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# A BILL FOR AN ACT

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RELATING TO EDUCATION.

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

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

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

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

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

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



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

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

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

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

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within the start-up period initially established or subsequently extended by the authorizer shall be considered to have withdrawn its application.

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



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

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

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

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

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

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

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



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

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

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

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

16 "Conversion charter school" means:

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



1 nonprofit organization in accordance with

2 section 302D-14[~~,-or~~

3 ~~(3) A newly created school consisting of programs or~~  
4 ~~sections of existing public school populations that~~  
5 ~~are funded and governed independently and may include~~  
6 ~~part of a separate Hawaiian language immersion program~~  
7 ~~using existing public school facilities]."~~

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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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

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

~~[-e-]~~ (d) An authorizer may delegate its duties to officers, employees, and contractors.





1        [~~(d)~~] (e) Regulation by authorizers shall be limited to  
2 the powers and duties set forth in this section, and shall be  
3 consistent with the spirit and intent of this chapter.

4        [~~(e)~~] (f) An authorizer, members of the board of an  
5 authorizer acting in their official capacity, and employees or  
6 agents of an authorizer are immune from civil and criminal  
7 liability with respect to all activities related to a public  
8 charter school authorized by that authorizer, except for any  
9 acts or omissions constituting wilful misconduct. Members of  
10 the commission shall be afforded the same protection afforded  
11 the members of the board pursuant to section 26-35.5.

12        [~~(f)~~] (g) An authorizer shall not provide technical  
13 support to a charter school it authorizes in cases where the  
14 technical support will directly and substantially impact any  
15 authorizer decision related to the authorization, renewal,  
16 revocation, or nonrenewal of the charter school. This  
17 subsection shall not apply to technical support that an  
18 authorizer is required to provide to a charter school pursuant  
19 to federal law."

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



1 " ~~[+]~~§302D-7~~[+]~~ **Authorizer reporting.** Every authorizer

2 shall be required to submit to the board and the legislature an  
3 annual report summarizing:

4 (1) The authorizer's strategic vision for chartering and  
5 progress toward achieving that vision;

6 (2) The academic ~~[and financial]~~ performance of all  
7 operating public charter schools overseen by the  
8 authorizer, according to the performance expectations  
9 for public charter schools set forth in this  
10 chapter~~[+]~~, including a comparison of the performance  
11 of public charter school students with public school  
12 students statewide;

13 (3) The financial performance of all operating public  
14 charter schools overseen by the authorizer, according  
15 to the performance expectations for public charter  
16 schools set forth in this chapter;

17 ~~[+3+]~~ (4) The status of the authorizer's public charter  
18 school portfolio, identifying all public charter  
19 schools and applicants in each of the following  
20 categories: approved (but not yet open), approved  
21 (but withdrawn), not approved, operating, renewed,



1 transferred, revoked, not renewed, or voluntarily  
2 closed[, ~~or never opened~~];

3 [+4+] (5) The authorizing functions provided by the  
4 authorizer to the public charter schools under its  
5 purview, including the authorizer's operating costs  
6 and expenses detailed in annual audited financial  
7 statements that conform with generally accepted  
8 accounting principles;

9 [+5+] (6) The services purchased from the authorizer by the  
10 public charter schools under its purview;

11 [+6+] (7) A line-item breakdown of the federal funds  
12 received by the department and distributed by the  
13 authorizer to public charter schools under its  
14 control; and

15 [+7+] (8) Any concerns regarding equity and recommendations  
16 to improve access to and distribution of federal funds  
17 to public charter schools."

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

20 **"§302D-12 Charter school governing boards; powers and**  
21 **duties.** (a) No more than one-third of the voting members of a  
22 governing board shall be employees of a school or relatives



1 of employees of a school under the jurisdiction of that  
2 governing board[+] unless at least one year has passed since the  
3 conclusion of the employee's employment with the school.

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

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

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

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

15 ~~(b)~~ (c) No employee of a charter school or relative of an  
16 employee of a charter school may serve as the chair of the  
17 governing board of that charter school[+] unless at least one  
18 year has elapsed since the conclusion of the employee's  
19 employment with the school; provided that an authorizer may  
20 grant an exemption from the provisions of this subsection based  
21 upon a determination by the authorizer that an exemption is in  
22 the best interest of the charter school.



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

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

18        [~~(f)~~] (f) Governing boards and charter schools shall be  
19 exempt from chapter 103D, but shall develop internal policies  
20 and procedures for the procurement of goods, services, and  
21 construction, consistent with the goals of public accountability  
22 and public procurement practices. Governing boards and charter



1 schools are encouraged to use the provisions of chapter 103D  
2 wherever possible; provided that the use of one or more  
3 provisions of chapter 103D shall not constitute a waiver of the  
4 exemption from chapter 103D and shall not subject the charter  
5 school to any other provision of chapter 103D.

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

9 (1) Hold meetings open to the public;

10 ~~[(1)]~~ (2) Make available the notices and agendas of public  
11 meetings:

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

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



1       ~~[(+2)]~~ (3) Make available the minutes from public meetings  
2               within thirty days and maintain a list of the current  
3               names and contact information of the governing board's  
4               members and officers:

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

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

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

14       ~~[(+g)]~~ (i) Governing boards shall be exempt from sections 26-  
15 34 and 26-36. The State shall afford the governing board of any  
16 charter school the same protections as the State affords the  
17 board~~[.]~~ in accordance with section 26-35.5.

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

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

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



1        (2) Any person under an employment contract to serve as  
2                the chief executive officer, chief administrative  
3                officer, executive director, or designated head of a  
4                charter school~~[-]~~; and

5        (3) Any vendor or contractor providing goods or services  
6                to a charter school.

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

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





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

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

11 **"§302D-13 Start-up charter schools; establishment. (a)**

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

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

19 (c) The start-up charter school charter application  
20 process and schedule shall be determined by the authorizer, and  
21 shall provide for and include, at a minimum, the following  
22 elements:



- 1 (1) The submission of a letter of intent to operate a  
2 start-up charter school;
- 3 (2) The availability of the charter application form and  
4 completion guidelines on the authorizer's website;
- 5 (3) The timely submission of a completed charter  
6 application to the authorizer;
- 7 (4) The timely review of the charter application by the  
8 authorizer for completeness, and notification by the  
9 authorizer to the governing board that the charter  
10 application is complete;
- 11 (5) Upon receipt of a completed charter application, the  
12 review and evaluation of the charter application by  
13 qualified persons;
- 14 (6) Following the review and evaluation of a charter  
15 application, approval or denial of the charter  
16 application by the authorizer;
- 17 (7) A provision for a final date by which a decision to  
18 approve or deny a charter application must be made by  
19 the authorizer, upon receipt of a complete charter  
20 application; and
- 21 (8) A provision that no start-up charter school may begin  
22 operation before obtaining authorizer approval of its



1 charter application and charter contract and  
2 fulfilling pre-opening requirements that may be  
3 imposed by the authorizer.

4 (d) A charter application to become a start-up charter  
5 school shall meet the requirements of this subsection and  
6 section 302D-25. The charter application shall, at a minimum,  
7 include 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 as defined by  
13 the department;

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

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

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

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



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  
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 governance structure for the charter school that  
14 incorporates a conflict of interest policy and a plan  
15 for periodic training to carry out the duties of  
16 governing board members;

17 (7) A description of the constitution of the governing  
18 board, terms of governing board members, and the  
19 process by which governing board members were  
20 selected;

21 (8) A financial plan based on the most recent fiscal  
22 year's per-pupil charter school allocation that



1 demonstrates the ability to meet the financial  
2 obligations of one-time, start-up costs and ongoing  
3 costs such as monthly payrolls, faculty recruitment,  
4 professional development, and facilities costs; and  
5 (9) A facilities plan.

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

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

17 ~~+(g)]~~ (f) In reviewing charter applications under this  
18 section, an authorizer shall develop a schedule to approve or  
19 deny a charter application by the end of the calendar year for  
20 purposes of meeting any deadlines to request funding from the  
21 legislature."



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

**"§302D-14 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 an authorizer to convert a department school to a charter school, establish a governing board as its governing body, and develop a charter application pursuant to subsection (d).

(c) The conversion charter school charter application process and schedule shall be determined by the authorizer, 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 availability of the charter application form and completion guidelines on the authorizer's website;
- (3) The timely submission of a completed charter application to the authorizer; provided that the charter application shall include certification and documentation that the charter application was



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

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

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

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

21 (4) The timely review of the charter application by the  
22 authorizer for completeness, and notification by the



1 authorizer to the governing board that the charter  
2 application is complete;

3 (5) Upon receipt of a completed charter application, the  
4 review and evaluation of the charter application by  
5 qualified persons;

6 (6) Following the review and evaluation of a charter  
7 application, approval or denial of the charter  
8 application by the authorizer;

9 (7) A provision for a final date by which a decision of  
10 whether to approve or deny a charter application must  
11 be made by the authorizer, upon receipt of a complete  
12 charter application; and

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

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





- 1 (1) A description of employee rights and management issues
- 2 and a framework for addressing those issues that
- 3 protects the rights of employees;
- 4 (2) A plan for identifying, recruiting, and retaining
- 5 highly qualified instructional faculty, as defined by
- 6 the department;
- 7 (3) A plan for identifying, recruiting, and selecting
- 8 students that is not exclusive, elitist, or
- 9 segregationist, and complies with this chapter;
- 10 (4) The curriculum and instructional framework to be used
- 11 to achieve student outcomes, including an assessment
- 12 plan;
- 13 (5) A plan for the assessment of student, administrative
- 14 support, and teaching personnel performance that:
- 15 (A) Recognizes the interests of the general public;
- 16 (B) Incorporates or exceeds the educational content
- 17 and performance standards developed by the
- 18 department for the public school system;
- 19 (C) Includes a system of faculty and staff
- 20 accountability that holds faculty and staff
- 21 individually and collectively accountable for
- 22 their performance, and that is at least



1 equivalent to the average system of  
2 accountability in public schools throughout the  
3 State; and

4 (D) Provides for program audits and annual financial  
5 audits;

6 (6) A governance structure for the charter school that  
7 incorporates a conflict of interest policy and a plan  
8 for periodic training to carry out the duties of  
9 governing board members;

10 (7) A description of the constitution of the governing  
11 board, terms of governing board members, and the  
12 process by which governing board members were  
13 selected;

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

20 (9) A facilities plan.

21 (e) A nonprofit organization may submit a letter of intent  
22 to an authorizer to convert a department school to a conversion



1 charter school, operate and manage the school, establish a  
2 governing board as its governing body, and develop a charter  
3 application pursuant to subsection (d); provided that:

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

14 (2) The charter application for each conversion charter  
15 school to be operated by the nonprofit organization  
16 shall be formulated, developed, and submitted by the  
17 nonprofit organization, and shall be approved by a  
18 majority of the votes cast by existing administrative,  
19 support, and teaching personnel, and parents of  
20 students of the existing department school; provided  
21 that:



1 (A) This vote shall be considered by the authorizer  
2 to be the primary indication of the existing  
3 administrative, support, and teaching personnel,  
4 and parents' approval to convert to a charter  
5 school;

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

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

16 (3) The board of directors of the nonprofit organization,  
17 as the governing body for the conversion charter  
18 school that it operates and manages, shall have the  
19 same protections that are afforded to the board in its  
20 role as the conversion charter school governing body;

21 (4) Any conversion charter school that is managed and  
22 operated by a nonprofit organization shall be eligible



1 for the same federal and state funding as other public  
2 schools; provided that nothing in this section shall  
3 prohibit a nonprofit organization from making a  
4 contribution toward the operation of a conversion  
5 charter school; and

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

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

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

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



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

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

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

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

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

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



1       ~~[(+j+)]~~ (i) In reviewing charter applications for a charter  
2 under this section, an authorizer shall develop a schedule to  
3 approve or deny a charter application by the end of the calendar  
4 year for purposes of meeting any deadlines to request funding  
5 from the legislature."

6       SECTION 10. Section 302D-16, Hawaii Revised Statutes, is  
7 amended to read as follows:

8       "**§302D-16 Performance framework.** (a) The performance  
9 provisions within the charter contract shall be based on a  
10 performance framework that clearly sets forth the academic and  
11 operational performance indicators, measures, and metrics that  
12 will guide the authorizer's evaluations of each public charter  
13 school. The performance framework, as established by the  
14 authorizer, shall be designed to ensure that each school meets  
15 applicable federal, state, and authorizer expectations, and  
16 shall include indicators, measures, and metrics for, at a  
17 minimum:

- 18       (1) Student academic proficiency;  
19       (2) Student academic growth;  
20       (3) Achievement gaps in proficiency and growth between  
21             major student subgroups;  
22       (4) Attendance;



1 (5) Enrollment variance;

2 (6) Postsecondary readiness, as applicable for high  
3 schools;

4 (7) Financial performance and sustainability;

5 (8) Performance and stewardship, including compliance with  
6 all applicable laws, rules, and terms of the charter  
7 contract; and

8 (9) Organizational viability.

9 ~~[(b)] Annual performance targets shall be set by each public~~  
10 ~~charter school in conjunction with its authorizer, and shall be~~  
11 ~~designed to help each school meet applicable federal, state, and~~  
12 ~~authorizer expectations.~~

13 ~~+(e)]~~ (b) The performance framework shall allow the  
14 inclusion of additional rigorous, valid, and reliable indicators  
15 proposed by a public charter school to augment external  
16 evaluations of its performance; provided that the authorizer  
17 approves the quality and rigor of such school-proposed  
18 indicators, and the indicators are consistent with the purposes  
19 of this chapter and the charter contract.

20 ~~[(d)]~~ (c) The performance framework shall require the  
21 disaggregation of all student performance data by major student  
22 subgroups ~~[, as determined by the board]~~.





1       ~~[(+e)]~~ (d) For each public charter school it oversees, the  
2 authorizer shall be responsible for ~~[managing]~~ verifying and  
3 either maintaining or having access to all charter school data  
4 ~~[from assessments in accordance with]~~ upon which the performance  
5 ~~[framework.]~~ framework relies.

6       ~~[(+f)]~~ (e) Multiple schools ~~[operating under a single charter~~  
7 ~~contract or]~~ overseen by a single governing board shall be  
8 required to report their performance as separate, individual  
9 charter schools, and each charter school shall be held  
10 independently accountable for its performance."

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

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

19       (1) Requiring a school to develop and execute a corrective  
20       action plan within a specified time frame~~[,]~~; and



1       (2) Reconstituting the governing board of the charter  
2       school; provided that the following conditions are  
3       met:

4       (A) Reconstitution occurs only under exigent  
5       circumstances, including the following:

6       (i) Unlawful or unethical conduct by governing  
7       board members;

8       (ii) Unlawful or unethical conduct by the charter  
9       school's personnel that raises serious  
10       doubts about the governing board's ability  
11       to fulfill its statutory, contractual, or  
12       fiduciary responsibilities; and

13       (iii) Other circumstances that raise serious  
14       doubts about the governing board's ability  
15       to fulfill its statutory, contractual, or  
16       fiduciary responsibilities;

17       (B) The authorizer shall replace up to, but no more  
18       than, the number of governing board members  
19       necessary so that the newly appointed members  
20       constitute a voting majority in accordance with  
21       the governing board's bylaws; except that the  
22       authorizer may replace the entire governing board



1           if the alternative is the initiation of  
2           revocation of the charter school's charter  
3           contract and the governing board opts instead for  
4           reconstitution; and

5           (C) Reconstitution occurs in accordance with  
6           processes set forth by the authorizer that  
7           provide the charter school's personnel and  
8           parents with timely notification of the prospect  
9           of reconstitution.

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



1 ensure the health and safety of students and employees or  
2 mitigate significant liability to the State.

3       The board shall have the authority to direct the authorizer  
4 to take appropriate action to immediately address serious health  
5 and safety issues that may exist at a charter school in order to  
6 ensure the health and safety of students and employees and  
7 mitigate significant liability to the State."

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

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

19       ~~[(1) A comparison of the performance of public charter~~  
20           ~~school students with the performance of comparable~~  
21           ~~subgroups of students in public schools governed by~~  
22           ~~chapter 302A;~~



1       ~~(2)~~ (1) The board's assessment of the successes,  
2                   challenges, and areas for improvement in meeting the  
3                   purposes of this chapter, including the board's  
4                   assessment of the sufficiency of funding for public  
5                   charter schools, and any suggested changes in state  
6                   law or policy necessary to strengthen the State's  
7                   public charter schools;

8       ~~(3)~~ (2) A line-item breakdown of all federal funds  
9                   received by the department and distributed to  
10                  authorizers;

11       ~~(4)~~ (3) Any concerns regarding equity and recommendations  
12                  to improve access to and distribution of federal funds  
13                  to public charter schools; and

14       ~~(5)~~ (4) A discussion of all board policies adopted in the  
15                  previous year, including a detailed explanation as to  
16                  whether each policy is or is not applicable to charter  
17                  schools."

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

20       "~~(1)~~**\$302D-24(1)** **Occupancy and use of facilities of**  
21 **~~public~~ department schools.** (a) When the department considers  
22 whether to close any particular ~~public~~ department school, the



1 department shall submit a notice of possible availability of a  
2 [~~public~~] department school or notice of vacancy of a [~~public~~]  
3 department school to the board pursuant to section  
4 302A-1151.5(b); provided that the department has not elected to  
5 use the [~~public~~] department school to support education  
6 programs.

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

13 (1) The State may reclaim some or all of the buildings or  
14 facilities if it demonstrates a tangible and  
15 imperative need for such reclamation; and

16 (2) The State and the conversion charter school  
17 voluntarily enter into an agreement detailing the  
18 portion of those buildings or facilities that shall be  
19 reclaimed by the State and a timetable for the  
20 reclamation. If a timetable cannot be reached, the  
21 State may petition the board for the reclamation, and  
22 the board may grant the petition only to the extent



1           that it is not possible for the conversion charter  
2           school and the State to jointly occupy or use the  
3           buildings or facilities.

4           (c) Upon receipt of a notice pursuant to section  
5   302A-1151.5(b), the board shall solicit applications from  
6   charter schools interested in using and occupying all or  
7   portions of the facilities of the [~~public~~] department school by:

8           (1) Promptly notifying all charter schools that the  
9           [~~public~~] department school is being considered for  
10          closure; and

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

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

19           (1) Provide a written response to each charter school's  
20           application after each application has been fully  
21           considered;

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



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

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

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

(1) Procedures for charter schools to apply in writing to use vacant department school facilities;

(2) Criteria for the board to use in determining which charter schools to include on the prioritized list to be submitted to the department; and





(3) Procedures for the board to notify charter school applicants that are granted or denied the use of vacant department school facilities.

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

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

"(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.



1 Exempt employees as provided in section 76-16(b)(11)(B) of a  
2 conversion charter school shall have support services personnel  
3 status in the department's support services personnel system and  
4 shall be entitled to all rights, privileges, and benefits as  
5 other exempt employees employed by the department in their  
6 support services personnel system."

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

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

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

16 The legislature shall make an appropriation based upon the  
17 budget request; provided that the legislature may make  
18 additional appropriations for facility and other costs.

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

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



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

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



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

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

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

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

16 (1) Provide sixty 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 its authorizer a projected student  
21 enrollment no later than May 15 of each year;



1 (2) Provide an additional thirty per cent of a charter  
2 school's per-pupil allocation no later than December 1  
3 of each year, based on the October 15 student  
4 enrollment, as reviewed and verified by the  
5 authorizer, only to schools in compliance with all  
6 financial reporting requirements; and

7 (3) Retain no more than the balance of the remaining ten  
8 per cent of a charter school's per-pupil allocation,  
9 as a contingency balance to ensure fiscal  
10 accountability and compliance, no later than June 30  
11 of each year;

12 provided that authorizers may make adjustments in allocations  
13 based on noncompliance with charter contracts and the board may  
14 make adjustments in allocations based on noncompliance with  
15 board policies made in the board's capacity as the state  
16 education agency, department directives made in the department's  
17 capacity as the state education agency, the board's  
18 administrative procedures, and board-approved accountability  
19 requirements."

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



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

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

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

15       If the charter school is unable to provide all of the  
16 required services, then the department shall provide the student  
17 with services as determined by the student's individualized  
18 educational program team. The department shall collaborate with  
19 the commission to develop guidelines related to the provision of  
20 special education services and resources to each charter school.  
21 The department shall review all of the current individualized  
22 education programs of special education students enrolled in a



1 charter school and may offer staff, funding, or both, to the  
2 charter school based upon a per-pupil weighted formula  
3 implemented by the department and used to allocate resources for  
4 special education students in the ~~[public]~~ department schools."

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

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



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

"(b) A start-up charter school:

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

(2) Shall enroll all students who submit an application, unless the number of students who submit an application exceeds the capacity of a program, class, grade level, or building;

(3) Shall select students through a public lottery if, as described in paragraph (2), capacity is insufficient to enroll all students who have submitted a timely application;

(4) May give an enrollment preference to students within a given age group or grade level and may be organized around a special emphasis, theme, or concept as stated in the charter school's application and as approved by the charter school's authorizer;

(5) May give an enrollment preference to students enrolled in the charter school during the previous school year and to siblings of students already enrolled at the charter school; and





1           (6) May give any other enrollment preference permitted by  
2           the charter school's authorizer, on an individual  
3           charter school basis, if consistent with law;  
4 provided that nothing in this subsection shall preclude the  
5 formation of a start-up charter school whose mission is focused  
6 on serving students with disabilities, who are of the same  
7 gender, who pose such severe disciplinary problems that they  
8 warrant a specific educational program, or who are at a risk of  
9 academic failure.

10          (c) A conversion charter school shall:

11          (1) Enroll any student who resides within the school's  
12          former geographic service area pursuant to section  
13          302A-1143, for the grades that were in place when the  
14          [public] department school converted to a charter  
15          school; provided that the department may consult with  
16          a conversion charter school every three years to  
17          determine whether realignment of the charter school's  
18          service area is appropriate given population shifts  
19          and the department's overall service area reviews;

20          (2) Follow the department's procedures regarding  
21          enrollment, including but not limited to geographic  
22          exceptions and enrollment preferences; and



1 (3) Be subject to subsection (b) for grades that were not  
2 in place when the school converted to a public charter  
3 school."

4 SECTION 20. Section 302D-2, Hawaii Revised Statutes, is  
5 repealed.

6 [~~"[§302D-2] Existing charter schools. Any charter school~~  
7 ~~holding a charter to operate under part IV, subpart D, of~~  
8 ~~chapter 302A, as that subpart existed before July 11, 2006, and~~  
9 ~~any charter school holding a charter to operate under chapter~~  
10 ~~302B as it existed before June 19, 2012, shall be considered a~~  
11 ~~charter school for the purposes of this chapter under a charter~~  
12 ~~contract with the commission unless the charter contract is~~  
13 ~~revoked, transferred to another authorizer, or not renewed, or~~  
14 ~~the charter school voluntarily closes."]~~

15 SECTION 21. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 22. This Act shall take effect on July 1, 2030.



**Report Title:**

Education; Charter Schools

**Description:**

Authorizes the State Public Charter School Commission to assess fees on non-state entities and individuals to help offset its operating costs. Makes various amendments to the charter school law for clarity and consistency. Effective July 1, 2030.  
(HB1745 HD2)

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

