

---

---

# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

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

4 "§302D- Fees. (a) In administering its  
5 responsibilities, the commission may assess fees upon non-state  
6 entities and individuals to help cover its operating costs.

7 (b) Fees collected by the commission shall be deposited  
8 into insured checking or savings accounts and shall be expended  
9 by the commission.

10 (c) The commission shall adopt rules pursuant to chapter  
11 91 to implement this section; provided that, notwithstanding  
12 this section or any other law to the contrary, the commission  
13 may set the initial amount of the fees at any time without  
14 regard to chapter 91, if the commission:

15 (1) Holds at least one public hearing to take and discuss  
16 public testimony on the proposed fee amount; and

17 (2) Provides public notice at least thirty days prior to  
18 the date of the public hearing.



1           §302D-           Approved charter applications; start-up period.

2    (a) A charter applicant whose charter application is approved  
3    by an authorizer pursuant to section 302D-13 or 302D-14 shall  
4    not be allowed to enter into a charter contract until the  
5    charter applicant has satisfactorily met the pre-opening  
6    criteria set by the authorizer. The pre-opening criteria shall  
7    ensure that the charter applicant is prepared to successfully  
8    open a charter school.

9           (b) An approved charter applicant shall not be considered  
10   an entity of the State until the school is established by  
11   execution of the charter contract.

12           (c) An approved charter applicant that fails to  
13   satisfactorily meet the pre-opening criteria and enter into a  
14   charter contract with its authorizer within the start-up period  
15   initially established or subsequently extended by the authorizer  
16   shall be considered to have withdrawn its application.

17           (d) An approved charter applicant that withdraws its  
18   application shall not be allowed to execute a charter contract  
19   unless it reapplies and has its charter application approved by  
20   an authorizer in accordance with this chapter."



1 SECTION 2. Section 89C-1.5, Hawaii Revised Statutes, is  
2 amended by amending the definition of "appropriate authority" to  
3 read as follows:

4 ""Appropriate authority" means the governor, the respective  
5 mayors, the chief justice of the supreme court, the board of  
6 education, the board of regents, the state public charter school  
7 commission, the Hawaii health [†]systems[†] corporation board,  
8 the auditor, the ombudsman, and the director of the legislative  
9 reference bureau. These individuals or boards may make  
10 adjustments for their respective excluded employees."

11 SECTION 3. Section 302D-1, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By adding a new definition to be appropriately inserted  
14 and to read:

15 ""Department school" means any school that falls within the  
16 definition of public schools as defined in section 302A-101 and  
17 that is not a charter school."

18 2. By amending the definition of "charter contract" to  
19 read:

20 ""Charter contract" or "charter" means a fixed-term,  
21 bilateral, renewable contract between a public charter school  
22 and an authorizer that outlines the roles, powers,



1 responsibilities, and performance expectations for each party to  
2 the contract."

3 3. By amending the definition of "charter school" or  
4 "public charter school" to read:

5 ""Charter school" or "public charter school" refers to  
6 those public schools and their respective governing boards, as  
7 defined in this section, that are holding current charter  
8 contracts to operate as charter schools under this chapter,  
9 including start-up and conversion charter schools, and that have  
10 the flexibility and independent authority to implement  
11 alternative frameworks with regard to curriculum, facilities  
12 management, instructional approach, virtual education, length of  
13 the school day, week, or year, and personnel management."

14 4. By amending the definition of "conversion charter  
15 school" to read:

16 ""Conversion charter school" means:

17 (1) Any existing department school that converts to a  
18 charter school and is managed and operated in  
19 accordance with section 302D-14; or

20 (2) Any existing department school that converts to a  
21 charter school and is managed and operated by a



1 nonprofit organization in accordance with  
 2 section 302D-14 [~~;~~ or  
 3 ~~(3) A newly created school consisting of programs or~~  
 4 ~~sections of existing public school populations that~~  
 5 ~~are funded and governed independently and may include~~  
 6 ~~part of a separate Hawaiian language immersion program~~  
 7 ~~using existing public school facilities]."~~

8 5. By amending the definition of "nonprofit organization"  
 9 to read:

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

- 12 (1) Is recognized as a tax-exempt organization under
- 13 [~~section 501(c)(3) of~~] the Internal Revenue Code; and
- 14 (2) Is [~~domiciled~~] registered to do business in this
- 15 State[~~.~~] in accordance with chapter 414D."

16 6. By deleting the definition of "charter".

17 [~~""Charter" means a charter application as approved by an~~  
 18 ~~authorizer."~~]

19 SECTION 4. Section 302D-3, Hawaii Revised Statutes, is  
 20 amended as follows:

21 1. By amending subsection (c) to read:



1           "(c) The commission shall consist of nine members to be  
2 appointed by the board. The board shall appoint members who  
3 will be tasked with authorizing public charter schools that  
4 serve the unique and diverse needs of public school students.  
5 The chair of the commission shall be designated by the members  
6 of the commission for each school year beginning July 1, and  
7 whenever there is a vacancy. The board shall consider the  
8 combination of abilities, breadth of experiences, and  
9 characteristics of the commission, including but not limited to  
10 reflecting the diversity of the student population, geographical  
11 representation, and a broad representation of education-related  
12 stakeholders. The commission shall be exempt from sections  
13 26-34 and 26-36."

14           2. By amending subsections (k) and (l) to read:

15           "(k) The commission shall operate with dedicated resources  
16 and staff qualified to execute the day-to-day responsibilities  
17 of the commission pursuant to this chapter. The legislature  
18 shall make an appropriation to the commission separate from, and  
19 in addition to, any appropriations made to charter schools  
20 pursuant to sections 302D-28 and 302D-29.5.

21           (1) The commission shall have the power to hire staff  
22 without regard to chapters 76 and 89. The commission shall



1 determine staff wages, hours, benefits, and other terms and  
2 conditions of employment in accordance with chapter 89C."

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

5 "**§302D-5 Authorizer powers, duties, and liabilities.** (a)

6 Authorizers are responsible for executing the following  
7 essential powers and duties:

- 8 (1) Soliciting and evaluating charter applications;
- 9 (2) Approving quality charter applications that meet  
10 identified educational needs and promote a diversity  
11 of educational choices;
- 12 (3) Declining to approve weak or inadequate charter  
13 applications;
- 14 (4) Negotiating and executing sound charter contracts with  
15 each approved public charter school;
- 16 (5) Monitoring, in accordance with charter contract terms,  
17 the performance and legal compliance of public charter  
18 schools; and
- 19 (6) Determining whether each charter contract merits  
20 renewal, nonrenewal, or revocation.

21 (b) An authorizer shall:



1 (1) Act as the point of contact between the department and  
2 a public charter school it authorizes [~~and be~~  
3 ~~responsible for the administration of all applicable~~  
4 ~~state and federal laws~~];

5 (2) Be responsible for and ensure the compliance of a  
6 public charter school it authorizes with all  
7 applicable state and federal laws, including reporting  
8 requirements;

9 (3) Be responsible for the receipt of applicable federal  
10 funds from the department and the distribution of  
11 funds to the public charter school it authorizes; and

12 (4) Be responsible for the receipt of per-pupil funding  
13 from the department of budget and finance and  
14 distribution of the funding to the public charter  
15 school it authorizes.

16 (c) An authorizer may delegate its duties to officers,  
17 employees, and contractors.

18 (d) Regulation by authorizers shall be limited to the  
19 powers and duties set forth in this section, and shall be  
20 consistent with the spirit and intent of this chapter.

21 (e) An authorizer, members of the board of an authorizer  
22 acting in their official capacity, and employees or agents of an





1 authorizer are immune from civil and criminal liability with  
2 respect to all activities related to a public charter school  
3 authorized by that authorizer, except for any acts or omissions  
4 constituting wilful misconduct. Members of the commission shall  
5 be afforded the same protection afforded the members of the  
6 board pursuant to section 26-35.5.

7 (f) An authorizer shall not provide technical support to a  
8 charter school it authorizes in cases where the technical  
9 support will directly and substantially impact any authorizer  
10 decision related to the authorization, renewal, revocation, or  
11 nonrenewal of the charter school. This subsection shall not  
12 apply to technical support that an authorizer is required to  
13 provide to a charter school pursuant to federal law.

14 (g) An authorizer shall have the power to make and execute  
15 contracts and all other instruments necessary or convenient for  
16 the exercise of its duties and functions under this chapter."

17 SECTION 6. Section 302D-7, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[~~§~~302D-7~~]~~ **Authorizer reporting.** Every authorizer  
20 shall be required to submit to the board and the legislature an  
21 annual report summarizing:



- 1 (1) The authorizer's strategic vision for chartering and  
2 progress toward achieving that vision;
- 3 (2) The academic [~~and financial~~] performance of all  
4 operating public charter schools overseen by the  
5 authorizer, according to the performance expectations  
6 for public charter schools set forth in this  
7 chapter~~[+]~~, including a comparison of the performance  
8 of public charter school students with public school  
9 students statewide;
- 10 (3) The financial performance of all operating public  
11 charter schools overseen by the authorizer, according  
12 to the performance expectations for public charter  
13 schools set forth in this chapter;
- 14 [~~+3+~~] (4) The status of the authorizer's public charter  
15 school portfolio, identifying all public charter  
16 schools and applicants in each of the following  
17 categories: approved (but not yet open), approved  
18 (but withdrawn), not approved, operating, renewed,  
19 transferred, revoked, not renewed, or voluntarily  
20 closed[~~, or never opened~~];
- 21 [~~+4+~~] (5) The authorizing functions provided by the  
22 authorizer to the public charter schools under its



1 purview, including the authorizer's operating costs  
2 and expenses detailed in annual audited financial  
3 statements that conform with generally accepted  
4 accounting principles;

5 [~~(5)~~] (6) The services purchased from the authorizer by the  
6 public charter schools under its purview;

7 [~~(6)~~] (7) A line-item breakdown of the federal funds  
8 received by the department and distributed by the  
9 authorizer to public charter schools under its  
10 control; and

11 [~~(7)~~] (8) Any concerns regarding equity and recommendations  
12 to improve access to and distribution of federal funds  
13 to public charter schools."

14 SECTION 7. Section 302D-12, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**§302D-12 Charter school governing boards; powers and**  
17 **duties.** (a) No more than one-third of the voting members of a  
18 governing board shall be employees or former employees of a  
19 school [~~or~~], relatives of employees or former employees of a  
20 school, or any vendor or contractor providing goods or services  
21 to a charter school under the jurisdiction of that governing



1 board[-], unless at least one year has passed since the  
2 termination of the employee's employment with the school.

3 (b) In selecting governing board members, consideration  
4 shall be given to persons who:

5 (1) Provide the governing board with a diversity of  
6 perspective and a level of objectivity that accurately  
7 represent the interests of the charter school students  
8 and the surrounding community;

9 (2) Demonstrate an understanding of best practices of  
10 nonprofit governance; and

11 (3) Possess strong financial and academic management and  
12 oversight abilities, as well as human resource and  
13 fundraising experience.

14 ~~[-(b)-]~~ (c) No employee or former employee of a charter  
15 school [e], relative of an employee or former employee of a  
16 charter school, or any vendor or contractor providing goods or  
17 services to a charter school may serve as the chair of the  
18 governing board of that charter school[+], unless at least one  
19 year has elapsed since the termination of the employee's  
20 employment with the school; provided that an authorizer may  
21 grant an exemption from the provisions of this subsection based



1 upon a determination by the authorizer that an exemption is in  
2 the best interest of the charter school.

3 (d) Section 78-4 shall not apply to members of governing  
4 boards; provided that no governing board member shall be allowed  
5 to serve on more than two governing boards simultaneously. For  
6 purposes of this subsection, a governing board that governs more  
7 than one charter school shall be considered one board.

8 [~~(e)~~] (e) The governing board shall be the independent  
9 governing body of its charter school and shall have oversight  
10 over and be responsible for the financial, organizational, and  
11 academic viability of the charter school, implementation of the  
12 charter, and the independent authority to determine the  
13 organization and management of the school, the curriculum,  
14 virtual education, and compliance with applicable federal and  
15 state laws. The governing board shall ensure its school  
16 complies with the terms of the charter contract between the  
17 authorizer and the school. The governing board shall have the  
18 power to negotiate supplemental collective bargaining agreements  
19 with the exclusive representatives of their employees.

20 [~~(d)~~] (f) Governing boards and charter schools shall be  
21 exempt from chapter 103D, but shall develop internal policies  
22 and procedures for the procurement of goods, services, and



1 construction, consistent with the goals of public accountability  
 2 and public procurement practices. Governing boards and charter  
 3 schools are encouraged to use the provisions of chapter 103D  
 4 wherever possible; provided that the use of one or more  
 5 provisions of chapter 103D shall not constitute a waiver of the  
 6 exemption from chapter 103D and shall not subject the charter  
 7 school to any other provision of chapter 103D.

8 ~~[(e)]~~ (g) Charter schools and their governing boards shall  
 9 be exempt from the requirements of chapters 91 and 92. The  
 10 governing boards shall:

11 (1) Hold meetings open to the public;

12 ~~[(1)]~~ (2) Make available the notices and agendas of public  
 13 meetings:

14 (A) At a publicly accessible area in the ~~[governing~~  
 15 ~~board's]~~ charter school's office ~~[and the~~  
 16 ~~authorizer's office]~~ so as to be available for  
 17 review during regular business hours; and

18 (B) On the ~~[governing board's or]~~ charter school's  
 19 internet website ~~[, if applicable, and the~~  
 20 ~~authorizer's internet website]~~ not less than six  
 21 calendar days prior to the public meeting, unless  
 22 a waiver is granted by the authorizer or



1 authorizer's designee in the case of an  
2 emergency; and

3 ~~[(+2)]~~ (3) Make available the minutes from public meetings  
4 within thirty days and maintain a list of the current  
5 names and contact information of the governing board's  
6 members and officers:

7 (A) In the ~~[governing board's]~~ charter school's  
8 office ~~[and the authorizer's office]~~ so as to be  
9 available for review during regular business  
10 hours; and

11 (B) On the ~~[governing board's or]~~ charter school's  
12 internet website ~~[, if applicable, and the~~  
13 ~~authorizer's internet website]~~.

14 ~~[(+f)]~~ (h) All charter school employees and members of  
15 governing boards shall be subject to chapter 84.

16 ~~[(+g)]~~ (i) Governing boards shall be exempt from sections  
17 26-34 and 26-36. The State shall afford the governing board of  
18 any charter school the same protections as the State affords the  
19 board~~[-]~~ in accordance with section 26-35.5.

20 ~~[(+h)]~~ (j) For purposes of this section:

21 "Employees" shall include but not be limited to ~~[the]~~ :



1        (1) The chief executive officer, chief administrative  
2                    officer, executive director, or otherwise designated  
3                    head of a charter school [~~and shall include any~~]; and

4        (2) Any person under an employment contract to serve as  
5                    the chief executive officer, chief administrative  
6                    officer, executive director, or designated head of a  
7                    charter school.

8                    "Relative" means a spouse, fiance, or fiancee of the  
9 employee; any person who is related to the employee within four  
10 degrees of consanguinity; or the spouse, fiance, or fiancee of  
11 such person.

12        [~~(i)~~] (k) A governing board shall have the power to make  
13 and execute contracts and all other instruments necessary or  
14 convenient for the exercise of its duties and functions under  
15 this chapter. Whenever a charter school or governing board  
16 seeks to enter into a contract with a private organization,  
17 whether for-profit or nonprofit, to manage or operate the  
18 charter school, which contract requires the private organization  
19 to employ or otherwise provide the charter school with an  
20 individual to serve in the capacity of the chief executive  
21 officer, chief administrative officer, executive director, or  
22 designated head of the charter school, the charter school's





1 governing board, in consultation with the state ethics  
 2 commission, shall adopt standards of conduct that shall apply to  
 3 the chief executive officer, chief administrative officer,  
 4 executive director, or designated head of the charter school.  
 5 The standards of conduct shall include provisions relating to  
 6 gifts, fair treatment or misuse of position, and conflicts of  
 7 interest, and shall be incorporated into and made part of any  
 8 contract or arrangement between the charter school or governing  
 9 board and the private organization for those services."

10 SECTION 8. Section 302D-13, Hawaii Revised Statutes, is  
 11 amended to read as follows:

12 **"§302D-13 Start-up charter schools; establishment. (a)**

13 New start-up charter schools may be established pursuant to this  
 14 section.

15 (b) Any community, group of teachers, group of teachers  
 16 and administrators, or nonprofit organization may submit a  
 17 letter of intent to an authorizer to form a charter school,  
 18 establish a governing board as its governing body, and develop a  
 19 charter application pursuant to subsection (d).

20 (c) The start-up charter school charter application  
 21 process and schedule shall be determined by the authorizer, and .



1 shall provide for and include, at a minimum, the following  
2 elements:

- 3 (1) The submission of a letter of intent to operate a  
4 start-up charter school;
- 5 (2) The availability of the charter application form and  
6 completion guidelines on the authorizer's website;
- 7 (3) The timely submission of a completed charter  
8 application to the authorizer;
- 9 (4) The timely review of the charter application by the  
10 authorizer for completeness, and notification by the  
11 authorizer to the governing board that the charter  
12 application is complete;
- 13 (5) Upon receipt of a completed charter application, the  
14 review and evaluation of the charter application by  
15 qualified persons;
- 16 (6) Following the review and evaluation of a charter  
17 application, approval or denial of the charter  
18 application by the authorizer;
- 19 (7) A provision for a final date by which a decision to  
20 approve or deny a charter application must be made by  
21 the authorizer, upon receipt of a complete charter  
22 application; and



1           (8) A provision that no start-up charter school may begin  
2           operation before obtaining authorizer approval of its  
3           charter application and charter contract and  
4           fulfilling pre-opening requirements that may be  
5           imposed by the authorizer.

6           (d) A charter application to become a start-up charter  
7 school shall meet the requirements of this subsection and  
8 section 302D-25. The charter application shall, at a minimum,  
9 include the following:

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

13           (2) A plan for identifying, recruiting, and retaining  
14           highly qualified instructional faculty as defined by  
15           the department;

16           (3) A plan for identifying, recruiting, and selecting  
17           students that is not exclusive, elitist, or  
18           segregationist, and complies with this chapter;

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



- 1           (5) A plan for the assessment of student, administrative  
2           support, and teaching personnel performance that:
- 3           (A) Recognizes the interests of the general public;
- 4           (B) Incorporates or exceeds the educational content  
5           and performance standards developed by the  
6           department for the public school system;
- 7           (C) Includes a system of faculty and staff  
8           accountability that holds faculty and staff  
9           individually and collectively accountable for  
10          their performance, and that is at least  
11          equivalent to the average system of  
12          accountability in public schools throughout the  
13          State; and
- 14          (D) Provides for program audits and annual financial  
15          audits;
- 16          (6) A governance structure for the charter school that  
17          incorporates a conflict of interest policy and a plan  
18          for periodic training to carry out the duties of  
19          governing board members;
- 20          (7) A description of the constitution of the governing  
21          board, terms of governing board members, and the



1 process by which governing board members were  
2 selected;

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

9 (9) A facilities plan.

10 [~~(e)~~] ~~Any applicant whose charter application is denied by~~  
11 ~~the authorizer shall not be allowed to amend or resubmit the~~  
12 ~~charter application to the authorizer during a given cycle, as~~  
13 ~~defined by the authorizer; provided that an applicant shall have~~  
14 ~~the right to appeal the authorizer's denial of its charter~~  
15 ~~application pursuant to section 302D-15.~~

16 ~~(f)]~~ (e) In reviewing a charter application under this  
17 section, an authorizer shall take into consideration the  
18 constitution of the applicant's governing board, terms of  
19 governing board members, and the process by which governing  
20 board members were selected.

21 [~~(g)]~~ (f) In reviewing charter applications under this  
22 section, an authorizer shall develop a schedule to approve or



1 deny a charter application by the end of the calendar year for  
2 purposes of meeting any deadlines to request funding from the  
3 legislature."

4 SECTION 9. Section 302D-14, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§302D-14 Conversion charter schools; establishment. (a)**

7 A conversion charter school may be established pursuant to this  
8 section.

9 (b) Any department school, school community council, group  
10 of teachers, group of teachers and administrators, or nonprofit  
11 organization may submit a letter of intent to an authorizer to  
12 convert a department school to a charter school, establish a  
13 governing board as its governing body, and develop a charter  
14 application pursuant to subsection (d).

15 (c) The conversion charter school charter application  
16 process and schedule shall be determined by the authorizer, and  
17 shall provide for and include the following elements:

18 (1) The submission of a letter of intent to convert to a  
19 charter school;

20 (2) The availability of the charter application form and  
21 completion guidelines on the authorizer's website;



1           (3) The timely submission of a completed charter  
2           application to the authorizer; provided that the  
3           charter application shall include certification and  
4           documentation that the charter application was  
5           approved by a majority of the votes cast by existing  
6           administrative, support, and teaching personnel, and  
7           parents of students at the existing department school;  
8           provided that:

9           (A) This vote shall be considered by the authorizer  
10           to be the primary indication of the existing  
11           administrative, support, and teaching personnel,  
12           and parents' approval to convert to a charter  
13           school;

14           (B) The balance of stakeholders represented in the  
15           vote and the extent of support received in  
16           support of the conversion shall be key factors,  
17           along with the applicant's proposed plans, to be  
18           considered by the authorizer when deciding  
19           whether to award a charter; and

20           (C) A breakdown of the number of administrative,  
21           support, and teaching personnel, and parents of  
22           students who constitute the existing department



1 school and the number who actually participated  
2 in the vote shall be provided to the authorizer;

3 (4) The timely review of the charter application by the  
4 authorizer for completeness, and notification by the  
5 authorizer to the governing board that the charter  
6 application is complete;

7 (5) Upon receipt of a completed charter application, the  
8 review and evaluation of the charter application by  
9 qualified persons;

10 (6) Following the review and evaluation of a charter  
11 application, approval or denial of the charter  
12 application by the authorizer;

13 (7) A provision for a final date by which a decision of  
14 whether to approve or deny a charter application must  
15 be made by the authorizer, upon receipt of a complete  
16 charter application; and

17 (8) A provision that no conversion charter school may  
18 begin operation before obtaining authorizer approval  
19 of its charter and charter contract and fulfilling  
20 pre-opening requirements that may be imposed by the  
21 authorizer.





1 (d) A charter application to become a conversion charter  
2 school shall meet the requirements of this subsection and  
3 section 302D-25. The charter application shall include, at a  
4 minimum, the following:

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

8 (2) A plan for identifying, recruiting, and retaining  
9 highly qualified instructional faculty, as defined by  
10 the department;

11 (3) A plan for identifying, recruiting, and selecting  
12 students that is not exclusive, elitist, or  
13 segregationist, and complies with this chapter;

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

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

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

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



- 1 (C) Includes a system of faculty and staff  
2 accountability that holds faculty and staff  
3 individually and collectively accountable for  
4 their performance, and that is at least  
5 equivalent to the average system of  
6 accountability in public schools throughout the  
7 State; and
- 8 (D) Provides for program audits and annual financial  
9 audits;
- 10 (6) A governance structure for the charter school that  
11 incorporates a conflict of interest policy and a plan  
12 for periodic training to carry out the duties of  
13 governing board members;
- 14 (7) A description of the constitution of the governing  
15 board, terms of governing board members, and the  
16 process by which governing board members were  
17 selected;
- 18 (8) A financial plan based on the most recent fiscal  
19 year's per-pupil charter school allocation that  
20 demonstrates the ability to meet the financial  
21 obligations of one-time, start-up costs and ongoing



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

3 (9) A facilities plan.

4 (e) A nonprofit organization may submit a letter of intent  
5 to an authorizer to convert a department school to a conversion  
6 charter school, operate and manage the school, establish a  
7 governing board as its governing body, and develop a charter  
8 application pursuant to subsection (d); provided that:

9 (1) As the governing body of the conversion charter  
10 school, the governing board shall be the board of  
11 directors of the nonprofit organization and shall not  
12 be selected pursuant to section 302D-12. The  
13 nonprofit organization may also appoint advisory  
14 groups of community representatives for each school  
15 managed by the nonprofit organization; provided that  
16 these groups shall not have governing authority over  
17 the school and shall serve only in an advisory  
18 capacity to the nonprofit organization;

19 (2) The charter application for each conversion charter  
20 school to be operated by the nonprofit organization  
21 shall be formulated, developed, and submitted by the  
22 nonprofit organization, and shall be approved by a



1 majority of the votes cast by existing administrative,  
2 support, and teaching personnel, and parents of  
3 students of the existing department school; provided  
4 that:

5 (A) This vote shall be considered by the authorizer  
6 to be the primary indication of the existing  
7 administrative, support, and teaching personnel,  
8 and parents' approval to convert to a charter  
9 school;

10 (B) The balance of stakeholders represented in the  
11 vote and the extent of support received in  
12 support of the conversion shall be a key factor,  
13 along with the applicant's proposed plans, in an  
14 authorizer's decision to award a charter; and

15 (C) A breakdown of the number of administrative,  
16 support, and teaching personnel, and parents of  
17 students who constitute the existing department  
18 school and the number who actually participated  
19 in the vote shall be provided to the authorizer;

20 (3) The board of directors of the nonprofit organization,  
21 as the governing body for the conversion charter  
22 school that it operates and manages, shall have the



1 same protections that are afforded to the board in its  
2 role as the conversion charter school governing body;

3 (4) Any conversion charter school that is managed and  
4 operated by a nonprofit organization shall be eligible  
5 for the same federal and state funding as other public  
6 schools; provided that nothing in this section shall  
7 prohibit a nonprofit organization from making a  
8 contribution toward the operation of a conversion  
9 charter school; and

10 (5) If, at any time, the board of directors of the  
11 nonprofit organization governing the conversion  
12 charter school votes to discontinue its relationship  
13 with the charter school, the charter school may submit  
14 a revised charter application to the authorizer to  
15 continue as a conversion charter school without the  
16 participation of the nonprofit organization.

17 (f) Any nonprofit organization that seeks to manage or  
18 operate a conversion charter school as provided in subsection  
19 (e) shall comply with the following at the time of charter  
20 application:

21 (1) Have bylaws or policies that describe the manner in  
22 which business is conducted and policies that relate



1 to the management of potential conflict of interest  
2 situations;

3 (2) Have experience in the management and operation of  
4 public or private schools or, to the extent necessary,  
5 agree to obtain appropriate services from another  
6 entity or entities possessing such experience;

7 (3) Comply with all applicable federal, state, and county  
8 laws, including licensure or accreditation, as  
9 applicable; and

10 (4) Comply with any other requirements prescribed by the  
11 department to ensure adherence with applicable  
12 federal, state, and county laws, and the purposes of  
13 this chapter.

14 ~~[(g) Any public school or schools, programs, or sections  
15 of existing public school populations that are part of a  
16 separate Hawaiian language immersion program using existing  
17 public school facilities may submit a letter of intent to an  
18 authorizer to form a conversion charter school pursuant to this  
19 section.~~

20 ~~(h)]~~ (g) In reviewing a charter application for a charter  
21 under this section, an authorizer shall take into consideration  
22 the constitution of the applicant's governing board, terms of



1 governing board members, and the process by which governing  
2 board members were selected.

3 [~~(i)~~] (h) In the event of a conflict between the  
4 provisions in this section and other provisions in this chapter,  
5 this section shall control.

6 [~~(j)~~] (i) In reviewing charter applications for a charter  
7 under this section, an authorizer shall develop a schedule to  
8 approve or deny a charter application by the end of the calendar  
9 year for purposes of meeting any deadlines to request funding  
10 from the legislature."

11 SECTION 10. Section 302D-16, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) The performance provisions within the charter  
15 contract shall be based on a performance framework that clearly  
16 sets forth the academic and operational performance indicators,  
17 measures, and metrics that will guide the authorizer's  
18 evaluations of each public charter school. The performance  
19 framework, as established by the authorizer, shall be designed  
20 to ensure that each school meets applicable federal, state, and  
21 authorizer expectations, and shall include indicators, measures,  
22 and metrics for, at a minimum:



- 1 (1) Student academic proficiency;
- 2 (2) Student academic growth;
- 3 (3) Achievement gaps in proficiency and growth between
- 4 major student subgroups;
- 5 (4) Attendance;
- 6 (5) Enrollment variance;
- 7 (6) Postsecondary readiness, as applicable for high
- 8 schools;
- 9 (7) Financial performance and sustainability;
- 10 (8) Performance and stewardship, including compliance with
- 11 all applicable laws, rules, and terms of the charter
- 12 contract; and
- 13 (9) Organizational viability."

14 2. By amending subsections (d) through (f) to read:

15 "(d) The performance framework shall require the

16 disaggregation of all student performance data by major student

17 subgroups [~~as determined by the board~~].

18 (e) For each public charter school it oversees, the

19 authorizer shall be responsible for [~~managing~~] verifying and

20 either maintaining or having access to all charter school data

21 [~~from assessments in accordance with~~] upon which the performance

22 [~~framework.~~] framework relies.





1 (f) Multiple schools [~~operating under a single charter~~  
2 ~~contract or~~] overseen by a single governing board shall be  
3 required to report their performance as separate, individual  
4 charter schools, and each charter school shall be held  
5 independently accountable for its performance."

6 SECTION 11. Section 302D-17, Hawaii Revised Statutes, is  
7 amended by amending subsections (d) and (e) to read as follows:

8 "(d) Notwithstanding section 302D-18 to the contrary,  
9 every authorizer shall have the authority to take appropriate  
10 corrective actions or exercise sanctions short of revocation in  
11 response to apparent deficiencies in public charter school  
12 performance or legal compliance. Such actions or sanctions may  
13 include, if warranted [~~requiring~~]:

14 (1) Requiring a school to develop and execute a corrective  
15 action plan within a specified time frame[-]; and

16 (2) Reconstituting the governing board of the charter  
17 school; provided that the following conditions are  
18 met:

19 (A) Reconstitution occurs only under exigent  
20 circumstances, including but not limited to the  
21 following:



- 1                    (i) Unlawful or unethical conduct by governing
- 2                    board members;
- 3                    (ii) Unlawful or unethical conduct by the charter
- 4                    school's personnel that raises serious
- 5                    doubts about the governing board's ability
- 6                    to fulfill its statutory, contractual, or
- 7                    fiduciary responsibilities; and
- 8                    (iii) Other circumstances that raise serious
- 9                    doubts about the governing board's ability
- 10                   to fulfill its statutory, contractual, or
- 11                   fiduciary responsibilities;
- 12                   (B) The authorizer shall replace up to, but no more
- 13                   than, the number of governing board members
- 14                   necessary so that the newly appointed members
- 15                   constitute a voting majority in accordance with
- 16                   the governing board's bylaws; except that the
- 17                   authorizer may replace the entire governing board
- 18                   if the alternative is the initiation of
- 19                   revocation of the charter school's charter
- 20                   contract and the governing board opts instead for
- 21                   reconstitution; and



1           (C) Reconstitution occurs in accordance with  
2           processes set forth by the authorizer that  
3           provide the charter school's personnel and  
4           parents with timely notification of the prospect  
5           of reconstitution.

6           ~~(e) [If there is an immediate concern for student or~~  
7 ~~employee health or safety at a charter school, the authorizer~~  
8 ~~may adopt an interim restructuring plan that may include the~~  
9 ~~appointment of an interim governing board, a governing board~~  
10 ~~chairperson, or a principal to temporarily assume operations of~~  
11 ~~the school; provided that if possible without further~~  
12 ~~jeopardizing the health or safety of students and employees, the~~  
13 ~~charter school's stakeholders and community are first given the~~  
14 ~~opportunity to elect a new governing board which shall appoint a~~  
15 ~~new interim principal.] The authorizer shall have the authority~~  
16 ~~to direct the governing board and the charter school to take~~  
17 ~~appropriate action to immediately address serious health and~~  
18 ~~safety issues that may exist at a charter school in order to~~  
19 ~~ensure the health and safety of students and employees or~~  
20 ~~mitigate significant liability to the State.~~

21           The board shall have the authority to direct the authorizer  
22 to take appropriate action to immediately address serious health



1 and safety issues that may exist at a charter school in order to  
2 ensure the health and safety of students and employees and  
3 mitigate significant liability to the State."

4 SECTION 12. Section 302D-21, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§302D-21 Annual board report.** No later than twenty days  
7 prior to the convening of each regular session of the  
8 legislature, the board shall issue to the governor, the  
9 legislature, and the public, an annual report on the State's  
10 public charter schools, drawing from the annual reports  
11 submitted by every authorizer, as well as any additional  
12 relevant data compiled by the board, for the school year ending  
13 in the preceding calendar year. The annual report shall  
14 include:

15 [~~(1)~~] ~~A comparison of the performance of public charter~~  
16 ~~school students with the performance of comparable~~  
17 ~~subgroups of students in public schools governed by~~  
18 ~~chapter 302A;~~

19 ~~(2)]~~ (1) The board's assessment of the successes,  
20 challenges, and areas for improvement in meeting the  
21 purposes of this chapter, including the board's  
22 assessment of the sufficiency of funding for public



1 charter schools, and any suggested changes in state  
2 law or policy necessary to strengthen the State's  
3 public charter schools;

4 ~~[(3)]~~ (2) A line-item breakdown of all federal funds  
5 received by the department and distributed to  
6 authorizers;

7 ~~[(4)]~~ (3) Any concerns regarding equity and recommendations  
8 to improve access to and distribution of federal funds  
9 to public charter schools; and

10 ~~[(5)]~~ (4) A discussion of all board policies adopted in the  
11 previous year, including a detailed explanation as to  
12 whether each policy is or is not applicable to charter  
13 schools."

14 SECTION 13. Section 302D-24, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "[~~§~~302D-24~~§~~] **Occupancy and use of facilities of**  
17 ~~[public]~~ department schools. (a) When the department considers  
18 whether to close any particular ~~[public]~~ department school, the  
19 department shall submit a notice of possible availability of a  
20 ~~[public]~~ department school or notice of vacancy of a ~~[public]~~  
21 department school to the board pursuant to section  
22 302A-1151.5(b); provided that the department has not elected to



1 use the [~~publie~~] department school to support education  
2 programs.

3 (b) If a charter school exclusively or jointly occupies or  
4 uses buildings or facilities of a [~~publie~~] department school  
5 immediately prior to converting to a charter school, upon  
6 conversion that charter school shall be given continued  
7 exclusive or joint use of the buildings or facilities; provided  
8 that:

- 9 (1) The State may reclaim some or all of the buildings or  
10 facilities if it demonstrates a tangible and  
11 imperative need for such reclamation; and
- 12 (2) The State and the conversion charter school  
13 voluntarily enter into an agreement detailing the  
14 portion of those buildings or facilities that shall be  
15 reclaimed by the State and a timetable for the  
16 reclamation. If a timetable cannot be reached, the  
17 State may petition the board for the reclamation, and  
18 the board may grant the petition only to the extent  
19 that it is not possible for the conversion charter  
20 school and the State to jointly occupy or use the  
21 buildings or facilities.



1 (c) Upon receipt of a notice pursuant to section  
2 302A-1151.5(b), the board shall solicit applications from  
3 charter schools interested in using and occupying all or  
4 portions of the facilities of the [public] department school by:

5 (1) Promptly notifying all charter schools that the  
6 [public] department school is being considered for  
7 closure; and

8 (2) Affording each charter school an opportunity to submit  
9 an application with a written explanation and  
10 justification of why the charter school should be  
11 considered for possible occupancy and use of the  
12 facilities of the [public] department school.

13 (d) After fully considering each charter school's  
14 application and based on the applications received and on other  
15 considerations, the board shall:

16 (1) Provide a written response to each charter school's  
17 application after each application has been fully  
18 considered;

19 (2) Compile a prioritized list of charter schools; and

20 (3) Make a final determination of which charter school, if  
21 any, shall be authorized to use and occupy the  
22 [public] department school facilities.



1 (e) Upon the selection of a charter school to use a vacant  
2 department school facility or portion of a department school  
3 facility, the department and the charter school's authorizer  
4 shall enter into necessary agreements within ninety days of the  
5 selection to carry out the purposes of this section; provided  
6 that any agreement between the authorizer and the department  
7 shall stipulate that a charter school that uses and occupies a  
8 [~~public~~] department school facility or portion of a [~~public~~]  
9 department school facility shall be responsible for the full or  
10 pro rata share of the repair and maintenance costs for that  
11 facility or portion of the facility, as the case may be.

12 (f) The board shall adopt policies and procedures  
13 necessary to carry out the purposes of this section, including  
14 but not limited to:

- 15 (1) Procedures for charter schools to apply in writing to  
16 use vacant department school facilities;
- 17 (2) Criteria for the board to use in determining which  
18 charter schools to include on the prioritized list to  
19 be submitted to the department; and
- 20 (3) Procedures for the board to notify charter school  
21 applicants that are granted or denied the use of  
22 vacant department school facilities.





1       ~~[(g) For purposes of this section, "public school" means~~  
2 ~~any school that falls within the definition of public schools in~~  
3 ~~section 302A-101, except for charter schools.]"~~

4       SECTION 14. Section 302D-26, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6       "(a) Civil service employees of department schools shall  
7 retain their civil service status upon the conversion of their  
8 school to a conversion charter school. Positions in a  
9 conversion charter school that would be civil service in a  
10 department [~~public~~] school shall be civil service positions and  
11 subject to chapter 76. An employee with civil service status at  
12 a conversion charter school who transfers, is promoted, or takes  
13 a voluntary demotion to another civil service position shall be  
14 entitled to all of the rights, privileges, and benefits of  
15 continuous, uninterrupted civil service. Civil service  
16 employees of a conversion charter school shall have civil  
17 service status in the department's civil service system and  
18 shall be entitled to all rights, privileges, and benefits as  
19 other civil service employees employed by the department.  
20 Exempt employees as provided in section 76-16(b)(11)(B) of a  
21 conversion charter school shall have support services personnel  
22 status in the department's support services personnel system and



1 shall be entitled to all rights, privileges, and benefits as  
2 other exempt employees employed by the department in their  
3 support services personnel system."

4 SECTION 15. Section 302D-28, Hawaii Revised Statutes, is  
5 amended as follows:

6 1. By amending subsection (b) to read:

7 "(b) Fringe benefit costs for charter school employees,  
8 regardless of the payroll system utilized by a charter school,  
9 shall be included in the department of budget and finance's  
10 annual budget request. No fringe benefit costs shall be charged  
11 directly to or deducted from the charter school per-pupil  
12 allocations.

13 The legislature shall make an appropriation based upon the  
14 budget request; provided that the legislature may make  
15 additional appropriations for facility and other costs.

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

19 2. By amending subsection (d) to read:

20 "(d) Charter schools shall be eligible for all federal  
21 financial support to the same extent as [~~all other public~~]  
22 department schools. The department shall provide all



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

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



1 six per cent of the supplemental grant for which the services  
2 are used.

3 All additional funds generated by the governing boards,  
4 that are not from a supplemental grant, shall be held separate  
5 from allotted funds and may be expended at the discretion of the  
6 governing boards."

7 3. By amending subsection (f) to read:

8 "(f) To enable charter schools to access state funding  
9 prior to the start of each school year, foster their fiscal  
10 planning, enhance their accountability, and avoid over-  
11 allocating general funds to charter schools based on self-  
12 reported enrollment projections, authorizers shall:

13 (1) Provide sixty per cent of a charter school's per-pupil  
14 allocation based on the charter school's projected  
15 student enrollment no later than July 20 of each  
16 fiscal year; provided that the charter school shall  
17 have submitted to its authorizer a projected student  
18 enrollment no later than May 15 of each year;

19 (2) Provide an additional thirty per cent of a charter  
20 school's per-pupil allocation no later than December 1  
21 of each year, based on the October 15 student  
22 enrollment, as reviewed and verified by the



1 authorizer, only to schools in compliance with all  
2 financial reporting requirements; and  
3 (3) Retain no more than the balance of the remaining ten  
4 per cent of a charter school's per-pupil allocation,  
5 as a contingency balance to ensure fiscal  
6 accountability and compliance, no later than June 30  
7 of each year;  
8 provided that authorizers may make adjustments in allocations  
9 based on noncompliance with charter contracts and the board may  
10 make adjustments in allocations based on noncompliance with  
11 board policies made in the board's capacity as the state  
12 education agency, department directives made in the department's  
13 capacity as the state education agency, the board's  
14 administrative procedures, and board-approved accountability  
15 requirements."

16 SECTION 16. Section 302D-29.5, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18 "(c) The governor, pursuant to chapter 37, may impose  
19 restrictions or reductions on appropriations for charter schools  
20 similar to those imposed on other [~~public~~] department schools."

21 SECTION 17. Section 302D-30, Hawaii Revised Statutes, is  
22 amended by amending subsection (b) to read as follows:



1           "(b) The department shall be responsible for the provision  
2 of a free appropriate public education. Any charter school that  
3 enrolls special education students or identifies one of its  
4 students as eligible for special education shall be responsible  
5 for providing the educational and related services required by a  
6 student's individualized education program. The programs and  
7 services for the student shall be determined collaboratively by  
8 the student's individualized education program team, which  
9 includes the student's parents or legal guardians.

10           If the charter school is unable to provide all of the  
11 required services, then the department shall provide the student  
12 with services as determined by the student's individualized  
13 educational program team. The department shall collaborate with  
14 the commission to develop guidelines related to the provision of  
15 special education services and resources to each charter school.  
16 The department shall review all of the current individualized  
17 education programs of special education students enrolled in a  
18 charter school and may offer staff, funding, or both, to the  
19 charter school based upon a per-pupil weighted formula  
20 implemented by the department and used to allocate resources for  
21 special education students in the [~~public~~] department schools."



1 SECTION 18. Section 302D-31, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§302D-31 **Athletics.** The department shall provide  
4 students at charter schools, including students enrolled at  
5 charter schools whose curriculum incorporates virtual education,  
6 with the same opportunity to participate in athletics as is  
7 provided to students at [~~other public~~] department schools. If a  
8 student at any charter school wishes to participate in a sport  
9 for which there is no program at the charter school, the  
10 department shall allow that student to participate in a  
11 comparable program [~~of any public school in the complex in which~~  
12 ~~the charter school is located or~~] at the [~~public~~] department  
13 school in the service area in which the student resides. All  
14 charter school students participating in athletics shall abide  
15 by all rules, regulations, and policies of the athletic league,  
16 association, and program applicable to the [~~public~~] department  
17 school in whose athletic program the student is participating."

18 SECTION 19. Section 302D-34, Hawaii Revised Statutes, is  
19 amended by amending subsections (b) and (c) to read as follows:

20 "(b) A start-up charter school:

21 (1) Shall be open to any student residing in the State[~~+~~]  
22 who is entitled to attend a department school;



- 1           (2) Shall enroll all students who submit an application,  
2           unless the number of students who submit an  
3           application exceeds the capacity of a program, class,  
4           grade level, or building;
- 5           (3) Shall select students through a public lottery if, as  
6           described in paragraph (2), capacity is insufficient  
7           to enroll all students who have submitted a timely  
8           application;
- 9           (4) May give an enrollment preference to students within a  
10          given age group or grade level and may be organized  
11          around a special emphasis, theme, or concept as stated  
12          in the charter school's application and as approved by  
13          the charter school's authorizer;
- 14          (5) May give an enrollment preference to students enrolled  
15          in the charter school during the previous school year  
16          and to siblings of students already enrolled at the  
17          charter school; and
- 18          (6) May give any other enrollment preference permitted by  
19          the charter school's authorizer, on an individual  
20          charter school basis, if consistent with law;
- 21 provided that nothing in this subsection shall preclude the  
22 formation of a start-up charter school whose mission is focused





1 on serving students with disabilities, who are of the same  
2 gender, who pose such severe disciplinary problems that they  
3 warrant a specific educational program, or who are at a risk of  
4 academic failure.

5 (c) A conversion charter school shall:

- 6 (1) Enroll any student who resides within the school's  
7 former geographic service area pursuant to section  
8 302A-1143, for the grades that were in place when the  
9 [~~public~~] department school converted to a charter  
10 school; provided that the department may consult with  
11 a conversion charter school every three years to  
12 determine whether realignment of the charter school's  
13 service area is appropriate given population shifts  
14 and the department's overall service area reviews;
- 15 (2) Follow the department's procedures regarding  
16 enrollment, including but not limited to geographic  
17 exceptions and enrollment preferences; and
- 18 (3) Be subject to subsection (b) for grades that were not  
19 in place when the school converted to a public charter  
20 school."

21 SECTION 20. Section 302D-2, Hawaii Revised Statutes, is  
22 repealed.



1           ~~["§302D-2] Existing charter schools. Any charter school~~  
2 holding a charter to operate under part IV, subpart D, of  
3 chapter 302A, as that subpart existed before July 11, 2006, and  
4 any charter school holding a charter to operate under chapter  
5 302B as it existed before June 19, 2012, shall be considered a  
6 charter school for the purposes of this chapter under a charter  
7 contract with the commission unless the charter contract is  
8 revoked, transferred to another authorizer, or not renewed, or  
9 the charter school voluntarily closes." ]

10           SECTION 21. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12           SECTION 22. This Act shall take effect on July 1, 2050.



**Report Title:**

Education; Charter Schools

**Description:**

Authorizes the state public charter school commission to assess fees to help offset its operating costs. Clarifies the legal status of an approved charter applicant. Makes various amendments to the charter school law for clarity and consistency. Effective 07/01/2050. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

