A BILL FOR AN ACT

RELATING TO EDUCATION.

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

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a section to be appropriately designated and to read as follows:

"§46- Charter schools. Each county shall provide for the establishment, support, and control of a countywide system of charter schools, subject to the same requirements as state public schools."

SECTION 2. 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 board of education, [the governing board of any charter school established under chapter 302D,] council, authority, committee, or commission, established by law or elected to the board of trustees of the employees' retirement system under section 88-24, or the corporation board of the Hawaii health systems
corporation under section 323F-3 and its regional system boards
under section 323F-3.5; provided that "member" shall not include
any person elected to serve on a board or commission in
accordance with chapter 11."

SECTION 3. Section 89-6, Hawaii Revised Statutes, is
amended by amending subsection (f) to read as follows:

"(f) 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 governing
board of a charter school[, on the state public
charter school commission, or as a charter school
authorizer established under chapter 302D];

(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 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) Employees of the Hawaii national guard youth challenge
academy; or
(18) Employees of the office of elections."

SECTION 4. Section 89-10.55, Hawaii Revised Statutes, is
amended by amending subsection (d) to read as follows:
"(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 a charter school authorizer
for distribution to the charter schools it authorizes. However,
if the charter school authorizer 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 5. Section 89C-1.5, Hawaii Revised Statutes, is
amended by amending the definition of "appropriate authority" to
read as follows:
"Appropriate authority" means the governor, the respective mayors, the chief justice of the supreme court, the board of education, the board of regents, [the state public charter school commission,] the Hawaii health systems corporation board, the auditor, the ombudsman, and the director of the legislative reference bureau. These individuals or boards may make adjustments for their respective excluded employees."

SECTION 6. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "charter schools" to read:

"Charter [schools] has the same meaning as in section 302D-1. School" means any academic and noncollege type school and its respective governing board that is holding a contract with a county of this State to operate as a charter school under the laws of the respective county."

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 charter schools governed by chapter 302D]."
3. By repealing the definitions of "authorizer", "commission", and "department school":

[""Authorizer" has the same meaning as in section 302D-1.
"Commission" has the same meaning as in section 302D-1.
"Department school" means any school that falls within the definition of "public schools, as that term is defined in section 302A-101, and is not a charter school."]

SECTION 7. Section 302A-251, Hawaii Revised Statutes, is amended by amending subsections (a) through (d) to read as follows:

"(a) Notwithstanding any other law to the contrary, beginning with the 2011-2013 school years, all public schools, excluding charter schools and multi-track public schools, shall implement a school year of one hundred eighty days, excluding professional development days and other non-instructional days negotiated pursuant to chapter 89.

(b) Notwithstanding any other law to the contrary:

(1) For the 2011-2012 school year, fifty per cent of all public elementary schools in the State, excluding charter schools and multi-track public schools,
shall implement a school year that includes nine
hundred fifteen student hours; and

(2) Beginning with the 2012-2013 school year, all public
elementary schools in the State, excluding [charter
schools—] and] multi-track public schools, shall
implement a school year that includes nine hundred
fifteen student hours.

(c) Notwithstanding any other law to the contrary, for the
2015-2016 school year, all public secondary schools, excluding
[charter schools—] and] multi-track public schools, shall
implement a school year that includes nine hundred ninety
student hours.

(d) Notwithstanding any other law to the contrary,
beginning with the 2016-2017 school year, all public schools,
excluding [charter schools—] and] multi-track public schools,
shall implement a school year of one hundred eighty days,
excluding professional development days and other non-
instructional days negotiated pursuant to chapter 89, that shall
include one thousand eighty student hours for both elementary
and secondary school grades."
SECTION 8. Section 302A-411, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department shall establish and maintain kindergartens with a program of instruction as a part of the public school system; provided that[-

(1) Attendance] attendance in kindergarten shall be mandatory, unless exempted by subsection (b) or section 302A-1132[; and

(2) Charter schools shall not be excluded from mandatory participation in the program]."

SECTION 9. Section 302A-801, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established the Hawaii teacher standards board, which shall be placed within the department for administrative purposes only. The board shall consist of seventeen members, including not less than six licensed teachers regularly engaged in teaching at the time of the appointment, three educational officers employed at the time of the appointment, the chairperson of the board of education or the chairperson's designee, the superintendent or the superintendent's designee, a representative of independent
schools, the dean of the University of Hawaii college of education or the dean's designee, and the chairperson of the Native Hawaiian Education Council or the chairperson's designee; provided that one teacher member shall be engaged in teaching at a [Hawaii public] charter school located within the State at the time of appointment and the dean's designee shall be chosen from the member institutions of the teacher education coordinating committee established under section 304A-1202, and two members of the public. A non-voting teacher candidate from a Hawaii educator preparation program at a public institution of higher education on a rotating basis shall be appointed by the chairperson of the teacher education coordinating committee to serve a one-year term."

SECTION 10. Section 302A-802, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The board shall adopt policies, exempt from chapters 91 and 92, to initiate the following:

(1) Develop criteria allowing more individuals with trade or industry experience to teach in vocational, technical, and career pathway programs, and criteria for the issuance of permits allowing qualified
individuals to teach when recommended by the superintendent [or the commission, when appropriate]. The department [or the commission, when appropriate,] shall be responsible for the review and acceptance of the relevant licenses, certificates, or other qualifications related to an individual's vocational, technical, or career pathway education-related experience that the department [or the commission, when appropriate,] deems necessary for a permit. The department [or the commission, when appropriate,] shall have the authority to waive the requirement of a bachelor's degree to teach in a vocation, technical, or career pathway education program;

(2) Develop a plan to accept teachers from any state as long as they have completed state-approved teacher education programs and pass relevant Hawaii teacher examinations or their equivalent;

(3) Clarify the requirements, on a state-by-state basis, for out-of-state licensed teachers to obtain a license in Hawaii;
(4) Develop a plan to facilitate licensing for those who intend to teach in Hawaii immersion programs, the island of Niihau, or any other extraordinary situation as defined by the superintendent or the superintendent's designee[, or by the commission, when appropriate]; and

(5) Pursue full teacher license reciprocity with all other states."

SECTION 11. Section 302A-803, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In addition to establishing standards for the issuance and renewal of licenses and any other powers and duties authorized by law, the board's powers shall also include:

(1) Setting and administering its own budget;

(2) Adopting, amending, or repealing the rules of the board in accordance with chapter 91;

(3) Receiving grants or donations from private foundations, and state and federal funds;

(4) Submitting an annual report to the governor, the legislature, and the board of education on the board's operations and expenditures, and from the 2007-2008
school year, submitting a summary report every five years of the board's accomplishment of objectives, efforts to improve or maintain teacher quality, and efforts to keep its operations responsive and efficient;

(5) Conducting a cyclical review of standards and suggesting revisions for their improvement;

(6) Establishing licensing fees in accordance with chapter 91 and determining the manner by which fees are collected and subsequently deposited into the state treasury and credited to the Hawaii teacher standards board special fund;

(7) Establishing penalties in accordance with chapter 91;

(8) Issuing, renewing, forfeiting, restoring, conditioning, revoking, suspending, and reinstating licenses;

(9) Developing criteria for a full career and technical education license, limited to career and technical education teaching assignments, allowing qualified individuals with at least an associate's degree,
coursework, industry experience, and content expertise to teach;

(10) Reviewing reports from the department [and commission] on individuals hired on an emergency basis;

(11) Applying licensing standards on a case-by-case basis and conducting licensing evaluations;

(12) Preparing and disseminating teacher licensing information to schools and operational personnel;

(13) Approving teacher preparation programs;

(14) Establishing policies and procedures for approving alternative pathways to teaching;

(15) Administering reciprocity agreements with other states relative to licensing;

(16) Conducting research and development on teacher licensure systems, beginning teacher programs, the assessment of teaching skills, and other related topics;

(17) Participating in efforts relating to teacher quality issues, professional development related to the board's standards, and promotion of high teacher standards and accomplished teaching;
(18) Adopting applicable rules and procedures; and
(19) Adopting, amending, repealing, or suspending the
policies and standards of the board."

SECTION 12. Section 302A-804, Hawaii Revised Statutes, is
amended to read as follows:

"§302A-804 Powers and duties of the department[,
commission, and charter schools]. (a) The department[,
commission, and charter schools] shall retain all of [their] its
rights and powers except for the authority provided to the board
under this subpart.

(b) The department's powers and duties under this subpart
shall be limited to:

(1) Hiring, except in emergency situations as described in
this chapter, licensed teachers to teach in their
fields of licensing;

(2) Reporting data annually to the board about the supply
of, and demand for, teachers in [department] public
schools, including the identification of shortage
areas, out-of-field teaching assignments, numbers of
teachers teaching out-of-field, numbers and types of
courses and classes taught by out-of-field teachers,
and numbers and types of students taught by out-of-field teachers;

(3) On an emergency and case-by-case basis, hiring unlicensed individuals; provided that:

(A) A list of the names, work sites, teaching assignments, and progress toward licensing of these individuals shall be reported to the board and any changes shall be updated on a monthly basis by the department;

(B) There are no properly licensed teachers for the specific assignments for which the individuals are being hired; and

(C) No individual may be employed by the department on an emergency basis for more than three years. During this time, the individual shall demonstrate active pursuit of licensing in each year of employment;

(4) Submitting an annual report to the board documenting:

(A) The number of emergency hires in [department] public schools by subject matter areas and by school;
(B) The reasons and duration of employment for the
emergency hiring enumerated in subparagraph (A);  

(C) Individual progress toward licensing; and  

(D) The department's efforts to address the shortages
described in subparagraph (A); and  

(5) Providing any other information requested by the board
that is pertinent to its powers and duties.  

[(c) The commission's powers and duties under this subpart
shall be limited to:  

(1) Reporting data annually to the board about the supply
of, and demand for, teachers in charter schools,
including the identification of shortage areas, out-of-field teaching assignments, numbers of teachers
teaching out-of-field, numbers and types of courses
and classes taught by out-of-field teachers, and
numbers and types of students taught by out-of-field
teachers;  

(2) Submitting an annual report to the board documenting:

(A) The number of emergency hires in charter schools
by subject matter areas and by school;
(B) The reasons and duration of employment for the emergency hiring enumerated in subparagraph (A); and

(C) Individual progress toward licensing; and

(3) Providing any other information requested by the board that is pertinent to the commission's powers and duties.

(d) A charter school's powers and duties under this subpart shall be limited to:

(1) Except in emergency situations as described in this chapter, hiring licensed teachers to teach in their fields of licensing;

(2) On an emergency and case-by-case basis, hiring unlicensed individuals, provided that:

(A) A list of the names, work sites, teaching assignments, and progress toward licensing of these individuals shall be reported to the board and any changes shall be updated on a monthly basis by the charter schools;
(B) There are no properly licensed teachers for the specific assignments for which the individuals are being hired; and

(C) No individual may be employed by the charter school on an emergency basis for more than three years. During this time, the individual shall demonstrate active pursuit of licensing in each year of employment; and

(3) Providing any other information requested by the board that is pertinent to the charter school's powers and duties.

SECTION 13. Section 302A-807, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Upon revocation of a license, the board may disclose the name, birthdate, social security number, and any other pertinent information about the former holder of the license[+ (1) To] the department[+ (2) To the commission; and (3) For] for the purpose of exchanging information under chapter 315 with other national or state teacher
certification agencies about school personnel who have
had licenses revoked."

SECTION 14. Section 302A-808, Hawaii Revised Statutes, is
amended to read as follows:

"§302A-808 Penalty. Any person who engages in the
profession of teaching in a public school without first being
issued a license or hired on an emergency basis as defined in
this chapter shall be fined not more than $500. Any person who
knowingly or intentionally violates this subpart by employing an
individual as a public school teacher who does not possess a
valid license or is not a department of education [or charter
school] emergency hire as defined in this chapter may be fined
not more than $500. All fines shall be deposited into the
Hawaii teacher standards board special fund."

SECTION 15. Section 302A-1005, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) Notwithstanding collective bargaining agreements,
memorandums of agreement, or memorandums of understanding, the
superintendent may reconstitute a public school[; except a
charter school,] that has been in restructuring under the No
Child Left Behind Act of 2001, Public Law 107-110, for four or
more school years and has not made significant advancements toward improving academic performance as determined by a statistical analysis of academic data; provided that the following have been considered:

(1) Student proficiency in reading and math in the period during which the school is in restructuring;

(2) Interventions and other programs being used by the school to address student proficiency;

(3) The number of highly qualified or effective teachers at the school;

(4) Professional development being conducted at the school;

(5) Input from school faculty and staff, complex specialists, and state office program specialists; and

(6) Input from the school community council;

provided further that the superintendent has made a recommendation to the board to reconstitute the school, taking into consideration the recommendation of the complex area superintendent, if any."

SECTION 16. 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 a 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 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 representative 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 appoint the state public charter
school commission which shall serve as the statewide charter
authorizer for charter schools, with the power and duty to issue
carters, oversee and monitor charter schools, hold charter
schools accountable for their performance, and revoke
carters.]

SECTION 17. 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 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 18. Section 302A-1132, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least five years on or before July 31 of the school year, and who will not have arrived at the age of eighteen years, by January 1 of any school year, shall attend [either] a public, charter, or private school for, and during, the school year, and
any parent, guardian, or other person having the responsibility
for, or care of, a child whose attendance at school is
obligatory shall send the child to [either] a public, charter,
or private school. Attendance at a public, charter, or private
school shall not be compulsory in the following cases:

(1) Where the child is physically or mentally unable to
attend school (deafness and blindness excepted), of
which fact the certificate of a duly licensed
physician shall be sufficient evidence;

(2) Where the child, who has reached the fifteenth
anniversary of birth, is suitably employed and has
been excused from school attendance by the
superintendent or the superintendent's authorized
representative, or by a family court judge;

(3) Where, upon investigation by the family court, it has
been shown that for any other reason the child may
properly remain away from school;

(4) Where the child has graduated from high school;

(5) Where the child is enrolled in an appropriate
alternative educational program as approved by the
superintendent or the superintendent's authorized
representative in accordance with the plans and policies of the department, or notification of intent to home school has been submitted to the principal of the public school that the child would otherwise be required to attend in accordance with department rules adopted to achieve this result; or

(6) Where:

(A) The child has attained the age of sixteen years;

(B) The principal has determined that:

(i) The child has engaged in behavior which is disruptive to other students, teachers, or staff; or

(ii) The child's non-attendance is chronic and has become a significant factor that hinders the child's learning; and

(C) The principal of the child's school, and the child's teacher or counselor, in consultation with the child and the child's parent, guardian, or other adult having legal responsibility for or care of the child, develops an alternative educational plan for the child. The alternative
1 educational plan shall include a process that
2 shall permit the child to resume school.
3 The principal of the child's school shall file the
4 plan made pursuant to subparagraph (C) with the
5 child's school record. If the adult having legal
6 responsibility for or care of the child disagrees with
7 the plan, then the adult shall be responsible for
8 obtaining appropriate educational services for the
9 child."
10 2. By amending subsection (c) to read:
11 "(c) Beginning with the 2014-2015 school year, any parent,
12 guardian, or other person having the responsibility for, or care
13 of, a child who will be at least five years of age on or before
14 July 31 of the school year shall enroll the child in a public
15 school kindergarten unless the child is enrolled at a charter
16 school or private school or the child's attendance is otherwise
17 exempt under this section."
18 SECTION 19. Section 302A-1143, Hawaii Revised Statutes, is
19 amended to read as follows:
20 "§302A-1143 Attending school in what service area. A
21 person of school age shall be required to attend the school of
the service area, as determined by the department, in which the
person resides, unless:

(1) The person is enrolled in a Hawaiian language medium
education program [or charter school];

(2) A geographic exception to attend a school in another
service area is requested and granted at the
discretion of the department; or

(3) Out-of-service-area attendance is mandated by the
department or by federal law."

SECTION 20. Section 302A-1151, Hawaii Revised Statutes, is
amended to read as follows:

"§302A-1151 Sale of school lands unnecessary for school
purposes. The chairperson of the board of land and natural
resources is hereby requested, upon the recommendation and
approval of the superintendent, to sell any state lands,
including the buildings thereon, once used but no longer
necessary for public school purposes; provided that no school
facility or portion of a school facility shall be sold before
that facility or portion of the facility is made available for
use by the [department or charter schools,] early learning
programs pursuant to [sections] section 302A-1151.5 [and 302D-24]."

SECTION 21. Section 302A-1151.5, Hawaii Revised Statutes, is amended to read as follows:

"§302A-1151.5 Use of vacant public school facilities. (a) When the department considers whether to close any particular public school, it shall simultaneously give reasonable consideration to making all or portions of the facilities of the public school available to [charter schools and pre-plus] early learning programs; provided that the facilities may be used for any other purpose the board deems appropriate.

(b) The department shall identify unused public school facilities that may be appropriate for:

[+1] Charter schools;

[+2+] (1) Early learning programs, such as the pre-plus program; and

[+3+] (2) Any other purpose the board deems appropriate.

Suitable empty classrooms, as determined by the department, shall be inventoried for potential use by [charter schools,] early learning programs, such as the pre-plus program, or for any other purpose the board deems appropriate. Priority shall..."
be given to facilities on sites with sufficient space for three
or more classrooms.

(c) The department shall adopt rules necessary to carry
out the purposes of this section.

[(d) 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.

[(e)] (d) Upon receipt of a notice pursuant to subsection
(b), the executive office on early learning shall solicit
applications from pre-plus programs interested in using and
occupying all or portions of the facilities of the public school
and submit a prioritized list of pre-plus programs to the
department for final determination of which pre-plus program, if
any, shall be authorized to use and occupy the public school
facilities."

SECTION 22. Section 302A-1303.6, Hawaii Revised Statutes,
is amended to read as follows:

"§302A-1303.6 Weighted student formula. Based upon
recommendations from the committee on weights, the board of
education may adopt a weighted student formula for the
allocation of moneys to public schools 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 charter schools for fiscal years in
which the charter schools elect pursuant to section 302D-29 to
receive allocations according to the procedures and methodology
used to calculate the weighted student formula allocation.]

SECTION 23. Section 302A-1403, Hawaii Revised Statutes, is
amended to read as follows:

"§302A-1403 Authority to secure federal funds. The
department, [the state public charter school commission, a
charter school authorizer,] director of finance, and governor
may take such steps and perform such acts as may be necessary or
proper to secure any such federal funds for the purposes
specified in sections 302A-1401 and 302A-1402."

SECTION 24. Section 302A-1404, Hawaii Revised Statutes, is
amended by amending subsection (a) to read as follows:

"(a) The department [and the state public charter school
commission or an authorizer, as appropriate,] may retain and
expend federal indirect overhead reimbursements for
discretionary grants in excess of the negotiated rate for [such] those reimbursements as determined by the director of finance and the superintendent [or the director of finance and the state public charter school commission or an authorizer, as appropriate]."

SECTION 25. 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 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 26. Section 302L-1.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The office, the department of education, and the department of human services shall work collaboratively to develop suitable pre-plus classrooms on department of education campuses statewide[ including conversion charter school campuses]. The executive office on early learning, with the department of education and department of human services, shall
coordinate site selection for additional pre-plus programs at public school sites, with priority given to public school sites that serve at-risk children as defined in section 302L-1, including sites located in areas with limited access to early learning programs and services."

SECTION 27. Section 302L-7, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

"(i) The department of education [and any public charter school existing pursuant to chapter 302D,] may use available classrooms for public preschool programs statewide. [The office shall give priority to public charter schools that serve high populations of underserved or at risk children.] Preschool classrooms established pursuant to this section shall be in addition to any classrooms used for the pre-plus program established pursuant to rules adopted by the department pursuant to chapter 91."

SECTION 28. Section 368D-1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) As used in this section:

"Educational program or activity that receives state financial assistance" means any educational program or activity
that receives state financial assistance, in any amount, for any purpose. The term does not exclude an educational program or activity that also receives federal funds.

"State educational program or activity" means an educational program or activity of the University of Hawaii[—] or the department of education[—] or public charter schools]."

SECTION 29. Section 708-813, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) A person commits the offense of criminal trespass in the first degree if:

(a) That person knowingly enters or remains unlawfully:

(i) In a dwelling; or

(ii) In or upon the premises of a hotel or apartment building;

(b) That person:

(i) Knowingly enters or remains unlawfully in or upon premises that are fenced or enclosed in a manner designed to exclude intruders; and

(ii) Is in possession of a firearm, as defined in section 134-1, at the time of the intrusion; or
(c) That person enters or remains unlawfully in or upon the premises of any public or charter school as defined in section 302A-101, or any private school, after reasonable warning or request to leave by school authorities or a police officer; provided however, such warning or request to leave shall be unnecessary between 10:00 p.m. and 5:00 a.m."

SECTION 30. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Criminal history record checks may be conducted by:
(1) The department of health or its designee on operators of adult foster homes for individuals with developmental disabilities or developmental disabilities domiciliary homes and their employees, as provided by section 321-15.2;
(2) The department of health or its designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health or health care services as provided by section 321-171.5;
(3) The department of health or its designee on all applicants for licensure or certification for, operators for, prospective employees, adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;

(4) The department of education on employees, prospective employees, and teacher trainees in any public school in positions that necessitate close proximity to children as provided by section 302A-601.5;

(5) The counties on employees and prospective employees who may be in positions that place them in close proximity to children in recreation or child care programs and services;

(6) The county liquor commissions on applicants for liquor licenses as provided by section 281-53.5;

(7) The county liquor commissions on employees and prospective employees involved in liquor administration, law enforcement, and liquor control investigations;

(8) The department of human services on operators and employees of child caring institutions, child placing
organizations, and foster boarding homes as provided
by section 346-17;

(9) The department of human services on prospective
adoptive parents as established under section
346-19.7;

(10) The department of human services or its designee on
applicants to operate child care facilities, household
members of the applicant, prospective employees of the
applicant, and new employees and household members of
the provider after registration or licensure as
provided by section 346-154, and persons subject to
section 346-152.5;

(11) The department of human services on persons exempt
pursuant to section 346-152 to be eligible to provide
child care and receive child care subsidies as
provided by section 346-152.5;

(12) The department of health on operators and employees of
home and community-based case management agencies and
operators and other adults, except for adults in care,
residing in community care foster family homes as
provided by section 321-15.2;
(13) The department of human services on staff members of the Hawaii youth correctional facility as provided by section 352-5.5;

(14) The department of human services on employees, prospective employees, and volunteers of contracted providers and subcontractors in positions that place them in close proximity to youth when providing services on behalf of the office or the Hawaii youth correctional facility as provided by section 352D-4.3;

(15) The judiciary on employees and applicants at detention and shelter facilities as provided by section 571-34;

(16) The department of public safety on employees and prospective employees who are directly involved with the treatment and care of persons committed to a correctional facility or who possess police powers including the power of arrest as provided by section 353C-5;

(17) The board of private detectives and guards on applicants for private detective or private guard licensure as provided by section 463-9;
(18) Private schools and designated organizations on employees and prospective employees who may be in positions that necessitate close proximity to children; provided that private schools and designated organizations receive only indications of the states from which the national criminal history record information was provided pursuant to section 302C-1;

(19) The public library system on employees and prospective employees whose positions place them in close proximity to children as provided by section 302A-601.5;

(20) The State or any of its branches, political subdivisions, or agencies on applicants and employees holding a position that has the same type of contact with children, vulnerable adults, or persons committed to a correctional facility as other public employees who hold positions that are authorized by law to require criminal history record checks as a condition of employment as provided by section 78-2.7;

(21) The department of health on licensed adult day care center operators, employees, new employees,
subcontracted service providers and their employees, and adult volunteers as provided by section 321-15.2;

(22) The department of human services on purchase of service contracted and subcontracted service providers and their employees serving clients of the adult protective and community services branch, as provided by section 346-97;

(23) The department of human services on foster grandparent program, senior companion program, and respite companion program participants as provided by section 346-97;

(24) The department of human services on contracted and subcontracted service providers and their current and prospective employees that provide home and community-based services under section 1915(c) of the Social Security Act, title 42 United States Code section 1396n(c), or under any other applicable section or sections of the Social Security Act for the purposes of providing home and community-based services, as provided by section 346-97;
(25) The department of commerce and consumer affairs on proposed directors and executive officers of a bank, savings bank, savings and loan association, trust company, and depository financial services loan company as provided by section 412:3-201;

(26) The department of commerce and consumer affairs on proposed directors and executive officers of a nondepository financial services loan company as provided by section 412:3-301;

(27) The department of commerce and consumer affairs on the original chartering applicants and proposed executive officers of a credit union as provided by section 412:10-103;

(28) The department of commerce and consumer affairs on:

(A) Each principal of every non-corporate applicant for a money transmitter license;

(B) Each person who upon approval of an application by a corporate applicant for a money transmitter license will be a principal of the licensee; and

(C) Each person who upon approval of an application requesting approval of a proposed change in
control of licensee will be a principal of the licensee, as provided by sections 489D-9 and 489D-15;

(29) The department of commerce and consumer affairs on applicants for licensure and persons licensed under title 24;

(30) The Hawaii health systems corporation on:

(A) Employees;

(B) Applicants seeking employment;

(C) Current or prospective members of the corporation board or regional system board; or

(D) Current or prospective volunteers, providers, or contractors,
in any of the corporation's health facilities as provided by section 323F-5.5;

(31) The department of commerce and consumer affairs on:

(A) An applicant for a mortgage loan originator license, or license renewal; and

(B) Each control person, executive officer, director, general partner, and managing member of an
applicant for a mortgage loan originator company license or license renewal,
as provided by chapter 454F;

(32) The counties on employees, teacher trainees, prospective employees, and prospective teacher trainees in any charter school for any position that places them in close proximity to children, as provided in section 302D-33;

(33) The counties on prospective employees who work with children, vulnerable adults, or senior citizens in community-based programs;

(34) The counties on prospective employees for fire department positions which involve contact with children or vulnerable adults;

(35) The counties on prospective employees for emergency medical services positions which involve contact with children or vulnerable adults;

(36) The counties on prospective employees for emergency management positions and community volunteers whose responsibilities involve planning and executing
homeland security measures including viewing, handling, and engaging in law enforcement or classified meetings and assisting vulnerable citizens during emergencies or crises;

(37) The State and counties on employees, prospective employees, volunteers, and contractors whose position responsibilities require unescorted access to secured areas and equipment related to a traffic management center;

(38) The State and counties on employees and prospective employees whose positions involve the handling or use of firearms for other than law enforcement purposes;

(39) The State and counties on current and prospective systems analysts and others involved in an agency's information technology operation whose position responsibilities provide them with access to proprietary, confidential, or sensitive information;

(40) The department of commerce and consumer affairs on:

(A) Applicants for real estate appraiser licensure or certification as provided by chapter 466K;
(B) Each person who owns more than ten per cent of an appraisal management company who is applying for registration as an appraisal management company, as provided by section 466L-7; and

(C) Each of the controlling persons of an applicant for registration as an appraisal management company, as provided by section 466L-7;

(41) The department of health or its designee on all license applicants, licensees, employees, contractors, and prospective employees of medical cannabis dispensaries, and individuals permitted to enter and remain in medical cannabis dispensary facilities as provided under sections 329D-15(a)(4) and 329D-16(a)(3);

(42) The department of commerce and consumer affairs on applicants for nurse licensure or license renewal, reactivation, or restoration as provided by sections 457-7, 457-8, 457-8.5, and 457-9;

(43) The county police departments on applicants for permits to acquire firearms pursuant to section 134-2
and on individuals registering their firearms pursuant
to section 134-3;

(44) The department of commerce and consumer affairs on:

(A) Each of the controlling persons of the applicant
for licensure as an escrow depository, and each
of the officers, directors, and principals who
will be in charge of the escrow depository's
activities upon licensure; and

(B) Each of the controlling persons of an applicant
for proposed change in control of an escrow
depository licensee, and each of the officers,
directors, and principals who will be in charge
of the licensee's activities upon approval of
such application,
as provided by chapter 449;

(45) The department of taxation on current or prospective
employees or contractors who have access to federal
tax information in order to comply with requirements
of federal law, regulation, or procedure, as provided
by section 231-1.6;
(46) The department of labor and industrial relations on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 383-110;

(47) The department of human services on current or prospective employees or contractors who have access to federal tax information in order to comply with requirements of federal law, regulation, or procedure, as provided by section 346-2.5;

(48) The child support enforcement agency on current or prospective employees, or contractors who have access to federal tax information in order to comply with federal law, regulation, or procedure, as provided by section 576D-11.5; and

(49) Any other organization, entity, or the State, its branches, political subdivisions, or agencies as may be authorized by state law."

SECTION 31. Sections 302A-448, 302A-1902, 302A-1903, and 302A-1904, Hawaii Revised Statutes, are amended by substituting the term "public school", or similar term, wherever the term
"department school", or similar term, appears, as the context
requires.

SECTION 32. Section 171-95.5, Hawaii Revised Statutes, is
repealed:

"[§171-95.5] 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."

SECTION 33. Chapter 302D, Hawaii Revised Statutes, is
repealed.

SECTION 34. All rights, powers, functions, and duties of
the board of education, the department of education, and the
state public charter school commission relating to the
regulation and oversight of charter schools, are transferred to
the counties. Each county shall have regulation and oversight
over the charter schools located within that county.

SECTION 35. All deeds, leases, contracts, loans,
agreements, permits, or other documents executed or entered into
by or on behalf of the board of education, the department of
education, or the state public charter school commission that
are transferred to the counties by this Act shall remain in full
force and effect. Effective July 1, 2021, every reference to
the board of education, the chairperson of the board of
education, the department of education, the superintendent of
education, the state public charter school commission, or the
chair of the state public charter school commission in those
deeds, leases, contracts, loans, agreements, permits, or other
documents shall be construed as a reference to the city and
county of Honolulu, the county of Maui, the county of Hawaii,
the county of Kauai, or the respective charter school
department, board, or office of one of those counties, or the
respective officials of the respective county department, board,
or office, as appropriate.

The foregoing deeds, leases, contracts, loans, agreements,
permits, or other documents shall be transferred to the city and
county of Honolulu, the county of Maui, the county of Hawaii, the county of Kauai, as appropriate.

SECTION 36. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 37. This Act shall take effect on July 1, 2021; provided that the ratification of a constitutional amendment that transfers the responsibility for the establishment, support, and control of charter schools from the State to the counties occurs before December 2020.

INTRODUCED BY: ___________________________

JAN 24 2019
Report Title:
Education; Charter Schools; Counties

Description:
Transfers the responsibility for the establishment, support, and control of charter schools from the State to the counties. Takes effect 7/1/2021; provided that a corresponding constitutional amendment to authorize this transfer is ratified before 12/2020.

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