A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 The legislature finds that education is of the SECTION 1. 2 utmost importance to the future of Hawai`i. As Hawai`i 3 continues to strive for innovative ways to improve the education and opportunities for our children, the federal government has 4 5 stressed, both publicly and in its policy and funding choices, 6 the importance of successful innovations, especially encouraging 7 states to nurture charter schools. Generally, the purposes for a state's public charter schools, like Hawai`i's, are some 8 9 combination of the following: 10 To improve student learning by creating high-guality 11 schools with high standards for student performance;

- To close achievement gaps between high-performing and lowperforming groups of public school students;
- 14 To increase high-quality educational opportunities within
 15 the public education system for all students, especially
 16 those at risk of academic failure;

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1 • To create new professional opportunities for teachers, 2 school administrators, and other school personnel that 3 allow them to have a direct voice in the operation of their 4 schools; 5 • To encourage the use of different, high-quality models of 6 teaching, governing, scheduling, or other aspects of 7 schooling that meet a variety of student needs; 8 • To allow public schools freedom and flexibility in exchange 9 for exceptional levels of results-driven accountability; 10 • To provide students, parents, community members, and local 11 entities with expanded opportunities for involvement in the 12 public education systems; or 13 • To encourage the replication of successful public charter 14 schools. 15 The legislature also finds that, nationwide, the charter 16 school experiment is well into its second decade and that many 17 lessons have been learned. Like any comprehensive policy that 18 exists over time, the experiences of many states give guidance 19 on many ways to improve and strengthen our public charter school 20 In addition, the Obama Administration recently set aside laws. 21 several billion dollars in competitive grants called "Race to

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1 the Top" funds for the very purpose of education reform and 2 improvements, and blatantly states that part of the criteria for 3 qualifying for the funds hinges on states' decision to nurture 4 charter schools.

5 The legislature further finds that it is in the best 6 interests of the people of Hawai`i to provide all children with 7 public schools that reflect high expectations and to create 8 conditions in all schools where these expectations can be met, 9 and that education reform is necessary to strengthen the 10 performance of elementary and secondary public school students. 11 Further, different students learn differently and public school 12 programs should be customized to fit the needs of individual 13 students.

14 The legislature further finds that those who know students 15 best - their parents and educators - make the best education 16 decisions regarding the students, and that parents and educators 17 have a right and a responsibility to participate in the 18 education institutions that serve them.

19 The purpose of this Act is to create statutory changes to 20 enable Hawai`i to further improve public charter schools as a 21 means of innovative public education and to better situate

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Hawai`i to qualify for "Race to the Top" funds and other federal
 grants.

PART I

4 SECTION 2. The legislature finds that all public charter 5 schools are public schools and a part of the state's public 6 education system, and that as such, artificial limits on the 7 number of public charter schools are counter to policies of 8 education innovation and service. Accordingly, the purpose of 9 this part is to remove artificial limits on the number of public 10 charter schools.

SECTION 3. Section 302B-4, Hawaii Revised Statutes, is repealed.

["\$302B-4 Limits on charter schools. The panel may 13 14 authorize one new-start-up charter school for each existing 15 start-up charter school that has received a three-year or longer 16 accreditation from the Western Association of Schools and 17 Colleges or a comparable accreditation authority as determined 18 by the panel, or for each start-up charter school whose charter 19 is revoked. The total number of conversion charter schools 20 authorized by the panel shall not exceed twenty-five."] 21 PART II



1 SECTION 4. The legislature also finds that a hallmark of strong charter school laws in other states is the existence of 2 3 multiple chartering authorities. Over twenty states provide for 4 at least two alternative chartering authorities. In Hawai`i, 5 the chartering authority is the charter school review panel, 6 with the possibility of appeals to the board of education. 7 Accordingly, it is the purpose of this part to propose the 8 University of Hawaii as an alternative chartering authority to 9 the charter school review panel.

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

12 "\$302B-5 Start-up charter schools; establishment. (a)
13 New start-up charter schools may be established pursuant to this
14 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 panel <u>or university</u>, as HB HMIA 36-2010.doc

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1	applicable	e, and shall provide for and include the following
2	elements:	
3	(1)	The submission of a letter of intent to operate a
4		start-up charter school;
5	(2)	The timely transmittal of the application form and
6		completion guidelines to the interim local school
7		board;
8	(3)	The timely submission to the panel or university, as
9		applicable, of a completed application;
10	(4)	The timely review of the application by the panel \underline{or}
11		university, as applicable, for completeness, and
12		notification of the interim local school board if the
13		application is complete or, if the application is
14		insufficient, a written statement of the elements of
15		the application that require completion;
16	(5)	The timely resubmission of the application;
17	(6)	Upon receipt of a completed application, the convening
18		of the panel by the panel chairperson to begin review
19		of the application or the convening of the university
20		entity to begin review of the application, as
21		applicable;



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1	(7)	The timely notification of the applicant of any
2		revisions the panel or university, as applicable,
3		requests as necessary for a recommendation of
4		approval;
5	(8)	Following the submission of an application, issuance
6		of a charter or denial of the application by the panel
7		or university, as applicable, by majority vote;
8	,	provided that if the panel or university does not
9		approve the application and issue a charter,
10		provisions requiring the panel <u>or university, as</u>
11		applicable, to:
12		(A) Clearly identify in writing its reasons for not
13		issuing the charter, which may be used as
14		guidelines for an amended plan; and
15		(B) Allow the interim local school board to revise
16		its plan in accordance with the panel's
17		guidelines, and resubmit an amended plan within
18		ten calendar days;
19	(9)	A provision for a final date on which a decision must
20		be made, upon receipt of an amended plan; and

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1	(10)	A provision that no start-up charter school may begin
2		operation before obtaining panel or university, as
3	,	applicable, approval of its charter.
4	(d)	An application to become a start-up charter school
5	shall inc	lude a detailed implementation plan that meets the
6	requireme	nts of this subsection and section 302B-9. The plan
7	shall inc	lude the following:
8	(1)	A description of employee rights and management issues
9		and a framework for addressing those issues that
10		protects the rights of employees;
11	(2)	A plan for identifying, recruiting, and retaining
12		highly-qualified instructional faculty;
13	(3)	A plan for identifying, recruiting, and selecting
14		students that is not exclusive, elitist, or
15		segregationist;
16	(4)	The curriculum and instructional framework to be used
17		to achieve student outcomes, including an assessment
18		plan;
19	(•5)	A plan for the assessment of student, administrative
20		support, and teaching personnel performance that:
21		(A) Recognizes the interests of the general public;

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1		(B)	Incorporates or exceeds the educational content
2			and performance standards developed by the
3			department for the public school system;
4		(C)	Includes a system of faculty and staff
5			accountability that holds faculty and staff both
6			individually and collectively accountable for
7			their performance, and that is at least
8			equivalent to the average system of
9			accountability in public schools throughout the
10			State; and
11		(D)	Provides for program audits and annual financial
12			audits;
13	(6)	A go	vernance structure for the charter school that
14		inco	rporates a conflict of interest policy and a plan
15		for	periodic training to carry out the duties of local
16		scho	ol board members;
17	(7)	A fi	nancial plan based on the most recent fiscal
18		year	's per-pupil charter school allocation that
19		demo	nstrates the ability to meet the financial
20		obli	gations of one-time, start-up costs and ongoing
21		cost	s such as monthly payrolls, faculty recruitment,
22		prof	essional development, and facilities costs; and
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(8) A facilities plan."

2 SECTION 6. Chapter 302B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated 4 and to read as follows:

5 "§302B-A Alternative chartering authority; University of 6 Hawai`i. (a) The board of regents of the University of Hawaii 7 shall have the authority to designate itself or another entity 8 within the University of Hawaii to be an alternative chartering 9 authority to the charter school review panel. The alternative 10 chartering authority authorized by the board of regents under 11 this section shall have the power and authority to: 12 Review, approve, or deny charter applications for new (1) 13 charter schools in accordance with section 302B-5 for 14 the issuance of new charters; provided that applicants 15 that are denied a charter may appeal to the 16 superintendent for a final decision pursuant to 17 section 302B-5; 18 (2) Review, approve, or deny significant amendments to 19 detailed implementation plans to maximize the school's 20 financial and academic success, long-term 21 organizational viability, and accountability; provided 22 that a denial of a significant amendment to a detailed



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1		implementation plan may be appealed to the	
2		superintendent for a final decision pursuant to	
3		section 302B-5;	
4	(3)	Adopt reporting requirements for charter schools;	
5	(4)	Review annual self-evaluation reports from charter	
6		schools and take appropriate action; and	
7	(5)	Evaluate any aspect of a charter school that the	
8		entity may have concerns with and take appropriate	
9		action, which may include probation or revocation."	
10		PART III	
11	SECTION 7. The legislature also finds that even though		
12	public charter schools are public schools and a part of the		
13	public education system of the state of Hawai`i, the funding for		
14	charter schools has been a source of controversy ever since the		
15	inception of public charter schools. After years of relative		
16	underfunding compared to mainstream public schools, the		
17	legislature enacted Act 298, Session Laws of Hawaii 2006, to		
18	attempt t	o rectify the fair funding issue. The next year, the	
19	legislatu	re passed Act 115, Session Laws of Hawaii 2007, to	
20	improve u	pon Act 298. However, the controversy over fair	
21	funding t	o public charter schools remains.	

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1	The purpose of this part is to ensure equitable operational
2	and capital funding for public charter schools.
3	SECTION 8. Section 302B-12, Hawaii Revised Statutes, is
4	amended to read as follows:
5	"§302B-12 Funding and finance. (a) Beginning with fiscal
6	year 2009-2010, and each fiscal year thereafter, the [non-
7	facility] per-pupil funding request for charter school students
8	shall not be less than the per-pupil amount to the department in
9	the most recently approved executive budget recommendation for
10	the department, as set forth in paragraph (2); provided that:
11	(1) The per-pupil funding request shall include funding
12	for projected enrollment figures for each charter
13	school; and
14	(2) The per-pupil request for each regular education and
15	special education student shall:
16	(A) Include all regular education cost categories,
17	including comprehensive school support services,
18	[but excluding] <u>and</u> special education services[+
19	provided that special education services are
20	provided and funded by the department];
21	(B) Include all means of financing [except]
22	,including federal funds, as reported in the most
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recently-approved executive budget
recommendations for the department; provided that
in preparing the budget the executive director
shall include an analysis of the proposed budget
in relationship to the most recently published
department consolidated annual financial report;
[and]
(C) Exclude fringe benefit costs [and debt service.]
; and
(D) Include funding for facilities and debt service.
(b) Fringe benefit costs for charter school employees,
regardless of the payroll system utilized by a charter school,
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.
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 and facility costs. The legislature may
make additional appropriations for other requested amounts that
benefit charter schools.



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1 The governor, pursuant to chapter 37, may impose 2 restrictions or reductions on charter school appropriations similar to those imposed on other public schools. 3 4 (C) Charter schools shall be eligible for all federal 5 financial support to the same extent as all other public 6 schools. The department shall provide the office with all 7 state-level federal grant proposals submitted by the department 8 that include charter schools as potential recipients and timely 9 reports on state-level federal grants received for which charter 10 schools may apply or are entitled to receive. Federal funds 11 received by the department for charter schools shall be 12 transferred to the office for distribution to charter schools in 13 accordance with the federal requirements. If administrative 14 services related to federal grants and subsidies are provided to 15 the charter school by the department, the charter school shall 16 reimburse the department for the actual costs of the 17 administrative services in an amount that shall not exceed six 18 and one-half per cent of the charter school's federal grants and 19 subsidies.

20 Any charter school shall be eligible to receive any
21 supplemental federal grant or award for which any other public
22 school may submit a proposal, or any supplemental federal grants
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1 limited to charter schools; provided that if department administrative services, including funds management, budgetary, 2 3 fiscal accounting, or other related services, are provided with 4 respect to these supplemental grants, the charter school shall 5 reimburse the department for the actual costs of the 6 administrative services in an amount that shall not exceed six 7 and one-half per cent of the supplemental grant for which the 8 services are used. 9 All additional funds generated by the local school boards, 10 that are not from a supplemental grant, shall be held separate 11 from allotted funds and may be expended at the discretion of the 12 local school boards. 13 To enable charter schools to access state funding (d) 14 prior to the start of each school year, foster their fiscal 15 planning, and enhance their accountability, the office shall: 16 (1) Provide fifty per cent of a charter school's per-pupil 17 allocation based on the charter school's projected 18 student enrollment no later than July 20 of each 19 fiscal year; provided that the charter school shall 20 have submitted to the office a projected student 21 enrollment no later than May 15 of each year;



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1	(2)	Provide an additional forty per cent of a charter
2		school's per-pupil allocation no later than
3		November 15 of each year; provided that the charter
4		school shall have submitted to the office:
5		(A) Student enrollment as verified on October 15 of
6		each year; provided that the student enrollment
7		shall be verified on the last business day
8		immediately prior to October 15 should that date
9		fall on a weekend; and
10		(B) An accounting of the percentage of student
11		enrollment that transferred from public schools
12		established and maintained by the department;
13		provided that these accountings shall also be
14		submitted by the office to the legislature no
15		later than twenty days prior to the start of each
16		regular session; and
17	(3)	Retain no more than ten per cent of a charter school's
18		per-pupil allocation no later than June 30 of each
19		year as a contingency balance to ensure fiscal
20		accountability and compliance;
21	provided	that the panel may make adjustments in allocations
22	based on	noncompliance with board policies made in the board's

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1 capacity as the state education agency, department directives 2 made in the department's capacity as the state education agency, 3 the office's administrative procedures, and board-approved 4 accountability requirements. 5 The department shall provide appropriate transitional (e) 6 resources to a conversion charter school for its first year of 7 operation as a charter school based upon the department's 8 allocation to the school for the year prior to the conversion. 9 (f) No start-up charter school or conversion charter 10 school may assess tuition." 11 PART IV 12 SECTION 9. The legislature also finds that with the nearly 13 two decades of nationwide experience with charter schools comes 14 the need for honest self-assessment. While there are many 15 provisions within this Act to strengthen the public charter 16 school law in order to improve and innovate our public education 17 system, increased accountability also helps to strengthen the 18 public charter school movement and our public education system. 19 Public charter schools should not escape accountability because 20 the Obama administration and other federal administrations have favored charter schools as a means to improve the delivery of 21 22 public education services. As stated before, public charter



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schools are public schools and a part of the public education
 system, which means public charter schools also receive and
 expend taxpayer dollars. Accountability for taxpayer dollars is
 a sound public policy, and public charter schools should not be
 exempt from that policy.

6 Accordingly, it is the purpose of this part to enact more
7 rigorous accountability measures and transparency in the
8 decision making processes of charter authorizers.

9 SECTION 10. Section 302B-14, Hawaii Revised Statutes, is 10 amended to read as follows:

11 "§302B-14 Accountability; probationary status; revocation 12 Every charter school shall conduct annual of charter. (a) self-evaluations that shall be submitted to the panel or 13 14 university, as applicable, within [sixty] fifty working days 15 after the completion of the school year, or in accordance with 16 reporting requirements adopted by the panel. The self-17 evaluation process shall include but not be limited to: 18 The identification and adoption of benchmarks to (1)

19 measure and evaluate administrative and instructional20 programs;

21 (2) The identification of any innovations or research that
22 may assist other public schools;



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1	(3)	The identification of any administrative and legal
2		barriers to meeting the adopted benchmarks, and
3		recommendations for improvements and modifications to
4		address the barriers;
5	(4)	An evaluation of student achievement within the
6		charter school;
7	(5)	A profile of the charter school's enrollment and the
8		community it serves, including a breakdown of regular
9		education and special education students; [and]
10	(6)	An evaluation of the school's organizational
11		<pre>viability[-] ; and</pre>
12	(7)	A financial plan showing revenues and expenditures for
13		the past school year.
14	(b)	The panel or university, as applicable, shall conduct
15	a multi-y	ear evaluation of each charter school on its fourth
16	anniversa	ry year and every [five] <u>four</u> years thereafter. The
17	panel <u>or</u>	university, as applicable, may from time to time
18	establish	a schedule to stagger the multi-year evaluations.
19	(c)	The panel or university, as applicable, may conduct
20	special e	valuations of charter schools at any time.
21	(d)	The panel or university, as applicable, may place a
22	charter s	chool on probationary status; provided that:
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1	(1)	The panel or university, as applicable, evaluates the
2		charter school or reviews an evaluation of the charter
3		school;
4	(2)	The panel or university, as applicable, and the office
5		are involved in substantive discussions with the
6		charter school regarding the areas of deficiencies;
7	(3)	The notice of probation is delivered to the charter
8		school and specifies the deficiencies requiring
9		correction, the probation period, and monitoring and
10		reporting requirements;
11	(4)	For deficiencies related to student performance, a
12		charter school shall be allowed two years to improve
13		student performance;
14	(5)	For deficiencies related to financial plans, a charter
15		school shall be allowed one year to develop a sound
16		financial plan; and
17	(6)	For deficiencies related to organizational viability,
18		a charter school may be allowed one year to improve
19		administrative compliance.
20	The d	charter school shall remain on probationary status
21	until the	panel or university, as applicable, votes either to



remove the charter school from probationary status or revoke its
 charter.

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

8 (f) The panel <u>or university, as applicable</u>, may place a
9 charter school on probationary status or revoke the charter for
10 serious student or employee health or safety deficiencies;
11 provided that:

12 (1) The charter school is given notice of specific health
13 or safety deficiencies and is afforded an opportunity
14 to present its case to the panel <u>or university</u>, as

15 <u>applicable</u>;

16 (2) The panel chair <u>or university</u>, as applicable, appoints
17 a task group, which may be an investigative task group
18 or the office, to visit the charter school and conduct
19 meetings with its local school board and its school
20 community to gather input;

21 (3) Based on its findings, the task group shall recommend
22 to the panel <u>or university</u>, as applicable, to revoke



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1		the charter, place the charter school on probation, or	•
2		continue the charter;	
3	(4)	The vote of two-thirds of all the members to which the	:
4		panel or university, as applicable, is entitled shall	
5		be required to revoke the charter;	
6	(5)	The best interest of the school's students guide all	
7		decisions; and	
8	(6)	After a decision to revoke a charter, the charter	
9		school shall be allowed to remain open until a plan	
10		for an orderly shutdown or transfer of students and	
11		assets is developed and executed, or until the school	
12		year ends, whichever comes first.	
13	(g)	If there is an immediate concern for student or	
14	employee	health or safety at a charter school, the panel <u>or</u>	
15	university, as applicable, in consultation with the office, may		
16	adopt an interim restructuring plan that may include the		
17	appointment of an interim local school board, an interim local		
18	school board chairperson, or a principal to temporarily assume		
19	operations of the school; provided that if possible without		
20	further jeopardizing the health or safety of students and		
21	employees	, the charter school's stakeholders and community are	
22	first giv	en the opportunity to elect a new local school board	
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1 which shall appoint a new interim principal. The board shall 2 have the authority to direct the panel to take appropriate 3 action to immediately address serious health and safety issues 4 that may exist at a charter school in order to ensure the health 5 and safety of students and employees and mitigate significant. liability to the State. 6 7 The board or university, as applicable, shall adopt (h) 8 rules pursuant to chapter 91 for placing charter schools on 9 probation and for revoking a charter. 10 (i) If, at any time, a charter school dissolves or the 11 charter is revoked, the State shall have first right, at no cost 12 to the State, to all the assets and facilities of the charter 13 school, except as otherwise provided by law." 14 PART V 15 SECTION 11. Section 302B-9, Hawaii Revised Statutes, is 16 amended to read as follows: 17 "§302B-9 Exemptions from state laws. (a) Charter schools .18 shall be exempt from chapters 91 and 92 and all other state laws 19 in conflict with this chapter, except those regarding: 20 (1)[Collective bargaining under chapter 89; provided 21 that:



1	. (A	> The exclusive representatives as defined in
2		chapter 89 and the local school board of the
3		charter-school may enter into supplemental
4		agreements that contain cost and noncost items to
5		facilitate decentralized decision-making;
6	(B)) The agreements shall be funded from the current
7		allocation or other sources of revenue received
8		by the charter school; provided that collective
9		bargaining increases for employees shall be
10		allocated by the department of budget and finance
11		to the charter school administrative office for
12		distribution to charter schools; and
13	(C)	- These supplemental agreements may differ from the
14		master contracts negotiated with the department;
15	(2)] Dis	scriminatory practices under section 378-2; and
16	[{3}] <u>(2)</u>	Health and safety requirements.
17	(b) Cha	arter schools and the office shall be exempt from
18	chapter 103D,	, but shall develop internal policies and procedures
19	for the procurement of goods, services, and construction,	
20	consistent with the goals of public accountability and public	
21	procurement practices. Charter schools and the office are	
22	encouraged to	o use the provisions of chapter 103D where possible;
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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.

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

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

(e) The employees of a charter school may negotiate as a
separate bargaining unit with the local school board of the
charter school, and may enter into supplemental agreements that
contain cost and noncost items to facilitate decentralized
decision-making. If the employees of a charter school choose
not to negotiate as a separate bargaining unit, the employees
will be covered by the collective bargaining agreements



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1	negotiated by their respective bargaining units under chapter		
2	89. Any agreements shall be funded from the current allocation		
3	or other sources of revenue received by the charter school;		
4	provided that collective bargaining increases for employees		
5	shall be allocated by the department of budget and finance to		
6	the charter school administrative office for distribution to		
7	charter schools. Supplemental agreements may differ from the		
8	master contracts negotiated with the department."		
9	SECTION 12. Statutory material to be repealed is bracketed		
10	and stricken. New statutory material is underscored.		
11	SECTION 13. This Act shall take effect on July 1, 2010.		
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13			

INTRODUCED BY:

in Thicken

Manunoh ZN and

JAN 2 0 2010



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Report Title: Education; charter schools

Description:

Proposes amendments to strengthen and improve state public charter school laws.

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

