

ALASKA STATE LEGISLATURE
HOUSE EDUCATION STANDING COMMITTEE

February 26, 2014
8:08 a.m.

MEMBERS PRESENT

Representative Lynn Gattis, Chair
Representative Lora Reinbold, Vice Chair
Representative Gabrielle LeDoux
Representative Dan Saddler
Representative Paul Seaton
Representative Peggy Wilson

MEMBERS ABSENT

Representative Harriet Drummond

COMMITTEE CALENDAR

HOUSE BILL NO. 278

"An Act increasing the base student allocation used in the formula for state funding of public education; repealing the secondary student competency examination and related requirements; relating to high school course credit earned through assessment; relating to a college and career readiness assessment for secondary students; relating to charter school application appeals and program budgets; relating to residential school applications; increasing the stipend for boarding school students; extending unemployment contributions for the Alaska technical and vocational education program; relating to earning high school credit for completion of vocational education courses offered by institutions receiving technical and vocational education program funding; relating to education tax credits; making conforming amendments; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 197

"An Act requiring the establishment of a reading program in school districts for grades kindergarten through three; providing for student retention in grade three; and providing for a report on the reading program and on student retention."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 278

SHORT TITLE: EDUCATION: FUNDING/TAX CREDITS/PROGRAMS

SPONSOR(S): RUMR. MORSE BY REQUEST OF THE GOVERNOR

01/24/14	(H)	READ THE FIRST TIME - REFERRALS
01/24/14	(H)	EDC, FIN
02/03/14	(H)	EDC AT 8:00 AM CAPITOL 106
02/03/14	(H)	Heard & Held
02/03/14	(H)	MINUTE(EDC)
02/07/14	(H)	EDC AT 8:00 AM CAPITOL 106
02/07/14	(H)	Heard & Held
02/07/14	(H)	MINUTE(EDC)
02/10/14	(H)	EDC AT 8:00 AM CAPITOL 106
02/10/14	(H)	Heard & Held
02/10/14	(H)	MINUTE(EDC)
02/14/14	(H)	EDC AT 8:00 AM CAPITOL 106
02/14/14	(H)	Heard & Held
02/14/14	(H)	MINUTE(EDC)
02/17/14	(H)	EDC AT 8:00 AM CAPITOL 106
02/17/14	(H)	Heard & Held
02/17/14	(H)	MINUTE(EDC)
02/24/14	(H)	EDC AT 8:00 AM CAPITOL 106
02/24/14	(H)	Scheduled But Not Heard
02/26/14	(H)	EDC AT 8:00 AM CAPITOL 106

WITNESS REGISTER

SUSAN MCCAULEY, Director
Teaching and Learning Support
Department of Education and Early Development
Juneau, Alaska

POSITION STATEMENT: Introduced the portion of HB 278 directly related to charter schools, and answered questions.

LES MORSE, Deputy Commissioner
Office of the Commissioner
Department of Education and Early Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 278.

MIKE HANLEY, Commissioner
Department of Education and Early Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 278.

BARBARA GERARD, Principal
Academy Charter School
Palmer, Alaska

POSITION STATEMENT: Testified during the hearing on HB 278.

BECKY HUGGINS, Principal
American Charter Academy
Wasilla, Alaska

POSITION STATEMENT: Testified during the hearing on HB 278.

ROBERT BOYLE, Superintendent
Ketchikan Gateway Borough School District
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 278.

ACTION NARRATIVE

[8:08:29 AM](#)

CHAIR LYNN GATTIS called the House Education Standing Committee meeting to order at 8:08 a.m. Representatives Seaton, Saddler, Reinbold, LeDoux, and Gattis were present at the call to order. Representative P. Wilson arrived as the meeting was in progress.

[8:08:54 AM](#)

HB 278-EDUCATION: FUNDING/TAX CREDITS/PROGRAMS

CHAIR GATTIS announced that the only order of business would be HOUSE BILL NO. 278, "An Act increasing the base student allocation used in the formula for state funding of public education; repealing the secondary student competency examination and related requirements; relating to high school course credit earned through assessment; relating to a college and career readiness assessment for secondary students; relating to charter school application appeals and program budgets; relating to residential school applications; increasing the stipend for boarding school students; extending unemployment contributions for the Alaska technical and vocational education program; relating to earning high school credit for completion of vocational education courses offered by institutions receiving technical and vocational education program funding; relating to education tax credits; making conforming amendments; and providing for an effective date."

CHAIR GATTIS said the committee would hear testimony on specific sections of HB 278 directly affecting charter schools.

[8:11:54 AM](#)

SUSAN MCCAULEY, Director, Teaching and Learning Support, Department of Education and Early Development, explained that the portion of HB 278 related to charter schools has three main components, the first of which clarifies the application procedure. In the event a local school board denies the application of a charter school, the board must put the reasons for the denial in writing and provide the written denial to EED. Currently, at the time of a denial EED is informed, but specific information is not required. The second component allows a charter school that has been denied to appeal the decision to the commissioner [of EED]. The commissioner can uphold the denial, or forward the application to the Alaska State Board of Education & Early Development (State Board) for final consideration. The appeal process ensures that the reasons for denial are substantive and thoroughly vetted. Finally, the bill clarifies that the funding for a charter school needs to include certain components such as transportation, vocational and technical education, and special services/students with disabilities funding. Currently, statute dictates that funding includes all funds generated by students that are enrolled in the charter school, and without further specification, local districts may have interpreted this statute differently.

[8:14:08 AM](#)

REPRESENTATIVE LEDOUX asked whether charter schools will start providing transportation to their students.

DR. MCCAULEY explained that the bill directs that transportation funds generated by students enrolled in a charter school must be forwarded to the charter school. Currently, a school district could interpret the applicable statute to permit the retention at the district level of transportation funds, which are generated on a student-by-student basis. However, the bill does not require that a charter school use the funds for transportation such as home-to-school bus service.

REPRESENTATIVE LEDOUX provided a scenario in which a school district with 100 students has 50 students attending a charter school. She asked if currently, such a school district would receive transportation funds for 100 students.

8:16:16 AM

LES MORSE, Deputy Commissioner, Office of the Commissioner, EED, indicated yes, and explained that in the past, school districts had bus systems with approved routes and expenses, which were reimbursed by the state. In about 2005, in an attempt to control costs, the legislature directed that transportation costs would be reimbursed determined by a formula based on the needs of each school district. The formula is based on average daily membership (ADM) and has been adjusted regarding the amount allotted. Mr. Morse provided an example of one middle school using three buses and another middle school across town that uses thirteen buses. In this case, the transportation allowance did not flow to the school per ADM, but was received by the district per ADM, and the district provided funds to each school for its transportation needs. He said he was unsure of how a charter would use transportation funds, but suggested it may establish drop-point transportation rather than home-to-school busing. He concluded that the bill provides charter schools with transportation opportunities.

8:20:03 AM

REPRESENTATIVE LEDOUX described a village where all of the students can walk to school, but the school receives transportation funds through the formula. She asked whether the school can use its transportation funds for other expenses.

MR. MORSE responded that generally, transportation funds are all going for transportation. If the village in the example did not have a reimbursable bus system in place, no transportation funds would be allotted. Some rural districts may have a small busing system with a low transportation allotment compared to an urban school district. He expressed doubt that a school district without the need for a busing system would receive transportation funds under the current formula.

REPRESENTATIVE LEDOUX expressed concern that funds for transportation fixed costs may be taken from a school district and provided to a charter school, unless the charter school provides transportation.

DR. MCCAULEY opined that the concept of the bill is that funds that are generated by charter school students - as transportation funds are - should be used to benefit charter

school students. On the other hand, funds that are not student-generated can be used to support districtwide operations.

[8:24:09 AM](#)

REPRESENTATIVE SADDLER clarified that in the past, school districts applied for reimbursement of costs, and then there was a switch to a formula that allocated transportation funds on a per student basis. Now, if a district did not have a need for a transportation program, it does not receive funds.

MR. MORSE said the status of a district relates to when the state changed from the reimbursable program to the formula program. In some cases, a district may have villages that do not run buses, but may have one "hub" with a single bus. Therefore, that district's formula is very low.

REPRESENTATIVE SADDLER surmised that beyond the certain allocation for the number of students, the need for transportation is a factor.

MR. MORSE said there is a historical factor for need.

CHAIR GATTIS asked for an explanation of the two ways that transportation is currently funded, both within and outside of the formula, and she pointed out that outside of the formula, not all districts pay for transportation to charter schools. How the bill addresses this situation is also part of the question. She noted that villages that do not provide transportation still receive a portion through the base student allocation (BSA). In addition, she asked whether a neighborhood school is required to use its transportation funding to provide transportation.

[8:27:14 AM](#)

MR. MORSE said the funds are based on ADM, and there are certain requirements for busing students, depending on the distance between neighborhood schools and students' homes; however, the need is based on the historical need at the time the system switched from reimbursable to the current formula funding. Furthermore, the transportation formula is separate from the BSA formula.

CHAIR GATTIS said the main question is whether students are benefiting from "the money that was meant for them."

REPRESENTATIVE SADDLER observed that under current law, there is no requirement to use transportation funds for transportation purposes. He asked whether school districts are directing transportation funds to other purposes and if so, have objections been raised.

MR. MORSE advised that generally districts find that transportation funds meet the expenses of transportation, thus it is a rare case that transportation funds are not used for that purpose.

[8:29:32 AM](#)

DR. MCCAULEY restated that it is possible for a district to interpret the current statute regarding charter school funding to retain transportation funds generated by charter school students. For example, a district with charter schools students would receive transportation funds for those students, and it is possible that a school district could retain those funds.

REPRESENTATIVE SADDLER asked whether the aforementioned possibility is happening.

DR. MCCAULEY responded that information regarding how a district relegates funds to charter schools is not collected by EED. In further response to Representative Saddler, she said the bill addresses the problem of a lack of clarity regarding funds that are generated by charter school students; the bill is more specific regarding the distribution of those funds.

REPRESENTATIVE SADDLER inquired whether the lack of clarity is causing problems.

DR. MCCAULEY said EED is aware of different practices from district to district, and of differences regarding how the statute is interpreted by the eight school districts with charter schools, but is unaware of specific differences in the distribution of transportation funds.

[8:32:00 AM](#)

REPRESENTATIVE SADDLER surmised EED seeks to forestall the use in the future of charter student-generated funds for purposes other than transportation.

DR. MCCAULEY opined the problem is the lack of clarity resulting in different interpretations regarding "what funds generated by

students enrolled in a charter school mean exactly. Does it mean only formula funds? Does it mean funds outside the formula? This language is intended to clear that up."

REPRESENTATIVE SADDLER asked whether districts have requested clarity or if EED seeks clarity.

DR. MCCAULEY stated the change to provide clarity is driven by an expectation that charter school law should be "crystal clear" regarding funding, which is the standard that has been achieved by other states.

[8:33:25 AM](#)

REPRESENTATIVE SEATON reminded the committee that in 2005 there was 100 percent reimbursable support for approved student transportation systems in the state. In order to control the growth [of transportation expenses], the legislature converted the reimbursement based on school districts' transportation costs at that time. This resulted in a per student expense formula that supported not the transportation cost for each student, but the transportation system of the district. The problem today is that [the proposed legislation] will divert funds from the transportation system to individual charter schools, and the district transportation system will no longer be supported. Thus a district such as the Kenai Peninsula Borough School District, with a robust number of charter schools, will have substantial funds pulled from the districtwide transportation system - which is underfunded anyway - and will take the per student funding - which has been supporting the district transportation system - and give it to a charter school, which is receiving the same transportation support as any other public school. He opined this will destroy the existing transportation system, and asked for confirmation of the accuracy of his statement.

[8:37:26 AM](#)

DR. MCCAULEY advised that currently the majority of charter schools do not receive busing services. The academic policy committee, which is the governing board of a charter school, manages its own budget, and historically does not provide transportation. This poses a challenge as charter school students do not come from a geographic area, and home-to-school transportation is impractical. School districts are faced with the dilemma of the difficulty of arranging transportation to a charter school, yet transportation funds are generated by

charter school students who receive no benefit. The intent of the bill is to provide some funding to charter schools to provide basic transportation services, so that parents are not exclusively providing transportation, thus establishing equity and clarity.

REPRESENTATIVE SEATON pointed out that transportation funds are not generated on a per student basis in neighborhood schools either, as there are neighborhood schools that do not have bus service. He observed that the bill does not allow for transportation funds to be allocated on a per student basis to all public schools, but just to charter schools. Representative Seaton suggested that if HB 278 is passed, the legislature will need to return to a reimbursable type of transportation system because the proposed legislation will make the current busing system financially untenable throughout the state. In fact, money will be taken out of the classroom to maintain the current busing systems. He opined that rural school districts with several charter schools will lose money for their transportation system.

[8:42:43 AM](#)

REPRESENTATIVE REINBOLD said that many schools have students within walking distance and yet receive transportation funds. She suggested that these schools have slush funds for transportation. She said the bill is brilliant and equitable, and provides that charter schools are no longer penalized, because they are efficient and high performing schools. Representative Reinbold observed that if transportation costs are high, an internal audit is in order to determine the reason.

REPRESENTATIVE LEDOUX agreed with Representative Seaton's opinion; although charter schools should be provided a transportation component, the funds cannot be taken out of the formula on a one-to-one basis due to the fixed costs that must be considered.

REPRESENTATIVE P. WILSON agreed with Representative Seaton as to how transportation funds are allocated. She suggested that a simple solution would require districts to alter routes and, using the same amount of money available, bus students to all schools.

[8:46:40 AM](#)

DR. MCCAULEY said she did not intend to imply that districts are using transportation funds for purposes other than transportation. The problem is that there is a difference between districts regarding whether transportation funds generated by charter school students benefit those same students, thus there is a potential for disparity. The bill is intended to ensure that there are transportation benefits for charter school students since the mechanism that generates transportation funds is per student.

REPRESENTATIVE P. WILSON restated her suggestion to bus all students.

REPRESENTATIVE LEDOUX questioned the practicality of busing a student across an area like Anchorage to a charter school. Secondly, funds that are generated per student should be dispersed fairly; for example, students at the school in her neighborhood are not bused, and transportation funds do not benefit those students. She observed that, if HB 278 passes, charter schools that are located within neighborhood schools will receive transportation funds that the "regular public" school will not, which is not fair either.

[8:51:24 AM](#)

DR. MCCAULEY responded that the feasibility of providing bus service is a difficult situation. She offered a personal anecdote of the busing service to the charter school where she acted as principal, and how a system was worked out with the district that allowed approximately 60 children out of 300 to ride a school bus to school. The intent behind HB 278 is to ensure that all charter students receive some benefit, and she acknowledged the dilemma about how best to do so. The language of the bill provides a mechanism that provides transportation funds to charter schools across the state, and benefits to charter school students, such as those provided to her school.

[8:54:06 AM](#)

REPRESENTATIVE LEDOUX inquired as to the equity for students who walk to their neighborhood school without benefitting from transportation funds.

DR. MCCAULEY said districts are charged with operating schools that meet the needs within their area. She remarked, as follows:

I think that going too far in the consideration of funds generated by students in neighborhood schools benefitting those students - I don't personally think that that is an appropriate application. The charter school structure is entirely different in terms of how it operates. It is, 'Charter school here are your funds, make it work.' Everything from trash pickup to snow plowing to ... staffing, facility costs, all of it

DR. MCCAULEY concluded that the construct of a charter school is fundamentally different from that of neighborhood schools thus the "per pupil generated fund perspective" cannot be appropriately applied. Charter schools have autonomy to make decisions that would otherwise be made at the district level such as pupil-teacher ratios (PTR), extra-curricular activities, and curriculum. She stressed that charter schools and neighborhood schools are not interchangeable.

[8:56:35 AM](#)

REPRESENTATIVE SEATON referred to the aforementioned "slush funds for walkers." He recalled that the transportation funding formula was based on the busing systems in place, thus if students were walking to a local school, the district received no transportation funds for that school. He stressed that every district has a different formula for transportation based on its historic transportation needs; there is not a base amount across the state so that each district receives the same amount on a per student basis. He acknowledged that this formula has skewed since 2005, because bus routes and situations have changed; for example, in one district a school closed and students had to be flown to school. He restated that the formula is not the same across the state and noted that in his district, transportation for all of the charter school students is accommodated. He suggested that the real problem is when the formula is misunderstood that it is generated per student; in fact, some districts get zero [funding] and some get a lot because in 2005 their busing system was expensive.

[9:00:20 AM](#)

CHAIR GATTIS directed that a presentation related to busing and transportation costs will be forthcoming during further review of the bill.

DR. MCCAULEY restated that the language of the bill is meant to remedy the following situation: A student who has been bused to a neighborhood school and decides to attend a charter school near the neighborhood school, and then the student no longer has the opportunity to ride the school bus.

REPRESENTATIVE SADDLER directed attention to page 7, lines [9]-12 of the bill that read, in part:

and includes funds generated by special needs under AS 14.17.420(a)(1), secondary school vocational and technical instruction under AS 14.17.420(a)(3), and pupil transportation under AS 14.09.010.

REPRESENTATIVE SADDLER asked how the language in the bill could lead a member of the committee to believe that the bill will destroy the busing system.

DR. MCCAULEY was unsure. She offered to provide more information on the intent of the bill and a full presentation regarding current "transportation circumstances."

[9:02:46 AM](#)

REPRESENTATIVE SEATON asked:

If we have the funding for a bus system ... [in a district with] a fairly good proportion that are going to charter schools, if we pull out that funding from that bus system, how does the district maintain the busing system when we've pulled out the per student allocation, which is the formula to support that busing system?

DR. MCCAULEY restated her offer to provide more information on how much money is involved, districts with several charter schools, the amount of funding per pupil, and the overall impact of transportation dollars following the charter school students.

REPRESENTATIVE SEATON then asked Dr. McCauley if she agreed that in a district with a robust system of charter schools, the impact on its busing system would be much greater than on a district with no or few charter schools.

DR. MCCAULEY confirmed that the bill structure is that transportation funds generated by charter school students would

follow the charter school student and therefore, more funds would come out of a district with more charter schools.

[9:05:18 AM](#)

REPRESENTATIVE LEDOUX directed attention to section 9 of the bill which read:

*** Sec. 9.** AS 14.03.260(a) is amended to read:

(a) A local school board shall provide an approved charter school with an annual program budget. The budget shall be not less than the amount generated by the students enrolled in the charter school less administrative costs retained by the local school district, determined by applying the indirect cost rate approved by the Department of Education and Early Development. The "amount generated by students enrolled in the charter school" is to be determined in the same manner as it would be for a student enrolled in another public school in that school district and includes funds generated by special needs under AS 14.17.420(a)(1), secondary school vocational and technical instruction under AS 14.17.420(a)(3), and pupil transportation under AS 14.09.010. A school district shall direct state aid under AS 14.11 for the construction or major maintenance of a charter school facility to the charter school that generated the state aid, subject to the same terms and conditions that apply to state aid under AS 14.11 for construction or major maintenance of a school facility that is not a charter school.

REPRESENTATIVE LEDOUX said section 9 relates not only to transportation, but also to funds generated by special needs students. She gave an example of a school district with 100 special needs students, none of which attend charter schools, and asked if charter schools in the district would get funding generated by the special needs students.

DR. MCCAULEY explained:

The language here is that, as part of the formula in which there is a special needs factor of 1.2, that that would be applied to the generation of funds of the budget for the charter school. It is to ensure that that special needs factor, as part of the

formula, is applied when a district is determining the budget for a charter school.

9:06:43 AM

REPRESENTATIVE LEDOUX gave a further example of a district with 10 special needs students, each costing \$100,000 and in the same district a charter school that may not have special needs students due to its academic criteria. However, the charter school may receive funding, through the formula, without taking on the responsibility of special needs students.

DR. MCCAULEY pointed out the difference between the special needs factor in the formula of 1.2, and "intensive funding, which is times 13". She further explained that the language in the bill does not include intensive needs funding; in fact, the language in the bill is exclusively to ensure the inclusion of the items listed in section 9, and limited with regard to special education to the special needs factor of 1.2, and purposefully excludes the requirement of intensive needs funding, which are the funds intended to support students with significant disabilities. Those funds are not required to be forwarded to a charter school.

9:09:03 AM

REPRESENTATIVE LEDOUX acknowledged that transportation is necessary to assist working parents, especially low-income working parents, to have the opportunity for their children to attend charter school; however, she questioned whether a charter school without special needs students should take funds away from a neighborhood school.

DR. MCCAULEY assured the committee that the enrollment process for charter schools does not permit a charter school to deny acceptance to students with IEPs with disabilities. Furthermore, all of the charter schools have special education students in percentages ranging from 2.2 percent to 23.7 percent of the school's population. The statewide average of students with disabilities in charter schools is close to that of schools in general.

REPRESENTATIVE SEATON reflected on the wide variety of special needs students attending charter schools. He suggested it would be more applicable to have the 1.2 factor apply based on the number of students in the schools, and on the BSA. The 1.2 factor equals a 20 percent increase in funding and this would

fund charter schools on the percentage of students enrolled who satisfy the criteria.

DR. MCCAULEY said the intent is to leverage the existing formulas through which districts receive funding to ensure that when they calculate the budget for a charter school, the funding element of the number of special needs students is included. Representative Seaton's recommendation would require 'something different' from EED in the way the special needs factor is considered. The intent is just to clarify that the special needs factor should be included in the calculation of a charter school budget.

REPRESENTATIVE SEATON stated that the proposed bill will require something different in that money will flow in a different way. Some charter schools will have a few students generating special needs income and some will have more. He expressed his belief that the percentage should be tied to that of the percentage of special needs students in the district, and then requested further information from EED on how funds would be implemented on a pro rata basis to the charter schools that have numbers of special needs students.

[9:14:49 AM](#)

CHAIR GATTIS discussed the need for further information from EED on the funding formulas.

REPRESENTATIVE SEATON asked to have EED provide information on special needs funding under AS 14.17.420(a)(1) and also on a proportional distribution within a school district by student enrollment. He remarked:

So it's really not changing anything other than saying that the funds generated and applied proportionally to the charter school versus the rest of the district. ... It refines it so we don't get these [real] discrepancies where we have a charter school that has few special needs students getting the same money as a charter school ... that has a lot of special needs students

REPRESENTATIVE P. WILSON asked to hear testimony from a variety of school districts on how they will be affected by the changes in transportation funding.

REPRESENTATIVE SADDLER directed attention to section 8, on page 6, line 31 of the bill that read:

[SECONDARY SCHOOL COMPETENCY TESTING AS PROVIDED IN

REPRESENTATIVE SADDLER asked whether line 31 deletes only the high school graduation qualifying exam (HSGQE) or other competency testing.

DR. MCCAULEY answered that this only refers to the HSGQE.

REPRESENTATIVE SADDLER surmised that if the HSGQE is not repealed, charter schools will still be required to administer the exam.

DR. MCCAULEY said correct.

[9:18:46 AM](#)

CHAIR GATTIS reminded the committee that charter schools are part of the public school system and fall under all of the state requirements for public schools.

REPRESENTATIVE SEATON returned attention to section 9, line 10 of the bill [text provided above], related to secondary school vocational and technical instruction. He observed that the formula directs 2 percent per pupil to the district for vocational and technical instruction and asked whether a portion of these funds would be directed to a charter school whether it is an elementary or secondary school.

DR. MCCAULEY said in a similar manner to the special needs factor, the language in the bill refers to part of the formula. The career and technical education factor is 1.015, but different than the transportation funding - which is outside the formula - the bill directs that the factor of 1.015 would be used as part of the formula by which the funds for charter schools, that include secondary school students, are generated. In further response to Representative Seaton, she said the funds would only apply to schools that enroll secondary level students, and offered to provide EED's answer as to what are the grade levels of secondary students.

[9:22:11 AM](#)

REPRESENTATIVE SADDLER directed attention to section 6 of the bill that read:

Sec. 6. AS 14.03.250 is repealed and reenacted to read:

Sec. 14.03.250. Application for charter school.

(a) A local school board shall prescribe an application procedure for the establishment of a charter school in that school district. The application procedure must include provisions for an academic policy committee consisting of parents of students attending the school, teachers, and school employees and a proposed form for a contract between a charter school and the local school board, setting out the contract elements required under AS 14.03.255(c).

(b) The decision of the local school board approving or denying the application for a charter school must be in writing and must include all relevant findings of fact and conclusions of law.

(c) If the local school board approves an application for a charter school, the local school board shall forward the application to the state board for review and approval.

(d) If the local school board denies an application for a charter school, the applicant may appeal the denial to the commissioner. The appeal to the commissioner shall be filed not later than 60 days after the local school board issues its written decision of denial. The commissioner shall review the local school board's decision to determine whether the findings of fact are supported by substantial evidence and whether the decision is contrary to law. A decision of the commissioner upholding the denial by the local school board is a final decision not subject to appeal to the state board.

(e) If the commissioner approves a charter school application, the commissioner shall forward the application to the state board for review and approval. The application shall be forwarded not later than 30 days after the commissioner issues a written decision. The state board shall exercise independent judgment in evaluating the application.

REPRESENTATIVE SADDLER asked whether in current law the State Board must approve or deny a charter school application.

DR. MCCAULEY said yes. In further response to Representative Saddler, she explained that another statute clarifies that the

State Board ultimately determines whether a charter school is approved or denied. Section 6 is intended to connect the State Board to the appeal process.

[9:23:51 AM](#)

MIKE HANLEY, Commissioner, EED, said that Dr. McCauley is correct in that currently there is other statutory language that the State Board gives final approval for charter schools; [section 6 in the proposed bill] provides that if a charter school application is denied at the local level, and the commissioner approves the application, the decision remains with the State Board. In further response to Representative Saddler, he said he would provide the relevant statutory authorization.

REPRESENTATIVE SEATON directed attention to section 7 of the bill which read:

Sec. 7. AS 14.03 is amended by adding a new section to read:

Sec. 14.03.253. Charter school application appeal to commissioner. In an appeal to the commissioner under AS 14.03.250, the commissioner shall review the record before the local school board. The commissioner may request written supplementation of the record from the applicant or the local school board. The commissioner may

(1) remand the appeal to the local school board for further review;

(2) approve the charter school application and forward the application to the state board with or without added conditions; or

(3) uphold the decision denying the application for the charter school.

REPRESENTATIVE SEATON asked whether the commissioner was required to act on one of the three options set out in section 7.

COMMISSIONER HANLEY said yes.

[9:25:13 AM](#)

REPRESENTATIVE SEATON inquired as to the criteria under which the commissioner will review and either approve or deny the

application, questioning whether the criteria is based on the charter school's goals, objectives, and plan.

COMMISSIONER HANLEY referred to section 6, subsection (b) of the bill [text provided above]. If the denial is based on fact and the conclusions of law, for instance, the charter school applicant is not going to accept special education students, the application would be denied because it violates the law. He acknowledged that there are no specific criteria for the commissioner to use, but it is anticipated that the reference would return to the findings of fact, although there are no specifics as to what the commissioner would consider in the appeal.

REPRESENTATIVE SEATON was unsure as to the amount and the basis of discretion that the language of the bill provides. He cautioned that the commissioner's denial or approval of an appeal should be on a defined basis.

[9:27:57 AM](#)

CHAIR GATTIS opened public testimony on HB 278.

[9:28:52 AM](#)

BARBARA GERARD, Principal, Academy Charter School, said she appreciated the emphasis Governor Parnell and legislators have placed on improving education. Ms. Gerard addressed one of the barriers to creating a charter school, which is housing students. Of the six charter schools in the Matanuska-Susitna (Mat-Su) Valley, five pay to lease space because they have no other option, and this takes money away from instruction. Another challenge is the start-up cost to provide desks and curriculum materials. These are the two main barriers to opening a charter school, and she spoke in support of legislation to address these two areas. Ms. Gerard said the charter schools in Mat-Su are strong and healthy due to the leadership of the superintendent, however, charter schools need to have in law funding requirements including indirect fees, how the funding follows the student, and funding facilities, in order to grow and focus on instruction. She thanked the committee for its support of education and all children.

REPRESENTATIVE SEATON asked whether charter school applications have been denied by the local school board in Mat-Su.

MS. GERARD recalled one or two did not complete the application process, and one charter school closed, but she did not have further information.

CHAIR GATTIS, speaking as a former school board member, said one application was denied, but instead was housed within a neighborhood school.

[9:33:56 AM](#)

REPRESENTATIVE SADDLER asked how the requirement to provide a facility affects the instructional program at Academy Charter School.

MS. GERARD explained that Academy Charter School has a different situation, but to lease space the other charter schools must take as much as \$400,000 out of their operational budgets, which could be used for teachers or curriculum.

REPRESENTATIVE SADDLER asked how state funding for charter schools should change to eliminate the disparity.

MS. GERARD suggested per pupil funding for charter schools or an option for bonding at a 70/30 ratio that would allow charter schools to acquire permanent facilities.

REPRESENTATIVE SADDLER agreed with the previous speaker that a charter school should demonstrate a level of success.

[9:36:23 AM](#)

BECKY HUGGINS, Principal, American Charter Academy, informed the committee that the schools in the Matanuska-Susitna Borough School District (MSBSD) enjoy support from its superintendent, administration, and the school board. However, her experience is that administrations change and support is not statewide. She expressed her support of an appeals process with multiple authorizers, and expanding the routes available for Alaskans who are seeking educational choice. In addition, she recommended the creation of a mechanism that moves facility cost outside of discretionary funds, which would begin to equalize charter schools with other public schools. In addition, there should be the ability for charter schools to bond for facilities at a better than 70/30 ratio.

[9:38:52 AM](#)

MS. HUGGINS continued, noting that the existing charter school facilities law needs further definition to identify a per pupil formula that reflects the district's capital costs; for example, account for rent, construction, maintenance, upkeep, and expansions to compare and clarify the facility allowance. She also suggested that charter schools should have the right of first refusal for closed or underused public buildings. Regarding the charter school law, she suggested adding for clarification that charter schools are exempt from all laws, regulations, and requirements applicable to public schools unless the law states it applies to charter schools. In the same vein, charter schools should be exempt from all portions of negotiated agreements that are contrary to the charter school law. Regarding funding, Ms. Huggins said all sources of funding should be shared with charter schools. In her district, charter schools benefit from the BSA formula as do the local schools, including special needs funds. Also, the current indirect rate fluctuates, making budgeting and long-range planning difficult. She said that the American Charter Academy uses school transportation, and acknowledged that if transportation funds are directed to her school she could not provide the transportation that the district is currently providing. Therefore, Ms. Huggins recommended that transportation funding continue to the districts, and that the districts are required to provide "required/desired transportation for charter school students at a level equal to or greater to the services provided all students."

[9:44:27 AM](#)

REPRESENTATIVE SADDLER asked for clarification on the school's transportation needs.

MS. HUGGINS explained that the current system of regular school bus routes and shuttle buses to the charter school is working very well. However, if the school were given a little transportation fund, it could not provide the same level of service.

REPRESENTATIVE REINBOLD agreed with granting charter schools the right of first refusal to facilities. She paraphrased the transportation issue, as proposed in HB 278, and said her understanding is that the bill would allow the money to follow the student going to the charter school, via larger contracts.

MS. HUGGINS expressed her concern about having the money follow the student, regarding transportation, because it is not a per

pupil equation. She said the state needs to support all students in all schools in the same manner.

REPRESENTATIVE REINBOLD asked whether Ms. Huggins supported the proposed transportation language in HB 278.

MS. HUGGINS was unsure, but stated her support for ensuring that transportation for charter school students is equal to what is provided to other schools.

[9:48:58 AM](#)

COMMISSIONER HANLEY clarified that the intent of the bill is that the amount generated by students enrolled in charter schools is to be determined in the same manner. However, a district can choose to supply a charter school with transportation that provides the service "in the same manner" thus the charter school and district can determine the best contract for transportation.

REPRESENTATIVE SEATON asked Ms. Huggins for more information on the 70/30 bonding opportunity that was missed in her school district.

MS. HUGGINS answered that her school was originally part of a large bonding package; however, the Matanuska-Susitna Borough Assembly determined that the bond package would only include projects reimbursed on a 70/30 ratio. For an unknown reason, charter schools are only authorized to bond at a 60/40 ratio thus a rare opportunity was missed.

REPRESENTATIVE SEATON requested that EED fully explain the bonding system as it applies to charter schools.

CHAIR GATTIS informed EED the committee would hear a presentation pertaining to charter school facilities.

[9:53:05 AM](#)

ROBERT BOYLE, Superintendent, Ketchikan Gateway Borough School District, informed the committee the State Board is the controlling factor that determines the relationship between school districts and charter schools; in fact, decisions by the State Board supersede those by district superintendents. Transportation services can be operated by the school district or contracted, which is the system in Ketchikan, and the transportation contract costs the school district approximately

\$90,000 per bus route. Transportation funds generated on a daily count basis do not cover this expense; however, pooling funds allows the district to operate this service at a neutral cost, because not every student needs transportation, for example, many high school students drive to school. Charter schools are offered full access to transportation, although the bus system is designed around neighborhood schools, and service to charter school students requires some modifications by charter schools regarding the start time of their school day. Mr. Boyle agreed that the money generated by the charter schools' ADM count would be insufficient to operate an independent bus system. He assured the committee that the charter schools in his school district are "fully embraced" in all funding aspects, and a facility is provided, as is transportation, maintenance, and support.

REPRESENTATIVE SEATON asked whether transportation costs are deducted from charter school funding.

MR. BOYLE answered that transportation costs are a systemwide component, and added that the biggest obstacle to providing adequate funding for charter schools is the required ADM count. State statute requires 150 students for a charter school, and he suggested that if the legislature desires more active charter schools, it should review the requirement for 150 ADM.

[9:57:11 AM](#)

REPRESENTATIVE LEDOUX observed that the committee has heard testimony that transportation services are not a problem for charter schools in Wasilla and Ketchikan. She asked which districts do not help charter schools with regard to transportation.

DR. MCCAULEY said EED does not collect information related to the level of transportation in each district. In further response to Representative LeDoux, she said she would research the question.

REPRESENTATIVE SEATON asked whether charter schools pay for a transportation contract in areas where transportation is coordinated with the school district in the Mat-Su Borough.

DR. MCCAULEY responded that in her experience transportation was provided to the charter school as part of its indirect rate which pays for services provided by the district.

[HB 278 was heard and held.]

9:59:45 AM

ADJOURNMENT

There being no further business before the committee, the House Education Standing Committee meeting was adjourned at 9:59 a.m.