  
10 members of local school boards as defined in  
11 section 302B-14;
- 12 (3) Top-level managerial and administrative personnel,  
13 including the department head, deputy or assistant  
14 to a department head, administrative officer,  
15 director, or chief of a state or county agency or  
16 major division, and legal counsel;
- 17 (4) Secretary to top-level managerial and  
18 administrative personnel under paragraph (3);
- 19 (5) Individual concerned with confidential matters  
20 affecting employee-employer relations;
- 21 (6) Part-time employee working less than twenty hours  
22 per week, except part-time employees included in  
23 bargaining unit (5);

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

21           SECTION 10. Section 302A-301, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:

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

10           SECTION 11. Section 302A-1101, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12           "(a) There shall be a principal executive department to be  
13 known as the department of education, which shall be headed by  
14 ~~[an elected]~~ a policy-making board to be known as the board of  
15 education. The board shall have power in accordance with law to  
16 formulate statewide educational policy, adopt student performance  
17 standards and assessment models, monitor school success, and to  
18 appoint the superintendent of education as the chief executive  
19 officer of ~~[the public school system.]~~ that subsystem of the  
20 State's single statewide system of public schools that does not  
21 include the State's public charter schools. The public charter  
22 school authority established in chapter 302B is placed in the

1 department for administrative purposes as defined in section 26-  
2 35."

3 SECTION 12. Section 302A-1102, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 " ~~[+]§302A-1102[+]~~ **Department of education; statewide and**  
6 **regional administrative services.** ~~[The department shall serve as~~  
7 ~~the central support system responsible for the overall~~  
8 ~~administration of statewide educational policy, interpretation,~~  
9 ~~and development of standards for compliance with state and~~  
10 ~~federal laws, and coordination and preparation of a systemwide~~  
11 ~~budget for the public schools.]~~ The department shall serve as the  
12 as the central support system responsible for the overall  
13 administration of statewide educational policy, development of  
14 standards for compliance with federal laws, and the submission of  
15 a single budget for the public schools, including the public  
16 charter schools. The department shall also serve as the central  
17 support system responsible for the overall administration of  
18 education policy, compliance with federal and state laws, and the  
19 preparation of a budget for the department and all public schools  
20 other than public charter schools. The department may establish  
21 regional administrative units to provide administrative support  
22 to the schools for personnel, fiscal, and procurement services.  
23 The regional administrative units may also be assigned

1 responsibility for the administration and operation of special  
2 education programs and special schools."

3 SECTION 13. Section 302A-1111, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[+]§302A-1111[+] **Duties of superintendent.** (a) Under  
6 policies established by the board, the superintendent shall be  
7 designated as the chief executive officer [~~of the public school~~  
8 ~~system having~~] of that subsystem of the State's single statewide  
9 system of public schools that does not include the State's public  
10 charter schools. The superintendent shall have jurisdiction over  
11 the internal organization, operation, and management of [~~the~~  
12 ~~public school system, as provided by law,~~] all public schools  
13 other than public charter schools; and shall administer programs  
14 of education and public instruction [~~throughout the State,~~] in  
15 those public schools, including education at the preschool,  
16 primary, and secondary school levels, and such other programs as  
17 may be established by law.

18 (b) Except as otherwise provided, the superintendent shall  
19 sign all drafts for the payment of moneys, all commissions and  
20 appointments, all deeds, official acts, or other documents of the  
21 department[~~-~~], except documents prepared or received by the  
22 public charter school authority established under chapter 302B.  
23 The superintendent may use a printed facsimile signature in

1 approving appointments, contracts, and other documents. The  
2 superintendent, at such time as may be prescribed by the board,  
3 shall present to the board full annual reports of the principal  
4 transactions within the department during the last completed  
5 year, which reports together with such recommendations as the  
6 board may think proper, shall be presented to the governor and  
7 the legislature."

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

10 "**§302A-1128 Department powers and duties.** (a) The  
11 department shall have entire charge and control and be  
12 responsible for the conduct of all affairs pertaining to public  
13 instruction[~~-~~] in the public schools the department establishes  
14 and maintains. The department may establish and maintain schools  
15 for secular instruction at such places and for such terms as in  
16 its discretion it may deem advisable and the funds at its  
17 disposal may permit. The schools may include high schools,  
18 kindergarten schools, schools or classes for pregrade education,  
19 boarding schools, Hawaiian language medium education schools, and  
20 evening and day schools. The department may also maintain  
21 classes for technical and other instruction in any school where  
22 there may not be pupils sufficient in number to justify the  
23 establishment of separate schools for these purposes.

1 (b) The department shall regulate the courses of study to  
2 be pursued in all grades of the public schools it establishes and  
3 maintains, and classify them by methods the department deems  
4 proper; provided that:

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

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

10 (3) The course of study and instruction for the first  
11 twelve grades shall provide opportunities for all  
12 students to develop competency in a language in  
13 addition to English.

14 The department shall develop statewide education policies  
15 and guidelines based on this subsection without regard to chapter  
16 91.

17 For the purposes of this subsection, the terms  
18 "progressively competent in the use of computer technology" and  
19 "competence in a language in addition to English" shall be  
20 defined by policies adopted by the board. The board shall  
21 formulate statewide education policies allowing the  
22 superintendent to exempt certain students from the requirements  
23 of paragraphs (2) and (3) without regard to chapter 91.

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

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

5 "[+]§302A-1402[+] **Custodian of federal funds.** The director  
6 of finance is designated as custodian of all funds received as  
7 the state apportionment under any federal appropriations for  
8 public education purposes and the director shall disburse the  
9 funds, pursuant to the requirements, restrictions, and  
10 regulations of the federal acts under which the funds may be  
11 provided, on vouchers approved by the board, or by any  
12 subordinate thereunto duly authorized by the board[-], or as  
13 appropriate, by the public charter school authority established  
14 under chapter 302B."

15 SECTION 16. Section 302A-1403, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[+]§302A-1403[+] **Authority to secure federal funds.** The  
18 department, the public charter school authority, director of  
19 finance, and governor may take such steps and perform such acts  
20 as may be necessary or proper in order to secure any such federal  
21 funds for the purposes specified in sections 302A-1401 and 302A-  
22 1402."

1           SECTIIION 17. Section 302A-1404, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " ~~[+]§302A-1404[+]~~ **Federal indirect overhead reimbursements.**

4 The department and the public charter school authority, as  
5 appropriate, may retain and expend federal indirect overhead  
6 reimbursements for discretionary grants in excess of the  
7 negotiated rate for such reimbursements as determined by the  
8 director of finance and the superintendent~~[-]~~ or the director of  
9 finance and the executive director of the public charter school  
10 office."

11           SECTION 18. Chapter 302A, part IV, subpart D, Hawaii  
12 Revised Statutes, is repealed.

13           SECTION 19. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 20. No later than twenty days prior to the  
16 convening of the regular session of 2007, the superintendent of  
17 education and the public charter school authority, through the  
18 executive director of the charter school administrative office  
19 established by this Act, shall identify and submit a list of a  
20 sufficient number of positions authorized to the department of  
21 education in units and locations other than its schools, for the  
22 purpose of delivering special education services in the public  
23 schools, so that the positions may be transferred to the public

1 charter school authority by the legislature to enable the  
2 authority to satisfy all of the responsibilities of a local  
3 educational agency for the State's public charter schools as  
4 contemplated under this Act.

5 SECTION 21. This Act shall take effect on July 1, 2006;  
6 provided that

7 (1) Sections 4, 5, 6, 7, 10, 11, 12, and all provisions of  
8 this Act that make the public charter school authority  
9 established in Part I of this Act a local educational  
10 agency for purposes of all federal laws, federal  
11 educational programs, and federal funding programs,  
12 shall take effect upon the ratification of the  
13 constitutional amendments proposed in \_\_\_\_ B. Nos. \_\_\_\_  
14 and \_\_\_\_; and

15 (2) Section 302A-1188, Hawaii Revised Statutes, shall not be  
16 repealed, and the provisions that make the public  
17 charter school authority a local educational agency for  
18 purposes of special education and require it to ensure  
19 that disabled students enrolled in public charter  
20 schools receive all they are entitled to under the  
21 federal law, shall not take effect, until July 1 of the  
22 fiscal year in which a sufficient number of special  
23 education-related positions authorized to the department

1 of education for these purposes and needed by the public  
2 charter school authority to serve as a local education  
3 agency for purposes of special education are transferred  
4 to the public charter school authority.

5

INTRODUCED BY:

BY REQUEST

DEPARTMENT: Office of the Governor

TITLE: RELATING TO CHARTER SCHOOLS

PURPOSE: The purpose of this bill is to reiterate the objectives of the State's public charter schools; enhance and provide sufficient organizational support to sustain the independence of charter schools; set out the powers and responsibilities of charter schools clearly; and provide charter schools with the resources they need to educate their students.

MEANS: Add a new Chapter 302B to the Hawaii Revised Statutes; amend sections 13-1(a), 13-3(a), 13-4(a), 26-12, 28-8.3, 89-6(f)(2), 302A-301(a), 302A-1101(a), 302A-1102, 302A-1111, 302A-1128, 302A-1402, 302A-1403, and 302A-1404, Hawaii Revised Statutes; and repeals subpart D of Part IV of Chapter 302A, Hawaii Revised Statutes.

JUSTIFICATION: Currently, the Department of Education serves as both the State Educational Agency (SEA) and the Local Educational Agency. Creating a public charter school authority as a separate LEA from the Department of Education will allow charter schools to more efficiently apply for, receive, and disburse federal charter school program grant monies.

Current law grants only the Charter School Review Board of the state Board of Education the authority to grant charters to schools. Since the Department of Education operates as both the SEA and an LEA, the Board of Education has little incentive to create schools that compete with existing district schools. Allowing multiple chartering authorities grants groups a broader range of paths to obtaining a charter, brings the resources of outside entities and organizations to bear on K12 problems, and helps to ensure accountability through a strong authorizer/school relationship.

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Allowing a combination of individuals, groups of parents, organization and non-profit groups to apply for a charter would bring a wealth of outside resources into new charter schools and would best reflect the wishes of the schools most important customers - students and parents.

Charter schools should be allowed to operate outside of most of the burdensome regulations placed on regular district schools in order to fulfill their mission. In addition, such autonomy promotes a culture of accountability within a charter school, helping to ensure success.

Current law provides no per-pupil allotment for facilities as is incorporated into capital funding for district schools. Consequently, Hawaii's charter schools are ineligible to compete for federal charter school facilities incentive grants that match state contributions to charter school facilities acquisition at a ratio of eight federal dollars for every state dollar.

Impact on the public: The public will benefit from greater school choice and increased student achievement. A stronger charter school law will encourage individuals, groups, and communities to create start-up charter schools. The increased flexibility in funding and the receipt of federal funds will enable charter schools to run more efficiently and empower them to provide their students with healthy and safe learning environments. The measures of accountability will enable the State to provide measurable outcomes regarding the success of charter schools and assist in the identification of areas for improvement.

Impact on the department and other agencies:

The measure would ease the administrative burden on the Department of Education and Board of Education by empowering the public

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charter school authority to function as a Local Education Agency (LEA).

The measure will result in better administration of a successful public charter school program by giving the public charter school authority, the public school chartering board, and the director of the charter school administrative office flexibility and true authority over the implementation of the State's charter school laws.

The Department of Accounting and General Services, Department of Education, and the University of Hawaii will assist the public charter schools with the identification of vacant facilities and equipment. The Department of Human Resources Development, Department of Accounting and General Services, and the Department of Education may contract services with the public charter schools.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: EDN 600.

OTHER AFFECTED AGENCIES: All.

EFFECTIVE DATE: July 1, 2006, except for those provisions relating to the transfer of the responsibility to act as the public charter schools' LEA for purposes of special education, which should take effect on July 1, 2007, or when sufficient positions are transferred from the Department of Education to the Public Charter School Authority to satisfy that responsibility.