

# S.B. NO. 1432

JAN 22 2007

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## A BILL FOR AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS.

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

1           SECTION 1. Chapter 302B, Hawaii Revised Statutes, is  
2 amended by adding three new sections to be appropriately  
3 designated and to read as follows:

4           1.    "§302B- Purpose. The purposes of this chapter are  
5 to authorize the establishment of public charter schools, and to  
6 establish the public charter school authority as a separate  
7 subsystem of the State's single statewide system of public  
8 schools to provide for the governance and administrative  
9 organization and support for all public charter schools.

10           The legislature's underlying objectives in authorizing the  
11 establishment of public charter schools are to:

12           (1) Provide administrators, parents, students, and  
13           teachers with expanded alternative public school  
14           choices in the types of settings, programs, and  
15           instruction available;

16           (2) Encourage the use of different and innovative  
17           teaching methods;

- 1        (3) Create new professional opportunities for  
2        teachers, including the opportunity to be  
3        responsible for the learning program at a school  
4        site;
- 5        (4) Provide parents and students with expanded  
6        choices in the types of educational opportunities  
7        that are available within the State's statewide  
8        system of public schools; and
- 9        (5) Provide a venue for promoting the study of  
10       Hawaii's culture, history, and language.
- 11       In enacting this chapter, it is the intention of the  
12       legislature to provide public charter schools with sufficient  
13       resources and support, and clear directions for their governance  
14       and administration to sustain their efforts to develop an  
15       alternative learning environment, school setting, curriculum,  
16       and educational services specifically suited to the needs of  
17       their students, and provide parents and students with an  
18       additional academic choices."
- 19       2.    "§302B- Funding and fiscal support. (a) The  
20       authority shall prepare an annual budget for the public charter  
21       school subsystem, including the office, any additional  
22       chartering authority the board may designate, and all public

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1 charter schools, for submission to the board of education for  
2 inclusion, without modification or reduction by the board of  
3 education, in the budget the department submits to the director  
4 of finance and governor. The budget request shall include  
5 separate requests to cover expenses for instructional  
6 activities, including special education and support services,  
7 employment taxes and fringe benefits, and facilities, and shall  
8 be based on appropriations for the department in the general  
9 appropriations act for the most recently completed fiscal year.

10 (b) The budget request for instructional activities, and  
11 facilities, respectively, shall be based upon:

- 12 (1) The total enrollment of regular education and special  
13 education students at charter schools, verified as of  
14 October 15 of the current school year;
- 15 (2) The sums appropriated to the department for the most  
16 recently completed fiscal year for instructional  
17 activities, physical plant operations and maintenance,  
18 and facilities, less so much of such sums as are  
19 appropriated for employment taxes and fringe benefits,  
20 in all cost categories, and for all means of financing  
21 except federal funds; and

1           (3) The total enrollment of regular education and special  
2           education students enrolled in the schools established  
3           and maintained by the department for that same fiscal  
4           year;

5           (c) The separate budget request for employment taxes and  
6 fringe benefits shall be based upon:

7           (1) The total number of employees employed by the  
8           authority as of October 15 of the current school year;

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

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

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

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

1       (e) The funds appropriated by the legislature shall be  
2 allotted to the authority by the director of finance unless  
3 subject to a reduction or restriction by the governor or the  
4 director of finance under chapter 37. After retaining any  
5 amounts appropriated for a specified purpose for expenditure by  
6 the authority, and two per cent of all other funds appropriated  
7 for the authority, including the office and the charter schools,  
8 and unless the charter schools agree that their allotments  
9 should be made under section 302B-13 instead, the remaining  
10 portion of the funds allotted shall be disbursed by the board to  
11 the charter schools as follows:

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

19       (2) Based upon each charter school's verified student  
20 enrollment as of October 15, up to its next forty per  
21 cent share of the funds allotted shall be disbursed to

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1 each charter school no later than November 15,  
2 provided the charter school submitted to the office:

3 (A) A student enrollment verified as of October 15 or  
4 as of the day before October 15, if October 15  
5 should fall on a weekend; and

6 (B) The percentage of its verified October 15 student  
7 enrollment that transferred to the charter school  
8 from a public school established and maintained  
9 by the department in that school year; and

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

15 Any sum appropriated but not disbursed in accordance with this  
16 process may be further disbursed to the charter schools on a pro  
17 rata basis or any other basis the authority, determines is  
18 appropriate. All sums disbursed to charter schools shall be  
19 deemed expended for purposes of chapter 37 and this chapter.

20 (f) Appropriations may be used to pay personnel, and for  
21 facilities, materials, supplies, equipment, insurance, fringe  
22 benefits, and other goods and services each charter school

1 purchases directly, or to contract for services provided by  
2 other state agencies or private vendors, including nonprofit and  
3 for-profit providers, provided that sums appropriated for  
4 specific purposes, including special education and support  
5 services, employment taxes and fringe benefits, and facilities,  
6 shall be expended for those specified purposes only.

7 (g) Charter schools shall have complete discretion to  
8 expend any funds they generate themselves or receive from  
9 sources other than appropriations by the legislature and federal  
10 grants, subsidies, or other forms of federal financial  
11 assistance, provided that annual fiscal reports identifying the  
12 amounts generated or received, and the purposes for which they  
13 were spent are provided to the director, authority, governor,  
14 and legislature twenty days prior to the convening of each  
15 regular legislative session.

16 (h) The authority shall satisfy all of the requirements of  
17 chapter 37 that the director of finance deems necessary,  
18 provided that the director of finance shall accord the authority  
19 the same deference accorded the department for budget and fiscal  
20 planning under that chapter.

21 (i) All funds appropriated and allotted to, or otherwise  
22 received by a charter school shall be deposited in a depository

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1 within the State in accounts insured by the federal deposit  
2 insurance corporation.

3 (j) All appropriations for the authority not expended or  
4 disbursed by the board in the fiscal year for which they are made  
5 shall not lapse until June 30 of the first fiscal year of the  
6 next fiscal biennium and may be disbursed or expended in the same  
7 manner specified in subsection (c) for sums remaining after  
8 appropriations are disbursed under that subsection. The  
9 authority shall submit a report to the director of finance and  
10 the legislature, ninety days after the close of each fiscal year,  
11 which shall be prepared in the form prescribed by the director of  
12 finance and shall identify the total amount of funds that will  
13 carry over to the next fiscal year."

14 SECTION 2. Section 26-12, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "~~§26-12 Department of education. [The department of~~  
17 ~~education shall be headed by an executive board to be known as~~  
18 ~~the board of education.~~

19 ~~Under policies established by the board, the superintendent~~  
20 ~~shall administer programs of education and public instruction~~  
21 ~~throughout the State, including education at the preschool,~~  
22 ~~primary, and secondary school levels, adult education, school~~



1 ~~library services, health education and instruction (not~~  
2 ~~including dental health treatment transferred to the department~~  
3 ~~of health), and such other programs as may be established by~~  
4 ~~law. The state librarian, under policies established by the~~  
5 ~~board of education, shall be responsible for the administration~~  
6 ~~of programs relating to public library services and transcribing~~  
7 ~~services for the blind.]~~

8 (a) The department of education shall be headed by an  
9 executive board to be known as the board of education. As  
10 provided by law, the board of education shall formulate  
11 educational policies for the State's government school system.  
12 The public charter school authority established in chapter 302B  
13 is placed in the department for administrative purposes only as  
14 defined in section 26-35.

15 (b) The department shall:  
16 (1) Serve as the State's state educational agency for  
17 purposes of federal laws, federal educational  
18 programs, and federal funding programs, and as the  
19 central support system responsible for the overall  
20 administration of statewide educational policy,  
21 development of standards for compliance with federal  
22 laws, and the submission of a single budget for the

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- 1           government schools, including the public charter  
2           schools, pursuant to the provisions of section 302(B);
- 3           (2) Serve as the local educational agency for all of the  
4           State's government schools, other than its public  
5           charter schools, for purposes of all federal laws,  
6           federal educational programs, and federal funding  
7           programs, and serve as the central support system  
8           responsible for the overall administration of  
9           education policy, compliance with federal and state  
10           laws, and the preparation of a budget for the  
11           department and all government schools other than  
12           public charter schools;
- 13           (3) Through the superintendent of education, provide for  
14           the internal organization, operation, and management,  
15           and administer all programs of education and public  
16           instruction, for primary and secondary school levels,  
17           library services, and such other programs as may be  
18           established by law, in all government schools other  
19           than public charter schools;
- 20           (4) Provide support to the public charter school authority  
21           and the State's public charter schools, as it is

1           authorized, directed, or required by statute, policy,  
2           or Executive Order; and

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

5           (c) The functions and authority heretofore exercised by  
6 the department of education (except [~~dental~~] health treatment  
7 transferred to the department of health), library of Hawaii,  
8 Hawaii county library, Maui county library, and the transcribing  
9 services program of the bureau of sight conservation and work  
10 with the blind, as heretofore constituted are transferred to the  
11 public library system established by [~~this chapter.~~] Act 1,  
12 Second Special Session Laws of Hawaii 1959.

13           (d) The management contract between the board of  
14 supervisors of the county of Kauai and the Kauai public library  
15 association shall be terminated at the earliest time after  
16 November 25, 1959, permissible under the terms of the contract  
17 and the provisions of this [~~paragraph~~] subsection shall  
18 constitute notice of termination, and the functions and  
19 authority heretofore exercised by the Kauai county library as  
20 heretofore constituted and the Kauai public library association  
21 over the public libraries in the county of Kauai shall thereupon

1 be transferred to the public library system established by [~~this~~  
2 ~~chapter.~~] Act 1, Second Special Session Laws of Hawaii 1959.

3 (e) The management contracts between the trustees of the  
4 library of Hawaii and the Friends of the Library of Hawaii, and  
5 between the library of Hawaii and the Hilo library and reading  
6 room association, shall be terminated at the earliest time after  
7 November 25, 1959, permissible under the terms of the contracts,  
8 and the provisions of this [~~paragraph~~] subsection shall  
9 constitute notice of termination.

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

17 (g) Notwithstanding any law to the contrary, the board of  
18 education may establish, specify the membership number and  
19 quorum requirements for, appoint members to, and disestablish a  
20 commission in each county to be known as the library advisory  
21 commission, which shall in each case sit in an advisory capacity

1 to the board of education on matters relating to public library  
2 services in their respective county."

3 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§28-8.3 **Employment of attorneys.** (a) No department of the  
6 State other than the attorney general may employ or retain any  
7 attorney, by contract or otherwise, for the purpose of  
8 representing the State or the department in any litigation,  
9 rendering legal counsel to the department, or drafting legal  
10 documents for the department; provided that the foregoing  
11 provision shall not apply to the employment or retention of  
12 attorneys:

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

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- 1 (6) By the contractors license board for any action
- 2 involving the contractors recovery fund;
- 3 (7) By the trustees for any action involving the travel
- 4 agency recovery fund;
- 5 (8) By the office of Hawaiian affairs;
- 6 (9) By the department of commerce and consumer affairs for
- 7 the enforcement of violations of chapters 480 and 485;
- 8 (10) As grand jury counsel;
- 9 (11) By the Hawaiian home lands trust individual claims
- 10 review panel;
- 11 (12) By the Hawaii health systems corporation or any of its
- 12 facilities;
- 13 (13) By the auditor;
- 14 (14) By the office of ombudsman;
- 15 (15) By the insurance division;
- 16 (16) By the University of Hawaii;
- 17 (17) By the Kahoolawe island reserve commission;
- 18 (18) By the division of consumer advocacy; ~~for~~
- 19 (19) By the office of elections;
- 20 (20) By the campaign spending commission; ~~for~~
- 21 (21) By the public charter school authority established in
- 22 section 302B-3; or

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

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

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

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

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

3 SECTION 4. Chapter 302A, Hawaii Revised Statutes, is  
4 amended:

5 1. By amending section 302A-101, Hawaii Revised Statutes,  
6 as follows:

7 a. By adding a definition of "public charter school  
8 authority" to read as follows:

9 "Public charter school authority" or "authority" means the  
10 subsystem of the State's single statewide system of schools  
11 established in section 302B-3."

12 b. By amending the definition of "public schools" to read  
13 as follows:

14 "Public schools" means all academic and noncollege type  
15 schools established and maintained by the department [~~and charter~~  
16 ~~schools~~] or chartered by the [~~board of education~~] public charter  
17 school authority, in accordance with law."

18 c. By repealing the definition of "charter school review  
19 panel."

20 [~~"Charter school review panel" or "panel" means the panel~~  
21 ~~established in section 302B-3 with the powers and duties to make~~  
22 ~~recommendations to the board regarding charter schools."~~]



1           2. By amending section 302A-301, Hawaii Revised Statutes  
2 to read as follows:

3           "§302A-301 Incentive and innovation grants. (a) There is  
4 established in the state treasury a trust fund to be known as the  
5 incentive and innovation grant trust fund to provide incentive  
6 and innovation grants to qualified schools, including public  
7 charter schools. Expenditures from the trust fund shall be made  
8 by the [~~department and shall be subject to the allotment and~~  
9 ~~expenditure plan required under section 37-34.5.~~] superintendent,  
10 if made for a school established and maintained by the  
11 department, or by the public charter school authority, if made  
12 for a public charter school. Notwithstanding any other law to  
13 the contrary, tax deductible donations may be made to, and  
14 received by, this trust fund.

15           (b) Grants shall be for such purposes as the funding of  
16 experimental and innovative instructional programs, in-service  
17 training, and other activities that promote innovation as  
18 outlined in the proposal.

19           (c) The board shall establish and appoint the members of a  
20 grant award panel, which shall consist of at least one  
21 representative from each of the following groups:

22           (1) Parents;

- 1 (2) Students;
- 2 (3) Teachers;
- 3 (4) School administrators;
- 4 (5) School support staff;
- 5 (6) Businesspersons; and
- 6 (7) The military; whose participation shall be requested.

7 The panel shall include a representative from each school  
8 district among its members.

9 The panel shall review proposals and make recommendations on  
10 grant awards to the superintendent [~~on grant awards~~], if the  
11 proposal is from a school established and maintained by the  
12 department, or the public charter school authority, if the  
13 proposal is from a public charter school. Panel members shall  
14 serve for a term of two years without compensation, but shall be  
15 entitled to reimbursement for necessary expenses while attending  
16 meetings and while in the discharge of their duties. A portion  
17 of the moneys in the incentive and innovation grant trust fund,  
18 not to exceed one per cent, shall be used to offset the expenses  
19 incurred by the review panel. The department shall provide staff  
20 support for the panel.

1 (d) The panel shall develop a process for submitting  
2 proposals that is distinguished by its simplicity and  
3 minimization of paperwork.

4 (e) All proposals for incentive and innovation grants shall  
5 include:

6 (1) A clear statement of how the proposed program will  
7 improve student performance;

8 (2) A method of evaluation to determine if the program has  
9 achieved its stated goals;

10 (3) A detailed budget and expenditure plan, which shall  
11 include any commitment of existing funds under the  
12 school or schools' allotment toward the proposed  
13 program; and

14 (4) Other criteria required by the panel.

15 (f) In the case of a renewal request, a school or schools  
16 shall submit a specific plan for establishing the program within  
17 the school or schools' biennium budget.

18 (g) The panel shall assist the superintendent and the  
19 public charter school authority, as appropriate, in the  
20 evaluation of all grant programs under this section on a  
21 continuing basis. If an approved program fails to meet the  
22 requirements of its proposal, the panel shall recommend to the

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1 superintendent or the public charter school authority, as  
2 appropriate, that funding for the grant [~~shall~~] be terminated.

3 (h) The superintendent and the public charter school  
4 authority shall submit a report to the legislature on the  
5 operations of the review panel at least twenty days before the  
6 convening of each regular session."

7 (i) Any funds not used in the Trust Fund at the end of each  
8 fiscal year by the department shall be made available exclusively  
9 for use by the charter school authority in the subsequent fiscal  
10 year.

11 3. By amending section 302A-1101, Hawaii Revised Statutes,  
12 to read as follows:

13 "§302A-1101 Department of education; board of education;  
14 superintendent of education; public charter school authority.

15 (a) There shall be a principal executive department to be known  
16 as the department of education, which shall be headed by an  
17 elected policy-making board to be known as the board of  
18 education. The board shall have power in accordance with law to  
19 formulate statewide educational policy, adopt student  
20 performance standards and assessment models, monitor school  
21 success, and to appoint the superintendent of education as the  
22 chief executive officer of [~~the public school system-~~] that

1 subsystem of the State's single statewide system of public  
2 schools that does not include the State's public charter  
3 schools. The public charter school authority established in  
4 chapter 302B is placed in the department for administrative  
5 purposes as defined in section 26-35.

6 (b) The board shall appoint, and may remove, the  
7 superintendent by a majority vote of its members. The  
8 superintendent:

9 (1) May be appointed without regard to the state residency  
10 provisions of section 78-1(b);

11 (2) May be appointed for a term of up to four years; and

12 (3) May be terminated only for cause.

13 (c) The board shall invite the senior military commander in  
14 Hawaii to appoint a nonvoting military representative to the  
15 board, who shall serve for a two-year term without compensation.  
16 As the liaison to the board, the military representative shall  
17 advise the board regarding state education policies and  
18 departmental actions affecting students who are enrolled in  
19 public schools as family members of military personnel. The  
20 military representative shall carry out these duties as part of  
21 the representative's official military duties and shall be guided  
22 by applicable state and federal statutes, regulations, and

1 policies and may be removed only for cause by a majority vote of  
2 the members of the board.

3 ~~[(d) The board shall serve as the charter authorizer for~~  
4 ~~charter schools, with the power and duty to issue charters,~~  
5 ~~oversee and monitor charter schools, hold charter schools~~  
6 ~~accountable for their performance, and revoke charters.] "~~

7 4. By amending section 302A-1102, Hawaii Revised Statutes,  
8 to read as follows:

9 " ~~[+]~~ §302A-1102 ~~[+]~~ Department of education; statewide and  
10 regional administrative services. The department shall serve as  
11 the central support system for the public schools established  
12 and maintained by the department, and be responsible for the  
13 ~~[overall]~~ administration of statewide educational policy,  
14 ~~[interpretation, and]~~ development of standards for compliance  
15 with state and federal laws, ~~[and]~~ coordination and preparation  
16 of a systemwide budget for the ~~[public]~~ schools it establishes  
17 and maintains, and submission of a single education budget to  
18 the director of finance and governor for public schools,  
19 including public charter schools. The department may establish  
20 regional administrative units to provide administrative support  
21 to ~~[the]~~ these schools for personnel, fiscal, and procurement  
22 services. The regional administrative units may also be

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

3 5. By amending section 302A-1111, Hawaii Revised Statutes,  
4 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  
10 public charter schools. The superintendent shall have  
11 jurisdiction over the internal organization, operation, and  
12 management of ~~[the public school system, as provided by law,]~~  
13 all public schools other than public charter schools; and shall  
14 administer programs of education and public instruction  
15 ~~[throughout the State,]~~ in those schools, including education at  
16 the ~~[preschool,]~~ primary~~[,]~~ and secondary school levels, and  
17 such other programs as may be established by law.

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

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1 302B. The superintendent may use a printed facsimile signature  
2 in approving appointments, contracts, and other documents. The  
3 superintendent, at such time as may be prescribed by the board,  
4 shall present to the board full annual reports of the principal  
5 transactions within the department during the last completed  
6 year, which reports together with such recommendations as the  
7 board may think proper, shall be presented to the governor and  
8 the legislature."

9 6. By amending section 302A-1302, Hawaii Revised Statutes,  
10 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 it establishes. The  
15 flexibility shall be limited to the school-based budgeting  
16 program EDN 100 of the department for all schools except charter  
17 schools.

18 [~~(b) Beginning in fiscal year 2006-2007, and every year~~  
19 ~~thereafter, the office shall distribute the allocations due to a~~  
20 ~~charter school directly to charter school.~~]"

21 7. By amending section 302A-1402, Hawaii Revised Statutes,  
22 to read as follows:



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1 " [+] §302A-1402 [+] Custodian of federal funds. The  
2 director of finance is designated as custodian of all funds  
3 received as the state apportionment under any federal  
4 appropriations for public education purposes and the director  
5 shall disburse the funds, pursuant to the requirements,  
6 restrictions, and regulations of the federal acts under which  
7 the funds may be provided, on vouchers approved, as appropriate,  
8 by the board, or by any subordinate thereunto duly authorized by  
9 the board[-], or by the public charter school authority  
10 established under chapter 302B."

11 8. By amending section 302A-1403, Hawaii Revised Statutes,  
12 to read as follows:

13 " [+] §302A-1403 [+] Authority to secure federal funds. The  
14 department, the public charter school [~~administrative office~~]  
15 authority, director of finance, and governor may take such steps  
16 and perform such acts as may be necessary or proper to secure  
17 [~~any such~~] federal funds for the purposes specified in sections  
18 302A-1401 and 302A-1402."

19 9. By amending subsection (a) of section 302A-1404, Hawaii  
20 Revised Statutes, to read as follows:

21 "(a) The department and the public charter school  
22 [~~administrative office~~] authority, as appropriate, may retain and

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1 expend federal indirect overhead reimbursements for discretionary  
2 grants in excess of the negotiated rate for such reimbursements  
3 as determined by the director of finance and the superintendent  
4 or the director of finance and the [~~executive director~~] board of  
5 the public charter school [~~administrative office~~] authority."

6 10. By amending subsection (a) of section 302A-1505, Hawaii  
7 Revised Statutes, to read as follows:

8 "(a) Each department school shall inform the department of  
9 education on an annual basis of its school repair and maintenance  
10 needs. Before any repair and maintenance projects for the  
11 upcoming fiscal year are implemented, each individual school  
12 administration shall prioritize and approve its repair and  
13 maintenance needs, and approve the scope of the implementation  
14 plan for the individual projects. After schools have prioritized  
15 their repair and maintenance projects, a statewide list shall be  
16 prepared, reviewed, and approved by the department of education;  
17 provided that the department may make adjustments among schools  
18 and complex areas. Each listing shall be posted electronically  
19 on the Internet." The Public Charter School Authority shall work  
20 with each individual charter school administration to prioritize  
21 and approve its repair and maintenance needs and to prepare its  
22 own statewide list of projects.

1 SECTION 5. Chapter 302B, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding a definition of "authority," and amending  
4 the definitions of "board," "charter school review panel,"  
5 "conversion charter school," "detailed implementation plan," and  
6 "start-up charter school" in section 302B-1, Hawaii Revised  
7 Statutes, to read as follows:

8 "Authority" means the public charter school authority  
9 established in section 302B-3."

10 "Board" means the [board of education.] charter school  
11 board."

12 "Charter school [review panel] board" [or "panel"] means  
13 the [panel established pursuant to section 302B-3 with the powers  
14 and duties to advise and make recommendations to the board  
15 regarding issuance and revocation of charters, detailed  
16 implementation plan revisions, and charter school evaluations.]  
17 board designated as the head of the public charter school  
18 authority established in section 302B-3."

19 "Conversion charter school" means:

20 (1) Any ~~existing~~ department school that converts to  
21 a charter school and is managed and operated in  
22 accordance with ~~section~~ a detailed

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1 implementation plan reviewed and approved by the  
2 board pursuant to sections 302B-3 and 302B-6;

3 (2) Any existing department school that converts to a  
4 charter school and is managed and operated by a  
5 nonprofit organization in accordance with  
6 ~~[section]~~ a detailed implementation plan reviewed  
7 and approved by the board pursuant to sections  
8 302B-3 and 302B-6; or

9 (3) A newly created school, consisting of programs or  
10 sections of existing public school populations  
11 that are funded and governed independently and  
12 may include part of a separate Hawaiian language  
13 immersion program using existing public school  
14 facilities."

15 "Detailed implementation plan" means the document that  
16 details ~~[the]~~ a charter school's purpose, [focus, operations,  
17 organization, finances, and accountability,] how the school is to  
18 be organized, managed and operated, and the terms and conditions  
19 the school must satisfy to retain its charter."

20 "Start-up charter school" means a ~~[new]~~ charter school  
21 ~~[established under section]~~ managed and operated in accordance

1 with a detailed implementation plan reviewed and approved by the  
2 board pursuant to sections 302B-3 and 302B-5."

3 2. By amending section 302B-3, Hawaii Revised Statutes, to  
4 read as follows:

5 ~~"§302B-3 [Charter school review panel, establishment,~~  
6 ~~powers and duties. (a) There is established the charter school~~  
7 ~~review panel board, which shall be placed within the department~~  
8 ~~for administrative purposes only. The panel shall be accountable~~  
9 ~~to and report to the board.]~~ Governance of public charter  
10 schools; public charter school authority established; powers and  
11 duties. (a) The public charter school authority is established  
12 as a subsystem of the State's single statewide system of  
13 government schools. The authority shall be responsible for  
14 providing administrative support and direction for the efficient  
15 operation and management of public charter schools. The  
16 authority shall be placed within the department of education for  
17 administrative purposes only. The authority shall constitute a  
18 local educational agency for purposes of all federal laws,  
19 federal educational programs, and federal funding programs, and  
20 shall serve as the central support system for the overall  
21 administration of education policy, compliance with federal and

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1 state laws, and the preparation of a budget for all public  
2 charter schools.

3 (b) The authority shall be headed by the charter school  
4 board. The ~~[panel]~~ board shall consist of nine members, and  
5 shall include:

6 (1) Two licensed teachers regularly engaged in teaching;  
7 provided that one teacher is employed at a start-up  
8 charter school, and one teacher is employed at a  
9 conversion charter school;

10 (2) Two educational officers; provided that one  
11 educational officer is employed at a start-up charter  
12 school, and one educational officer is employed at a  
13 conversion charter school;

14 (3) One member or former member of a charter school local  
15 school board;

16 (4) The chair of the board of education or the chair's  
17 designee;

18 ~~[(5) The executive director or the executive~~  
19 ~~director's designee;]~~

20 ~~[(6)]~~ (5) A representative of Hawaiian culture-focused  
21 schools; [and]

1           ~~[(7)]~~ (6) A representative of the University of  
2                   Hawaii ~~[-]~~; and

3           (7) A member of the public whose child attends a  
4                   public charter school.

5           (c) The ~~[board]~~ governor shall appoint ~~[the remaining]~~ all  
6 of the members of the ~~[panel]~~ board other than the chair of the  
7 board of education or the chair's designee. ~~[and the executive~~  
8 ~~director or the executive director's designee.]~~

9           (d) ~~[Appointed panel]~~ Board members appointed by the  
10 governor shall serve not more than three consecutive three-year  
11 terms, with each term beginning on July 1; provided that the  
12 ~~[initial]~~ terms of the ~~[appointed]~~ members ~~[that commence after~~  
13 ~~June 30, 2006,]~~ appointed initially shall be staggered as  
14 follows:

- 15           (1) Three members to serve three-year terms;  
16           (2) Two members to serve two-year terms; and  
17           (3) Two members to serve a one-year term.

18           (e) Notwithstanding the terms of members and the provisions  
19 of section 26-34, the ~~[board]~~ governor may ~~[add panel members at~~  
20 ~~any time and]~~ replace ~~[panel]~~ board members at any time when  
21 their positions become vacant through resignation, non-

1 participation, or upon request of a majority of ~~[panel]~~ board  
2 members.

3 (f) ~~[Panel]~~ Board members shall receive no compensation.

4 When ~~[panel]~~ board duties require that a ~~[panel]~~ board member  
5 take leave of the ~~[panel]~~ board member's duties as a state  
6 employee, the appropriate state department shall allow the  
7 ~~[panel]~~ board member to be placed on administrative leave with  
8 pay and shall provide substitutes for board members who are  
9 teachers, when necessary, to perform that ~~[panel]~~ board member's  
10 duties. ~~[Panel]~~ Board members shall be reimbursed for necessary  
11 travel expenses incurred in the conduct of official ~~[panel]~~ board  
12 business.

13 (g) The board shall be exempt from chapter 92. The ~~[panel]~~  
14 board shall establish operating procedures that shall include  
15 conflict of interest provisions for ~~[any member whose]~~ use when a  
16 member's school of employment, ~~[ex]~~ including its local school  
17 board ~~[membership]~~, or immediate family member is before the  
18 ~~[panel]~~ board.

19 (h) The chair of the ~~[panel]~~ board shall be ~~[designated by]~~  
20 elected by a majority of the members of the ~~[panel]~~ board for  
21 each school year beginning July 1 and whenever there is a  
22 vacancy. If the ~~[panel]~~ board does not designate its chair ~~[for~~



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1 ~~the next school year by July 1,~~ within a reasonable period of  
2 time, the ~~[board]~~ governor shall designate ~~[the panel chair]~~.  
3 ~~[When the panel chair is vacant, the board shall designate an~~  
4 ~~interim chair to serve until the panel designates its chair.~~

5 (i) The powers and duties of the ~~[panel]~~ authority as  
6 exercised by the board shall be to:

- 7 (1) Review ~~[charter]~~ completed applications and issue or  
8 deny applications for charters for new start-up and  
9 conversion charter schools in accordance with sections  
10 302B-5 and 302B-6 ~~[and make recommendations to the~~  
11 ~~board for the issuance of new charters]~~; provided that  
12 if the board does not issue or deny the charter within  
13 sixty calendar days of the board's receipt of the  
14 ~~[recommendations,~~ application, the ~~[recommendations]~~  
15 charter application shall ~~[automatically become~~  
16 ~~effective,~~ be deemed issued;
- 17 (2) ~~[Review significant]~~ Require, or review and approve  
18 school-initiated amendments to a school's detailed  
19 implementation [plans] plan to [maximize] facilitate  
20 the school's financial and academic success, long-term  
21 organizational viability, and accountability~~[, and make~~  
22 ~~recommendations to the board]~~; provided that if the

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1 board does not approve or deny [~~the amendments~~] an  
2 amendment proposed by a school within sixty calendar  
3 days of receipt of the [~~recommendations,~~] amendments,  
4 the [~~recommendations~~] amendments shall automatically  
5 become effective;

6 (3) [~~Recommend to the board~~] Develop and impose reporting  
7 requirements for charter schools;

8 (4) Review annual self-evaluation reports from charter  
9 schools [~~and make recommendations to the board~~];

10 (5) [~~As directed by the board, evaluate~~] Evaluate and  
11 consider any aspect of a charter [~~school that the board~~  
12 ~~may have concerns with and make recommendations to the~~  
13 ~~board, which may include~~] school's operations,  
14 including probation or charter revocation; [~~provided~~  
15 ~~that if the board does not take action on the~~  
16 ~~recommendations their concerns within sixty calendar~~  
17 ~~days, the recommendations shall automatically become~~  
18 ~~effective,~~]

19 (6) [~~Periodically recommend Evaluate the board's their~~  
20 ~~monitoring and oversight of charter schools,~~]

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- 1       ~~[(7) Periodically recommend to the board improvements in~~  
2       ~~evaluate the office's support of charter schools and~~  
3       ~~management of the charter school system;]~~
- 4       (7) Develop statewide educational policies and objectives  
5       for the administration and management of public charter  
6       schools;
- 7       (8) Receive and investigate complaints about charter  
8       schools;
- 9       (9) Prescribe remedial action plans for charter schools  
10       when necessary or appropriate;
- 11       (10) Provide information about the availability of federal  
12       funds and federal programs in which charter schools may  
13       participate, as well as technical assistance to assist  
14       charter schools in complying with all federal and state  
15       laws, and facilitate their access to federal and state  
16       funds;
- 17       (11) Oversee charter schools to ensure their compliance with  
18       the provisions of their detailed implementation plans,  
19       this chapter, all other applicable state and federal  
20       laws, and all statewide educational policies of the  
21       board of education that are applicable to charter

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- 1 schools and not superseded by provisions of this  
2 chapter;
- 3 (12) Prepare the budgets of the office and any additional  
4 chartering authority the board may designate;
- 5 (13) Review the budgets of the individual charter schools  
6 and consolidate them with the budgets of the office and  
7 any additional chartering authority the board may  
8 designate, into a single budget for the public charter  
9 school authority, for submission to the governor,  
10 through the board of education;
- 11 (14) Disburse all appropriations made for the public charter  
12 school authority, including the office, any additional  
13 chartering authority the board may designate, and the  
14 charter schools;
- 15 (15) To the extent permitted by federal law, prepare and  
16 submit to the relevant federal agencies all requests  
17 for federal financial support charter schools are  
18 entitled to make or receive;
- 19 (16) To the extent permitted by federal law, receive and  
20 disburse all federal grants and subsidies awarded to  
21 the authority or charter schools for their operations;

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- 1        (17) Prepare, consolidate, and submit all requests for  
2        federal financial support and assistance for or from  
3        charter schools, to the department for inclusion in the  
4        State's applications for federal assistance, when  
5        applications are required to be made through the  
6        department;
- 7        (18) Represent charter schools in communications with the  
8        superintendent, the board of education, the governor,  
9        and the legislature;
- 10       (19) Designate and authorize the board of regents of the  
11       university of Hawaii and any other public agency to act  
12       as a chartering authority and issue charters under  
13       section 302B-5, provided that any additional chartering  
14       authority designated by the board shall adhere to and  
15       apply all of the requirements, conditions, and  
16       procedures the board is required to implement and apply  
17       in issuing charters under section 302B-5; and
- 18       (20) For good cause, extend any deadline imposed by this  
19       chapter up to an additional 60 days.
- 20       ~~[(j) In the case that the board decides not to recommend the~~  
21       ~~issuance of a new charter, or to recommend significant amendments~~

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1 ~~to detailed implementation plans, the board shall adopt rules for~~  
2 ~~an appeals process.~~

3 ~~(k) The board shall provide for the staff support and~~  
4 ~~expenses of the panel. The board shall submit to the legislature~~  
5 ~~annual appropriation requests to fund the operations of the panel~~  
6 ~~board.~~

7 ~~(l) The panel board shall be exempt from chapter 92.]~~

8 (j) The authority, through its board, may delegate all of  
9 its powers and responsibilities to the director except the power  
10 to designate entities to act as a chartering authority under  
11 subsection (i)(19).

12 (k) The authority shall adopt rules pursuant to chapter 91  
13 necessary for the purposes of this chapter, including an appeals  
14 process to afford applicants or charter schools an opportunity  
15 to present their positions when their applications for charters  
16 or requests to revise their detailed implementation plans are  
17 rejected or denied by the board."

18 3. By amending section 302B-4, Hawaii Revised Statutes, to  
19 read as follows:

20 "302B-4 Limits on charter schools. Beginning July 2007, the  
21 board[~~, with the recommendation of the panel,~~] may authorize one  
22 new start-up charter school for each existing start-up charter

1 school [~~that has received a three year or longer accreditation~~  
2 ~~from the Western Association of Schools and Colleges or a~~  
3 ~~comparable accreditation authority as determined by the panel~~],  
4 or for each start-up charter school whose charter is revoked.  
5 The total number of conversion charter schools authorized by the  
6 board[~~, with the recommendation of the panel,~~] shall not exceed  
7 twenty-five."

8 4. By amending subsections (a), (c) and (d) of section  
9 302B-5, Hawaii Revised Statutes, to read as follows:

10 a. "(a) New start-up charter schools may be established  
11 only pursuant to this section and any additional rules adopted by  
12 the board."

13 b. "(c) The start-up charter school application process  
14 [~~and schedule shall be determined by the board, and~~] shall  
15 [~~provide for and~~] include the following elements:

16 (1) The submission of a letter of intent to operate a  
17 start-up charter school to the office;

18 (2) The [~~timely~~] transmittal of the application form and  
19 completion guidelines by the office to the interim  
20 local school board;

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- 1           (3) The [~~timely~~] initial submission of an applicaton for a  
2           charter to the [~~board of a completed application~~]  
3           office;
- 4           (4) The [~~timely~~] review of the application by the [~~panel~~]  
5           staff of the charter school board for completeness, and  
6           notification of the interim local school board if the  
7           application is complete or, if the application is  
8           insufficient, a written statement of the elements of  
9           the application that require completion;
- 10          (5) The [~~timely~~] resubmission of the application;
- 11          (6) Upon receipt of a completed application, the convening  
12          of the [~~panel~~] board by the [~~panel~~] board chairperson  
13          to begin review of the application;
- 14          (7) The [~~timely~~] notification of the applicant of any  
15          revisions the [~~panel~~] board requests as necessary for  
16          [~~a recommendation of approval to~~] decision by the  
17          board;
- 18          (8) [~~The timely transmission of the panel's recommendation~~  
19          ~~to the board for adjudication;~~
- 20          ~~(9) Following the submission of an application, issuance of~~  
21          ~~a charter or denial of the application by the board by~~  
22          ~~majority vote; provided that if the board does not~~



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1 ~~approve the application and issue a charter, provisions~~  
2 ~~requiring the board to:]~~ If the board denies an  
3 application for a charter, the board shall:

4 (A) Clearly identify in writing its reasons for not  
5 issuing the charter, which may be used as  
6 guidelines for an amended plan; and

7 (B) Allow the local public charter school board to  
8 revise its plan in accordance with the board's  
9 guidelines, and resubmit an amended plan within  
10 ten calendar days;

11 and

12 (9) If the board issues a charter, the board shall indicate  
13 when the charter school may begin operations, provided  
14 that the date indicated shall allow for sufficient time  
15 to secure funds from the Legislature to fund the new  
16 school's operations.

17 (10) A provision for a final date on which a decision must  
18 be made, upon receipt of an amended plan;

19 (11) A provision that no start-up charter school may begin  
20 operation before obtaining board approval of its  
21 charter; and

1 (12) A requirement that upon approval of the start-up  
2 charter school, the office shall submit to the board a  
3 proposed budget for funding of the start-up school for  
4 submittal to the governor and legislature."

5 c. "(d) An application to become a start-up charter school  
6 shall include a detailed implementation plan that meets the  
7 requirements of this subsection and section 302B-9. The plan  
8 shall include the following:

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

12 (2) A plan for identifying, recruiting, and retaining  
13 ~~[highly]~~ qualified instructional faculty;

14 (3) A plan for identifying, recruiting, and selecting  
15 students that ~~[is not exclusive, elitist, or~~  
16 ~~segregationist]~~ meets federal and State equal  
17 opportunity requirements;

18 (4) The curriculum and instructional framework to be used  
19 to achieve student outcomes, including an assessment  
20 plan;

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

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- 1 (A) Recognizes the interests of the general public;
- 2 (B) Incorporates or exceeds the educational content
- 3 and performance standards [~~developed by the~~
- 4 ~~department]~~ adopted by the board of education for
- 5 the State's [~~public~~] school system; and
- 6 [~~(C) Includes a system of faculty and staff~~
- 7 ~~accountability that holds faculty and staff both~~
- 8 ~~individually and collectively accountable for~~
- 9 ~~their performance, and that is at least equivalent~~
- 10 ~~to the average system of accountability in public~~
- 11 ~~schools throughout the state; and]~~
- 12 [~~(D)~~] (C) Provides for program audits and annual
- 13 financial audits[+].
- 14 (6) A governance structure for the charter school that
- 15 incorporates a conflict of interest policy and a plan
- 16 for periodic training to carry out the duties of local
- 17 school board members;
- 18 (7) A financial plan based on the most recent fiscal year's
- 19 per-pupil charter school allocation that demonstrates
- 20 the ability to meet the financial obligations of one-
- 21 time, start-up costs and ongoing costs such as monthly

1           payrolls, faculty recruitment, professional  
2           development, and facilities costs; and

3           (8) A facilities plan."

4           5. By amending subsection (a), (c), and (d) of section  
5   302B-6, Hawaii Revised Statutes, to read as follows:

6           a. "(a) A conversion charter school may be established  
7   only pursuant to this section and any additional rules adopted by  
8   the board."

9           b. "(c) The conversion charter school application process  
10   ~~[and schedule shall be determined by the board, and]~~ shall  
11   ~~[provide for and]~~ include the following elements:

12           (1) The submission of a letter of intent to convert to a  
13           charter school to the office;

14           (2) The ~~[timely]~~ transmittal of the application form and  
15           completion guidelines by the office to the interim  
16           local school board;

17           (3) The ~~[timely]~~ initial submission of an application for a  
18           charter to the ~~[board of a completed application,~~  
19           ~~provided that the application shall include]~~ authority,  
20           with a certification [and documentation] from the  
21           interim school board that the application and the  
22           proposed detailed implementation plan was approved by a

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- 1 majority of the votes cast by existing [administrative,  
2 ~~support,~~] teaching personnel, and parents of students  
3 [~~at~~] of the proposed conversion charter school;
- 4 (4) The [~~timely~~] review of the application by the [~~panel~~]  
5 office for completeness, and notification of the  
6 interim local school board if the application is  
7 complete or, if the application is insufficient, a  
8 written statement of the elements of the application  
9 that require completion;
- 10 (5) The [~~timely~~] resubmission of the application;
- 11 (6) Upon receipt of a completed application, the convening  
12 of the [~~panel~~] board by the [~~panel~~] board chairperson  
13 to begin review of the application;
- 14 (7) The [~~timely~~] notification of the applicant of any  
15 revisions the [~~panel~~] board requests as necessary for  
16 [~~a recommendation of approval to~~] decision by the  
17 board;
- 18 (8) [~~The timely transmission of the panel's recommendation~~  
19 ~~to the board for adjudication;~~
- 20 ~~(9) Following the submission of an application, issuance of~~  
21 ~~a charter or denial of the application by the board by~~  
22 ~~majority vote, provided that if the board does not~~

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1 ~~approve the application and issue a charter, provisions~~  
2 ~~requiring the board to:]~~ If the board denies an  
3 application for a conversion charter, the board shall:

4 (A) Clearly identify in writing its reasons for not  
5 issuing the charter, which may be used as  
6 guidelines for an amended plan; and

7 (B) Allow the interim local school board to revise its  
8 plan in accordance with the board's guidelines,  
9 and resubmit an amended plan within ten calendar  
10 days;

11 and

12 (9) If the board issues a charter, the board shall indicate  
13 when the conversion charter school may begin  
14 operations, provided that the date indicated shall  
15 allow for sufficient time to secure funds from the  
16 Legislature to fund the new school's operations.

17 [(10) A provision for a final date on which a decision must  
18 be made upon receipt of an amended plan;

19 (11) A provision that no conversion charter school may begin  
20 operation before obtaining board approval of its  
21 charter; and

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1           (12) A requirement that upon approval of the conversion  
2           charter school, the office shall submit to the board a  
3           proposed budget for funding of the start-up school for  
4           submittal to the governor and legislature.]"

5           c. "(d) An application to become a conversion charter  
6           school shall include a detailed implementation plan that meets  
7           the requirements of this subsection and section 302B-9. The plan  
8           shall include the following:

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

12           (2) A plan for identifying, recruiting, and retaining  
13           ~~[highly]~~ qualified instructional faculty;

14           (3) A plan for identifying, recruiting, and selecting  
15           students that ~~[is not exclusive, elitist, or~~  
16           ~~segregationist]~~ abides the federal and State equal  
17           opportunity requirements;

18           (4) The curriculum and instructional framework to be used  
19           to achieve student outcomes, including an assessment  
20           plan;

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

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- 1 (A) Recognizes the interests of the general public;
- 2 (B) Incorporates or exceeds the educational content
- 3 and performance standards [~~developed by the~~
- 4 ~~department~~] adopted for the board of education for
- 5 the State's [~~public~~] school system; and
- 6 (C) [~~Includes a system of faculty and staff~~
- 7 ~~accountability that holds faculty and staff both~~
- 8 ~~individually and collectively accountable for~~
- 9 ~~their performance, and that is at least equivalent~~
- 10 ~~to the average system of accountability in public~~
- 11 ~~schools throughout the state; and~~
- 12 ~~(D)~~] Provides for program audits and annual financial
- 13 audits;
- 14 (6) A governance structure for the charter school that
- 15 incorporates a conflict of interest policy and a plan
- 16 for periodic training to carry out the duties of local
- 17 school board members;
- 18 (7) A financial plan based on the most recent fiscal year's
- 19 per-pupil charter school allocation that demonstrates
- 20 the ability to meet the financial obligations of one-
- 21 time, start-up costs and ongoing costs such as monthly



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1 payrolls, faculty recruitment, professional  
2 development, and facilities costs; and

3 (8) A facilities plan."

4 6. By amending subsections (a), (b), and (h) of section  
5 302B-8, Hawaii Revised Statutes, to read as follows:

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

18 b. "(b) The executive director, under the direction of  
19 the 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:

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- 1 (1) Preparing and executing the budget for the charter  
2 schools, including submission of the budget request to  
3 the board, the governor, and the legislature;
- 4 (2) [~~Allocating annual~~] Disbursing appropriations to the  
5 charter schools and [~~distribution of~~] distributing  
6 federal funds to charter schools;
- 7 (3) [~~Complying with applicable state laws related to the~~  
8 ~~administration of the charter schools;~~
- 9 ~~(4)]~~ Preparing contracts between the charter schools and the  
10 department for centralized services to be provided by  
11 the department;
- 12 ~~+(5)]~~ (4) Preparing contracts between the charter schools and  
13 other state agencies for financial or personnel  
14 services to be provided by the agencies to the charter  
15 schools;
- 16 [(6)] (5) Providing independent analysis and recommendations on  
17 charter school issues;
- 18 ~~+(7)]~~ (6) Representing charter schools and the charter school  
19 system in communications with the board, the governor,  
20 and the legislature;

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- 1    ~~[(+8)]~~ (7) Providing advocacy, assistance, and support for the  
2                    development, growth, progress, and success of charter  
3                    schools and the public charter school system;
- 4    ~~[(+9)]~~ (8) Providing guidance and assistance to charter applicants  
5                    and charter schools to enhance the completeness and  
6                    accuracy of information for board review;
- 7    ~~[(+10)]~~ (9) Assisting charter applicants and charter schools in  
8                    coordinating their interactions with the board as  
9                    needed;
- 10 ~~[(+11)]~~ (10) Assisting the board to coordinate with charter schools  
11                    in board investigations and evaluations of charter  
12                    schools;
- 13 ~~[(+12)]~~ (11) Serving as the conduit to disseminate communications  
14                    from the board and department to all charter schools;
- 15 ~~[(+13)]~~ (12) Determining charter school system needs and  
16                    communicating such needs with the board and department;  
17                    and
- 18        ~~[(+14)] Establishing a dispute resolution and mediation panel;~~  
19                    and
- 20 ~~[(+15)]~~ (13) Upon request by one or more charter schools, assisting  
21                    in the negotiation of a collective bargaining agreement  
22                    with the exclusive representative of its employees."

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1 c. "(h) The office, on behalf of the authority, may carry  
2 over funds from previous year allocations as permitted under  
3 section 302B-\_\_ (j). Funds distributed to charter schools shall  
4 be considered expended."

5 7. By amending subsection (a) of section 302B-9, Hawaii  
6 Revised Statutes, to read as follows:

7 "(a) Charter schools shall be exempt from chapters 91 and 92  
8 and all other state laws in conflict with this chapter, except  
9 those regarding:

10 (1) ~~[Collective bargaining under chapter 89; provided that:~~

11 ~~(A) The exclusive representatives as defined in~~  
12 ~~chapter 89 and the local school board of the~~  
13 ~~charter school may enter into supplemental~~

14 ~~agreements that contain cost and noncost items to~~  
15 ~~facilitate decentralized decision making;~~

16 ~~(B) The agreements shall be funded from the current~~  
17 ~~allocation or other sources of revenue received by~~

18 ~~the charter school; provided that collective~~  
19 ~~bargaining increases for employees shall be~~

20 ~~allocated by the department of budget and finance~~  
21 ~~to the charter school administrative office for~~

22 ~~distribution to charter schools; and~~

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1           ~~(C) These supplemental agreements may differ from the~~  
2                   ~~master contracts negotiated with the department,]~~  
3           Chapter 377, for purposes of affording the employees of  
4           charter schools the opportunity to bargain  
5           collectively, and notwithstanding that chapter's  
6           exception of the State, political subdivisions of the  
7           State, and employees of the State and its political  
8           subdivisions from its provisions;

- 9           (2) Discriminatory practices under section 378-2; and
- 10          (3) Health and safety requirements."

11          8. Sections 302B-13(a) and (b) are repealed and inserted in  
12 lieu thereof the following:

13                "**§302B-13 Weighted student formula.** "The charter  
14                schools may propose that each school's annual allocation be  
15                based either on a per-pupil allocation or on a weighted  
16                student formula that is approved by at least two-thirds of  
17                all the local school boards."

18          9. By amending subsections (d), (e), (f), (g), and (i) of  
19 section 302B-14, Hawaii Revised Statutes, to read as follows:

20          a.    "(d) The [beard] charter school authority may place a  
21 charter school on probationary status; provided that:

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1           (1) The [~~panel~~] executive director evaluates the charter  
2 school or reviews an evaluation of the charter school  
3 and [~~makes recommendations~~] recommends probation to the  
4 [~~board~~] authority;

5           (2) The [~~board~~] charter school authority and the office are  
6 involved in substantive discussions with the charter  
7 school regarding the areas of deficiencies; and

8           (3) The notice of probation is delivered to the charter  
9 school and specifies the deficiencies requiring  
10 correction, the probation period, and monitoring and  
11 reporting requirements.

12 For deficiencies related to student performance, a charter school  
13 shall be allowed two years to improve student performance. For  
14 deficiencies related to financial plans, a charter school shall  
15 be allowed one year to develop a sound financial plan. The  
16 charter school shall remain on probationary status until the  
17 [~~board~~] authority votes to either remove the charter school from  
18 probationary status or revoke its charter."

19           b.    "(e) If a charter school fails to resolve deficiencies  
20 by the end of [~~the~~] a probation period, the [~~board~~] authority may  
21 revoke the charter; provided that the vote of two-thirds of all

1 the members to which the [beard] authority is entitled shall be  
2 required to revoke the charter."

3 c. "(f) [The] Notwithstanding the provisions of subsection  
4 (d), the [beard] authority may place a charter school on  
5 probationary status or revoke the charter for serious student or  
6 employee health or safety deficiencies; provided that:

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

10 (2) The [beard] authority chair appoints a task group, which  
11 may be an investigative task group [~~, the panel,~~] or the  
12 office, to visit the charter school and conduct  
13 meetings with its local school board and its school  
14 community to gather input;

15 (3) Based on its findings, the task group shall recommend  
16 to the [beard] authority to revoke the charter, place  
17 the charter school on probation, or continue the  
18 charter;

19 (4) The vote of two-thirds of all the members [~~to which~~] of  
20 the [~~board is entitled~~] authority shall be required to  
21 revoke the charter;

- 1           (5) The best interest of the school's students guide all  
2            decisions; and
- 3           (6) After a decision to revoke a charter, the charter  
4            school shall be allowed to remain open until a plan for  
5            an orderly shut-down or transfer of students and assets  
6            is developed and executed, or until the school year  
7            ends, whichever comes first."
- 8           d.    "(g) [If] Notwithstanding the provisions of subsections  
9           (d) and (f), if there is an immediate concern for student or  
10          employee health or safety at a charter school, the [~~board~~  
11          authority, in consultation with the office, may adopt an interim  
12          restructuring plan that may include the appointment of an interim  
13          local school board, an interim local school board chairperson, or  
14          a principal to temporarily assume operations of the school;  
15          provided that if possible without further jeopardizing the health  
16          or safety of students and employees, the charter school's  
17          stakeholders and community are first given the opportunity to  
18          elect a new local school board which shall appoint a new interim  
19          principal."
- 20          e.    "(i) If, at any time, a charter school dissolves or  
21          [~~the~~] its charter is revoked, the State shall have first right,  
22          at no cost to the State, to all the assets and facilities of the



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1 charter school [~~except as otherwise provided by law.~~] purchased  
2 with state appropriations or provided by the department or  
3 another state agency."

4 10. By amending subsection (a) of section 302B-15, Hawaii  
5 Revised Statutes, to read as follows:

6 "(a) The department shall collaborate with the [office]  
7 charter school authority to develop a system of technical  
8 assistance related to compliance with federal and state laws and  
9 access to federal and state funds. The department and the  
10 [office] board shall collaborate to develop a list of central  
11 services that the department may offer for purchase by a charter  
12 school at an annual cost to be negotiated [~~between an individual~~  
13 ~~charter school]~~ by the executive director and the department.  
14 The department shall enter into a contract [~~with a charter school~~  
15 ~~to provide these services, which shall be re-negotiated on an~~  
16 ~~annual basis.] annually to provide these services, with the~~  
17 executive director acting on behalf of one or more charter  
18 schools. The contract may be renegotiated on an annual basis."

19 SECTION 6. Section 89-10.55, Hawaii Revised Statutes, is  
20 repealed.

21 [~~§89-10.55 Charter school collective bargaining;~~  
22 ~~bargaining unit; employer; exclusive representative. (a)~~

1 ~~Employees of charter schools shall be assigned to an appropriate~~  
2 ~~bargaining unit as specified in section 89-6; provided that if a~~  
3 ~~charter school employee's job description contains the duties and~~  
4 ~~responsibilities of an employee that could be assigned to more~~  
5 ~~than one bargaining unit, the duties and responsibilities that~~  
6 ~~are performed by the employee for the majority of the time, based~~  
7 ~~on the employee's average workweek, shall be the basis of~~  
8 ~~bargaining unit assignment for the employee.~~

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

13 ~~(c) For the purpose of negotiating a memorandum of~~  
14 ~~agreement or a supplemental agreement that only applies to~~  
15 ~~employees of a charter school, the employer shall mean the local~~  
16 ~~school board, subject to the conditions and requirements~~  
17 ~~contained in the applicable sections of this chapter governing~~  
18 ~~any memorandum of agreement or supplemental agreement.~~

19 ~~(d) Negotiations over matters covered by this section shall~~  
20 ~~be conducted between the employer and exclusive representative~~  
21 ~~pursuant to this chapter. Cost items that are appropriated for~~  
22 ~~and approved by the legislature and contained in a collective~~

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1 ~~bargaining agreement, memorandum of agreement, or supplemental~~  
2 ~~agreement covering, wholly or partially, employees in charter~~  
3 ~~schools shall be allocated by the department of budget and~~  
4 ~~finance to the charter school administrative office for~~  
5 ~~distribution to charter schools. However, if the charter school~~  
6 ~~administrative office deems it appropriate, the cost items may be~~  
7 ~~funded from a charter school's existing allocation or other~~  
8 ~~sources of revenue received by a charter school." ]~~

9 SECTION 7. Section 302B-12, Hawaii Revised Statutes, is  
10 repealed.

11 [~~§302B-12 Funding and finance. (a) Beginning with fiscal~~  
12 ~~year 2006-2007, and each fiscal year thereafter, the office shall~~  
13 ~~submit for general fund appropriations for each charter school~~  
14 ~~based upon:~~

- 15 (1) ~~The actual and projected enrollment figures in the~~  
16 ~~current school year for each charter school;~~
- 17 (2) ~~A per pupil amount for each regular education and~~  
18 ~~special education student, which shall be equivalent to~~  
19 ~~the total per pupil cost based upon average enrollment~~  
20 ~~in all regular education cost categories, including~~  
21 ~~comprehensive school support services but excluding~~  
22 ~~special education services, and for all means of~~

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1 ~~financing except federal funds, as reported in the most~~  
2 ~~recently published department consolidated annual~~  
3 ~~financial report; provided that the legislature may~~  
4 ~~make an adjustment to the per-pupil allocation for the~~  
5 ~~purposes of this section; and~~

6 ~~(3) Those fringe benefit costs requested shall be included~~  
7 ~~in the department of budget and finance's annual budget~~  
8 ~~request. No fringe benefit costs shall be charged~~  
9 ~~directly to or deducted from the charter school per-~~  
10 ~~pupil allocations unless they are already included in~~  
11 ~~the funds distributed to the charter school.~~

12 ~~The legislature shall make an appropriation based upon the budget~~  
13 ~~request; provided that the legislature may make additional~~  
14 ~~appropriations for fringe, workers' compensation, and other~~  
15 ~~employee benefits, facility costs, and other requested amounts.~~

16 ~~The governor, pursuant to chapter 37, may impose restrictions or~~  
17 ~~reductions on charter school appropriations similar to those~~  
18 ~~imposed on other public schools.~~

19 ~~(b) Charter schools shall be eligible for all federal~~  
20 ~~financial support to the same extent as all other public schools.~~  
21 ~~The department shall provide the office with all federal grant~~  
22 ~~proposals that include charter schools as potential recipients~~

1 ~~and timely reports on federal grants received for which charter~~  
2 ~~schools may apply. Federal funds received by the department for~~  
3 ~~charter schools shall be transferred to the office for~~  
4 ~~distribution to charter schools in accordance with the federal~~  
5 ~~requirements. If administrative services related to federal~~  
6 ~~grants and subsidies are provided to the charter school by the~~  
7 ~~department, the charter school shall reimburse the department for~~  
8 ~~the actual costs of the administrative services in an amount that~~  
9 ~~shall not exceed six and one half per cent of the charter~~  
10 ~~school's federal grants and subsidies.~~

11 ~~Any charter school shall be eligible to receive any~~  
12 ~~supplemental federal grant or award for which any other public~~  
13 ~~school may submit a proposal, or any supplemental federal grants~~  
14 ~~limited to charter schools; provided that if department~~  
15 ~~administrative services, including funds management, budgetary,~~  
16 ~~fiscal accounting, or other related services, are provided with~~  
17 ~~respect to these supplemental grants, the charter school shall~~  
18 ~~reimburse the department for the actual costs of the~~  
19 ~~administrative services in an amount that shall not exceed six~~  
20 ~~and one half per cent of the supplemental grant for which the~~  
21 ~~services are used.~~

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1       ~~All additional funds generated by the local school boards,~~  
2 ~~that are not from a supplemental grant, shall be held separate~~  
3 ~~from allotted funds and may be expended at the discretion of the~~  
4 ~~local school boards.~~

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

8       ~~(1) Provide fifty per cent of a charter school's per pupil~~  
9 ~~allocation based on the charter school's projected~~  
10 ~~student enrollment no later than July 20 of each fiscal~~  
11 ~~year; provided that the charter school shall submit to~~  
12 ~~the office a projected student enrollment no later than~~  
13 ~~May 15 of each year;~~

14       ~~(2) Provide an additional forty per cent of a charter~~  
15 ~~school's per pupil allocation no later than November 15~~  
16 ~~of each year; provided that the charter school shall~~  
17 ~~submit to the office;~~

18       ~~(A) Student enrollment as verified on October 15 of~~  
19 ~~each year; provided that the student enrollment~~  
20 ~~shall be verified on the last business day~~  
21 ~~immediately prior to October 15 should that date~~  
22 ~~fall on a weekend; and~~

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1           ~~(B) An accounting of the percentage of student~~  
2           ~~enrollment that transferred from public schools~~  
3           ~~established and maintained by the department,~~  
4           ~~provided that these accountings shall also be~~  
5           ~~submitted by the office to the legislature no~~  
6           ~~later than twenty days prior to the start of each~~  
7           ~~regular session; and~~

8           ~~(3) The remaining ten per cent per pupil allocation of a~~  
9           ~~charter school no later than January 1 of each year as~~  
10           ~~a contingency balance to ensure fiscal accountability,~~  
11           ~~provided that the board may make adjustments in allocations based~~  
12           ~~on noncompliance with office administrative procedures and board-~~  
13           ~~approved accountability requirements.~~

14           ~~(d) The department shall provide appropriate transitional~~  
15           ~~resources to a conversion charter school for its first year of~~  
16           ~~operation as a charter school based upon the department's~~  
17           ~~allocation to the school for the year prior to the conversion.~~

18           ~~(e) No start up charter school or conversion charter school may~~  
19           ~~assess tuition." ]~~

20           SECTION 8. There is appropriated out of the general  
21           revenues of the State of Hawaii the sum of \$2,000,000, or so  
22           much thereof as may be necessary for fiscal year 2007-2008, to

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1 carry out the purposes of this Act, including the hiring of  
2 necessary staff. The sum appropriated shall be expended by the  
3 public charter school authority.

4 SECTION 9. There is authorized up to \$20 million in  
5 general obligation bonds for the construction of charter school  
6 facilities and the major repair and renovation of existing  
7 public charter school facilities.

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

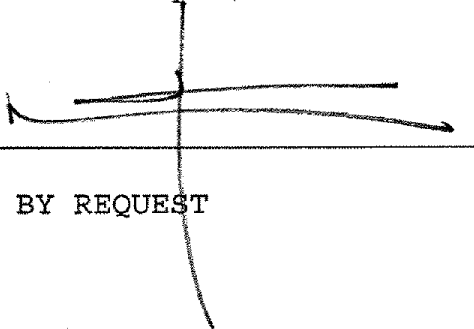
10 SECTION 11. This Act shall take effect July 1, 2007.

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12

13

INTRODUCED BY:



BY REQUEST



SB1432

JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor.

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC 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, provide charter schools with the resources they need to educate their students, and allow additional start-up charter schools to be established.

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 gives groups a broader range of paths to obtaining a charter, brings the resources of outside entities and organizations to bear on K12 challenges, and helps to ensure accountability through a strong authorizer/school relationship.

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.

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 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, 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 FUNDS: \$2 million General Fund appropriation.  
\$20 million authorization for general obligation bonds.

OTHER FUNDS: NONE.

PPBS PROGRAM

SB 1432

DESIGNATION: EDN 600.

OTHER AFFECTED  
AGENCIES: All.

EFFECTIVE DATE: July 1, 2007, 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, 2008, or when sufficient positions are transferred from the Department of Education to the Public Charter School Authority to satisfy that responsibility.