

**ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE**

March 31, 2010

8:06 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Cathy Engstrom Munoz, Vice Chair
Representative Bryce Edgmon
Representative Wes Keller
Representative Peggy Wilson
Representative Robert L. "Bob" Buch
Representative Berta Gardner

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 393

"An Act relating to charter school approval and funding."

- MOVED CSHB 393(EDC) OUT OF COMMITTEE

HOUSE BILL NO. 206

"An Act establishing a career assessment requirement in public schools; and relating to postsecondary courses for secondary school students."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 393

SHORT TITLE: CHARTER/ALTERNATIVE SCHOOL FUNDING

SPONSOR(S): REPRESENTATIVE(S) KELLER

02/23/10	(H)	READ THE FIRST TIME - REFERRALS
02/23/10	(H)	EDC, FIN
03/12/10	(H)	EDC AT 8:00 AM CAPITOL 106
03/12/10	(H)	Scheduled But Not Heard
03/15/10	(H)	EDC AT 8:00 AM CAPITOL 106
03/15/10	(H)	Heard & Held
03/15/10	(H)	MINUTE(EDC)

03/24/10 (H) EDC AT 8:00 AM CAPITOL 106
03/24/10 (H) Scheduled But Not Heard
03/29/10 (H) EDC AT 8:00 AM CAPITOL 106
03/29/10 (H) Heard & Held
03/29/10 (H) MINUTE(EDC)
03/31/10 (H) EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

SAM KITO, III, Architect
School Finance and Facilities Section
Department of Education and Early Development (EED)
Juneau, Alaska
POSITION STATEMENT: Testified and answered questions during the hearing on HB 393.

JEAN MISCHEL, Attorney
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska
POSITION STATEMENT: Answered questions during the discussion of HB 393.

LORETTA NARDI, President
Partnership for Alaska Charter Schools, Inc.
Palmer, Alaska
POSITION STATEMENT: Testified in favor of HB 393.

JOHN WEETMAN, Assistant Superintendent of
Administration
Matanuska-Susitna Borough School District
Palmer, Alaska
POSITION STATEMENT: Testified in favor of HB 393.

BARBARA GERARD, Administrator
Academy Charter School
Palmer, Alaska
POSITION STATEMENT: Testified in favor of HB 393.

EDDY JEANS, Director
School Finance and Facilities Section
Department of Education and Early Development (EED)
Juneau, Alaska
POSITION STATEMENT: Answered questions during the hearing on HB 393.

ACTION NARRATIVE

[8:06:23 AM](#)

CHAIR PAUL SEATON called the House Education Standing Committee meeting to order at 8:06 a.m. Representatives Seaton, Munoz, Peggy Wilson, Edgmon, Keller, and Buch were present at the call to order. Representative Gardner arrived as the meeting was in progress.

HB 393-CHARTER/ALTERNATIVE SCHOOL FUNDING

[8:06:33 AM](#)

CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 393, "An Act relating to charter school approval and funding."

[Before the committee was HB 393, identified as 26-LS1550\A.2.]

CHAIR SEATON reviewed the recent additions to the committee packet germane to HB 393.

[8:08:25 AM](#)

REPRESENTATIVE KELLER reintroduced HB 393, relating that the bill was requested by the Alaska Charter School Association as a means to enable charter schools to qualify for federal grants. An amendment has been drafted to address the concern that the bill stipulated that the school district would provide a participating share equal to the difference between the federal and state funding. The drafted amendment would remove "for approved projects" and refers to the specific statute, AS 14.11.020.

[8:11:43 AM](#)

SAM KITO, III, Architect, School Finance and Facilities Section, Department of Education and Early Development (EED), directed attention to charter school information provided by the department to address questions raised at the previous hearing.

[8:14:58 AM](#)

MR. KITO referred to a document titled "State of Alaska, Department of Education and Early Development, Active and closed Charter Schools." The document listed charter schools currently in operation in the state, as well as charter schools that were closed or never opened. In response to Chair Seaton, he stated that the schools may have been authorized or may never have been opened.

[8:16:22 AM](#)

REPRESENTATIVE P. WILSON, referring to the document, said that in 2002, the New Beginnings Charter School closed, but the opening date is not shown. Additionally, in 2004 the Horizon Charter School in Mat-Su closed. She asked for the opening dates of the two schools.

MR. KITO explained that the table was compiled by staff using a variety of sources and that information was unavailable.

CHAIR SEATON thanked the department for compiling the list since it provides a broader perspective for the committee.

[8:17:19 AM](#)

REPRESENTATIVE KELLER recalled the superintendent has the authority to authorize leased charter school facilities. He asked whether school districts are paying to upgrade leased facilities in addition to the cost of the lease.

[8:17:59 AM](#)

MR. KITO answered that charter schools pay leases from their operating budgets. He was unsure of the specifics for each charter school, but the EED facilities program does not provide funding for a leased facility. Thus, if a school district is providing any funding to upgrade a facility for student occupancy, presumably the funding would be paid for from their operating budgets, or would be a condition of the lease.

CHAIR SEATON observed that local school districts either own or lease a charter school facility, but it falls under the local school district's responsibility to provide a facility for charter schools that are authorized within the district.

MR. KITO agreed.

[8:19:06 AM](#)

REPRESENTATIVE SEATON referred to the U. S. Department of Education Guidance document titled, "The State Charter School Facilities Incentive Grants Program" and asked for a description of the program.

MR. KITO informed the committee that the program was authorized in 2001 by the No Child Left Behind (NCLB) legislation, and was reauthorized in 2004. He related that California and Indiana received grants. The program was reauthorized again with the American Recovery and Reinvestment Act of 2009 (ARRA). Although not currently funded by Congress, federal regulations allow for four charter school grants in the amount of up to \$10 million per state.

[8:20:40 AM](#)

REPRESENTATIVE MUNOZ asked whether federal startup funds for charter schools are still available.

MR. KITO said he was not familiar with that program. He returned to the facilities program and noted that the regulatory process for application is in place, but Alaska does not meet the standard to score well in the competitive process. If funding becomes available, states would apply, and the applications would be scored and prioritized by federal reviewers. When approved, the programs would receive federal funds through the state for start-up or the enhancement of school facilities, thus helping the state "step into" a fully functional facilities charter school funding program. The intent of the program is that the federal government would participate at a high level in the first year, but federal participation would decrease over time until the state's program is fully functioning or

functioning better than it was before the federal program was involved.

CHAIR SEATON asked whether the decreasing percentage of federal funds is for the facility, or for the four schools authorized for the statewide program.

MR. KITO clarified that there were four grants available under federal regulation for this authorization, but there is no funding provided. He stated his understanding that each grant would be a grant to the state for its program, and the funding mechanism "stair-steps" but is not tied to a specific project, but is tied to the overall state's program for charter school facilities.

[8:23:46 AM](#)

CHAIR SEATON commented that funding for charter school facilities is necessarily separate from the way in which schools are funded via municipal bonds and other funding means. He related his understanding that the program is separate, even though charter schools are public schools in Alaska.

MR. KITO explained that according to the guidance it does not necessarily need to be a separate program, but charter school funding for facilities needs to be based on a metric that uses a per-pupil calculation. So, if the state had a way of funding charter school facilities, but it was not separate from the existing program, that funding could be used for scoring. Currently, the state does not have the program so establishing a separate program is one way of achieving this. However, the program does not need to be a "stand alone" program, separate from the existing state facilities program.

[8:25:13 AM](#)

CHAIR SEATON asked whether the committee was familiar with the stair-step program and the federal government's role.

[8:26:01 AM](#)

REPRESENTATIVE KELLER said his understanding is that bill tried to model federal stair-step grant administration language used in existing law. He deferred to the drafter of the bill.

[8:27:12 AM](#)

JEAN MISCHEL, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, introduced herself.

CHAIR SEATON referred to page 2, line 2, which was the "stair stepping mechanism."

MS. MISCHEL expressed her understanding that the ARRA provides incentives in five-year increments and the bill anticipates that the federal portion would be 90 percent of allowable costs of the project. The lead-in language on page 2, lines 2-3, requires the department to apply for available federal funding and award federal funding. She pointed out that this language relates to federal dollars; in fact, the state portion is the dollar per pupil amount, plus there would be a local contribution to make up the difference. If the federal program is not funded until fiscal year 2013 (FY 13), then there is no obligation for the state to apply. She explained there are other ways to access these funds; for example, the state can decide that it wants school districts to apply directly for funding. However, she advised that would be burdensome for small school districts.

[8:29:55 AM](#)

CHAIR SEATON provided a scenario in which there are four projects totaling \$10 million. He asked whether the language of the bill anticipates that only the money expended in the first year would be at 90 percent federal reimbursement, and if the projects were not completed until the third year, that amount would be reduced to 60 percent federal reimbursement. The 40 percent remaining would be a liability to the local municipality or school district.

[8:31:06 AM](#)

MS. MISCHEL indicated that would be an accurate interpretation; furthermore, the department could explain how they currently allocate grant funding for facilities, which is under a six-year plan. She thought the key term in the bill was "allowable cost." Other than the adjustment for a student count, the term is defined by the department in regulation.

8:32:05 AM

CHAIR SEATON directed attention to the document found in the committee packet titled Legal Services Memorandum, dated 3/30/10, and read [original punctuation provided]:

The last sentence of Art. II, sec. 19 of the Alaska Constitution prohibits "local acts" that necessitate appropriations by a political subdivision without a majority vote of qualified voters. I know of no case interpretation of this provision but the bill's local contribution requirement could certainly be put to a vote. Nothing in the bill otherwise circumvents or "violates" bonding requirements or even specifies whether bonding may or may not be used as for state aid under AS 14.11.100 even if the district is a municipal school district.

CHAIR SEATON asked for legal counsel's interpretation of this language.

MS. MISCHEL explained the general question was whether the bill allows for a local contribution without a vote, and if it would violate a bonding mandate or any other law. The answer is that this bill does not specify how the local contribution is generated. She did not know if Art. II, sec. 19, of the Alaska Constitution would be implicated because she was not certain if a decision by a school board would be construed as a local act, and would require a majority vote. She stated that would be the conservative approach. Realistically, both bonding and a vote for local contribution are limited to municipal school districts. Thus, the bonding requirement and vote requirement are limited to municipal school districts that can generate that type of local contribution.

With regard to regional educational attendance areas (REAs), there is no presupposition in the bill on how the funds may be generated. However, under the existing grant program, AS 14.11.008, federal impact aid is used, which she thought could be used in this instance, too.

8:35:33 AM

CHAIR SEATON questioned the legality of obligating a substantial local contribution to be matched with state and federal funding, without a vote of the people.

MS. MISCHEL said she did not know. She suggested that the governing body seek the advice of their municipal counsel, but advised that the conservative approach would be to take a vote.

8:36:30 AM

REPRESENTATIVE KELLER commented that the choice to incur debt is the school district's responsibility. He stated that he did not want to lead school districts to "doing something they shouldn't do," but he thought it was something "they deal with all the time." He surmised the stair-step approach of 90-80-60 percent is to allow for a response to the stimulus money; however, the stimulus money is not going to be available. He then asked whether the stair-step percentage language should be removed since legal counsel advised that "allowable cost" has to be defined by regulation. He suggested that "for approved projects" on page 2, line 4, could be changed to "for allowable costs."

MS. MISCHEL said the percentages probably do not need to be specified, but the suggested change may make implementation difficult because it would be hard to tell from the legislation what level of commitment the state and local entities would be making when applying for the grants. There was not a lot of detail included in the bill regarding eligibility, or other potential federal requirements, because they seem to be "a moving target" at this time. She suggested that the state could refer in the bill to a federal funding

formula in a general way, but she cautioned against leaving it blank.

[8:39:21 AM](#)

MR. KITO offered to describe how the existing program works.

[8:39:45 AM](#)

REPRESENTATIVE P. WILSON asked whether he would be describing the current grant program or the charter school program.

MR. KITO replied that he would describe the existing grant program for all school facilities. The applications are received once per year, reviewed, scored, and prioritized. The projects appear before the legislature and funds are appropriated by the legislature. The EED administers the program on an annual basis thus, in a given year, the department receives a certain amount of funding for specific projects. When he reviewed HB 393, he identified an estimate of a "flat funding amount." Therefore, the state of Alaska would have an established facilities funding program for charter schools-the "\$1 program"-that could provide an estimated amount of \$10-\$20 million per year. Beginning with a flat amount of money per year, the funds would be spent on approved projects. He related his understanding that in a program in which \$10 million per year was appropriated, the federal government would pay 90 percent in the first year, with the state paying the "per-pupil" allocation, and the school district making up the balance. That funding level would remain constant, but the federal participation would decline as the program moved forward.

[8:42:25 AM](#)

MR. KITO, in response to Chair Seaton, related that in the third year, the federal reimbursement amount would be at about 40 percent of the total program, or \$4 million of \$10 million. Furthermore, the state share would be \$1 per student, and the local share the balance remaining.

CHAIR SEATON said, "So I think the lesson there is, get in first."

[8:43:00 AM](#)

REPRESENTATIVE P. WILSON asked at what stage a project must be before it is presented to the department by the school district.

MR. KITO answered that for the EED's standard program, the project can be in any stage, from pre-planning to design development drawings. As the regular program is highly competitive, scoring is higher for a project that has already completed advance work. He could not anticipate how many applications the EED might receive for the charter school program, but he did not think the department would need to see as much advance work. He thought that the school district might come in during the planning stage to try to gain some support.

[8:44:14 AM](#)

REPRESENTATIVE P. WILSON asked whether school districts without a good tax base, and that could not afford to complete advance work, ever "rank near the top."

MR. KITO assured the committee that several REAA districts are able to perform advance work and score well. He stated that the amount of work is only one part of the metric, and projects with other important factors can still "move up the list" because the list is "fairly well distributed" and is based on several criteria. In further response to Representative P. Wilson, he opined all schools have an opportunity to qualify. With respect to charter school programs, he added that many of the charter schools are located in areas with a larger tax base and the ability to prepare advance work. However, the charter school facilities program may not be as competitive as the regular program due to the lower number of applications.

[8:46:41 AM](#)

REPRESENTATIVE MUNOZ asked whether the state is required to have stair-step federal funding, or if

Alaska could receive "one time" federal funding and then decide how and when to allocate the funding within the state.

MR. KITO agreed with legal counsel that the actual stair-step percentage does not need to be in the bill, but the federal program is defined that way. Thus, if the state applies for the federal grant and is awarded the grant, the grant would be administered under those terms for the charter school facility program.

REPRESENTATIVE MUNOZ surmised the state does not need to allocate the funds over five years, but could fund a project in the full amount.

MR. KITO clarified that he assumed that the program would be at a certain level with federal funds decreasing over time. He said he considered that the program would be an overall program grant.

[8:48:12 AM](#)

CHAIR SEATON presented a scenario in which the federal government granted \$100 million per year, to a state. The first year the program would require a 10 percent state or local match; the second year the program would require a 20 percent match; the third year the program would require a 40 percent match. He asked whether that is the method in which the grants are administered, with the commitment from state and local funding of \$100 million for five years.

MR. KITO said, "My understanding actually is that the federal government program is a five-year program, but they're assisting the state in developing the state's permanent facilities funding program."

[8:49:43 AM](#)

REPRESENTATIVE P. WILSON observed that the current state process to build a facility is a six-year plan. She asked for clarification of the process year-by-year.

MR. KITO answered that the existing program funds projects on a per-project basis. He described a scenario in which ten charter school facilities

projects were anticipated each year. Assuming each project cost is the same, eight projects would be funded by the federal government and two would be funded by the state in the first year, and then the federal funding would stair-step down. The first year the state would obligate all of the funding for the approved projects; the next year the state would fund the next group of projects, rather than fund a portion of a project per year. Thus, each project would be fully funded in the year that it was approved by EED.

[8:52:03 AM](#)

CHAIR SEATON reiterated his understanding of how the funding would be distributed to the state. In his scenario, the federal government would approach the state to fund a permanent program at \$50 million per year, and the federal government would cover 90 percent of the cost in the first year, and 80 percent in the next year, and 20 percent in the fifth year. The state would be expected to continue this permanent program at the \$50 million per year level with local participation. Therefore, the federal funding would use a stair-step process, the state would cover \$1 per student, and municipalities would cover the remaining costs.

MR. KITO concurred.

[8:53:29 AM](#)

REPRESENTATIVE GARDNER questioned how long the state would promise to continue the program.

MR. KITO answered that the intent of the federal stair-step funding was to help establish the program for facilities funding for charter schools, but whether the state decided to continue with the program after the federal participation would be at the state's discretion. The federal government cannot require continuation.

[8:54:36 AM](#)

REPRESENTATIVE P. WILSON concluded that approximately 50 percent of the charter schools failed or never

opened. She asked what would happen to the funds when schools fail.

MR. KITO said his experience is that if the program builds a facility for a school district that serves charter school students and the facility is no longer needed for that purpose, the school district would be required to keep the facility open for public use for a certain period of time.

[8:57:16 AM](#)

REPRESENTATIVE KELLER made a motion to adopt HB 393 (Amended) labeled 26-LS1550\A.2. [The document labeled House Bill No. 393 (Amended), 26-LS1550\A.2, was the working document with Amendment 1 incorporated therein.]

CHAIR SEATON objected for the purpose of discussion. He reiterated that Version A.2 of the bill includes the language contained in proposed Amendment 1.

REPRESENTATIVE KELLER observed that the heart of the change is on page 2, line 5, which adds the language, "projects for which an assumption of responsibilities has been made under AS 14.11.020." The additional language addresses the concerns about whether this funding is appropriate. Furthermore, removing "approved project" clarifies that the approval is on the basis of AS 14.11.020, and indicates the project has gone through the process and is under the jurisdiction of the local school district.

[9:00:01 AM](#)

REPRESENTATIVE GARDNER referred to page 2, line 21, and said she did not understand the distinction.

CHAIR SEATON directed attention to the document in the committee packet titled, "Sec 14.11.020 Assumption of responsibilities." He explained this is current statute that outlines the assumption for responsibilities by a municipality or REAA, and specifies "who's going to own these facilities, who's going to approve the facilities, who's going to come forward and be the 10 or 80 percent responsible for matching...." He then referred to page 2, line 21, of

Version A.2, noting "approved for funding by the department" was deleted, and asked if this was the major maintenance grant program. He further asked if that meant each project would apply for grant funding individually, instead of establishing a state program.

MR. KITO said he did not have much time to review the language, but he offered that the reference to assuming responsibilities under AS 14.11.020 "gets to the question of whether or not there's local approval of a project." He was unsure of the effect of removing "approved." He then gave a scenario in which three projects at \$2 million each were submitted and said he was not certain under the amended language whether EED could prioritize which project would receive assistance.

[9:02:53 AM](#)

CHAIR SEATON expressed his understanding that the purpose of the federal grant is to create a state program for building facilities; thus, removing "approved for funding by the department" language would eliminate the program and provide only for a separate project.

REPRESENTATIVE KELLER related that it was not the intent of the bill to eliminate the decision by the department on the disbursement of funds, but to clarify that a local entity was responsible for the project.

[9:04:48 AM](#)

MS. MISCHER agreed that page 2, line 21, should continue "approved for funding and assumed under AS 14.11.020." She reiterated that the program itself is not well spelled out in this legislation and advised that the application process should not be eliminated. There is an option for school districts to go directly to the federal government to apply, although to keep EED as the gatekeeper of the program, there would need to be some sort of approval mechanism. She recommended a conceptual amendment.

[9:06:16 AM](#)

REPRESENTATIVE KELLER moved Conceptual Amendment 1 to Amendment 1, which would delete the language on page 2, line 8, and wherever appropriate throughout the amendment.

CHAIR SEATON objected for the purpose of discussion. He opined the result of Conceptual Amendment 1 would be to make the program "just like the major maintenance kind of program."

[9:07:30 AM](#)

REPRESENTATIVE KELLER indicated his agreement.

[9:07:34 AM](#)

REPRESENTATIVE GARDNER surmised that although districts can go directly to the federal government to apply for these grants, Conceptual Amendment 1 ensures the EED will serve as a gatekeeper to prioritize the applications.

MR. KITO advised that school districts cannot apply directly for this block of funding.

[9:08:29 AM](#)

REPRESENTATIVE GARDNER concluded that Conceptual Amendment 1 gives the [department] authority to prioritize applications.

MR. KITO indicated that if the department received more applications than it has money to fund, it would be able to prioritize the applications.

[9:09:02 AM](#)

REPRESENTATIVE P. WILSON observed that instead of having one list of schools to be built, there would be two lists.

MR. KITO clarified that there would be a separate list for charter schools. In further response to Representative P. Wilson, he acknowledged that the selection process is a difficult one. For the regular program, the department follows its regulation process, but when the state builds a school for a very

small number of students, an extra level of scrutiny determines the stability of the student population for small schools. He anticipated that the charter school facility program would have assurances from the school district and the charter school that they are aware of their local obligations for the operation of the school, prior to the approval of the project.

[9:11:58 AM](#)

CHAIR SEATON removed his objection to Conceptual Amendment 1 to Amendment 1. There being no further objection, Conceptual Amendment 1 to Amendment 1 was adopted.

[9:12:41 AM](#)

CHAIR SEATON confirmed that Amendment 1, as amended, identified as 26-LS1550\A.2, was before the committee, and removed his objection.

[9:13:13 AM](#)

REPRESENTATIVE MUNOZ objected for the purpose of discussion. She then asked whether the local assumption of responsibility in the proposed legislation was the same as for the major maintenance list.

MR. KITO affirmed that an existing part of the statute allows school districts to assume responsibility for school construction and major maintenance projects. In further response to Representative Munoz, he said his understanding is that there is not a statewide appeal process for the authorization of a charter school facility that does not have the support of the local school district.

REPRESENTATIVE MUNOZ clarified that her question concerns an approved charter school that applies for new construction, or a major or minor maintenance project, without the support of the local school district. She asked whether there is an opportunity for the charter school to appeal the local district's decision directly to the department or to the State Board of Education & Early Development (state board).

Representative Munoz suggested that one of the criterion of a strong charter school law is to provide a charter school with the ability to appeal to another authority. For example, a charter school facility may be denied for political reasons.

MR. KITO said he would research her question.

9:17:00 AM

REPRESENTATIVE GARDNER referred to the document in the committee packet from Dean Kern, director, U.S. Department of Education, to Paul Prussing, dated 7/29/09, and called attention to page 4. She read [original punctuation provided]:

Local school boards and the state board both have to approve a charter school application (p.20), and the state board will not approve without the local board doing so first. There does also not seem to be any appeals process in place.

9:18:38 AM

CHAIR SEATON noted this discussion is directed at Amendment 1, that makes the "municipality in which the charter school is located ... financially responsible for that charter school, but it also establishes that it's a program through the department."

9:18:48 AM

REPRESENTATIVE MUNOZ directed attention to the document in the committee packet titled, "Sec. 14.11.020, Assumption of responsibilities," paraphrasing from the document, which read as follows [original punctuation provided]:

(a) The assembly or council of a municipality that is a school district or a regional school board may, by resolution or majority vote of the body, assume the responsibilities relating to the planning, design, and construction of a school....

REPRESENTATIVE MUNOZ noted that charter schools fund planning, design, and construction by alternative means. She expressed her concern that the local assembly would take from the charter school the responsibilities for planning, design, and construction.

[9:20:37 AM](#)

CHAIR SEATON agreed that the question exists of whether the state should consider making charter schools independent of public schools. The options are: (1) the charter school is the responsibility of the school district and a subset of public schools; (2) the charter school is independent of the school district, is not affiliated with the school district, and has the ability to appeal and "go around" the school district. He pointed out that Amendment 1 addresses the assumption of responsibilities made under the current structure of laws regarding charter schools. Chair Seaton opined the creation of independent charter schools would require a separate bill.

[9:22:32 AM](#)

REPRESENTATIVE MUNOZ removed her objection. There being no further objection Amendment 1, as amended, was adopted.

[9:23:16 AM](#)

CHAIR SEATON restated House Bill No. 393 (Amended), 26-LS1550\A.2, was the working document before the committee. He then opened public testimony on the bill.

[9:24:06 AM](#)

LORETTA NARDI, President, Partnership for Alaska Charter Schools, Inc., informed the committee she was representing parents, teachers, and administrators of charter school students throughout the state. She expressed her appreciation for the committee's work and noted that charter schools have proven themselves during ten years of operation in Alaska. Ms. Nardi said that charter schools use operating funds to pay

for facilities-unlike traditional public schools-thus diverting operating funds from students. Charter schools are often housed in leased facilities and need assistance to secure and maintain their facilities. Federal grants for school facilities are available; however, charter schools presently are not competitive, and she appreciated the committee's recognition of legislation that will strengthen the charter school laws so that Alaska can compete for federal grants for charter school facilities and other options.

[9:26:46 AM](#)

JOHN WEETMAN, Assistant Superintendent of Administration, Matanuska-Susitna Borough School District, stated his support for HB 393, paraphrasing from a prepared statement, which read as follows [original punctuation provided]:

Good Morning, my name is John Weetman and I am the Assistant Superintendent of Administration for the Mat-Su Borough School District. Thank you for this opportunity to testify on House Bill 393.

I strongly support House Bill 393 and believe it will significantly benefit the Mat-Su Borough School District's five charter schools, that represent approximately 1000 students, and their families.

I do believe that House Bill 393 will assist the State of Alaska and local school districts in improving the ability to secure future Federal start up and implementation funds for Alaskan Charter Schools.

Next year, the five charter schools in the Mat-Su Borough School District will pay over \$1,000,000 in rent; many of these facilities were never designed for student learning and safety. I do believe that House Bill 393 will assist the State of Alaska in improving its ability to secure future Federal facility funds for Alaskan Charter Schools,

thus allowing rent dollars to go directly to students' education.

House Bill 393 will remove the cap which limits the number of charter schools in the state of Alaska and creates a mechanism that establishes and administers per-pupil facilities aid programs for Alaskan charter schools.

Charter schools offer parents and children choice within the public school system. They provide smaller learning communities; they assist in drop out prevention and increased graduation rates. The children, parents and community members of Alaska charter schools are deserving of facilities that provide and a safe, affordable learning environment for their children.

In conclusion, House Bill 393 creates legislation that benefits Alaska's children. I thank all of you for your time and I applaud your efforts in assisting the students of Alaska. A special thanks to Representative Keller for sponsoring this bill.

[9:29:12 AM](#)

BARBARA GERARD, Administrator, Academy Charter School, informed the committee that across the state community and state leaders have expressed support for charter schools. She described the difficulties of procuring a suitable facility for a charter school after it has been approved. Such difficulties include finding a building for 150 students that meets codes for fire and environmental safety, and equipping the building, all without start-up or implementation funding from the federal government that could total up to \$400,000 per school. Ms. Gerard opined that charter school organizers face a monumental task to open their school. However, the proposed legislation would remove "the cap" and increase the state's likelihood that Alaska's charter schools would win federal start-up and implementation grants, as well as facility funding grants. Ms. Gerard encouraged the passage of

HB 393 to strengthen Alaska's charter school law, and provide avenues to funding sources and innovative opportunities for education.

[9:31:45 AM](#)

REPRESENTATIVE MUNOZ recalled that there was federal funding available to charter schools in the '90s.

[9:32:20 AM](#)

MS. GERARD stated that Alaska earned federal start-up funds in the amount of \$145,000 at one time; however, the application process has changed, and four or five years have passed since Alaska charter schools have been granted funds. The language of the state's charter school legislation undermines the scoring of applications.

[9:33:32 AM](#)

CHAIR SEATON asked for the location of the Academy Charter School.

MS. GERARD answered that the school is in Palmer.

[9:33:52 AM](#)

CHAIR SEATON closed public testimony.

[9:34:22 AM](#)

REPRESENTATIVE BUCH asked about the bill's five-year impact on the local community.

REPRESENTATIVE KELLER expressed his confidence in the local school board and municipality to "work those things out." He spoke of the school facility crisis in Wasilla and said the bill creates an opportunity to alleviate the shortage. In further response to Representative Buch, Representative Keller said the proposed legislation would not place an undue burden on the community, but is a positive tool with which the local community can construct schools.

[9:36:52 AM](#)

REPRESENTATIVE P. WILSON questioned whether the community must show its willingness by a vote.

[9:37:34 AM](#)

CHAIR SEATON referred back to the document in the committee packet from Legal Services dated 3/30/10. The memorandum noted that the Alaska Constitution prohibits "local acts" without a majority vote of qualified voters. In addition, Legislative Legal and Research Services advised that although the proposed legislation does not require a vote, the conservative approach on local acts of a large financial impact is to have a vote.

[9:39:03 AM](#)

REPRESENTATIVE P. WILSON asked, "Could this proceed the way it's written, without a vote of the local people?"

[9:39:22 AM](#)

REPRESENTATIVE MUNOZ assumed leases and maintenance were included. She asked whether leases would be taken to a vote of the local community or to the local council.

REPRESENTATIVE KELLER stated that local school board members have close contact with their constituents and represent the community well on issues.

[9:41:15 AM](#)

CHAIR SEATON reminded the committee the projects aspect was amended out of the bill; in fact, the bill would establish a program for a grant process from state government. He reviewed how the program would grant federal funds to charter schools and reimburse local municipalities at various rates.

[9:43:31 AM](#)

REPRESENTATIVE P. WILSON observed charter schools can get money for construction, major maintenance, or to pay a lease.

CHAIR SEATON concurred, and added that the funds could be used towards facility acquisition costs, whether for the purchase, or lease, of a facility.

[9:45:00 AM](#)

REPRESENTATIVE MUNOZ suggested the costs of a five-year lease could be estimated on the school's application for funding.

[9:45:16 AM](#)

REPRESENTATIVE GARDNER pointed out that the funding approval process is competitive and difficult. She warned that lease operating costs would not compete with the cost of purchasing a building.

[9:45:59 AM](#)

CHAIR SEATON asked for comment from the department on state aid for costs of charter school "construction, lease, and major maintenance."

[9:46:24 AM](#)

EDDY JEANS, Director, School Finance and Facilities Section, Department of Education and Early Development (EED), informed the committee that the language in the bill was taken directly out of a federal program, thus the intent of the federal program is that the state program will provide some funding for leased facilities. He opined this component of the bill is not to pay the lease, but to pay for renovations of a lease, which is not allowed by the state major maintenance program; in fact, renovations are only paid for at district-owned facilities.

[9:47:09 AM](#)

CHAIR SEATON confirmed the understanding of the committee.

[9:47:34 AM](#)

REPRESENTATIVE MUNOZ said the state's interpretation should follow the more expansive federal intention,

and allow the money to be used for leases, instead of a more restrictive interpretation.

MR. JEANS advised that a lease must be considered an operational cost. He stated, "I see the operational cost as a separate item versus the maintenance or rehabilitation of a facility. You're always going to have operational costs, and that's what a lease is."

[9:48:53 AM](#)

REPRESENTATIVE MUNOZ cited the situation of the local charter school, which pays its lease out of the base student allocation (BSA). If the federal program allowed the school to use federal funding to offset this cost, the state process should also.

MR. JEANS agreed that the lease cost comes out of the BSA; however, operational costs for facilities come out of every school's BSA and are borne by the school district through the foundation program.

[9:50:08 AM](#)

REPRESENTATIVE MUNOZ stressed the difference is that the charter school does not have a facility provided by the district and is paying for operational costs-in addition to the facility-out of its per student budget.

[9:50:57 AM](#)

REPRESENTATIVE GARDNER asked for the purpose of the provision in the proposed legislation that removes the cap of 60 charter schools.

[9:51:42 AM](#)

REPRESENTATIVE KELLER stated removing the cap is to improve Alaska's chances at winning grants. Of course, this change would also enhance educational choices.

MR. JEANS, referring to the previous discussion regarding bonding to cover the local share of the cost of a facility, noted that when the department enters into a grant agreement with a school district, it does

not release state or federal funds without confirmation of the participating share from the local district. He acknowledged that each project is evaluated at the local level, and small projects do not necessarily go before the public for a vote, but large scale projects do, even though it is not required. The department will require evidence and a guarantee of the source of the local contribution.

[9:53:50 AM](#)

REPRESENTATIVE P. WILSON asked whether the department would hire personnel to administer the program.

MR. JEANS advised there are one and one-half new positions as indicated by the fiscal note.

[9:54:42 AM](#)

CHAIR SEATON remarked that project funding cannot be supplanted on the local or the federal level.

[9:55:22 AM](#)

REPRESENTATIVE MUNOZ moved to report HB 393, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 393(EDC) was reported from the House Education Standing Committee.

[9:56:23 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 9:56 a.m.