

**ACT 298**

S.B. NO. 2719

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I**

**SECTION 1.** The charter school system is an important complement to the department of education's school system, one that empowers local school boards and their charter schools by allowing more autonomy and flexibility and placing greater responsibility at the school level. The charter school system is made up of the board of education, the charter school administrative office, the charter school

review panel, and individual charter schools with differing visions, missions, and approaches to meeting the various needs and desires of Hawaii's communities.

The purposes of the charter school system include:

- (1) Providing administrators, parents, students, and teachers with expanded alternative public school choices in the types of schools, educational programs, opportunities, and settings, including services for underserved populations, geographical areas, and communities; and
- (2) Encouraging and, when resources and support are provided, serving as a research venue for the development, use, and dissemination of alternative and innovative approaches to educational governance, financing, administration, curricula, technology, and teaching strategies.

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

- (1) Providing consistency and clarity for statutes relating to the charter schools by recodifying and reorganizing the statutes into a new chapter that authorizes the establishment of a charter school system and sets forth standards for the governance, administration, support, financing, autonomy, and accountability of charter schools, including start-up charter schools and conversion charter schools;
- (2) Renaming new century charter schools and new century conversion charter schools as "start-up charter schools" and "conversion charter schools", respectively;
- (3) Clarifying that conversion charter schools fall under the category of "charter schools" but distinguishing between the procedures for establishing start-up charter schools and conversion charter schools by creating separate sections for each;
- (4) Clarifying the charter authorizer role;
- (5) Expanding the charter school review panel's membership and duties;
- (6) Setting minimum and maximum limits on the amount a nonprofit organization can contribute annually per pupil, toward the operation of a conversion charter school;
- (7) Clarifying and enhancing the powers and duties of the charter school administrative office and its executive director;
- (8) Empowering the local school boards of the charter schools to negotiate memorandums of agreement of supplemental collective bargaining agreements with the exclusive representatives of their employees;
- (9) Allowing civil service employees of a conversion charter school to retain their civil service status in the department of education human resources civil service system; and
- (10) Amending other parts of the Hawaii Revised Statutes to maintain consistency with the provisions of the new chapter relating to charter schools.

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

**“CHAPTER 302B  
PUBLIC CHARTER SCHOOLS**

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

“Board” means the board of education.

“Charter school” refers to those public schools holding charters to operate as charter schools under this chapter, including start-up and conversion charter

schools, and that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management.

“Charter school review panel” or “panel” means the panel established pursuant to section 302B-3 with the powers and duties to advise and make recommendations to the board regarding issuance and revocation of charters, detailed implementation plan revisions, and charter school evaluations.

“Conversion charter school” means:

- (1) Any existing department school that converts to a charter school and is managed and operated in accordance with section 302B-6;
- (2) Any existing department school that converts to a charter school and is managed and operated by a nonprofit organization in accordance with section 302B-6; or
- (3) A newly created school, consisting of programs or sections of existing public school populations that are funded and governed independently and may include part of a separate Hawaiian language immersion program using existing public school facilities.

“Department” means the department of education.

“Detailed implementation plan” means the document that details the charter school’s purpose, focus, operations, organization, finances, and accountability, and becomes the basis for a performance contract between the board and the charter school.

“Executive director” means the executive director of the charter school administrative office.

“Local school board” means the autonomous governing body of a charter school that receives the charter and is responsible for the financial and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws, and that has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees.

“Nonprofit organization” means a private, nonprofit, tax-exempt entity that:

- (1) Is recognized as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and
- (2) Is domiciled in this state.

“Office” means the charter school administrative office.

“Organizational viability” means that a charter school:

- (1) Has been duly constituted in accordance with its charter;
- (2) Has a local school board established in accordance with law and the charter school’s charter;
- (3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;
- (4) Maintains accurate and comprehensive records regarding students and employees as determined by the office;
- (5) Meets appropriate standards of student achievement;
- (6) Cooperates with board, panel, and office requirements in conducting its functions;
- (7) Complies with applicable federal, state, and county laws and requirements;
- (8) In accordance with office guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance

with generally accepted accounting practices, and maintains a sound financial plan;

- (9) Operates within the scope of its charter and fulfills obligations and commitments of its charter;
- (10) Complies with all health and safety laws and requirements; and
- (11) Complies with all board directives, policies, and procedures.

“Start-up charter school” means a new school established under section 302B-5.

**§302B-2 Existing charter schools.** Any charter school holding a charter to operate under part IV, subpart D, of chapter 302A, as that subpart existed before the effective date of this Act shall be considered a charter school for the purposes of this chapter.

**§302B-3 Charter school review panel; establishment; powers and duties.**

(a) There is established the charter school review panel, which shall be placed within the department for administrative purposes only. The panel shall be accountable to and report to the board.

(b) The panel shall consist of nine members, and shall include:

- (1) Two licensed teachers regularly engaged in teaching; provided that one teacher is employed at a start-up charter school, and one teacher is employed at a conversion charter school;
- (2) Two educational officers; provided that one educational officer is employed at a start-up charter school, and one educational officer is employed at a conversion charter school;
- (3) One member or former member of a charter school local school board;
- (4) The chair of the board of education or the chair’s designee;
- (5) The executive director or the executive director’s designee;
- (6) A representative of Hawaiian culture-focused schools; and
- (7) A representative of the University of Hawaii.

(c) The board shall appoint the remaining members of the panel other than the chair of the board and the executive director.

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

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

(e) Notwithstanding the terms of members, the board may add panel members at any time and replace panel members at any time when their positions become vacant through resignation, non-participation, or upon request of a majority of panel members.

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

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

(h) The chair of the panel shall be designated by the members of the panel for each school year beginning July 1 and whenever there is a vacancy. If the panel does

not designate its chair for the next school year by July 1, the board shall designate the panel chair. When the panel chair is vacant, the board shall designate an interim chair to serve until the panel designates its chair.

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

- (1) Review charter applications for new charter schools in accordance with sections 302B-5 and 302B-6 and make recommendations to the board for the issuance of new charters; provided that if the board does not issue or deny the charter within sixty calendar days of the board's receipt of the recommendations, the recommendations shall automatically become effective;
- (2) Review significant amendments to detailed implementation plans to maximize the school's financial and academic success, long-term organizational viability, and accountability, and make recommendations to the board; provided that if the board does not approve or deny the amendments within sixty calendar days of receipt of the recommendations, the recommendations shall automatically become effective;
- (3) Recommend to the board reporting requirements for charter schools;
- (4) Review annual self-evaluation reports from charter schools and make recommendations to the board;
- (5) As directed by the board, evaluate any aspect of a charter school that the board may have concerns with and make recommendations to the board, which may include probation or revocation; provided that if the board does not take action on the recommendations within sixty calendar days, the recommendations shall automatically become effective;
- (6) Periodically recommend to the board improvements in the board's monitoring and oversight of charter schools;
- (7) Periodically recommend to the board improvements in the office's support of charter schools and management of the charter school system.

(j) In the case that the panel decides not to recommend the issuance of a new charter, or to recommend significant amendments to detailed implementation plans, the board shall adopt rules for an appeals process.

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

(l) The panel shall be exempt from chapter 92.

**§302B-4 Limits on charter schools.** Beginning July 2007, the board, with the recommendation of the panel, may authorize one new start-up charter school for each existing start-up charter school that has received a three-year or longer accreditation from the Western Association of Schools and Colleges or a comparable accreditation authority as determined by the panel, or for each start-up charter school whose charter is revoked. The total number of conversion charter schools authorized by the board, with the recommendation of the panel, shall not exceed twenty-five.

**§302B-5 Start-up charter schools; establishment.** (a) New start-up charter schools may be established pursuant to this section.

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

(c) The start-up charter school application process and schedule shall be determined by the board, and shall provide for and include the following elements:

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

- (2) The timely transmittal of the application form and completion guidelines to the interim local school board;
  - (3) The timely submission to the board of a completed application;
  - (4) The timely review of the application by the panel for completeness, and notification of the interim local school board if the application is complete or, if the application is insufficient, a written statement of the elements of the application that require completion;
  - (5) The timely resubmission of the application;
  - (6) Upon receipt of a completed application, the convening of the panel by the panel chairperson to begin review of the application;
  - (7) The timely notification of the applicant of any revisions the panel requests as necessary for a recommendation of approval to the board;
  - (8) The timely transmission of the panel's recommendation to the board for adjudication;
  - (9) Following the submission of an application, issuance of a charter or denial of the application by the board by majority vote; provided that if the board does not approve the application and issue a charter, provisions requiring the board to:
    - (A) Clearly identify in writing its reasons for not issuing the charter, which may be used as guidelines for an amended plan; and
    - (B) Allow the local school board to revise its plan in accordance with the board's guidelines, and resubmit an amended plan within ten calendar days;
  - (10) A provision for a final date on which a decision must be made, upon receipt of an amended plan;
  - (11) A provision that no start-up charter school may begin operation before obtaining board approval of its charter; and
  - (12) A requirement that upon approval of the start-up charter school, the office shall submit to the board a proposed budget for funding of the start-up school for submittal to the governor and legislature.
- (d) An application to become a start-up charter school shall include a detailed implementation plan that meets the requirements of this subsection and section 302B-9. The plan shall include the following:
- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
  - (2) A plan for identifying, recruiting, and retaining highly-qualified instructional faculty;
  - (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;
  - (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
  - (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:
    - (A) Recognizes the interests of the general public;
    - (B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;
    - (C) Includes a system of faculty and staff accountability that holds faculty and staff both individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the state; and
    - (D) Provides for program audits and annual financial audits;

- (6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of local school board members;
- (7) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and
- (8) A facilities plan.

**§302B-6 Conversion charter schools; establishment.** (a) A conversion charter school may be established pursuant to this section.

(b) Any department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to the office to convert a department school to a charter school, establish an interim local school board as its governing body, and develop a detailed implementation plan pursuant to subsection (d).

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

- (1) The submission of a letter of intent to convert to a charter school;
- (2) The timely transmittal of the application form and completion guidelines to the interim local school board;
- (3) The timely submission to the board of a completed application; provided that the application shall include certification and documentation that the application and the proposed detailed implementation plan was approved by a majority of the votes cast by existing administrative, support, teaching personnel, and parents of students at the proposed conversion charter school;
- (4) The timely review of the application by the panel for completeness, and notification of the interim local school board if the application is complete or, if the application is insufficient, a written statement of the elements of the application that require completion;
- (5) The timely resubmission of the application;
- (6) Upon receipt of a completed application, the convening of the panel by the panel chairperson to begin review of the application;
- (7) The timely notification of the applicant of any revisions the panel may request as necessary for a recommendation of approval to the board;
- (8) The timely transmission of the panel's recommendation to the board for adjudication;
- (9) Following the submission of an application, issuance of a charter or denial of the application by the board by majority vote; provided that if the board does not approve the application and issue a charter, provisions requiring the board to:
  - (A) Clearly identify in writing its reasons for not issuing the charter, which may be used as guidelines for an amended plan; and
  - (B) Allow the local school board to revise its plan in accordance with the board's guidelines, and resubmit an amended plan within ten calendar days;
- (10) A provision for a final date on which a decision must be made upon receipt of an amended plan;
- (11) A provision that no conversion charter school may begin operation before obtaining board approval of its charter; and

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

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

- (1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;
- (2) A plan for identifying, recruiting, and retaining highly-qualified instructional faculty;
- (3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;
- (4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
- (5) A plan for the assessment of student, administrative support, and teaching personnel performance that:
  - (A) Recognizes the interests of the general public;
  - (B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;
  - (C) Includes a system of faculty and staff accountability that holds faculty and staff both individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the state; and
  - (D) Provides for program audits and annual financial audits;
- (6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of local school board members;
- (7) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing costs such as monthly payrolls, faculty recruitment, professional development, and facilities costs; and
- (8) A facilities plan.

(e) A nonprofit organization may submit a letter of intent to the office to convert a department school to a conversion charter school, operate and manage the school, establish a local school board as its governing body, and develop a detailed implementation plan pursuant to subsection (d); provided that:

- (1) As the governing body of the conversion charter school, the local school board shall be composed of the board of directors of the nonprofit organization and not representatives of the participant groups specified in section 302B-7. The nonprofit organization may also appoint advisory groups of community representatives for each school managed by the nonprofit organization; provided that these groups shall not have governing authority over the school and shall serve only in an advisory capacity to the nonprofit organization;
- (2) The detailed implementation plan for each conversion charter school to be operated by the nonprofit organization shall be formulated, developed, and submitted by the nonprofit organization, and shall be approved by a majority of the votes cast by existing administrative, support, and teaching personnel, and parents of the students of the proposed conversion charter school;

- (3) The board of directors of the nonprofit organization, as the governing body for the conversion charter school that it operates and manages, shall have the same protections that are afforded to the board in its role as the conversion charter school governing body;
- (4) Any conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as other public schools; provided that the nonprofit organization makes a minimum annual contribution of \$1 per pupil toward the operation of a conversion charter school for every \$4 per pupil allocated by the office for the operation of the conversion charter school; provided that in no event shall the nonprofit organization be required to contribute more than the total required contribution per pupil per year. As used in this section, "total required contribution" means:
  - (A) \$1,500 for school years 2006-2007 through 2010-11;
  - (B) \$1,650 for school years 2011-2012 through 2015-2016; and
  - (C) \$1,815 for school years 2016-2017 through 2020-2021; and
- (5) If, at any time, the board of directors of the nonprofit organization governing the conversion charter school votes to discontinue its relationship with the charter school, the charter school may submit an application with a revised detailed implementation plan to the panel to continue as a conversion school without the participation of the nonprofit organization.
  - (f) Any nonprofit organization that seeks to manage or operate a conversion charter school as provided in subsection (e) shall comply with the following at the time of application:
    - (1) Have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;
    - (2) Have experience in the management and operation of public or private schools or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience;
    - (3) Comply with all applicable federal, state, and county laws, including licensure or accreditation, as applicable; and
    - (4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws, and the purposes of this chapter.
  - (g) Any public school or schools, programs, or sections of existing public school populations that are part of a separate Hawaiian language immersion program using existing public school facilities may submit a letter of intent to the office to form a conversion charter school pursuant to this section.
  - (h) In the event of a conflict between the provisions in this section and other provisions in this chapter, this section shall control.

**§302B-7 Charter school local school boards; powers and duties.** (a) All local school boards, with the exception of those of conversion charter schools that are managed and operated by a nonprofit organization pursuant to section 302B-6(e), shall be composed of, at a minimum, one representative from each of the following participant groups:

- (1) Principals;
- (2) Instructional staff members selected by the school instructional staff;
- (3) Support staff selected by the support staff of the school;
- (4) Parents of students attending the school selected by the parents of the school;
- (5) Student body representatives selected by the students of the school; and

(6) The community at large.

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

(c) The local school board shall be the autonomous governing body of its charter school and shall be responsible for the financial and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws. The local school board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.

(d) Local school boards shall be exempt from chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. Charter schools are encouraged to use the provisions of chapter 103D wherever possible; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school to any other provision of chapter 103D.

(e) Charter schools and their local school boards shall be exempt from the requirements of chapters 91 and 92. The local school boards shall:

(1) Make available the notices and agendas of public meetings:

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

(B) On the local school board's or charter school's Internet web site not less than six calendar days prior to the public meeting, unless a waiver is granted by the executive director in the case of an emergency; and

(2) Make available the minutes from public meetings on a timely basis in:

(A) The local school board's office or the charter school administrative office so as to be available for review during regular business hours; and

(B) On the local school board's or charter school's Internet web site.

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

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

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

(1) Preparing and executing the budget for the charter schools, including submission of the budget request to the board, the governor, and the legislature;

(2) Allocating annual appropriations to the charter schools and distribution of federal funds to charter schools;

- (3) Complying with applicable state laws related to the administration of the charter schools;
- (4) Preparing contracts between the charter schools and the department for centralized services to be provided by the department;
- (5) Preparing contracts between the charter schools and other state agencies for financial or personnel services to be provided by the agencies to the charter schools;
- (6) Providing independent analysis and recommendations on charter school issues;
- (7) Representing charter schools and the charter school system in communications with the board, the governor, and the legislature;
- (8) Providing advocacy, assistance, and support for the development, growth, progress, and success of charter schools and the charter school system;
- (9) Providing guidance and assistance to charter applicants and charter schools to enhance the completeness and accuracy of information for board review;
- (10) Assisting charter applicants and charter schools in coordinating their interactions with the board as needed;
- (11) Assisting the board to coordinate with charter schools in board investigations and evaluations of charter schools;
- (12) Serving as the conduit to disseminate communications from the board and department to all charter schools;
- (13) Determining charter school system needs and communicating such needs with the board and department;
- (14) Establishing a dispute resolution and mediation panel; and
- (15) Upon request by one or more charter schools, assisting in the negotiation of a collective bargaining agreement with the exclusive representative of its employees.

(c) The executive director shall be evaluated annually by the board.

(d) The salary of the executive director and staff shall be set by the board based upon the recommendations of charter schools within the state; provided that the salaries and operational expenses of the office shall be paid from the annual charter school appropriation and shall not exceed two per cent of the total allocation in any fiscal year.

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

- (1) Vacation and sick leave accrued by employees transferring to a charter school from another state agency or department;
- (2) Substitute teachers needed when a teacher is out on vacation or sick leave;
- (3) Adjustments to enrollments; and
- (4) Arbitration in the grievance process.

(f) The office shall withhold funds for charter school enrollments that are inconsistent with approved detailed implementation plans.

(g) The office shall withhold funds to repay overpayments or overallocations received by charter schools when not repaid in a timely manner in accordance with rules adopted by the board.

(h) The office may carry over funds from previous year allocations. Funds distributed to charter schools shall be considered expended.

**§302B-9 Exemptions from state laws.** (a) Charter schools shall be exempt from chapters 91 and 92 and all other state laws in conflict with this chapter, except those regarding:

- (1) Collective bargaining under chapter 89; provided that:
  - (A) The exclusive representatives as defined in chapter 89 and the local school board of the charter school may enter into supplemental agreements that contain cost and noncost items to facilitate decentralized decision-making;
  - (B) The agreements shall be funded from the current allocation or other sources of revenue received by the charter school; provided that collective bargaining increases for employees shall be allocated by the department of budget and finance to the charter school administrative office for distribution to charter schools; and
  - (C) These supplemental agreements may differ from the master contracts negotiated with the department;
- (2) Discriminatory practices under section 378-2; and
- (3) Health and safety requirements.

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

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

(d) Notwithstanding any law to the contrary, as public schools and entities of the State, neither a charter school nor the office may bring suit against any other entity or agency of the State.

**§302B-10 Civil service status; employee rights.** (a) Civil service employees of department schools shall retain their civil service status upon the conversion of their school to a conversion charter school. Positions in a conversion charter school that would be civil service in a department public school shall be civil service positions and subject to chapter 76. An employee with civil service status at a conversion charter school who transfers, is promoted, or takes a voluntary demotion to another civil service position shall be entitled to all of the rights, privileges, and benefits of continuous, uninterrupted civil service. Civil service employees of a conversion charter school shall have civil service status in the department's civil service system and shall be entitled to all rights, privileges, and benefits as other civil service employees employed by the department. Exempt employees as provided in section 76-16(b)(11)(B) of a conversion charter school shall have support services personnel status in the department's support services personnel system and shall be entitled to all rights, privileges, and benefits as other exempt employees employed by the department in their support services personnel system.

(b) The State shall afford administrative, support, and instructional employees in charter schools full participation in the State's systems for retirement, workers' compensation, unemployment insurance, temporary disability insurance, and health benefits in accordance with the qualification requirements for each.

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

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

- (1) Comparable and verifiable professional development and employee evaluation standards and practices, as determined and certified by the office, are in place in charter schools for instructional staff;
- (2) Licensed charter school teachers, as determined by the Hawaii teacher standards board, who are not yet tenured in the department and are entering or returning to the department after full-time employment of no less than one full school year at a charter school, shall be subject to no more than one year of probationary status; and
- (3) Tenured department licensed teachers, as determined by the department, who transfer to charter schools shall not be required to serve a probationary period.

**§302B-11 Administration of workers' compensation.** The department of human resources development shall administer workers' compensation claims for employees of charter schools, who shall be covered by the same self-insured workers' compensation system as other public employees. The department of human resources development shall process, investigate, and make payments on claims; provided that:

- (1) Charter schools shall compile the preliminary claim form and forward it to the department of human resources development; and
- (2) The department of human resources development shall receive no more than 0.07 per cent of the EDN 600 appropriation to process these workers' compensation claims.

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

- (1) The actual and projected enrollment figures in the current school year for each charter school;
- (2) A per-pupil amount for each regular education and special education student, which shall be equivalent to the total per-pupil cost based upon average enrollment in all regular education cost categories, including comprehensive school support services but excluding special education services, and for all means of financing except federal funds, as reported in the most recently published department consolidated annual financial report; provided that the legislature may make an adjustment to the per-pupil allocation for the purposes of this section; and
- (3) Those fringe benefit costs requested shall be included in the department of budget and finance's annual budget request. No fringe benefit costs shall be charged directly to or deducted from the charter school per-pupil allocations unless they are already included in the funds distributed to the charter school.

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

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

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

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

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

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

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

- (1) Provide fifty per cent of a charter school's per-pupil allocation based on the charter school's projected student enrollment no later than July 20 of each fiscal year; provided that the charter school shall submit to the office a projected student enrollment no later than May 15 of each year;
- (2) Provide an additional forty per cent of a charter school's per-pupil allocation no later than November 15 of each year; provided that the charter school shall submit to the office:
  - (A) Student enrollment as verified on October 15 of each year; provided that the student enrollment shall be verified on the last business day immediately prior to October 15 should that date fall on a weekend; and
  - (B) An accounting of the percentage of student enrollment that transferred from public schools established and maintained by the department; provided that these accountings shall also be submitted by the office to the legislature no later than twenty days prior to the start of each regular session; and
- (3) The remaining ten per cent per-pupil allocation of a charter school no later than January 1 of each year as a contingency balance to ensure fiscal accountability;

provided that the board may make adjustments in allocations based on noncompliance with office administrative procedures and board-approved accountability requirements.

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

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

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

- (1) All charter schools, as a group, with each local school board being accorded one vote, shall elect, by greater than two-thirds agreement among the local school boards, whether to receive allocations through the department's weighted student formula; provided that the nonprofit that governs more than one conversion charter school may cast one vote representing each school it governs;
- (2) Any election by charter schools to receive department allocations, or not to receive allocations, through the department's weighted student formula shall be made by September 1 of each even-numbered year, and the election shall apply to the fiscal biennium beginning July 1 of the following year; provided that the appropriate funds shall be transferred by the department to the charter school administrative office for distribution to the charter schools; and
- (3) The election to receive allocations, or not to receive allocations, through the department's weighted student formula shall be communicated to the department through the office.

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

**§302B-14 Accountability; probationary status; revocation of charter.** (a)

Every charter school shall conduct annual self-evaluations that shall be submitted to the board within sixty working days after the completion of the school year. The self-evaluation process shall include but not be limited to:

- (1) The identification and adoption of benchmarks to measure and evaluate administrative and instructional programs;
- (2) The identification of any innovations or research that may assist other public schools;
- (3) The identification of any administrative and legal barriers to meeting the adopted benchmarks, and recommendations for improvements and modifications to address the barriers;
- (4) An evaluation of student achievement within the charter school;
- (5) A profile of the charter school's enrollment and the community it serves, including a breakdown of regular education and special education students; and
- (6) An evaluation of the school's organizational viability.

(b) The board shall conduct multi-year evaluations of charter schools that have been chartered for four or more years. The board shall adopt rules pursuant to chapter 91 for its evaluations.

- (c) The board may conduct special evaluations of charter schools at any time.
- (d) The board may place a charter school on probationary status; provided

that:

- (1) The panel evaluates the charter school or reviews an evaluation of the charter school and makes recommendations to the board;
- (2) The board and the office are involved in substantive discussions with the charter school regarding the areas of deficiencies;
- (3) The notice of probation is delivered to the charter school and specifies the deficiencies requiring correction, the probation period, and monitoring and reporting requirements;
- (4) For deficiencies related to student performance, a charter school shall be allowed two years to improve student performance; and

- (5) For deficiencies related to financial plans, a charter school shall be allowed one year to develop a sound financial plan.

The charter school shall remain on probationary status until the board votes to either remove the charter school from probationary status or revoke its charter.

(e) If a charter school fails to resolve deficiencies by the end of the probation period, the board may revoke the charter; provided that the vote of two-thirds of all the members to which the board is entitled shall be required to revoke the charter.

(f) The board may place a charter school on probationary status or revoke the charter for serious student or employee health or safety deficiencies; provided that:

- (1) The charter school is given notice of specific health or safety deficiencies and is afforded an opportunity to present its case to the board;
- (2) The board chair appoints a task group, which may be an investigative task group, the panel, or the office, to visit the charter school and conduct meetings with its local school board and its school community to gather input;
- (3) Based on its findings, the task group shall recommend to the board to revoke the charter, place the charter school on probation, or continue the charter;
- (4) The vote of two-thirds of all the members to which the board is entitled shall be required to revoke the charter;
- (5) The best interest of the school's students guide all decisions; and
- (6) After a decision to revoke a charter, the charter school shall be allowed to remain open until a plan for an orderly shut-down or transfer of students and assets is developed and executed, or until the school year ends, whichever comes first.

(g) If there is an immediate concern for student or employee health or safety at a charter school, the board, in consultation with the office, may adopt an interim restructuring plan that may include the appointment of an interim local school board, an interim local school board chairperson, or a principal to temporarily assume operations of the school; provided that if possible without further jeopardizing the health or safety of students and employees, the charter school's stakeholders and community are first given the opportunity to elect a new local school board which shall appoint a new interim principal.

(h) The board shall adopt rules pursuant to chapter 91 for placing charter schools on probation and for revoking a charter.

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

**§302B-15 Responsibilities of department of education; special education services.** (a) The department shall collaborate with the office to develop a system of technical assistance related to compliance with federal and state laws and access to federal and state funds. The department and the office shall collaborate to develop a list of central services that the department may offer for purchase by a charter school at an annual cost to be negotiated between an individual charter school and the department. The department shall enter into a contract with a charter school to provide these services, which shall be re-negotiated on an annual basis.

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

If the charter school is unable to provide all of the required services, then services to the student shall be provided by the department according to services determined by the student's individualized educational program team. The department shall collaborate with the office to develop guidelines related to the provision of special education services and resources to each charter school. The department shall review all of the current individualized education programs of special education students enrolled in a charter school and may offer staff, funding, or both, to the charter school based upon a per-pupil weighted formula implemented by the department and used to allocate resources for special education students in the public schools.

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

SECTION 3. Chapter 302A, part IV, subpart D, Hawaii Revised Statutes, is repealed.

## PART II

SECTION 4. The purpose of this part is to make conforming amendments to various sections of the Hawaii Revised Statutes in accordance with the provisions of the new charter school law.

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

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

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

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

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

charter school's existing allocation or other sources of revenue received by a charter school.”

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

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

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

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

- (1) Elected or appointed official;
- (2) Member of any board or commission; provided that nothing in this paragraph shall prohibit a member of a collective bargaining unit from serving on a local school board of a charter school established under chapter 302B;
- (3) Top-level managerial and administrative personnel, including the department head, deputy or assistant to a department head, administrative officer, director, or chief of a state or county agency or major division, and legal counsel;
- (4) Secretary to top-level managerial and administrative personnel under paragraph (3);
- (5) Individual concerned with confidential matters affecting employee-employer relations;
- (6) Part-time employee working less than twenty hours per week, except part-time employees included in bargaining unit (5);
- (7) Temporary employee of three months' duration or less;
- (8) Employee of the executive office of the governor or a household employee at Washington Place;
- (9) Employee of the executive office of the lieutenant governor;
- (10) Employee of the executive office of the mayor;
- (11) Staff of the legislative branch of the State;
- (12) Staff of the legislative branches of the counties, except employees of the clerks' offices of the counties;
- (13) Any commissioned and enlisted personnel of the Hawaii national guard;
- (14) Inmate, kokua, patient, ward, or student of a state institution;
- (15) Student help;
- (16) Staff of the Hawaii labor relations board;
- (17) Employee of the Hawaii national guard youth challenge academy; or
- (18) Employees of the office of elections.”

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

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

““Charter school administrative office” or “office” means the office established in section 302B-8 responsible for the internal organization, operation, and management of the charter school system.

“Charter school review panel” or “panel” means the panel established in section 302B-3 with the powers and duties to make recommendations to the board regarding charter schools.

“Charter schools” means public schools holding charters to operate as charter schools under chapter 302B, including start-up and conversion charter schools, that have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.”

2. By amending the definition of “public schools” to read:

““Public schools” means all academic and noncollege type schools established and maintained by the department and [new century] charter schools chartered by the board of education, in accordance with law.”

3. By repealing the definition of “new century charter schools”.

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

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

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

- (1) Attendance shall not be mandatory; and
- (2) ~~[New century charter]~~ Charter schools ~~[and new century conversion charter schools]~~ shall be excluded from mandatory participation in the program.”

SECTION 10. Section 302A-1101, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-1101 Department of education; board of education; superintendent of education.** (a) There shall be a principal executive department to be known as the department of education, which shall be headed by an elected policy-making board to be known as the board of education. The board shall have power in accordance with law to formulate statewide educational policy, adopt student performance standards and assessment models, monitor school success, and to appoint the superintendent of education as the chief executive officer of the public school system.

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

- (1) May be appointed without regard to the state residency provisions of section 78-1(b);
- (2) May be appointed for a term of up to four years; and
- (3) May be terminated only for cause.

(c) The board shall invite the senior military commander in Hawaii to appoint a nonvoting military representative to the board, who shall serve for a two-year term without compensation. As the liaison to the board, the military representa-

tive shall advise the board regarding state education policies and departmental actions affecting students who are enrolled in public schools as family members of military personnel. The military representative shall carry out these duties as part of the representative's official military duties and shall be guided by applicable state and federal statutes, regulations, and policies and may be removed only for cause by a majority vote of the members of the board.

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

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

"(a) The department, through the board and its superintendent, shall establish a school community council system under which each public school, excluding ~~new-century~~ charter schools ~~[and new-century conversion charter schools]~~, shall create and maintain a school community council. Each school community council shall:

- (1) Review and evaluate the school's academic plan and financial plan, and either recommend revisions of the plans to the principal, or recommend the plans for approval by the complex area superintendent;
- (2) Ensure that the school's academic and financial plans are consistent with the educational accountability system under section 302A-1004;
- (3) Participate in principal selection and evaluation, and transmit any such evaluations to the complex area superintendent; and
- (4) Provide collaborative opportunities for input and consultation."

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

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

(b) Beginning in fiscal year ~~[2004-2005,]~~ 2006-2007, and every year thereafter, the ~~[charter school administrative]~~ office shall distribute the allocations due to a ~~[new-century] charter school [or new-century conversion charter school pursuant to sections 302A-1185 and 302A-1191,]~~ directly to the ~~[new-century] charter school [or new-century conversion charter school]."~~

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

**"[F]§302A-1303.6[)] Weighted student formula.** Based upon recommendations from the committee on weights, the board of education, not less than annually, shall adopt a weighted student formula for the allocation of moneys to public schools ~~[which] that~~ takes into account the educational needs of each student. The department, upon the receipt of appropriated moneys, shall use the weighted student formula to allocate funds to public schools. Principals shall expend moneys provided to the principals' schools. This section shall only apply to ~~[new-century] charter schools [and new-century conversion charter schools]~~ for fiscal years in which the ~~[new-century] charter schools [and new-century conversion charter~~

schools] elect pursuant to section [302A-1182.5] 302B-13 to receive allocations according to the weighted student formula.”

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

“(b) Prior to informing the department about the school’s repair and maintenance needs, the school’s principal shall consider the recommendations made by the school community council or the local school board, if the school is a [~~new century conversion~~] charter school.”

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

“(a) There is established a classroom cleaning project in all public schools, excluding [~~new century~~] charter schools [~~and new century conversion charter schools~~]. Each school, through its school community council, may develop mechanisms to provide for classroom cleaning, including but not limited to having parent, student, or other community groups clean the classrooms on a regular, continuing basis.”

SECTION 16. Section 707-711, Hawaii Revised Statutes, is amended to read as follows:

“**§707-711 Assault in the second degree.** (1) A person commits the offense of assault in the second degree if:

- (a) The person intentionally or knowingly causes substantial bodily injury to another;
- (b) The person recklessly causes serious bodily injury to another person;
- (c) The person intentionally or knowingly causes bodily injury to a correctional worker, as defined in section 710-1031(2), who is engaged in the performance of duty or who is within a correctional facility;
- (d) The person intentionally or knowingly causes bodily injury to another person with a dangerous instrument; or
- (e) The person intentionally or knowingly causes bodily injury to an educational worker who is engaged in the performance of duty or who is within an educational facility. For the purposes of this section, “educational worker” means any administrator, specialist, counselor, teacher, or employee of the department of education, an employee of a charter school, or a person who is a volunteer in a school program, activity, or function that is established, sanctioned, or approved by the department of education or a person hired by the department of education on a contractual basis and engaged in carrying out an educational function.

(2) Assault in the second degree is a class C felony.”

### PART III

SECTION 17. The purpose of this part is to amend various sections of the Hawaii Revised Statutes relating to education and the department of education to further the ability of the State’s charter schools to act independently of the department of education and the public schools that the department establishes and operates.

SECTION 18. Section 302A-301, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established in the state treasury a trust fund to be known as the incentive and innovation grant trust fund to provide incentive and innovation grants

to qualified schools[.], including charter schools. Expenditures from the trust fund shall be made by the department and shall be subject to the allotment and expenditure plan required under section 37-34.5. Notwithstanding any other law to the contrary, tax deductible donations may be made to, and received by, this trust fund.”

SECTION 19. Section 302A-1128, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-1128 Department powers and duties.** (a) The department shall have entire charge and control and be responsible for the conduct of all affairs pertaining to public instruction[.] in the public schools the department establishes and operates, including operating and maintaining the capital improvement and repair and maintenance programs for department and school facilities. The department may establish and maintain schools for secular instruction at such places and for such terms as in its discretion it may deem advisable and the funds at its disposal may permit. The schools may include high schools, kindergarten schools, schools or classes for pregrade education, boarding schools, Hawaiian language medium education schools, and evening and day schools. The department may also maintain classes for technical and other instruction in any school where there may not be pupils sufficient in number to justify the establishment of separate schools for these purposes.

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

- (1) The course of study and instruction shall be regulated in accordance with the statewide performance standards established under section 302A-201;
- (2) All pupils shall be progressively competent in the use of computer technology; and
- (3) The course of study and instruction for the first twelve grades shall provide opportunities for all students to develop competency in a language in addition to English.

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

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

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

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

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

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

**“(a) The department and the charter school administrative office, as appropriate, may retain and expend federal indirect overhead reimbursements for**

discretionary grants in excess of the negotiated rate for such reimbursements as determined by the director of finance and the superintendent[-] or the director of finance and the executive director of the charter school administrative office.”

#### PART IV

SECTION 22. Public charter schools have great difficulty with leasing affordable land on which to locate schools due to prohibitive costs and zoning restrictions. As public schools and state agencies, charter schools should have access to state-held lands and buildings and enjoy comparable rates and conditions as those afforded other state agencies.

The purpose of this part is to encourage the State to enter into long-term leases of lands and buildings with charter schools for the location of school facilities.

SECTION 23. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§171- Lease to public charter schools. Notwithstanding any limitations to the contrary, the board may lease to charter schools, at nominal consideration, by direct negotiation and without recourse to public auction, public lands and buildings under the control of the department. Except as provided in this section, the terms and conditions of sections 171-33 and 171-36 shall apply. The lands and buildings leased under this section shall be used by the charter schools for educational purposes only. This section shall not apply to conversion charter schools.”

#### PART V

SECTION 24. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 25. This Act shall take effect upon its approval; provided that the amendments made to section 89-6(g), Hawaii Revised Statutes, by section 7 of this Act shall not be repealed when sections 89-6, Hawaii Revised Statutes, is repealed and reenacted on July 1, 2008, pursuant to section 8 of Act 245, Session Laws of Hawaii 2005.

(Became law on July 11, 2006, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

#### Note

1. Edited pursuant to HRS §23G-16.5.