

# S.B. NO. 2704

JAN 25 2010

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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. The legislature finds that the American  
2 Recovery and Reinvestment Act of 2009 signed by President Obama  
3 has made billions of dollars in federal funding available to the  
4 states to invest in innovative strategies that are intended to  
5 spur meaningful reform in public education. It is the federal  
6 government's intent that the education expenditures in the  
7 federal stimulus package will lead to improved results for  
8 students, long-term gains in school and school system capacity,  
9 and increased productivity and effectiveness.

10           The legislature further finds that the American Recovery  
11 and Reinvestment Act includes the Race to the Top, a competitive  
12 grant that will make \$4,350,000,000 in new federal funding  
13 available to states for education. Race to the Top money will  
14 be awarded to states that comply with specific conditions for  
15 education innovation and reform.

16           President Obama has identified that one of the key areas of  
17 innovation currently taking place in the public education system  
18 is occurring within public charter schools. Therefore, the

1 President has called on states to eliminate barriers to public  
2 charter school growth by removing legal impediments that limit  
3 the number of high-performing public charter schools allowed to  
4 operate within their state. The President's guidance to states  
5 on public charter schools has also been reiterated by the United  
6 States Secretary of Education, Arne Duncan, who has affirmed  
7 that states that place a limit on the number of public charter  
8 schools in their state will be at a competitive disadvantage in  
9 the Race to the Top program.

10 The legislature finds that during the 2008-2009 school year  
11 there were over 2,800 students on the Hawaii public charter  
12 school wait list and that the State does not have the capacity  
13 to meet the educational needs of these students. The demand for  
14 quality public charter schools in Hawaii has consistently  
15 exceeded the supply. Changes are immediately needed to  
16 facilitate quality public charter school growth.

17 The legislature also finds that the Center for Education  
18 Reform gave Hawaii's public charter school law a "D" grade in an  
19 evaluation of Hawaii's ability to compete for Race to the Top  
20 funding. The areas that are hindering Hawaii's ability to  
21 aggressively compete in the federal program are the public  
22 charter school cap, the lack of multiple public charter school

1 authorizers, and an ambiguous commitment to equitable funding  
2 for students at public charter schools.

3 The purpose of this Act is to improve the State's  
4 educational system, remove barriers to public charter school  
5 innovation and expansion, and improve Hawaii's ability to  
6 rigorously compete for new federal funding by:

- 7 (1) Repealing the limit on the number of new start-up and  
8 conversion public charter schools allowed in the  
9 State;
- 10 (2) Allowing multiple public charter school authorizers to  
11 operate within the State;
- 12 (3) Establishing a public charter reauthorization process;
- 13 (4) Transferring the oversight of the charter school  
14 administrative office from an executive director  
15 to a deputy superintendent for public charter schools  
16 appointed by the superintendent of education; and
- 17 (5) Ensuring that public charter school students are  
18 funded at an equitable level to students at non-  
19 charter public schools.

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

1           "§302B- Charter contracts. (a) An authorizer shall  
2 grant a charter for an initial term of four operating years.  
3 The charter term shall commence on the public charter school's  
4 first day of operation. An approved public charter school may  
5 delay its opening for one school year in order to plan and  
6 prepare for the school's opening. If the school requires an  
7 opening delay of more than one year, the school must request an  
8 extension from its authorizer.

9           (b) Upon approval of a charter application, the authorizer  
10 and the local school board or nonprofit organization, operating  
11 a public conversion charter school pursuant to section 302B-6,  
12 shall execute a charter contract that sets forth the academic  
13 and operational performance expectations and measures by which  
14 the public charter school will be judged and the administrative  
15 relationship between the authorizer and the public charter  
16 school, including each party's rights and duties.

17           (c) No public charter school may commence or continue  
18 operations without a charter contract executed in accordance  
19 with this section and approved in an open meeting of the  
20 authorizer's governing board or panel.

21           (d) Upon the completion of the initial four-year term of  
22 the charter contract, a charter may be renewed for successive

1 five-year terms, although the authorizer may vary the term based  
2 on the performance, demonstrated capacities, and other  
3 circumstances of each public charter school.

4 (e) In making charter renewal decisions, the authorizer  
5 shall:

6 (1) Ground its decisions in evidence of the school's  
7 performance over the term of the charter contract;

8 (2) Ensure that data used in making renewal decisions are  
9 available to the school and public; and

10 (3) Provide a public report summarizing the evidence basis  
11 for its decision;

12 provided that, if the authorizer revokes or does not renew a  
13 charter, the authorizer shall clearly state the reasons for  
14 revocation or nonrenewal. Public charter schools whose charters  
15 are revoked or not renewed may appeal to the superintendent for  
16 a final decision pursuant to section 302B-3.5."

17 SECTION 3. Section 302A-1101, Hawaii Revised Statutes, is  
18 amended by amending subsection (d) to read as follows:

19 "(d) The ~~[board]~~ governor shall appoint pursuant to  
20 section 26-34 the charter school review panel, which shall serve  
21 as the principal charter authorizer for public charter schools,  
22 with the power and duty to issue charters, oversee and monitor

1 public charter schools, hold public charter schools accountable  
2 for their performance, and revoke charters[-] in accordance with  
3 chapter 302B. The superintendent may designate additional  
4 public charter school authorizers pursuant to section 302B-4."

5 SECTION 4. Section 302A-1506.5, Hawaii Revised Statutes,  
6 is amended to read as follows:

7 "§302A-1506.5 [~~Early learning facilities; identifying~~  
8 ~~sites-~~] Prioritization of the use of empty classrooms. (a) The  
9 department of education shall identify unused public school  
10 facilities to be used for educational programs, with first  
11 preference given to public charter schools and second preference  
12 given to early learning programs and services. Suitable empty  
13 classrooms, as determined by the department, shall be  
14 inventoried for potential use for [~~early learning~~] priority  
15 educational programs and services. Priority shall be given to  
16 facilities on sites with sufficient space for three or more  
17 classrooms to be renovated or constructed.

18 (b) The department shall assist in the identification of  
19 possible construction sites for private providers to build early  
20 learning facilities.

21 (c) The department shall submit an annual report to the  
22 legislature, the charter school administrative office, and the

1 early learning council no later than twenty days prior to the  
2 convening of each regular session on:

3 (1) The number of classrooms that would be suitable for  
4 public charter schools and programs and services in  
5 the early learning system established by chapter 302L;  
6 and

7 (2) The cost of renovating these classrooms to meet the  
8 standards of public charter schools and programs and  
9 services in the early learning system."

10 SECTION 5. Section 302B-1, Hawaii Revised Statutes, is  
11 amended as follows:

12 (1) By adding a definition of "charter authorizer" to be  
13 appropriately inserted and to read as follows:

14 "Charter authorizer" or "authorizer" means the charter  
15 school review panel and the entities designated pursuant to  
16 section 302B-4 with the powers and duties to issue and revoke  
17 charters, approve detailed implementation plan revisions, and  
18 conduct public charter school evaluations."

19 (2) By amending the definition of "charter schools " to  
20 read as follows:

21 " "~~Charter~~ Public charter school " or "charter school"  
22 refers to those public schools holding charters to operate as

1 charter schools under this chapter, including start-up and  
2 conversion charter schools, and that have the flexibility and  
3 independent authority to implement alternative frameworks with  
4 regard to curriculum, facilities management, instructional  
5 approach, virtual education, length of the school day, week, or  
6 year, and personnel management."

7 (3) By amending the definition of "nonprofit organization"  
8 to read as follows:

9 "Nonprofit organization" means a private, nonprofit, tax-  
10 exempt entity that:

11 (1) Is recognized as a tax-exempt organization under  
12 section 501(c)(3) or (6) of the Internal Revenue  
13 Code of 1986, as amended; and

14 (2) [~~Is domiciled in this State~~] Is registered with  
15 the department of the attorney general."

16 (4) By repealing the definition of "executive director" as  
17 follows:

18 "~~["Executive director" means the executive director of the~~  
19 ~~charter school administrative office.]~~".

20 SECTION 6. Section 302B-3, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "§302B-3 Charter school review panel; establishment;  
2 **powers and duties.** (a) There is established the charter school  
3 review panel, that shall be placed within the department for  
4 administrative purposes only. [~~The panel shall be accountable~~  
5 ~~to the charter schools and the board.~~] Notwithstanding section  
6 302B-9 and any other law to the contrary, the panel shall be  
7 subject to chapter 92.

8           (b) The panel shall consist of [~~twelve~~] eleven members,  
9 and shall include:

10           (1) Two licensed teachers regularly engaged in  
11 teaching; provided that one teacher is employed  
12 at a start-up public charter school, and one  
13 teacher is employed at a conversion public  
14 charter school;

15           (2) Two educational officers; provided that one  
16 educational officer is employed at a start-up  
17 public charter school, and one educational  
18 officer is employed at a conversion public  
19 charter school;

20           (3) One member or former member of a public charter  
21 school local school board;

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1        [~~(4)~~] ~~The chair of the board of education or the~~  
2                    ~~chair's designee;~~  
3        ~~(5)]~~ (4) A representative of Hawaiian culture-  
4                    focused public charter schools;  
5        [~~(6)]~~ (5) Two representatives of the University of  
6                    Hawaii who are not affiliated with public charter  
7                    schools;  
8        [~~(7)]~~ (6) One member with a background in business or  
9                    accounting who is not affiliated with public  
10                    charter schools;  
11        [~~(8)]~~ (7) One member with a background in the building  
12                    trades or real estate who is not affiliated with  
13                    public charter schools; and  
14        [~~(9)]~~ (8) A representative from the Hawaii Association  
15                    of Independent Schools;  
16        provided that the initial appointments for representatives in  
17        paragraphs [~~(7) to (9)]~~ (6) to (8) shall be made by September 1,  
18        2007. From June 1, 2007, until such time that the panel has  
19        [~~twelve~~] eleven members, five members of the panel shall  
20        constitute a quorum to conduct business and a concurrence of at  
21        least five members shall be necessary to make any action of the  
22        panel valid; provided that, upon filling the [~~twelve~~] eleven

1 seats as required under this subsection, a majority of the panel  
2 shall constitute a quorum to conduct business, and the  
3 concurrence of a majority of all the members to which the panel  
4 is entitled shall be necessary to make any action of the panel  
5 valid.

6 (c) The [~~board~~] governor shall appoint the remaining  
7 members of the panel [~~other than the chair of the board~~].

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

- 13 (1) Four members to serve three-year terms;
- 14 (2) Four members to serve two-year terms; and
- 15 (3) Three members to serve a one-year term.

16 (e) Notwithstanding the terms of members, the [~~board~~]  
17 governor may add panel members at any time and replace panel  
18 members at any time when their positions become vacant through  
19 resignation, through non-participation, upon request of a  
20 majority of panel members, or upon termination by the [~~board~~]  
21 governor for cause.

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

9           (g) The panel shall establish operating procedures that  
10 shall include conflict of interest provisions for any member  
11 whose school of employment or local school board membership is  
12 before the panel.

13           (h) The chair of the panel shall be designated by the  
14 members of the panel for each school year beginning July 1 and  
15 whenever there is a vacancy. If the panel does not designate  
16 its chair for the next school year by July 1, the [~~board~~]  
17 governor shall designate the panel chair. When the panel chair  
18 is vacant, the [~~board~~] governor shall designate an interim chair  
19 to serve until the panel designates its chair.

20           (i) The powers and duties of the panel shall be to:

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1       ~~[(1) Appoint and evaluate the executive director and~~  
2               ~~approve staff and salary levels for the charter school~~  
3               ~~administrative office;~~

4       ~~(2)]~~ (1) Review~~[7]~~ and approve~~[7]~~ or deny charter  
5               applications for new public charter schools in  
6               accordance with section 302B-5 for the issuance of new  
7               charters; provided that applicants that are denied a  
8               charter may appeal to the ~~[board]~~ superintendent for a  
9               final decision pursuant to section 302B-3.5;

10       ~~[(3)]~~ (2) Review~~[7]~~ and approve~~[7]~~ or deny significant  
11               amendments to detailed implementation plans to  
12               maximize the school's financial and academic success,  
13               long-term organizational viability, and  
14               accountability. ~~[Charter]~~ Public charter schools that  
15               are denied a significant amendment to their detailed  
16               implementation plan may appeal to the ~~[board]~~  
17               superintendent for a final decision pursuant to  
18               section 302B-3.5;

19       (3) Review and approve or deny applications from public  
20               charter schools to renew charter contracts pursuant to  
21               section 302B- .

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- 1           (4) Adopt reporting requirements for charter  
2                 schools;
- 3           (5) Review annual self-evaluation reports from  
4                 charter schools and take appropriate action;
- 5           (6) Evaluate [~~any aspect of~~] a public charter school [~~that~~  
6                 ~~the panel may have concerns with~~] and take appropriate  
7                 action, which may include probation or revocation;
- 8           (7) Periodically adopt improvements in the panel's  
9                 monitoring and oversight of public charter schools;  
10                and
- 11          (8) Periodically adopt improvements in the office's  
12                 support of public charter schools and management of  
13                 the public charter school system. [~~+~~
- 14          ~~(9) Review, modify, and approve charter schools'~~  
15                 ~~all means of finance budget, based upon criteria and~~  
16                 ~~an approval process established by the panel; and~~
- 17          ~~(10) Survey all charter school facilities prior to,~~  
18                 ~~and in preparation for, determining recommendations to~~  
19                 ~~allocate non per pupil facilities funds to charter~~  
20                 ~~schools with facilities needs. The survey shall~~  
21                 ~~include, at minimum, for each charter school facility:~~
- 22                 ~~(A) The current status of the facility;~~

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- 1           ~~(B) Facilities costs, including all rents,~~
- 2                           ~~leases, purchases, and repair and~~
- 3                           ~~maintenance for lands and buildings;~~
- 4           ~~(C) A prioritized list of facilities needs;~~
- 5           ~~(D) Any capital improvement projects underway or~~
- 6                           ~~scheduled; and~~
- 7           ~~(E) Whether the facility is a conversion or start-up~~
- 8                           ~~charter school, and current and projected~~
- 9                           ~~enrollment.]~~

10           (j) In the case that the panel decides not to issue a new  
 11 charter, or to approve significant amendments to detailed  
 12 implementation plans, the [board] superintendent may adopt rules  
 13 for an appeals process pursuant to section 302B-3.5.

14           (k) The [~~office shall provide for the staff support and~~  
 15 ~~expenses of the~~] panel shall be administratively attached to the  
 16 department of education."

17           SECTION 7. Section 302B-3.5, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19           " ~~[+]~~**§302B-3.5**~~[+]~~ **Appeals; charter school applications,**  
 20 **revocations, or detailed implementation plan amendments.** The  
 21 [board] superintendent shall have the power to decide appeals  
 22 from decisions of the panel and other public charter school

1 authorizers to deny the approval of a charter school  
2 application, revoke a public charter school's charter, deny an  
3 application for reauthorization of a charter, or deny the  
4 approval of an amendment to a public charter school's detailed  
5 implementation plan. An appeal shall be filed with the [board]  
6 superintendent within twenty-one calendar days of the receipt of  
7 the notification of denial or revocation. Only a party whose  
8 charter school application has been denied, whose charter has  
9 been revoked, whose application for charter reauthorization has  
10 been denied, or whose amendment to a detailed implementation  
11 plan has been denied may initiate an appeal under this section  
12 for cause. The [board] superintendent shall review an appeal  
13 and issue a final decision within sixty calendar days of the  
14 filing of the appeal. The [board] superintendent may adopt  
15 applicable rules and procedures pursuant to chapter 91 for  
16 implementing the appeals process."

17 SECTION 8. Section 302B-4, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "~~§302B-4 [Limits on charter schools. The panel may~~  
20 ~~authorize one new start-up charter school for each existing~~  
21 ~~start-up charter school that has received a three-year or longer~~  
22 ~~accreditation from the Western Association of Schools and~~



1 ~~Colleges or a comparable accreditation authority as determined~~  
2 ~~by the panel, or for each start up charter school whose charter~~  
3 ~~is revoked. The total number of conversion charter schools~~  
4 ~~authorized by the panel shall not exceed twenty five.] **Public**~~  
5 **charter school authorizers.** (a) The charter school review  
6 panel shall serve as the State's principal chartering authority;  
7 provided that the superintendent may authorize an entity that  
8 meets the eligibility qualifications under subsection (c) to  
9 serve as a public charter school authorizer.

10 (b) Charter authorizers designated by the superintendent  
11 shall adopt and maintain chartering policies and procedures  
12 consistent with those established by the National Association of  
13 Charter School Authorizers. Evidence of material or persistent  
14 failure to do so shall constitute grounds for losing charter  
15 authorizing powers, as determined by the superintendent.

16 (c) Governing boards of the following public or private  
17 institutions may apply to the superintendent to be designated  
18 and serve as a public charter school authorizer:

19 (1) Public or private postsecondary institutions,  
20 including community colleges and technical  
21 colleges, that grant two- or four-year degrees  
22 and are accredited by the Western Association of

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1 Schools and Colleges; provided that any subsequent  
2 chartering authority granted by the superintendent  
3 shall be in accordance with each institution's regular  
4 operating jurisdiction; and

5 (2) Nonprofit organizations as defined in section 302B-1  
6 with education as a component of its core mission;  
7 provided that the superintendent may grant chartering  
8 authority on a statewide, regional, or local  
9 chartering basis. Nonpublic sectarian or religious  
10 organizations, and any other charitable organization  
11 that in their federal Internal Revenue Service Form  
12 1023, part IV, describe activities indicating a  
13 religious purpose, are not eligible to apply to become  
14 an authorizer.

15 (d) The superintendent shall establish an application and  
16 approval process, including cycles and deadlines during the  
17 fiscal year, for all entities eligible to apply for chartering  
18 authority. Eligible organizations interested in being  
19 designated as a public charter school authorizer shall submit an  
20 application to the superintendent that shall include but not be  
21 limited to:

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- 1        (1) Written notification of intent to serve as a charter  
2                    authorizer;
- 3        (2) The applicant's strategic vision for chartering;
- 4        (3) A plan to support the vision presented, including  
5                    explanation and evidence of the applicant entity's  
6                    budget and personnel capacity and commitment to  
7                    execute the responsibilities of quality charter  
8                    authorizing;
- 9        (4) A draft or preliminary outline of the request for  
10                   proposals that the applicant entity would, if approved  
11                   as a charter authorizer, issue to solicit public  
12                   charter school applicants;
- 13       (5) A draft of the performance framework that the  
14                   applicant entity would, if approved as a charter  
15                   authorizer, use to guide the establishment of a  
16                   charter contract and for ongoing oversight and  
17                   evaluation of public charter schools, consistent with  
18                   the policies and procedures established by the panel;
- 19       (6) A draft of the applicant entity's renewal, revocation,  
20                   and non-renewal processes; and
- 21       (7) A statement of assurance that the applicant entity  
22                   seeks to serve as a charter authorizer in fulfillment

1 of the expectations, spirit, and intent of this  
2 chapter, and that if approved as a charter authorizer,  
3 the entity will fully participate in any applicable  
4 training required by the superintendent or the State.

5 (e) By January 1 of each year, the superintendent shall  
6 decide whether to grant or deny chartering authority to each  
7 applicant. The superintendent shall make a decision based on  
8 the merits of each applicant's proposal and plans.

9 (f) Within sixty days of the superintendent's decision,  
10 the superintendent shall execute a renewable authorizing  
11 contract with each entity the superintendent has approved for  
12 chartering authority. The authorizing contract shall specify  
13 each approved entity's agreement to serve as a charter  
14 authorizer in accordance with the expectations and duties of  
15 charter authorization as established by the panel or the  
16 superintendent, and in accordance with this chapter. The  
17 contract shall specify performance terms based on the  
18 applicant's proposal and implementation plan for chartering. No  
19 approved entity shall commence charter authorizing without an  
20 authorizing contract in effect.

21 (g) Charter authorizers approved by the superintendent  
22 shall be responsible for executing powers and duties relating to

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1 charter authorization and oversight of their public charter  
2 school applicants and schools as follows:

3 (1) Review and approve or deny charter applications for  
4 new public charter schools pursuant to sections 302B-5  
5 and 302B-6;

6 (2) Review and approve or deny significant amendments to  
7 detailed implementation plans to maximize the school's  
8 financial and academic success, long-term  
9 organizational viability, and accountability. Public  
10 charter schools that are denied a significant  
11 amendment to their detailed implementation plan may  
12 appeal to the superintendent for a final decision  
13 pursuant to section 302B-3.5;

14 (3) Review and approve or deny applications for the  
15 reauthorization of charter contracts pursuant to  
16 section 302B- .

17 (4) Adopt reporting requirements for public charter  
18 schools;

19 (5) Review self-evaluation reports from public charter  
20 schools and take appropriate action; and

21 (6) Evaluate any aspect of a public charter school that  
22 the authorizer's governing board may have concerns

1           with and take appropriate action, which may include  
2           probation or revocation.

3           (h) A charter authorizing entity shall not approve an  
4           application for a charter or renewal charter if the application  
5           or applicant does not comply with the processes and requirements  
6           established by the superintendent or this chapter.

7           (i) An authorizer, including members of an authorizer's  
8           governing board and its employees, shall be immune from suit and  
9           liability, either personally or in their official capacities,  
10          for any claim for damage to or loss of property or personal  
11          injury or other civil liability caused, arising out of, or  
12          relating to any actual or alleged act, error, or omission that  
13          occurred, or that the person had a reasonable basis for  
14          believing occurred within the scope of the authorizer's duties  
15          or responsibilities; provided that nothing in this subsection  
16          shall be construed to protect any person from suit or liability  
17          for any damage, loss, injury, or liability caused by the  
18          intentional or wilful and wanton misconduct of the person.

19          The liability of any authorizer acting within the scope of  
20          its duties for acts, errors, or omissions occurring within the  
21          state may not exceed the limits of liability set forth under the

1 constitution and laws of that state for state officials,  
2 employees, and agents.

3 (j) If an authorizer granted chartering authority under  
4 this section fails, after due notice from the superintendent, to  
5 remedy identified authorizing problems, the superintendent shall  
6 notify the authorizer that it intends to revoke the authorizer's  
7 chartering authority unless the authorizer demonstrates a timely  
8 and satisfactory remedy for the violation or deficiencies.

9 (k) In the event of the revocation of any authorizer's  
10 chartering authority, the superintendent shall arrange for the  
11 timely and orderly transfer of each charter contract held by  
12 that authorizer to another authorizer in good standing within  
13 the State, provided that there is mutual agreement of each  
14 affected public charter school and proposed new authorizer. The  
15 new authorizer shall assume the existing charter contract for  
16 the remainder of the charter term.

17 The superintendent, the panel, and charter authorizers  
18 shall not impose a cap on the number of public charter schools  
19 allowed to operate within the State nor arbitrarily restrict the  
20 number of students a public charter school may enroll.

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1       The superintendent may adopt applicable rules and  
2 procedures pursuant to chapter 91 for designating charter  
3 authorizers."

4       SECTION 9. Section 302B-5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6       "**§302B-5 Start-up charter schools; establishment.** (a)

7 New start-up charter schools may be established pursuant to this  
8 section.

9       (b) Any community group of teachers, group of teachers and  
10 administrators, or nonprofit organization may submit a letter of  
11 intent to [~~the office~~] an authorizer to form a public charter  
12 school, establish an interim local school board as its governing  
13 body, and develop a detailed implementation plan pursuant to  
14 subsection (d).

15       (c) The start-up public charter school application process  
16 and schedule shall be determined by the [~~panel,~~] charter school  
17 authorizer, and shall provide for and include the following  
18 elements:

19       (1) The submission of a letter of intent to operate a  
20 start-up public charter school;



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- 1           (2) The timely transmittal of the application form  
2                   and completion guidelines to the interim local  
3                   school board;
- 4           (3) The timely submission to the [~~panel~~] authorizer of a  
5                   completed application;
- 6           (4) The timely review of the application by the [~~panel~~]  
7                   authorizer for completeness, and notification of the  
8                   interim local school board if the application is  
9                   complete or, if the application is insufficient, a  
10                  written statement of the elements of the application  
11                  that require completion;
- 12          (5) The timely resubmission of the application;
- 13          (6) Upon receipt of a completed application, the  
14                  convening of the panel by the panel chairperson  
15                  or the convening of the authorizing entity by its  
16                  governing board to begin review of the application;
- 17          (7) The timely notification of the applicant of any  
18                  revisions the [~~panel~~] authorizer requests as  
19                  necessary for a recommendation of approval;
- 20          (8) Following the submission of an application,  
21                  issuance of a charter or denial of the application by  
22                  the [~~panel~~] authorizer by majority vote; provided that

1 if the [~~panel~~] authorizer does not approve the  
2 application and issue a charter, provisions requiring  
3 the [~~panel~~] authorizer to:

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

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

11 (9) A provision for a final date on which a decision  
12 must be made, upon receipt of an amended plan;  
13 and

14 (10) A provision that no start-up public charter school  
15 may begin operation before obtaining [~~panel~~]  
16 authorizer approval of its charter.

17 (d) An application to become a start-up public charter  
18 school shall include a detailed implementation plan that meets  
19 the requirements of this subsection and section 302B-9. The  
20 plan shall include the following:

- 1       ~~[(1) A description of employee rights and management~~  
2           ~~issues and a framework for addressing those~~  
3           ~~issues that protects the rights of employees;~~
- 4       ~~(2)]~~ (1) A plan for identifying, recruiting, and retaining  
5           highly-qualified instructional faculty~~+~~ and  
6           administrative staff;
- 7       ~~[(3)]~~ (2) A plan for identifying, recruiting, and  
8           selecting students that is not ~~[exclusive, elitist, or~~  
9           ~~segregationist,]~~ based on ethnicity, national  
10          origin, religion, gender, income level, disabling  
11          condition, or proficiency in the English language;  
12          provided that a public charter school may limit  
13          admission to students within a given age group or  
14          grade level and may be organized around a special  
15          emphasis, theme, or concept as outlined in the  
16          implementation plan;
- 17       ~~[(4)]~~ (3) The curriculum and instructional framework to be  
18           used to achieve student outcomes, including an  
19           assessment plan;
- 20       ~~[(5)]~~ (4) A plan for the assessment of student,  
21           administrative support, and teaching personnel  
22           performance that:

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

1 obligations of one-time, start-up costs and ongoing  
2 costs such as monthly [~~payrolls~~] payroll, faculty  
3 recruitment, professional development, and facilities  
4 costs; and

5 [~~(8)~~] (7) A facilities plan."

6 SECTION 10. Section 302B-6, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§302B-6 Conversion public charter schools;**

9 **establishment.** (a) A conversion public charter school may be  
10 established pursuant to this section.

11 (b) Any department school, school community council, group  
12 of teachers, group of teachers and administrators, or nonprofit  
13 organization may submit a letter of intent to [~~the office~~] an  
14 authorizer designated under section 302B-4 to convert a  
15 department school to a public charter school, establish an  
16 interim local school board as its governing body, and develop a  
17 detailed implementation plan pursuant to subsection (d).

18 (c) The conversion public charter school application  
19 process and schedule shall be determined by the [~~panel~~]  
20 authorizer, and shall provide for and include the following  
21 elements:

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- 1 (1) The submission of a letter of intent to convert to a  
2 public charter school;
- 3 (2) The timely transmittal of the application form and  
4 completion guidelines to the interim local school  
5 board;
- 6 (3) The timely submission to the [~~panel~~] authorizer of a  
7 completed application; provided that the application  
8 shall include certification and documentation that the  
9 application and the proposed detailed implementation  
10 plan was approved by a majority of the votes cast by  
11 existing administrative, support, and teaching  
12 personnel[7] and parents of students at the proposed  
13 conversion charter school;
- 14 (4) The timely review of the application by the  
15 [~~panel~~] authorizer for completeness, and notification  
16 of the interim local school board if the application  
17 is complete or, if the application is insufficient, a  
18 written statement of the elements of the application  
19 that require completion;
- 20 (5) The timely resubmission of the application;
- 21 (6) Upon receipt of a completed application, the convening  
22 of the panel by the panel chairperson or the convening

1           of the authorizing entity by its governing board to  
2           begin review of the application;

3           (7) The timely notification of the applicant of any  
4           revisions the [~~panel~~] authorizer may request as  
5           necessary for a recommendation of approval;

6           (8) Following the submission of an application, issuance  
7           of a charter or denial of the application by the  
8           [~~panel~~] authorizer by majority vote; provided that, if  
9           the [~~panel~~] authorizer does not approve the  
10          application and issue a charter, provisions requiring  
11          the [~~panel~~] authorizer to:

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

15          (B) Allow the interim local school board to  
16               revise its plan in accordance with the  
17               [~~panel's~~] authorizer's guidelines, and  
18               resubmit an amended plan within ten calendar  
19               days;

20          (9) A provision for a final date on which a decision must  
21          be made upon receipt of an amended plan; and

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1 (10) A provision that no conversion public charter school  
2 may begin operation before obtaining [~~pane~~]  
3 authorizer approval of its charter.

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

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

11 ~~(2)~~] (1) A plan for identifying, recruiting, and retaining  
12 highly-qualified instructional faculty~~[r]~~ and  
13 administrative staff;

14 [~~(3)~~] (2) A plan for identifying, recruiting, and  
15 selecting students that is not [~~exclusive,~~  
16 ~~elitist, or segregationist,~~] based on ethnicity,  
17 national origin, gender, income level, disabling  
18 condition, or proficiency in the English  
19 language; provided that a public charter school  
20 may limit admission to students within a given  
21 age group or grade level and may be organized



1           around a special emphasis, theme, or concept as  
2           outlined in the implementation plan;

3       ~~[(4)]~~ (3) The curriculum and instructional framework to  
4           be used to achieve student outcomes, including an  
5           assessment plan;

6       ~~[(5)]~~ (4) A plan for the assessment of student,  
7           administrative support, and teaching personnel  
8           performance that:

9           ~~[(A) Recognizes the interests of the general public;~~

10          ~~-(B) Incorporates or exceeds the educational content~~  
11           ~~and performance standards developed by the~~  
12           ~~department for the public school system;~~

13       ~~-(C)]~~ (A) Includes a system of faculty and staff  
14           accountability that holds faculty and staff both  
15           individually and collectively accountable for  
16           their performance~~[, and that is at least~~  
17           ~~equivalent to the average system of~~  
18           ~~accountability in public schools throughout the~~  
19           ~~State]; and~~

20       ~~[(D)]~~ (B) Provides for program audits and ~~[annual]~~  
21           financial audits;

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1        [~~(6)~~] (5) A governance structure for the public charter  
2                school that incorporates a conflict of interest  
3                policy and a plan for periodic training to carry  
4                out the duties of local school board members; and

5        [~~(7)~~] (6) A financial plan based on the most recent  
6                fiscal year's per-pupil [~~charter school~~]  
7                allocation that [~~demonstrates the ability to meet~~  
8                ~~the financial obligations of one-time, start-up~~  
9                ~~costs and ongoing costs such as monthly payrolls,~~  
10               ~~faculty recruitment, professional development,~~  
11               ~~and facilities costs; and] the school received as  
12               a conventional public school and a transaction  
13               plan that reflects adjustments to the most recent  
14               per pupil public charter school budget.~~

15        [~~(8) A facilities plan.]~~

16        (e) A nonprofit organization may submit a letter of intent  
17        to the [~~office~~] authorizer to convert [~~a department~~] an existing  
18        non-charter public school to a conversion public charter school,  
19        operate and manage the school, and establish a local school  
20        board as its governing body[~~, and develop~~]. The nonprofit  
21        organization may also notify the department of its intent to  
22        convert an existing non-charter public school to a conversion

1 public charter school. The nonprofit organization shall include  
2 a detailed implementation plan pursuant to subsection (d) [~~+~~  
3 ~~provided that~~]:

4 (1) As the governing body of the conversion public charter  
5 school, the local school board shall be composed of  
6 the board of directors of the nonprofit organization  
7 and not representatives of the participant groups  
8 specified in section 302B-7. The nonprofit  
9 organization may also appoint advisory groups of  
10 community representatives for each school managed by  
11 the nonprofit organization; provided that these  
12 groups shall not have governing authority over the  
13 school and shall serve only in an advisory capacity to  
14 the nonprofit organization;

15 (2) The detailed implementation plan for each conversion  
16 public charter school to be operated by the nonprofit  
17 organization shall be formulated, developed, and  
18 submitted by the nonprofit organization, and shall be  
19 approved by a majority of the votes cast by existing  
20 administrative, support, and teaching personnel, and  
21 parents of the students of the proposed conversion  
22 charter school;

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1 (3) The board of directors of the nonprofit organization,  
2 as the governing body for the conversion public  
3 charter school that it operates and manages, shall  
4 have the same protections that are afforded to the  
5 board in its role as the conversion public charter  
6 school governing body;

7 (4) Any conversion public charter school that is managed  
8 and operated by a nonprofit organization shall be  
9 eligible for the same federal and state funding as  
10 other public schools; ~~[provided that the nonprofit~~  
11 ~~organization makes a minimum annual contribution of \$1~~  
12 ~~per pupil toward the operation of a conversion~~  
13 ~~charter school for every \$4 per pupil allocated by~~  
14 ~~the office for the operation of the conversion~~  
15 ~~charter school; provided that in no event shall the~~  
16 ~~nonprofit organization be required to contribute more~~  
17 ~~than the total required contribution per pupil per~~  
18 ~~year. As used in this section, "total required~~  
19 ~~contribution" means:~~

20 ~~(A) \$1,500 for school years 2006-2007 through 2010-~~  
21 ~~2011;~~

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1           ~~(B) \$1,650 for school years 2011-2012 through 2015~~  
2                     ~~2016, and~~  
3           ~~(C) \$1,815 for school years 2016-2017 through 2020~~  
4                     ~~2021]; and~~

5           (5) If, at any time, the board of directors of the  
6                     nonprofit organization governing the conversion public  
7                     charter school votes to discontinue its relationship  
8                     with the public charter school, the public charter  
9                     school may submit an application with a revised  
10                    detailed implementation plan to the [~~panel~~]  
11                    authorizer to continue as a conversion school without  
12                    the participation of the nonprofit organization.

13           (f) Any nonprofit organization that seeks to manage or  
14                     operate a conversion public charter school as provided in  
15                     subsection (e) shall comply with the following at the time of  
16                     application:

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

21           (2) Have experience in the management and operation of  
22                     public or private schools or, to the extent necessary,

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1           agree to obtain appropriate services from another  
2           entity or entities possessing such experience;

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

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

10          (g) Any public school or schools, programs, or sections of  
11         existing public school populations that are part of a separate  
12         Hawaiian language immersion program using existing public school  
13         facilities may submit a letter of intent to the office to form a  
14         conversion public charter school pursuant to this section.

15          (h) In the event of a conflict between the provisions in  
16         this section and other provisions in this chapter, this section  
17         shall control."

18          SECTION 11. Section 302B-8, Hawaii Revised Statutes, is  
19         amended to read as follows:

20          "**§302B-8 Charter school administrative office.** (a) There  
21         is established a charter school administrative office[7] which  
22         shall be attached to the department [~~for administrative purposes~~

1 ~~only. The office shall be] and~~ administered by [an executive  
2 ~~director, who shall be appointed without regard to chapters 76~~  
3 ~~and 89 by the panel based upon the recommendations of an~~  
4 ~~organization of charter schools operating within the State or~~  
5 ~~from a list of nominees submitted by the charter schools. The~~  
6 ~~panel shall hire the executive director, who may be contracted~~  
7 ~~for a term of up to four years; shall offer the executive~~  
8 ~~director a written contract; and may terminate the executive~~  
9 ~~director's contract only for cause.] a deputy superintendent  
10 assigned by the superintendent to oversee public charter  
11 schools.~~

12       The [~~executive director, with the approval of the panel,]~~  
13 deputy superintendent of public charter schools may hire  
14 necessary staff without regard to chapters 76 and 89 to assist  
15 in the administration of the office and public charter schools.

16       (b) The [~~executive director, under the direction of the~~  
17 ~~panel and]~~ deputy superintendent of public charter schools, in  
18 consultation with the authorizers and local school boards of  
19 charter schools, shall be responsible for the internal  
20 organization, operation, and management of the public charter  
21 school system, including:

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- 1           (1) Preparing and executing the budget and the capital  
2           improvement projects request for the public charter  
3           schools; [~~including submission of the all means of~~  
4           ~~finance budget request that reflects all anticipated~~  
5           ~~expenditures to the panel, the board, the governor,~~  
6           ~~and the legislature; provided that, in preparing the~~  
7           ~~budget request with regard to facilities funding, the~~  
8           ~~executive director shall ensure that, as a budget item~~  
9           ~~separate from other operating costs, the request~~  
10          ~~provides:]~~
- 11          [~~(A) Funding for projected enrollment for the next~~  
12           ~~school year for each charter school;~~]
- 13          [~~(B) A calculation showing the per pupil funding~~  
14           ~~based on the department of budget and finance's~~  
15           ~~debt service appropriation for the department of~~  
16           ~~education divided by the department of~~  
17           ~~education's actual enrollment that school year;~~  
18           ~~and]~~
- 19          [~~(C) That no less than seventy per cent of the amount~~  
20           ~~appropriated shall be allocated by the office to~~  
21           ~~start up charter schools on a per pupil basis;~~  
22           ~~provided that the funds remaining shall be~~



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~~allocated to charter schools with facilities  
needs as recommended by the office and approved  
by the panel,]~~

- (2) Allocating annual appropriations to the public charter schools and distribution of federal funds to public charter schools;
- (3) Complying with applicable state laws related to the administration of the public charter schools;
- (4) Preparing contracts between the public charter schools and the department for centralized services to be provided by the department;
- (5) Preparing contracts between the public charter schools and other state agencies for financial or personnel services to be provided by the agencies to the public charter schools;
- (6) Providing independent analysis and recommendations on public charter school issues;
- (7) Representing public charter schools and the public charter school system in communications with the ~~[board,]~~ superintendent, the governor, and the legislature;

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- 1 (8) Providing advocacy, assistance, and support for the  
2 development, growth, progress, and success of public  
3 charter schools and the public charter school system;
- 4 (9) Providing guidance and assistance to charter  
5 applicants and public charter schools to enhance the  
6 completeness and accuracy of information for [~~panel~~]  
7 authorizer review;
- 8 (10) Assisting charter applicants and public charter  
9 schools in coordinating their interactions with the  
10 panel or authorizer as needed;
- 11 (11) Assisting the panel and authorizers to coordinate  
12 with public charter schools in [~~panel~~] investigations  
13 and evaluations of public charter schools;
- 14 (12) Serving as the conduit to disseminate communications  
15 from [~~the panel, the board, and~~] the department to all  
16 public charter schools;
- 17 (13) Determining public charter school system needs and  
18 communicating those needs to authorizers [~~the panel~~  
19 ~~the board,~~] and the department;
- 20 [~~(14) Establishing a dispute resolution and mediation~~  
21 ~~process,~~] and

1           ~~[(15)]~~ (14) Upon request by one or more public charter  
2           schools, assisting in the negotiation of a collective  
3           bargaining agreement with the exclusive representative  
4           of its employees.

5           ~~[(c) The executive director shall be evaluated annually by~~  
6           ~~the panel. The annual evaluation shall be conducted~~  
7           ~~sufficiently in advance of the end of a term to provide the~~  
8           ~~executive director the opportunity to respond to concerns and~~  
9           ~~improve performance.~~

10          ~~(d) The salary of the executive director and staff shall~~  
11          ~~be set by the panel based upon the recommendations of charter~~  
12          ~~schools within the State; provided that the salaries and~~  
13          ~~operational expenses of the office shall be paid from the annual~~  
14          ~~charter school appropriation and shall not exceed two per cent~~  
15          ~~of the total general fund allocation at an amount to be~~  
16          ~~determined annually by the panel.~~

17          ~~(e) The office shall include in its annual budget request~~  
18          ~~additional funds to cover the estimated costs of:~~

19          ~~(1) Vacation and sick leave accrued by employees~~  
20                 ~~transferring to a charter school from another state~~  
21                 ~~agency or department;~~

1       ~~(2) Substitute teachers needed when a teacher is out~~  
2           ~~on vacation or sick leave;~~

3       ~~(3) Adjustments to enrollments; and~~

4       ~~(4) Arbitration in the grievance process.~~

5       ~~(f)]~~ (c) The ~~[office shall]~~ deputy superintendent may  
6 withhold funds for charter school enrollments that are  
7 inconsistent with approved detailed implementation plans.

8       ~~(g)]~~ (d) The ~~[office shall]~~ deputy superintendent may  
9 withhold funds to repay overpayments or over-allocations  
10 received by charter schools when not repaid in a timely manner  
11 in accordance with rules adopted by the ~~[board.]~~ superintendent.

12       ~~(h)]~~ (e) The ~~[office]~~ deputy superintendent may carry  
13 over funds from previous year allocations. Funds distributed to  
14 charter schools shall be considered expended."

15       SECTION 12. Section 302B-12, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "**§302B-12 Funding and finance.** (a) Beginning with fiscal  
18 year 2009-2010, and each fiscal year thereafter, the  
19 non-facility per-pupil funding ~~[request]~~ for public charter  
20 school students shall not be less than the per-pupil amount to  
21 non-charter public schools in the department in the most  
22 recently ~~[approved executive]~~ enacted budget ~~[recommendation]~~

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1 for the department, as set forth in paragraph (2); provided  
2 that:

3 (1) The per-pupil funding [~~request~~] shall include  
4 funding for projected enrollment figures for each  
5 public charter school[+] and for proposed conversion  
6 and new start up charters over the biennium budget  
7 period; and

8 (2) The per-pupil [~~request~~] funding for each regular  
9 education and special education student shall:

10 (A) Include all regular education cost categories,  
11 including comprehensive school support services  
12 but excluding special education services;  
13 provided that [~~special education services are~~  
14 ~~provided and funded by~~] the department[+] shall  
15 provide and fund special education services to  
16 students enrolled in public charter schools on  
17 the same basis as such services are provided to  
18 special education students enrolled in non-  
19 charter public schools; provided further that if  
20 the department fails to provide special education  
21 services to special education services at public  
22 charter schools, the department shall transfer

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1 directly to a public charter school any federal  
2 or state aid attributable to a special education  
3 student attending a public charter school;

4 (B) Include all means of financing [~~except federal~~  
5 ~~funds~~], as [~~reported~~] appropriated in the most  
6 [~~recently approved executive~~] recently enacted  
7 department of education budget [~~recommendations~~  
8 ~~for the department; provided that in preparing~~  
9 ~~the budget the executive director shall include~~  
10 ~~an analysis of the proposed budget in~~  
11 ~~relationship to the most recently published~~  
12 ~~department consolidated annual financial report~~];  
13 and

14 (C) Exclude fringe benefit costs and debt  
15 service.

16 (D) Include any federal or state aid attributable to  
17 a student for the provision of and payment for special education  
18 services in proportion to the level of services for such student  
19 that the public charter school directly provides; provided that  
20 a public charter school and its authorizer may contract with the  
21 department for alternate arrangements for the provision and

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1 payment for special educations services, the payment for which  
2 shall be excluded

3 (b) Fringe benefit costs for public charter school  
4 employees, regardless of the payroll system utilized by a public  
5 charter school, shall be included in the department of budget  
6 and finance's annual budget request[-], consistent with the  
7 treatment of fringe benefits costs of non-charter public  
8 schools. No fringe benefit costs shall be charged directly to  
9 or deducted from the public charter school per-pupil  
10 allocations.

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

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

21 (c) [~~Charter~~] Public charter schools shall be eligible for  
22 all federal financial support to the same extent as all other

1 public schools. The department shall provide the [office]  
2 deputy superintendent of public charter schools with all state-  
3 level federal grant proposals submitted by the department that  
4 include public charter schools as potential recipients and  
5 timely reports on state-level federal grants received for which  
6 public charter schools may apply or are entitled to receive.  
7 Federal funds received by the department for public charter  
8 schools shall be [~~transferred to the office for distribution~~]  
9 distributed to public charter schools in accordance with the  
10 federal requirements. If administrative services related to  
11 federal grants and subsidies are provided to the public charter  
12 school by the department, the public charter school shall  
13 reimburse the department for the actual costs of the  
14 administrative services in an amount that shall not exceed six  
15 and one-half per cent of the public charter school's federal  
16 grants and subsidies.

17 Any public charter school shall be eligible to receive any  
18 supplemental federal grant or award for which any other public  
19 school may submit a proposal, or any supplemental federal grants  
20 limited to public charter schools; provided that if department  
21 administrative services, including funds management, budgetary,  
22 fiscal accounting, or other related services, are provided with



1 respect to these supplemental grants, the public charter school  
2 shall reimburse the department for the actual costs of the  
3 administrative services in an amount that shall not exceed six  
4 and one-half per cent of the supplemental grant for which the  
5 services are used.

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

10 (d) To enable public charter schools to access state  
11 funding prior to the start of each school year, foster their  
12 fiscal planning, and enhance their accountability, [~~the office~~]  
13 public charter schools shall[+] receive:

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

21 (2) [~~Provide an~~] An additional forty per cent of a public  
22 charter school's per-pupil allocation no later than

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1 November 15 of each year; provided that the  
2 public charter school shall have submitted~~[to the~~  
3 ~~office]~~:

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

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

16 (3) Ensure the appropriate transfer between EDN 100  
17 (school-based budgeting) and EDN 600 (charter schools)  
18 of those per-pupil amounts that reflect students  
19 transferring between public charter schools and public  
20 non-charter schools; and

21 ~~[(3) Retain no more than]~~ (4) Release the remaining ten  
22 per cent of a public charter school's per-pupil

1 allocation no later than [~~June~~] March 30 of each year  
2 [~~as a contingency balance to ensure fiscal~~  
3 ~~accountability and compliance~~];

4 provided that the [~~panel~~] superintendent may make adjustments  
5 in allocations based on noncompliance with [~~board~~] department  
6 policies made in the [~~board's~~] department's capacity as the  
7 state education agency, department directives made in the  
8 department's capacity as the state education agency, and the  
9 office's administrative procedures [~~, and board-approved~~  
10 ~~accountability requirements~~].

11 (e) The department shall provide appropriate transitional  
12 resources to a conversion public charter school for its first  
13 year of operation as a public charter school based upon the  
14 department's allocation to the school for the year prior to the  
15 conversion.

16 (f) No start-up public charter school or conversion public  
17 charter school may assess tuition."

18 SECTION 13. Subsection 302B-13(b), Hawaii Revised  
19 Statutes, is amended to read as follows:

20 "(b) The charter schools, through the [~~office,~~] deputy  
21 superintendent of public charter schools, may propose to the  
22 [~~board~~] department an alternative weighted student formula,

1 approved of by more than two-thirds of the local school boards,  
2 with each local school board being accorded one vote, to be  
3 administered by the office and to apply to the per-pupil  
4 allocation for charter schools."

5 SECTION 14. Section 302B-14, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§302B-14 Accountability; probationary status; revocation**  
8 **of charter.** (a) Every public charter school shall conduct  
9 ~~[annual]~~ periodic self-evaluations that shall be submitted to  
10 ~~[the panel within sixty working days after the completion of the~~  
11 ~~school year, or]~~ the public charter school's authorizer and the  
12 charter school administrative office in accordance with  
13 reporting requirements adopted by the ~~[panel]~~ authorizer. The  
14 self-evaluation process shall include but not be limited to:

- 15 (1) The identification and adoption of benchmarks to  
16 measure and evaluate administrative and  
17 instructional programs;
- 18 (2) The identification of any innovations or research  
19 that may assist other public schools;
- 20 (3) The identification of any administrative and  
21 legal barriers to meeting the adopted benchmarks,

1 and recommendations for improvements and  
2 modifications to address the barriers;

3 (4) An evaluation of student achievement within the  
4 charter school[+] as measured against nationally  
5 recognized benchmarks such as National Assessment of  
6 Educational Progress scores;

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

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

13 (b) The [~~panel~~] authorizer shall conduct a multi-year  
14 evaluation of each public charter school for which it holds a  
15 charter, beginning on its fourth anniversary year and every five  
16 years thereafter. The [~~panel~~] authorizer may from time to time  
17 establish a schedule to stagger the multi-year evaluations.

18 (c) The [~~panel~~] authorizer may conduct special evaluations  
19 of public charter schools for which it holds a charter at any  
20 time.

21 (d) [~~The panel~~] Authorizers may place a public charter  
22 school on probationary status; provided that:

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- 1           (1) ~~[The panel evaluates]~~ Authorizers evaluate the public  
2           charter school or ~~[reviews]~~ review an evaluation of  
3           the public charter school;
- 4           (2) ~~[The panel and the office]~~ Authorizers are involved in  
5           substantive discussions with the public charter school  
6           regarding the areas of deficiencies;
- 7           (3) The notice of probation is delivered to the  
8           public charter school and specifies the deficiencies  
9           requiring correction, the probation period, and  
10          monitoring and reporting requirements;
- 11          (4) For deficiencies related to student performance,  
12          a public charter school shall be allowed two years to  
13          improve student performance;
- 14          (5) For deficiencies related to financial plans, a  
15          public charter school shall be allowed one year to  
16          develop and implement a sound financial plan; and
- 17          (6) For deficiencies related to organizational  
18          viability, a public charter school may be allowed one  
19          year to improve administrative compliance.

20          The public charter school shall remain on probationary  
21          status until the ~~[panel]~~ authorizer votes either to remove the

1 public charter school from probationary status or revoke its  
2 charter.

3 (e) If a public charter school fails to resolve  
4 deficiencies by the end of the probation period, the [~~panel~~]  
5 authorizer may revoke the charter; provided that the vote of  
6 two-thirds of all the members to which the [~~panel~~] board of the  
7 authorizing entity is entitled shall be required to revoke the  
8 charter.

9 (f) The [~~panel~~] authorizer may place a public charter  
10 school on probationary status or revoke the charter for serious  
11 student or employee health or safety deficiencies; provided  
12 that:

13 (1) The public charter school is given notice of specific  
14 health or safety deficiencies and is afforded an  
15 opportunity to present its case to the [~~panel~~],  
16 authorizer;

17 (2) The [~~panel chair~~] chair of the board of the  
18 authorizing entity appoints a task group, which may be  
19 an investigative task group or the charter school  
20 administrative office, to visit the public charter  
21 school and conduct meetings with its local school  
22 board and its school community to gather input;

- 1 (3) Based on its findings, the task group shall recommend  
2 to the [~~panel~~] board of the authorizing entity to  
3 revoke the charter, place the public charter school on  
4 probation, or continue the charter;
- 5 (4) The vote of two-thirds of all the members to  
6 which the [~~panel~~] board of the authorizing entity is  
7 entitled shall be required to revoke the charter;
- 8 (5) The best interest of the school's students guide  
9 all decisions; and
- 10 (6) After a decision to revoke a charter, the public  
11 charter school shall be allowed to remain open until a  
12 plan for an orderly shutdown or transfer of  
13 students and assets is developed and executed, or  
14 until the school year ends, whichever comes  
15 first.
- 16 (g) If there is an immediate concern for student or  
17 employee health or safety at a public charter school, the  
18 [~~panel,~~] authorizer, in consultation with the [~~office,~~] deputy  
19 superintendent, may adopt an interim restructuring plan that may  
20 include the appointment of an interim local school board, an  
21 interim local school board chairperson, or a principal to  
22 temporarily assume operations of the school; provided that, if



1 possible without further jeopardizing the health or safety of  
2 students and employees, the charter school's stakeholders and  
3 community are first given the opportunity to elect a new local  
4 school board which shall appoint a new interim principal. The  
5 ~~[board]~~ superintendent shall have the authority to direct the  
6 ~~[panel]~~ authorizer to take appropriate action to immediately  
7 address serious health and safety issues that may exist at a  
8 public charter school in order to ensure the health and safety  
9 of students and employees and mitigate significant liability to  
10 the State.

11 (h) The ~~[board]~~ superintendent shall adopt rules pursuant  
12 to chapter 91 for placing public charter schools on probation  
13 and for revoking a charter.

14 (i) If, at any time, a public charter school dissolves,  
15 the charter is not reauthorized, or the charter is revoked, the  
16 State shall have first right, at no cost to the State, to all  
17 the assets and facilities of the public charter school, except  
18 as otherwise provided by law[-]; provided that, upon  
19 dissolution, denial of charter reauthorization, or charter  
20 revocation, the authorizer and the charter school administrative  
21 office, acting in concert and on behalf of the State, shall be  
22 granted open and immediate access to the public charter school's

1 assets and facilities, including its records and accounts, to  
2 facilitate this process."

3 SECTION 15. The executive director of the charter school  
4 administrative office shall serve as the interim deputy  
5 superintendent for public charter schools from the effective  
6 date of this Act until the appointment of the deputy  
7 superintendent for public charter schools by the superintendent  
8 of education.

9 SECTION 16. All public charter school policies or bylaws  
10 adopted, and all decisions made, by the board of education or  
11 the charter school review panel prior to the effective date of  
12 this Act shall remain in effect until repealed or revised by the  
13 superintendent of education or the superintendent's designee,  
14 which may include the deputy superintendent of public charter  
15 schools.

16 SECTION 17. The charter school review panel shall serve as  
17 the authorizer for start-up and conversion public charter  
18 schools in operation prior to the effective date of this Act;  
19 provided that such public charter schools may request to be  
20 placed under the purview of a new authorizer established  
21 pursuant to section 8 of this Act; provided further that the  
22 charter school review panel and the authorizer that will receive

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1 the transferring public charter school have reached a mutual  
2 agreement and completed a transfer plan.

3 SECTION 18. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 19. This Act shall take effect upon its approval.

6

7

INTRODUCED BY: \_\_\_\_\_

A large, bold, handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be a name with a vertical stroke through it.

8

BY REQUEST

**Report Title:**

Public Charter Schools; Charter Authorization; Charter Renewal;  
Funding per-pupil

**Description:**

Repeals the cap on public charter schools, allows for multiple public charter school authorizers, requires public charter schools to apply for charter reauthorization, and ensures that public charter school students receive funding equal to non-charter public school students; authorizes the Governor to appoint the Charter School Review Panel with the advice and consent of the Senate; transfers the oversight of the Charter School Administrative Office from an executive director to a Deputy Superintendent of Public Charter Schools; makes technical amendments to clarify that charter schools are part of the state public education system; and improves Hawaii's ability to compete for federal funding under the Race to the Top grant program of the American Recovery and Reinvestment Act of 2009.

JUSTIFICATION SHEET

DEPARTMENT: OFFICE OF THE GOVERNOR

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC CHARTER SCHOOLS.

PURPOSE: Strengthens public education by repealing the statutory limit on the number of public charter schools, allowing multiple charter school authorizers, and ensuring that public charter school students receive funding equal to non-charter public school students. Authorizes the governor to appoint the members of the Charter School Review Panel (Panel). Transfers the oversight of the Charter School Administrative Office from the Panel to a deputy superintendent of public charter schools. Makes technical amendments to clarify that charter schools are part of the state public education system. Improves Hawaii's ability to compete for the federal Race to the Top Fund, established by American Recovery and Reinvestment Act of 2009.

MEANS: Add a new section to chapter 302B, Hawaii Revised Statutes (HRS), and amends sections 302A-1101(d), 302A-1506.5, 302B-1, 302B-3, 302B-3.5, 302B-4, 302B-5, 302B-6, 302B-8, 302B-12, and 302B-14, HRS.

JUSTIFICATION: Over \$4,000,000,000 in new federal grant money is being made available to states through the Race to the Top Fund under the American Recovery and Reinvestment Act of 2009. The purpose of this competitive grant is to encourage and reward states that create conditions for educational innovation and reform.

In the announcement of the Race to the Top Fund, President Obama and U.S. Secretary of Education Arne Duncan called on states to remove statutory barriers to charter school innovation and growth. They specifically

advised against caps on the number of charter schools allowed to operate in a state and inequitable funding for charter school students.

This bill improves Hawaii's public educational system by:

- (1) Repealing the statutory limit on the number of charter schools allowed to operate within the state;
- (2) Allows higher educational institutions and nonprofit organizations to apply to become a charter authorizer;
- (3) Requires public charter schools to periodically apply for charter re-authorization to ensure accountability and progress toward improved student achievement;
- (4) Transfers the oversight of the Charter School Administrative Office from the Charter School Review Panel to a newly established deputy superintendent of public charter schools; and
- (5) Clarifies the State's commitment to fund public charter school students at a level commensurate with non-charter public school students.

Impact on the public: Removing barriers to charter school growth will increase the opportunity for public school students to attend either a conventional or public charter school without artificial legal barriers.

Impact on the department and other agencies: Improves Hawaii's ability to aggressively compete for the federal Race to the Top grant funds.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED

AGENCIES:

Board of Education, Department of Education,  
University of Hawaii, Charter School Review  
Panel, and Charter School Administrative  
Office.

EFFECTIVE DATE:

Upon approval.