

HOUSE FINANCE COMMITTEE
March 18, 2014
1:35 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:35 p.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Michael Hanley, Commissioner, Department of Education and Early Development; Diane Blumer, Commissioner, Department of Labor and Workforce Development; Elizabeth Nudelman, Director, School Finances and Facilities, Department of Education and Early Development.

SUMMARY

HB 278 EDUCATION: FUNDING/TAX CREDITS/PROGRAMS

HB 278 was HEARD and HELD in committee for further consideration.

#hb278

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."

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MICHAEL HANLEY, COMMISSIONER, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, relayed that he discussed the components of the bill during the previous meeting (HFIN 031714 1:33 PM) on HB 278.

Representative Wilson requested clarification regarding the components of the bill. She asked the commissioner to explain how the programs in the legislation were changed from their current practice and what the expected outcomes were.

Commissioner Hanley replied that the charter school proposal had two components. Both components were centered on equity. Charter schools were administered differently via an Academic Policy Committee but were public schools and deserved equal treatment as traditional public school. He explained that one component authorized an appeal process through the commissioner of the Department of Education and Early Development (DEED) and eventually through the State Board of Education if a charter school application was denied by the school district. The other component clarified language in statute that the funding for charter schools should not be less than the funds generated by the number of students in the same manner that the funds were generated by the district. The language specified that the statute pertained to special education, vocational education, and transportation.

Representative Wilson wondered why charter schools were required to have teachers with the same requirements as public schools. She hoped for increased flexibility.

Commissioner Hanley addressed the requirement for certificated and "highly qualified" teachers were contained in statute and regulation. The administration believed students should have the same expectation of quality. The issue had intentionally not been addressed in the bill because public school teachers were expected to be certificated and highly qualified. He noted that charter schools were an alternative style of education but still remained public schools.

Representative Wilson surmised that a certified teacher did not necessarily have to be in a union. She wondered why a qualified teacher had to be hired out of the same union pool.

Commissioner Hanley replied that the union issue was dealt with on a local level and part of its negotiated agreement. He voiced that some districts did not have unionized teachers, but many did. Currently, if a charter school wanted to hire teachers outside of the bargaining unit the school needed to obtain an agreement between the school district, bargaining unit, and charter school.

Representative Wilson desired the flexibility to hire non-union and non-certificated individuals from the professional, business, and scientific communities to teach at charter schools. She wanted to see the most qualified people in the classrooms.

Representative Holmes discussed the potential significant financial impact if a charter school was operated by the State Board of Education due to an appealed denial by a local school district. She asked whether a preferred method would be to force the local school district to accept the charter school. She asked for elaboration on the issue.

Commissioner Hanley answered that a school district denial of a charter school application must be provided in writing based on fact and law. He hoped that the provision would limit the number of overturned denials on appeal. He offered that an appeal had never come before the state board of education. The bill authorized that a denial could be overturned by the commissioner or board based on fact

and law. The bill authorized that the state board would be the school board for the charter school and would operate similarly as a local district and become a separate school district. The state board would have to hire a superintendent and hire state employees.

Representative Holmes expressed concerns regarding creating additional school districts when currently over fifty state school districts were in operation. She understood the problematic nature of the charter school operating under a school district that denied its application. She wondered how the transportation funding applied to charter schools.

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Commissioner Hanley replied that the provision was included by the House Education Committee and was based on the recognition that students generating transportation should have the opportunity for transportation. He communicated that charter school students were not contained in geographic boundaries like traditional schools but transportation should be provided. He provided some examples of how a few school districts provided transportation. The Anchorage school district picked up students on current routes and in the Mat-Su parents dropped students off at a hub or certain location for pick up by school transport. The bill supported the transportation mandate already contained in statute.

Co-Chair Stoltze remarked that a number of school districts were "intransigent" and "did not want to deal with charter schools" and was the reason the issues were addressed in the legislation. He did not believe the provisions would lead to new school districts but lead to further discussions.

Commissioner Hanley agreed that the public process for appeal brought "validity" to the issue and would influence a more deliberative outcome.

Representative Holmes agreed that she wanted the districts to improve its relationships with charter schools.

Co-Chair Stoltze believed that some districts were hostile towards charter schools.

Representative Gara asked for clarification about the percentage of Base Student Allocation (BSA) funding charter schools received. He thought charter schools received 80 percent of the BSA instead of 100 percent.

Commissioner Hanley replied that home school students were funded at 80 percent of the BSA and that charter schools were funded at the same level as public schools and received 100 percent funding.

Representative Gara supported providing transportation for charter schools. He wondered whether the provision to add more charter school students for transportation diverted transportation funding for traditional schools. He asked whether more students would need transportation with the current amount of funding or should the funding be increased.

Commissioner Hanley replied that if the district was not providing transportation for a charter school then the provision would "potentially divert funds or resources" to create equity as opposed to the disparity that currently existed.

Representative Gara did not want to take transportation away from students that were already receiving it. He suggested increasing the funding to ensure all students were provided transportation and asked for the commissioner's consideration of the issue.

Commissioner Hanley responded that most of the eight school districts that contain charter schools provided transportation for charter school students. He indicated that the provision applied to the districts that do not provide any aspect of transportation services but were receiving transportation funds for the charter students. He did not believe the situation warranted additional funds, but required the districts to provide an equitable distribution of services.

Representative Gara asked for clarity about the legislation creating equity for charter schools in the area of vocational education.

Commissioner Hanley answered that the bill clarified but did not change current statutory language that specified

that the funds designated for charter schools could not be less than the funds generated by the charter students.

Representative Gara reported that there was a federal law that only applied to foster youth under a certain income level that stipulated foster youth should finish the school year in the original school when placements changed if feasible. He discussed studies that showed it was damaging for foster children who changed schools during the year when foster placement changed. He asked whether the commissioner would support an amendment requiring foster children to stay in the original school for the remainder of the school year.

Commissioner Hanley replied that it was already occurring in Anchorage in the Child in Transition program but he was uncertain to what extent.

Representative Gara agreed that it was being worked on, but transportation was not provided to all youths only as many as the funding allowed.

Co-Chair Stoltze cited the commissioner's remarks that charter schools received 100 percent funding. He asked why some school district retained 20 percent to 25 percent of its charter school's funding.

Commissioner Hanley replied that charter schools operated under a budget contract with the school district. The school district retained some portion of funding for services provided by the district for the charter school. He stated that "theoretically they should be funded equally."

Co-Chair Stoltze wanted the record to reflect that charter schools were not receiving 100 percent of the money.

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Representative Thompson wondered why the bill had removed the SAT, ACT, and career readiness assessment exam requirements.

Commissioner Hanley did not know the intent of the House Education Committee. He reported that the bill had initially included the SAT and ACT tests, but had been

removed by the House Education Committee. The career assessment, WorkKeys remained an assessment option.

Representative Thompson questioned the two different definitions of a dual credit in the bill. He read the definition on page 22, line 10:

"dual-credit student" means a secondary level student in the state who simultaneously earns college and high school credit for a course;

Representative Thompson pointed to page 19, Section 24, which defined a dual credit as a credit towards a career or vocational certification. He asked why one referred to college and one referred to vocational education. He wondered if the bill contained two separate programs.

Commissioner Hanley replied that the programs were not meant to be separate. The programs were designed to allow a student to receive post-secondary and high school credit simultaneously but not delineate between vocational or college education. The intent may not be clear; the department was open to clarifying language.

Representative Thompson discussed the charter school appeal process. He related that the original version of the bill allowed the commissioner to remand the appeal back to the school district but the House Education Committee version authorized the state to operate the school and the district could subsequently appeal to get it back. He asked for clarification about the changes.

Commissioner Hanley referenced page 6, lines 19 through 23, and noted that the commissioner's options remained unchanged. The commissioner could remand the appeal, approve the charter school and forward to the state Board of Education, or uphold the decision to deny the application. He voiced that the provision the Education Committee added was that a charter school approved on appeal would be operated by the state Board of Education. Co-Chair Stoltze surmised that the school districts were strongly motivated to keep the students in its district for the benefit of the student count.

Commissioner Hanley replied in the affirmative.

Representative Thompson pointed to education tax credits in the bill and noted that insurance premium taxes and oil and gas property and production taxes were not included. He wondered why some were excluded.

Commissioner Hanley answered that the tax credits remained the same based on the current tax statutes, but the eligibility for the credits changed. He could not speak to the change. He deferred the question to the Department of Revenue (DOR).

Representative Thompson communicated that eligibility for education tax credits was extended to multiple tax programs in statute that included: corporate income tax, fishery business and resource landing tax, insurance premium tax, title insurance premium tax, mining license tax, and oil and gas production and property tax. He reiterated that not all of the credits were identified in the bill.

Commissioner Hanley restated that he needed clarification from DOR. He indicated that the intent of the tax credits was to foster private partnerships with public education.

Representative Guttenberg questioned the charter school appeal process. He asked what the standards were for approval or denial of a charter school application. He cited page 6, line 19 that allowed the commissioner to remand the appeal back to the local school board for further review. He noticed that a time limit was not designated for the remand. He asked for clarification.

Commissioner Hanley answered that the local school board had sixty days to make a decision in order to avoid a denial by delaying. He indicated that on page 5, line 22 the appeal must be filed within 60 days of a denial and if approved by the commissioner the application must be forwarded to the state board within 30 days found on page 6, line 2.

Representative Guttenberg wondered if a timeline was necessary if the commissioner remanded the appeal to the local school board in order to avoid delaying the application.

Commissioner Hanley supported the idea. He wanted to ensure the process was concise and would determine whether the

current language regarding timelines applied to the remanding provision.

Representative Guttenberg asked for additional examples of why a school board would deny an application. He wondered what the standards were.

Commissioner Hanley replied that the standard was broad. He furthered that local school boards had requirements that charter schools were expected to meet. A denial was based on a "finding of fact" that the charter school did not meet the local criteria.

Representative Guttenberg cited page 18, Section 22 that discussed reporting [expenditure and performance report]. He had heard over the years that the type of reporting required was difficult and wondered how "successfully" the reporting was done in the past.

Commissioner Hanley replied that the provision applied to the Technical Vocational Education Program (TVEP) and was under the Department of Labor and Workforce Development (DOL).

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Representative Guttenberg referred to the TVEP reporting requirements and the department's ability to compile the information regarding: the number of students who had jobs one year after leaving the program, the median wage of former participants, and the percentage of former participants who obtained jobs related to training received under the program. He wondered how successfully the department had tracked the individuals.

DIANE BLUMER, COMMISSIONER, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, replied that the department provided a report to the legislature each year. She related that obtaining the information from some of the regional training centers proved challenging. The legislation allowed DOL to reduce funding for regional training centers that were not tracking or meeting the performance standards, which allowed a more rigorous reporting process.

Vice-Chair Neuman wondered whether the commissioner had a basic understanding of the funding for technical and vocational training programs that originated from the

unemployment insurance compensation. He remembered that the intent of the program was to retrain unemployed Alaskans in new skills to reenter the workforce. He asked for clarification.

Commissioner Blumer responded that his understanding was basically correct and reported that the intent was to train people with employable skills to make sure they could obtain work or upgrade skills for sustainable employment.

Vice-Chair Neuman referenced Section 24 that defined "articulation agreement." He asked for an explanation of the definition.

Commissioner Blumer explained that the articulation was between the regional training center and the high school and allow for simultaneous dual credits while attending the training center.

Vice-Chair Neuman asked whether the training center had accreditation from the state board or DOL for certain skill sets related to math or other subjects.

Commissioner Blumer answered in the affirmative.

Vice-Chair Neuman asked how the state measured the skills against grade level standards for the accreditation.

Commissioner Hanley replied that the articulation agreement between the two entities covered the criteria for accreditation of dual credits for both institutions. The articulation agreement ensured that the students will receive the credit in their public school after attending a training program.

Vice-Chair Neuman referred to the summary of changes titled: "Summary of Individual Components and HEDC Amendments to CSHB 278 (N)" (copy on file) related to Section 37 and read:

Section 37 repeals Section 3, ch. 91, SLA 2010 which will remove the sunset date and that will allow Alaska to continue to seek federal grants for providing start-up funds for new charter schools.

Vice-Chair Neuman noted that Section 37 in the legislation repealed Section 3 without further language. He asked for further clarification.

Commissioner Hanley clarified that a federal program potentially provided funds for charter school start-ups but the federal funds for the program was never appropriated. The program was due to sunset in the current year. The language was suggested by Representative Kito to allow the sunset date to continue with the knowledge that funding was contingent upon the federal government funding the grant program.

Vice-Chair Neuman wondered whether the funds were reflected in operating budget.

Commissioner Hanley replied in the negative.

Vice-Chair Neuman asked for clarification regarding Section 39 that applied to the high school competency examination.

Commissioner Hanley answered that the language in the bill repealed the High School Graduation Qualifying Exam (HSGQE) and the section provided the transition language. He communicated that the governor's bill included a three year transition period. House Bill 220 [HB 220-Secondary School Exit Exam; Perf Report] changed the repeal date from 2017 to 2015.

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Co-Chair Stoltze interjected that HB 220 was in committee and a committee substitute (CS) was evolving. He voiced that the CS authorized repeal after the current year. The committee considered the test invaluable and "meaningless."

Vice-Chair Neuman supported eliminating the test. He asked about charter school transportation. He was concerned that there were not enough school buses and that they were overbooked. He worried that the school districts could renege on providing transportation for charter schools by claiming that the district did not have enough busses. He wondered whether state law required a certain number of buses based on average daily membership.

Commissioner Hanley replied in the negative. He read the language in the CS, on page 9, line 3:

(2) at a minimum, provide transportation services for students enrolled in the charter school on a space available basis along the regular routes that the students attending schools in an attendance area in the district are transported;

Vice-Chair Neuman asked for verification on whether the school district excluded charter school students in its Average Daily Membership (ADM) calculation for student transportation.

Commissioner Hanley responded that the ADM counted for transportation funding no matter what school students attended in the district.

Representative Costello identified the charter school funding equality issue. She wanted clarification regarding the commissioner's previous statement that charter schools received 100 percent funding. She related that she had been approached by a charter school hoping for legislation providing equity for charter schools.

Co-Chair Stoltze pointed out that the school district received the funding not the charter school.

Commissioner Hanley concurred with the Co-Chair and clarified that the school district received full funding for the students and a contract between the district and charter stipulated the school's funding. Statute required that the budget of the charter should not be less than the funds generated by the number of students and distributed in the same manner as students in other public schools in the district. He stated that the charter schools should have equitable funding.

Representative Munoz stated that currently a charter school could contract with a district to provide special education and other services for a certain percentage of funding. She wondered whether a disincentive for the district to provide special education services to charter schools was created when a charter school received 100 percent of its funding.

Commissioner Hanley reiterated that the state provided funding to school districts and not individual charter schools and the contract delineated the services provided and how or if the school was charged. He believed that the

charter schools were typically strongly supported by the district.

Representative Munoz asked about the requirements for a charter school that was placed in a single site district on appeal.

Commissioner Hanley answered that if a charter school became a single site district the school would be required to meet all of the needs of students by itself. He noted that the school would be required to find special education teachers, provide transportation and other resources. Small districts were relatively vulnerable when trying to provide all of the required services. Single site school districts often utilized "itinerant" resources from nearby school districts.

Representative Munoz shared that in other states "alternative chartering organizations" were authorized to approve a charter school. She wondered whether the chartering organization would become a school district upon appeal if alternative chartering organizations were permitted in Alaska.

Commissioner Hanley concurred that several states allowed the scenario and affirmed that "in essence" the charter schools were their own school district as defined by the authorizer and not by their geography.

Co-Chair Stoltze asked about the likelihood of single site charter school districts in cases of appeal. He presumed that all parties would seek to avoid a single site district outcome.

Commissioner Hanley replied that the likelihood would be rare. He believed that a strong incentive existed for all parties to work together towards a solution.

Co-Chair Stoltze believed the issue was being "overblown" and provided "sound bites" regarding the formation of new school districts.

Representative Wilson pointed to page 7, line 19 and read:

"the indirect cost rate approved by the department up to 4 percent..."

Representative Wilson asked whether the charter school would receive 96 percent of the funding and the district kept 4 percent for indirect costs or whether the contract would focus on the 96 percent.

Commissioner Hanley explained that indirect costs were administrative costs the districts incurred for all of its schools which included compliance and budgetary issues. Direct costs were not addressed in the language. He spoke to the indirect administrative cost. He stated that the indirect figure seemed low. The administration did not include the language in the original bill in order not to "insert themselves in the contracts between the charter school and the local district." He understood that it was a measure to protect the charter school from unfair charges.

Representative Wilson believed that the goal was to ensure more equity between traditional and charter schools. She supported the language in the bill. She wanted to clarify that the language did not guarantee that 96 percent of the funding would be passed through to the charter school and that a contract based on the 96 percent was required for direct cost services.

Commissioner Hanley answered that 96 percent of the funding would go to the district and a contract would ensue for direct cost services. He reiterated that the intent of the language was to limit indirect costs.

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Representative Wilson discussed charter school transportation. She did not understand why charter school transportation should be limited to space available when the state was paying for all of the students in a district. She was concerned about the issue. She believed that if the bill was about equity then all students on the same route should be provided transportation. She asserted that if the extra students were traditional school students the district would have to provide the transportation.

Co-Chair Stoltze commented that the idea opened up a big issue. He relayed that students attending optional public schools were also not provided transportation. He continued that the minimum standard was to provide transportation on a space available basis to at least force the most

"intransigent" districts that did not allow for any transportation to provide it.

Representative Wilson understood the issue but felt that since the state was paying for the student's transportation it should be provided.

Co-Chair Stoltze wondered whether the state board could declare that a charter school approved upon appeal could be forced on the district and placed under "administrative" observation to ensure the districts compliance towards the charter school. He wondered whether a new school district would need to be created under an appeal scenario.

Commissioner Hanley agreed that alternatives to the single site school district scenario existed.

Co-Chair Stoltze believed that a better scenario was possible than creating new school districts. He expressed frustration with the way the single school district scenario was being repeated by detractors of charter schools. He noted the commissioner's statements that the possibility was "unlikely." He stated that the committee had the ability to make the single site district an "impossible" scenario.

Representative Gara wondered about the provisions regarding testing out of a course found in Section 1 of the legislation. He wondered whether a student that tested out of a course would have to take another course. He did not want a student to have to take a course in a subject the student already mastered but also did not want a student to sit idle.

Commissioner Hanley replied that clarification on the provision was necessary. He anticipated that the school districts offered students the ability to test out of a course in the beginning of the school year or semester so the student could take something else. He commented that the student would receive credits for testing out of the course but the student could move on to take another required course.

Representative Gara surmised that if a student tested out of a required course the student did not need to take another course because they acquired the credit.

Commissioner Hanley replied that if a student received the credit for testing out of a class and met all of the requirements the student could graduate early. He reported that typically a student will elect to take another course.

Representative Gara wondered whether the provision needed more fine tuning. He noted that the student was not required to take another course.

Commissioner Hanley answered that currently a student tested out of a class and graduated early or took less credits during a semester. The provision "simply" authorized the ability for students to test out of classes for credit.

Representative Gara asked about the 4 percent for indirect costs in Section 9. He noted that the indirect costs were currently determined by DEED. He wondered what percentage DEED calculated for indirect costs.

Co-Chair Stoltze asked whether the indirect costs were currently determined by the department or school district.

Commissioner Hanley clarified that the indirect costs were determined by the school district but approved by the department.

Representative Gara requested what the percentage difference was between the bill and current practices.

ELIZABETH NUDELMAN, DIRECTOR, SCHOOL FINANCES AND FACILITIES, DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, stated that the amendment would set a 4 percent cap on indirect costs. Currently the indirect costs were based on a formula and approved by the department. She reported that the indirect rates ranged from 4.5 percent to 5.5 percent and were calculated annually.

Representative Gara believed in adequate and equitable funding for charter and other public schools. He spoke to inequities that existed in traditional public schools. Some schools required more labor intensive services than others and the districts determined the levels of funding. He wondered why a formula would be carved out for charter schools when districts used its own funding discretion for traditional schools within the same district.

Commissioner Hanley responded that the legislation recognized that the mechanism for funding a charter school under contract was set up differently than the traditional schools in the district and largely spoke to the different operating structure of charter schools.

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Representative Gara agreed that charter schools were treated unfairly under certain circumstances. He expressed discomfort about removing the school districts discretion to fund schools at a level to best educate all of the students in a district. He wondered why he should feel comfortable by the language in the bill.

Commissioner Hanley answered that the 4 percent provision added by the education committee was a new provision and limited the amount a district could charge for indirect costs. He explained that traditionally in the Anchorage school district costs for the schools were taken care of by the school district and a small amount was allotted to each school for discretionary funds. Charter schools received additional money but had the additional responsibility to set up a school. Charter school funding was not changed in the legislation.

Representative Costello wondered whether the credit for a student that tested out of a class would show up on a transcript. She asked whether a student could fill the time with a college class.

Commissioner Hanley replied in the affirmative. He restated that testing out of a course was currently allowed. The districts decided how to allocate the credits. The bill required the districts to provide the opportunity for students to test out of a class. The intent of the legislation was to provide the student the opportunity to test out and take a college class or elective based on their need.

Co-Chair Stoltze thanked the departments for their time.

HB 278 was HEARD and HELD in committee for further consideration.

ADJOURNMENT

2:50:40 PM

The meeting was adjourned at 2:50 p.m.