

**HB**

**145**

<TARGET><BILL>HB 145</BILL><SUBJECT>HB  
145</SUBJECT><COMM>HEDC27</COMM></TARGET>



**CS FOR HOUSE BILL NO. 145(EDC)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE EDUCATION COMMITTEE

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES KELLER, Millett, Johansen**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing the parental choice scholarship program to be administered by the**  
2 **Department of Education and Early Development for the purpose of paying the cost of**  
3 **attending grades kindergarten through 12 at private schools; and providing for an**  
4 **effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 \* **Section 1.** AS 14 is amended by adding a new chapter to read:

7 **Chapter 31. Parental Choice Scholarship Program.**

8 **Sec. 14.31.010. Parental choice scholarship program established.** The  
9 parental choice scholarship program is established for the purpose of providing public  
10 funding of the cost of attending grades kindergarten through 12 at a private school  
11 selected by the student's parent or legal guardian. The department shall administer the  
12 program under the provisions of this chapter. Participation of a school in the program  
13 does not confer authority over a school to the department that is not expressly  
14 provided for in this title. Payments made under the program are subject to

1 appropriation.

2 **Sec. 14.31.020. School selection and scholarship amount.** (a) A private  
3 school in the state that is accepted for participation in the program may receive a  
4 scholarship under the program on behalf of a student who attends the school,  
5 regardless of the attendance area or the school district in which the student resides.

6 (b) Notwithstanding the calculations required under AS 14.17, the department  
7 shall award a parental choice scholarship that is equal to the lesser of the cost of  
8 tuition at the participating school or the amount the district would receive as state aid  
9 under AS 14.17 for a similarly situated student to attend a public school in the district  
10 in which the student resides. Of the amount available for a parental choice scholarship  
11 under AS 14.31.045, the department shall pay a parental choice scholarship while a  
12 student is attending a participating school as follows:

13 (1) to the school district in which the participating student resides,  
14 except as provided in AS 14.31.030(c), 30 percent of the amount the district would  
15 receive as state aid under AS 14.17 for the student; and

16 (2) to a participating school, except as provided in AS 14.31.030(c),  
17 the amount remaining after the district is paid under (1) of this subsection, up to 70  
18 percent of the amount the district in which the school is located would receive as state  
19 aid under AS 14.17 for the student.

20 (c) The parent or legal guardian shall be responsible for costs and fees  
21 assessed by a participating school that exceed the amount paid under (b)(2) of this  
22 section.

23 (d) The department shall provide transportation to a participating school to the  
24 extent required under AS 14.09.020.

25 (e) A scholarship received for the benefit of a student under this section must  
26 be used for educational purposes. A scholarship is transferable among participating  
27 schools.

28 **Sec. 14.31.025. Accountability and enrollment standards for a**  
29 **participating school.** (a) The department shall accept a school for participation in the  
30 parental choice scholarship program if the school

31 (1) submits to the department, on a form approved by the department,

1 notice that the school intends to participate in the program;

2 (2) meets the following financial accountability standards:

3 (A) demonstrates the school's financial ability to repay to the  
4 department any overpaid scholarship funds; and

5 (B) certifies the actual annual costs to the school of educating a  
6 student, including a prorated amount for facility and operating costs; and

7 (3) is a school that is a

8 (A) private correspondence study program located and operated  
9 entirely in the state; or

10 (B) private school operated in compliance with AS 14.45.030  
11 or AS 14.45.100 - 14.45.130.

12 (b) Nothing in this chapter authorizes the department to regulate a  
13 participating private school except as necessary to carry out the program.

14 **Sec. 14.31.030. Effect on districts.** (a) A school that, as a result of the  
15 program, has an ADM of less than 10 but five or more shall be treated as if the school  
16 had 10 students for a two-year period following the date on which the ADM is  
17 reported to be less than 10 but five or more for purposes of calculating state aid under  
18 AS 14.17. In this subsection, "ADM" has the meaning given in AS 14.17.990.

19 (b) If requested by a participating school, a school district that receives a  
20 payment under AS 14.31.020(b)(1) shall enter into a lease agreement with the  
21 participating school for space controlled by the school district if

22 (1) the lease is offered with reasonable terms;

23 (2) the space that is subject to the lease agreement is available; and

24 (3) the agreement is consistent with applicable state law.

25 (c) If a school district that receives a payment under AS 14.31.020(b)(1)  
26 unreasonably refuses to enter into a lease agreement as provided under (b) of this  
27 section, the board may, after notice and an opportunity for a hearing before the board,  
28 order the department to provide to the participating school that requested the lease  
29 agreement the funding the district received under AS 14.31.020(b)(1) for the students  
30 attending the participating school.

31 **Sec. 14.31.035. Departmental duties.** (a) In implementing the parental choice

1 scholarship program, the department shall

2 (1) obtain from the participating school a count of the number of  
3 participating students in the program;

4 (2) make scholarship payments directly to the school quarterly after  
5 receiving proof satisfactory to the department that the student claimed under a  
6 scholarship attends the school on a full-time basis;

7 (3) make available to students and students' parents or guardians a list  
8 of schools that have been accepted to participate in the program; and

9 (4) provide a standard application for use by a participating school to  
10 enroll a student under the program; a school may, however, supplement the  
11 application.

12 (b) If the department determines that a school is ineligible under this chapter  
13 to participate in the program, the department shall, after administrative and judicial  
14 appeal periods have lapsed, immediately notify the affected students and the students'  
15 parents or guardians.

16 **Sec. 14.31.040. Regulations.** The department shall adopt regulations necessary  
17 to carry out the program including

18 (1) procedures for calculating and distributing scholarships;

19 (2) timelines and procedures for application, renewal, and appeal for  
20 participating schools and students; and

21 (3) standards for acceptance, revocation, and denial for participating  
22 schools.

23 **Sec. 14.31.045. Appropriations for scholarships.** The legislature may  
24 appropriate parental choice scholarship program funds to the department for  
25 distribution to the participating schools and affected districts. If the appropriation for  
26 the program is insufficient in a given fiscal year, the department shall distribute the  
27 available funds to the participating schools and affected districts prorated by the total  
28 number of students participating in the program.

29 **Sec. 14.31.090. Definitions.** In this chapter,

30 (1) "district" has the meaning given in AS 14.17.990;

31 (2) "private school" means a school located in the state that provides

1 education to students attending grades kindergarten through 12, or any combination of  
2 those grades, and that does not receive state funding under AS 14.17;

3 (3) "program" means the parental choice scholarship program;

4 (4) "student" means a person residing in the state who is at least five  
5 years of age but not more than 21 years of age.

6 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 PARENTAL CHOICE SCHOLARSHIP PROGRAM; APPLICABILITY. (a) In the  
9 three school years following the effective date of this section, the parental choice scholarship  
10 program established under AS 14.31.010, added by sec. 1 of this Act, does not apply to, and a  
11 parental choice scholarship may not affect, a public school that has an average daily  
12 membership of less than 50 students for that year.

13 (b) In this section, "average daily membership" has the meaning given in AS  
14 14.17.990.

15 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 CONTINGENCY. Sections 1 and 2 of this Act take effect only if an amendment to art.  
18 VII, sec. 1, Constitution of the State of Alaska, deleting the prohibition on the payment of  
19 public funds for the direct benefit of a private educational institution, is approved by the  
20 voters before July 1, 2013.

21 \* **Sec. 4.** If, under sec. 3 of this Act, secs. 1 and 2 of this Act take effect, they take effect on  
22 the effective date of the constitutional amendment described in sec. 3 of this Act.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 31, 2012

**SUBJECT:** Effect on districts and explanation of applicability (CSHB 145( )  
(Work Order No. 27-LS0223\G))

**TO:** Representative Wes Keller  
Attn: Ernest Prax

**FROM:** Jean M. Mischel  
Legislative Counsel

You have asked two questions pertaining to the above-referenced bill draft as follows.

1. Does section 2 of the bill preclude a child who attends a public school that has an average daily membership of less than 50 for that year from participation in the parental choice scholarship program established by the bill?

Yes, for the stated three years following the effective date of the Act.

2. Please describe the effect of proposed sec. 14.31.030 in sec. 1 of the bill using a hypothetical of a school with an ADM of 10 that loses five students to a private school under the scholarship program.

That school with five remaining students will be treated, for purposes of calculating the school size factor under AS 14.17.450, as a school with an ADM of 10 for a two-year period following the date on which the ADM is reported to be less than 10.

If I may be of further assistance, please advise.

JMM:ljw  
12-066.ljw

HB 145 Version G Summary of Changes

Insert pg. 1 line 14: "Payments made under the program are subject to appropriation."

Changed pg. 2 line 5: "...regardless of the attendance area ~~in~~ or the school district in which the student resides."

Added: pg. 4 lines 21-25.

QUESTIONS FROM JANUARY 27, 2012 HOUSE EDUCATION COMMITTEE HEARING  
REGARDING HB 145: K-12 SCHOLARSHIP PROGRAM  
INFORMATION PROVIDED BY DEPARTMENT OF EDUCATION & EARLY  
DEVELOPMENT AND OFFICE OF REP. WES KELLER

Questions on version G (attached).

- 1) Please explain how the State would transport participating students under HB 145.  
**Sec. 14.09.020. Transportation for nonpublic school students.**

In those places in the state where the department or a school district provides transportation for children attending public schools, the department also shall provide transportation for children who, in compliance with the provisions of AS 14.30, attend nonpublic schools that are administered in compliance with state law where the children, in order to reach the nonpublic schools, must travel distances comparable to, and over routes the same as, the distances and routes over which the children attending public schools are transported. The commissioner shall administer this nonpublic school student transportation program, integrating it into existing systems as much as feasible, and the cost of the program shall be paid from funds appropriated for that purpose by the legislature.

- 2) How will special and intensive needs students be affected by HB 145? Will they have the opportunity to apply and be accepted in private participating schools? Can private schools refuse to accept them?
- Special and intensive needs students have the opportunity to apply to a private school. However, it is unlikely that the private school would accept them because they are not able to provide the service the student needs. Nothing in the legislation prohibits a private school from accepting special and intensive needs students.
- 3) Are there schools in Alaska that are able to select which students they do or do not accept even if the school receives state and/or federal dollars?

Federal anti-discrimination laws apply to schools accepting state or federal funding:

- Title VI of the Civil Rights Act of 1964 bars discrimination based on race, color or national origin in any program or activity that receives federal financial assistance. It also prohibits discrimination in public schools based upon a student's religious beliefs
- Title IX of the Education Amendments of 1972 bans discrimination on the basis of sex in educational programs and activities receiving federal funding. Unless it's an all-boys or all-girls school, it can't deny admission to a student simply because he's of the opposite sex. It also covers sexual harassment by staff and other students
- Section 504 of the Rehabilitation Act of 1973 makes it illegal for any program and activity that gets federal money to discriminate against a person based upon a disability. "Disability" includes many physical and mental or psychological disabilities.

## CHARTER SCHOOL INFORMATION:

**Charter School Admissions:** AS 14.03.265(b) A charter school shall enroll all eligible students who submit a timely application, unless the number of those applications exceeds the capacity of the program, class, grade level or building. In the event of an excess of those applications, the charter school and the local school board shall attempt to accommodate all of those applicants by considering providing additional classroom space and assigning additional teachers from the district to the charter school. If it is not possible to accommodate all eligible students who submit a timely application, students shall be accepted by random drawing. A school board may not require a student to attend a charter school.

### **Charter Schools**

In Alaska, under AS 14.03.255:

"(a) A charter school operates as a school in the local school district except that the charter school [...] is exempt from the local school district's textbook, program, curriculum, and scheduling requirements[.]"

For the purposes of IDEA, charter schools in Alaska are the responsibility of districts, equivalent to any other schools within the district. Though charter schools may be relieved from some local administrative requirements (e.g. the hiring of administrators), there are no exemptions from the requirements of IDEA, ADA, or the Rehabilitation Act for districts operating programs for students with disabilities in charter schools. *Charter school special education programs must operate in the same manner, and with the same funding, as other district programs (20 USCS § 1413(a)(5).*

Ernest Prax  
*Office of Representative Wes Keller*  
*State Capitol, Room 432*  
*Juneau, AK 99801*  
*Phone: 465-2186; Fax: 465-3818*

FAILED  
3-4 P. Wilson  
YAYS: Cissna  
Seaton

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE PEGGY WILSON  
TO: CSHB 145( ), Draft Version "G"

- 1 Page 2, following line 22:
- 2 Insert a new paragraph to read:
- 3 "(1) without discriminating on the basis of race, religion, color,
- 4 national origin, sex, or disability, enrolls all eligible students who submit a timely
- 5 application; if the number of applications exceeds the physical capacity of the
- 6 program, class, grade level, or building, students shall be accepted by random
- 7 drawing;"
- 8
- 9 Renumber the following paragraphs accordingly.

FAILED 2-5  
YAYS: Cissna  
Kamratalw

27-LS0223\G.6  
Mischel  
1/30/12

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE CISSNA

TO: CSHB 145( ), Draft Version "G"

1 Page 2, following line 22:

2 Insert a new paragraph to read:

3 "(1) is located in a community with a population of not less than  
4 35,000;"

5

6 Renumber the following paragraphs accordingly.

7

8 Page 4, lines 19 - 27:

9 Delete all material.

10

11 Renumber the following bill sections accordingly.

12

13 Page 4, line 30:

14 Delete "Sections 1 and 2 of this Act take"

15 Insert "Section 1 of this Act takes"

16

17 Page 5, line 3:

18 Delete "sec. 3 of this Act, secs. 1 and 2 of this Act take effect, they take"

19 Insert "sec. 2 of this Act, sec. 1 of this Act takes effect, it takes"

20

21 Page 5, line 4:

22 Delete "sec. 3"

23 Insert "sec. 2"

Adopted  
No Objection

27-LS0223\G.5  
Mischei  
1/27/12

**AMENDMENT**

OFFERED IN THE HOUSE

BY REPRESENTATIVE FEIGE

TO: CSHB 145( ), Draft Version "G"

1 Page 3, lines 6 - 7:

2 Delete "Notwithstanding the lower limit for a student count of 10 under  
3 AS 14.17.450(a) and (b), a"

4 Insert "A"

5

6 Page 3, line 10:

7 Delete "the school size factor under AS 14.17.450"

8 Insert "state aid under AS 14.17"

Adopted 5-2  
NAYS - Kawasaki  
P. Wilson

27-LS0223\G.3  
Mischel  
1/27/12

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE FEIGE

TO: CSHB 145( ), Draft Version "G"

1 Page 2, line 7:

2 Delete "pay to a participating school attended by the student under this section"

3 Insert "award"

4

5 Page 2, line 9:

6 Delete "and local"

7

8 Page 2, line 11, following "resides.":

9 Insert "of the amount available for a parental choice scholarship under AS 14.31.045,  
10 the department shall pay a parental choice scholarship while a student is attending a  
11 participating school as follows:

12 (1) to the school district, in which the participating student resides,  
13 except as provided in AS 14.31.030(c), 30 percent of the amount the district would  
14 receive as state aid under AS 14.17 for the student; and

15 (2) to a participating school, except as provided in AS 14.31.030(c),  
16 the amount remaining after the district is paid under (1) of this subsection, up to 70  
17 percent of the amount the district in which the [student] resides would receive as state  
18 aid under AS 14.17 for the student." School

19

20 Page 2, line 13:

21 Delete "(b)"

22 Insert "(b)(2)"

23

1 Page 3, line 6, following "**districts.**":

2 Insert "(a)"

3

4 Page 3, following line 11:

5 Insert new subsections to read:

6 "(b) If requested by a participating school, a school district that receives a  
7 payment under AS 14.31.020(b)(1) shall enter into a lease agreement with the  
8 participating school for space controlled by the school district if

9 (1) the lease is offered with reasonable terms;

10 (2) the space that is subject to the lease agreement is available; and

11 (3) the agreement is consistent with applicable state law.

12 (c) If a school district that receives a payment under AS 14.31.020(b)(1)  
13 unreasonably refuses to enter into a lease agreement as provided under (b) of this  
14 section, the board may, after notice and an opportunity for a hearing before the board,  
15 order the department to provide to the participating school that requested the lease  
16 agreement the funding the district received under AS 14.31.020(b)(1) for the students  
17 attending the participating school."

18

19 Page 4, line 7, following "schools":

20 Insert "and affected districts"

21

22 Page 4, line 9, following "schools":

23 Insert "and affected districts"

27-LS0223\G  
Mischel  
1/24/12

**CS FOR HOUSE BILL NO. 145( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES KELLER, Millett**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing the parental choice scholarship program to be administered by the**  
2 **Department of Education and Early Development for the purpose of paying the cost of**  
3 **attending grades kindergarten through 12 at private schools; and providing for an**  
4 **effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **\* Section 1.** AS 14 is amended by adding a new chapter to read:

7 **Chapter 31. Parental Choice Scholarship Program.**

8 **Sec. 14.31.010. Parental choice scholarship program established.** The  
9 parental choice scholarship program is established for the purpose of providing public  
10 funding of the cost of attending grades kindergarten through 12 at a private school  
11 selected by the student's parent or legal guardian. The department shall administer the  
12 program under the provisions of this chapter. Participation of a school in the program  
13 does not confer authority over a school to the department that is not expressly  
14 provided for in this title. Payments made under the program are subject to

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appropriation.

**Sec. 14.31.020. School selection and scholarship amount.** (a) A private school in the state that is accepted for participation in the program may receive a scholarship under the program on behalf of a student who attends the school, regardless of the attendance area or the school district in which the student resides.

(b) Notwithstanding the calculations required under AS 14.17, the department shall pay to a participating school attended by the student under this section a parental choice scholarship that is equal to the lesser of the cost of tuition at the participating school or the amount the district would receive as state and local aid under AS 14.17 for a similarly situated student to attend a public school in the district in which the student resides.

(c) The parent or legal guardian shall be responsible for costs and fees assessed by a participating school that exceed the amount paid under (b) of this section.

(d) The department shall provide transportation to a participating school to the extent required under AS 14.09.020.

(e) A scholarship received for the benefit of a student under this section must be used for educational purposes. A scholarship is transferable among participating schools.

**Sec. 14.31.025. Accountability and enrollment standards for a participating school.** (a) The department shall accept a school for participation in the parental choice scholarship program if the school

(1) submits to the department, on a form approved by the department, notice that the school intends to participate in the program;

(2) meets the following financial accountability standards:

(A) demonstrates the school's financial ability to repay to the department any overpaid scholarship funds; and

(B) certifies the actual annual costs to the school of educating a student, including a prorated amount for facility and operating costs; and

(3) is a school that is a

(A) private correspondence study program located and operated

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entirely in the state; or

(B) private school operated in compliance with AS 14.45.030 or AS 14.45.100 - 14.45.130.

(b) Nothing in this chapter authorizes the department to regulate a participating private school except as necessary to carry out the program.

**Sec. 14.31.030. Effect on districts.** Notwithstanding the lower limit for a student count of 10 under AS 14.17.450(a) and (b), a school that, as a result of the program, has an ADM of less than 10 shall be treated as if the school had 10 students for a two-year period following the date on which the ADM is reported to be less than 10 for purposes of calculating the school size factor under AS 14.17.450. In this subsection, "ADM" has the meaning given in AS 14.17.990.

**Sec. 14.31.035. Departmental duties.** (a) In implementing the parental choice scholarship program, the department shall

(1) obtain from the participating school a count of the number of participating students in the program;

(2) make scholarship payments directly to the school quarterly after receiving proof satisfactory to the department that the student claimed under a scholarship attends the school on a full-time basis;

(3) make available to students and students' parents or guardians a list of schools that have been accepted to participate in the program; and

(4) provide a standard application for use by a participating school to enroll a student under the program; a school may, however, supplement the application.

(b) If the department determines that a school is ineligible under this chapter to participate in the program, the department shall, after administrative and judicial appeal periods have lapsed, immediately notify the affected students and the students' parents or guardians.

**Sec. 14.31.040. Regulations.** The department shall adopt regulations necessary to carry out the program in a manner that ensures the highest number of student and school participation, including

(1) procedures for calculating and distributing scholarships;

- 1 (2) timelines and procedures for application, renewal, and appeal for  
2 participating schools and students; and  
3 (3) standards for acceptance, revocation, and denial for participating  
4 schools.

5 **Sec. 14.31.045. Appropriations for scholarships.** The legislature may  
6 appropriate parental choice scholarship program funds to the department for  
7 distribution to the participating schools. If the appropriation for the program is  
8 insufficient in a given fiscal year, the department shall distribute the available funds to  
9 the participating schools prorated by the total number of students participating in the  
10 program.

11 **Sec. 14.31.090. Definitions.** In this chapter,

- 12 (1) "district" has the meaning given in AS 14.17.990;  
13 (2) "private school" means a school located in the state that provides  
14 education to students attending grades kindergarten through 12, or any combination of  
15 those grades, and that does not receive state funding under AS 14.17;  
16 (3) "program" means the parental choice scholarship program;  
17 (4) "student" means a person residing in the state who is at least five  
18 years of age but not more than 21 years of age.

19 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21 PARENTAL CHOICE SCHOLARSHIP PROGRAM; APPLICABILITY. (a) In the  
22 three school years following the effective date of this Act, the parental choice scholarship  
23 program established under AS 14.31.010, added by sec. 1 of this Act, does not apply to, and a  
24 parental choice scholarship may not affect, a public school that has an average daily  
25 membership of less than 50 students for that year.

26 (b) In this section, "average daily membership" has the meaning given in  
27 AS 14.17.990.

28 \* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 CONTINGENCY. Sections 1 and 2 of this Act take effect only if an amendment to art.  
31 VII, sec. 1, Constitution of the State of Alaska, deleting the prohibition on the payment of

1 public funds for the direct benefit of a private educational institution, is approved by the  
2 voters before July 1, 2013.

3 \* **Sec. 4.** If, under sec. 3 of this Act, secs. 1 and 2 of this Act take effect, they take effect on  
4 the effective date of the constitutional amendment described in sec. 3 of this Act.

General revisions to HB 145 Version I now reflected in Version Y.

- Removes public schools completely from the scholarship program. Only private schools can participate.
- Directs the Department of Education and Early Development to administer the scholarship program.
- HB 145 now provides statutory guidance on missions and measures rather than trying to put regulation into statute.

HB 145 Version I	HB 145 Version Y
Sec. 14.31.010: Establishes a parental choice scholarship program for K-12 students attending a public or private school. School districts shall administer the program.	Sec. 14.31.010: Reworded to now state that the parental choice scholarship program is limited to private schools and is subject to appropriation by the legislature. Administration by school districts is removed and put under the purview of the Department of Education and Early Development.
Sec. 14.31.020 (a): States that a public school may receive scholarship funds for students that are participating in the scholarship program.	Sec. 14.31.020 (a): Only private schools may participate and receive funds from the scholarship program.
Sec. 14.31.020 (b): Defines participation requirements for private schools.	Sec. 14.31.020 (b): Version I language is deleted and reworded as follows: <ul style="list-style-type: none"> <li>• Notwithstanding provisions of AS 14.17 <i>Financing of Public Schools</i>, under the parental choice scholarship program, the department shall pay to a participating private school a scholarship that: <ul style="list-style-type: none"> <li>○ Is the lessor of the cost of tuition at the participating school or the state and local aid the school district receives for a similarly situated student to attend a public school in the district in which the student resides.</li> </ul> </li> </ul>
Sec. 14.31.020 (c)(1-2): (c)(1) is now part (b) of Version Y. (c)(2) is deleted.	Sec. 14.31.020 (c): Parent or legal guardian is responsible for a participating school's assessed fees and costs that exceed (b).
Sec. 14.31.020 (d): If a parent selects a public school outside of the attendance area in which the student currently resides, the old school district may contribute to student transportation costs to the participating public school.	Sec. 14.31.020 (d): The department shall provide transportation to a participating private school in a manner consistent with AS 14.09.020 <i>Transportation for nonpublic school students</i> .
Sec. 14.31.020 (e): Scholarship must be for educational purposes.	Sec. 14.31.020 (e): Same.
Sec. 14.31.020 (f): Participating schools shall include scholarship students in the student count for purposes of calculating state aid under AS 14.17.610 <i>Distribution of state aid</i> .	Sec. 14.31.020 (f): Added "submitted to the district" for clarification purposes.
Sec. 14.31.025 (a): Defines the criteria districts must use when accepting parental choice scholarship participating schools.	Sec. 14.31.025 (a): <ul style="list-style-type: none"> <li>• Directs the department to establish accountability and enrollment standards and to accept eligible private schools for</li> </ul>

	<p>participation in the scholarship program.</p> <ul style="list-style-type: none"> <li>• Rewrites the acceptance standards to more reflect existing statutory guidelines rather than trying to write regulation into statute.</li> <li>• Removes the ‘random selection process’ which would have infringed upon a non-government school’s ability to select students.</li> <li>• Removes guidelines that would have conflicted with a non-government school’s hiring in accordance with their mission and values.</li> </ul>
Sec. 14.31.025 (b): Preserves a participating school’s autonomy and not subject to additional regulation unless authorized under AS 14.31.010-090.	Sec. 14.31.025 (b): Reworded to now state that nothing in the legislation authorizes the Dept. of Education to regulate participating private schools except as necessary to carry out the scholarship program.
	<p>Sec. 14.31.30: New Section~ Effect on districts</p> <ul style="list-style-type: none"> <li>• States that if a <b>public</b> school loses students to the scholarship program and falls below the ADM threshold limit of 10 students, the school will still be treated as having 10 students for a 2 year period following the date on which the ADM is reported.</li> </ul>
Sec. 14.31.035: District Duties	Sec. 14.31.035: Changed to Department Duties
Sec. 14.31.035 (a)(1): Directs districts to make scholarship payments to participating schools after receiving verification that the student is attending full time.	Sec. 14.31.035 (a)(1): Directs the department to obtain from participating schools the number of scholarship students.
	Sec. 14.31.035 (a)(2): Same intent (a)(1) in Version I but now replaces ‘district’ with ‘department’.
Sec. 14.31.035 (a)(2): List of approved participating schools.	Sec. 14.31.035 (a)(3): Same as (a)(2) in Version I.
Sec. 14.31.035 (a)(3): Instructs districts to develop a standardized application for schools to enroll a scholarship student.	Sec. 14.31.035 (a)(4): Same as (a)(3) in Version I, but the department is now responsible for developing the application.
Sec. 14.31.035 (b): If a district denies an application or revokes a school’s program participation, they must notify the affected students and parents.	Sec. 14.31.035 (b): The department, not the district, is now responsible for notifying students and their parents if a participating school is deemed ineligible.
Sec. 14.31.040: Directs the department to establish regulations needed to carry out program.	Sec. 14.31.040: Same as Version I but removes subsection (1).
Sec. 14.31.045: States that the Legislature may fund the program. If the appropriation for a fiscal year is insufficient, the department will distribute available funds to districts prorated by the number of participating students.	Sec. 14.31.045: Same as Version I except that the department now distributes the scholarship funds to participating schools, not school districts.
Sec. 14.31.090: Definitions and effective date.	Sec. 14.31.090: Definitions and adds the constitutional contingency language.

Amendment #1

Intent: Further clarify that the parental choice scholarship program depends on legislative appropriation to function.

Insert: Page 1 Line 8.

**Sec. 14.31.010. Parental choice scholarship program established. Subject to appropriation.** the parental choice scholarship program is established for the purpose of providing public funding of the cost of attending grades kindergarten through 12 at a private school selected by the student's parent or legal guardian.

Not offered

Amendment #2

Intent: Reinsert mistakenly deleted text.

Insert: Page 2 Line 19.

*Withdrawn  
& not offered*

**(f) A participating school shall include students who are enrolled under this section in the student count submitted to the district for purposes of calculating state aid under AS 14.17.610.**

27-LS0223\Y  
Mischel  
1/21/12

**CS FOR HOUSE BILL NO. 145( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES KELLER, Millett**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act establishing the parental choice scholarship program to be administered by the**  
2 **Department of Education and Early Development for the purpose of paying the cost of**  
3 **attending grades kindergarten through 12 at private schools; and providing for an**  
4 **effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **\* Section 1. AS 14 is amended by adding a new chapter to read:**

7 **Chapter 31. Parental Choice Scholarship Program.**

8 **Sec. 14.31.010. Parental choice scholarship program established.** The  
9 parental choice scholarship program is established for the purpose of providing public  
10 funding of the cost of attending grades kindergarten through 12 at a private school  
11 selected by the student's parent or legal guardian. The department shall administer the  
12 program under the provisions of this chapter. Participation of a school in the program  
13 does not confer authority over a school to the department that is not expressly  
14 provided for in this title.

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**Sec. 14.31.020. School selection and scholarship amount.** (a) A private school in the state that is accepted for participation in the program may receive a scholarship under the program on behalf of a student who attends the school, regardless of the attendance area in the school district in which the student resides.

(b) Notwithstanding the calculations required under AS 14.17, the department shall pay to a participating school attended by the student under this section a parental choice scholarship that is equal to the lesser of the cost of tuition at the participating school or the amount the district would receive as state and local aid under AS 14.17 for a similarly situated student to attend a public school in the district in which the student resides.

(c) The parent or legal guardian shall be responsible for costs and fees assessed by a participating school that exceed the amount paid under (b) of this section.

(d) The department shall provide transportation to a participating school to the extent required under AS 14.09.020.

(e) A scholarship received for the benefit of a student under this section must be used for educational purposes. A scholarship is transferable among participating schools.

**Sec. 14.31.025. Accountability and enrollment standards for a participating school.** (a) The department shall accept a school for participation in the parental choice scholarship program if the school

(1) submits to the department, on a form approved by the department, notice that the school intends to participate in the program;

(2) meets the following financial accountability standards:

(A) demonstrates the school's financial ability to repay to the department any overpaid scholarship funds; and

(B) certifies the actual annual costs to the school of educating a student, including a prorated amount for facility and operating costs; and

(3) is a school that is a

(A) private correspondence study program located and operated entirely in the state; or

(B) private school operated in compliance with AS 14.45.030

1 or AS 14.45.100 - 14.45.130.

2 (b) Nothing in this chapter authorizes the department to regulate a  
3 participating private school except as necessary to carry out the program.

4 **Sec. 14.31.030. Effect on districts.** Notwithstanding the lower limit for a  
5 student count of 10 under AS 14.17.450(a) and (b), a school that, as a result of the  
6 program, has an ADM of less than 10 shall be treated as if the school had 10 students  
7 for a two-year period following the date on which the ADM is reported to be less than  
8 10 for purposes of calculating the school size factor under AS 14.17.450. In this  
9 subsection, "ADM" has the meaning given in AS 14.17.990.

10 **Sec. 14.31.035. Departmental duties.** (a) In implementing the parental choice  
11 scholarship program, the department shall

12 (1) obtain from the participating school a count of the number of  
13 participating students in the program;

14 (2) make scholarship payments directly to the school quarterly after  
15 receiving proof satisfactory to the department that the student claimed under a  
16 scholarship attends the school on a full-time basis;

17 (3) make available to students and students' parents or guardians a list  
18 of schools that have been accepted to participate in the program; and

19 (4) provide a standard application for use by a participating school to  
20 enroll a student under the program; a school may, however, supplement the  
21 application.

22 (b) If the department determines that a school is ineligible under this chapter  
23 to participate in the program, the department shall, after administrative and judicial  
24 appeal periods have lapsed, immediately notify the affected students and the students'  
25 parents or guardians.

26 **Sec. 14.31.040. Regulations.** The department shall adopt regulations necessary  
27 to carry out the program in a manner that ensures the highest number of student and  
28 school participation, including

29 (1) procedures for calculating and distributing scholarships;

30 (2) timelines and procedures for application, renewal, and appeal for  
31 participating schools and students; and

1 (3) standards for acceptance, revocation, and denial for participating  
2 schools.

3 **Sec. 14.31.045. Appropriations for scholarships.** The legislature may  
4 appropriate parental choice scholarship program funds to the department for  
5 distribution to the participating schools. If the appropriation for the program is  
6 insufficient in a given fiscal year, the department shall distribute the available funds to  
7 the participating schools prorated by the total number of students participating in the  
8 program.

9 **Sec. 14.31.090. Definitions.** In this chapter,

10 (1) "district" has the meaning given in AS 14.17.990;

11 (2) "private school" means a school located in the state that provides  
12 education to students attending grades kindergarten through 12, or any combination of  
13 those grades, and that does not receive state funding under AS 14.17;

14 (3) "program" means the parental choice scholarship program;

15 (4) "student" means a person residing in the state who is at least five  
16 years of age but not more than 21 years of age.

17 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
18 read:

19 CONTINGENCY. Section 1 of this Act takes effect only if an amendment to art. VII,  
20 sec. 1, Constitution of the State of Alaska, deleting the prohibition on the payment of public  
21 funds for the direct benefit of a private educational institution, is approved by the voters  
22 before July 1, 2013.

23 \* **Sec. 3.** If, under sec. 2 of this Act, sec. 1 of this Act takes effect, it takes effect on the  
24 effective date of the constitutional amendment described in sec. 2 of this Act.

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# NORTHWEST Religious Liberty ASSOCIATION

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## Financial Aid

### Principles for Church Institutions to Consider When Evaluating the Acceptability of State Financial Aid

In dealing with the practical question of when it is appropriate for church schools or institutions in the faith community to accept support or funding from the government, the following principles should be considered:

1. Would accepting the aid establish a precedent that would undercut the religious freedom protections guaranteed by the First Amendment, and the broad principle it embraces – the separation of church and state?
2. Does the aid come attached with conditions or requirements that would inhibit or interfere with the religious mission or goals of the institution, such as the restriction of its religious activities or standards?
3. Is there a reasonable likelihood that the aid would create a dependency by the religious institution on the government benefit program -- so much so that it would inhibit its future ability to act independently?

In conclusion, the Northwest Religious Liberty Association, and its board of directors offer these principles in the form of questions so that meaningful dialogue can occur at all levels of the faith community. In the spirit of helpfulness, we believe that these three questions can substantially safeguard the faith community and its institutions from undue compromise and hardship in the future, and thus protect the vitality of its prophetic mission in America.

Northwest Religious Liberty Association  
Government Relations Board  
Executive Session  
Approved and Enacted: March 8, 2000

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27-LS0223\D  
Mischel  
3/24/11

**CS FOR HOUSE BILL NO. 145( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-SEVENTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVE KELLER**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act establishing the parental choice scholarship program to be administered by**  
2 **school districts for the purpose of paying the cost of attending grades kindergarten**  
3 **through 12 at public and private schools; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1.** AS 14 is amended by adding a new chapter to read:

6 **Chapter 31. Parental Choice Scholarship Program.**

7 **Sec. 14.31.010. Parental choice scholarship program established.** The  
8 parental choice scholarship program is established for the purpose of providing public  
9 funding of the cost of attending grades kindergarten through 12 at a public or private  
10 school selected by the student's parent or legal guardian. Each school district shall  
11 administer the program under the provisions of this chapter. Participation of a school  
12 in the program does not confer authority over a school to a school district that is not  
13 expressly provided for in this title.

14 **Sec. 14.31.020. School selection and scholarship amount.** (a) A public or

1 private school in the state that is accepted for participation in the program may receive  
2 a scholarship under the program on behalf of a student who attends the school,  
3 regardless of the attendance area in the school district in which the student resides.

4 (b) Notwithstanding the calculations required under AS 14.17, the district  
5 shall pay to a participating school attended by the student under this section a parental  
6 choice scholarship that is equal to the lesser of

7 (1) the amount the school district in which the student resides would  
8 receive as state aid and local contributions under AS 14.17 for a similarly situated  
9 student to attend a public school in the district, except that the amount may not exceed  
10 100 percent of the funding the school receives and expends from all state and local  
11 sources for the student; or

12 (2) the actual annual cost to the school of educating the student,  
13 including prorated facility and operating expenses.

14 (c) If a parent or legal guardian has selected a public school outside of the  
15 attendance area in which the student resides for a scholarship under this section, the  
16 school district in which the student resides may contribute to the reasonable costs of  
17 transporting the student to the scholarship recipient school with state aid available  
18 under AS 14.09.010 for transportation of the student.

19 (d) A scholarship received for the benefit of a student under this section must  
20 be used for educational purposes. A scholarship is transferable among participating  
21 schools.

22 (e) A participating school shall include students who are enrolled under this  
23 section in the student count for purposes of calculating state aid under AS 14.17.610.

24 **Sec. 14.31.025. Accountability and enrollment standards for a**  
25 **participating school.** (a) A district shall accept a school for participation in the  
26 parental choice scholarship program if the school

27 (1) submits notice of participation to the district in which the student is  
28 a resident on a form approved by the district indicating that the school intends to  
29 participate in the program;

30 (2) meets the following financial accountability standards:

31 (A) demonstrates the school's financial ability to repay to the

1 district any overpaid scholarship funds; and

2 (B) certifies the actual annual costs to the school of educating a  
3 student, including a prorated amount for facility and operating costs; and

4 (3) is a school that is a

5 (A) public school or correspondence study program operated  
6 by the department or a district in the state under this title;

7 (B) charter school established under AS 14.03.250 - 14.03.290;

8 or

9 (C) private school operated in compliance with AS 14.45.030  
10 or AS 14.45.100 - 14.45.130.

11 (b) Nothing in this chapter authorizes a district or the state to regulate a  
12 participating private school except as necessary to carry out the program.

13 **Sec. 14.31.035. District duties.** (a) In implementing the parental choice  
14 scholarship program, the district shall

15 (1) make scholarship payments directly to the school quarterly after  
16 receiving proof satisfactory to the district that the student claimed under a scholarship  
17 attends the school on a full-time basis;

18 (2) make available to students and students' parents or guardians a list  
19 of schools that have been accepted to participate in the program; and

20 (3) provide a standard application for use by a school to enroll a  
21 student under the program; a school may, however, supplement the application.

22 (b) If the district denies or revokes acceptance of a school to participate in the  
23 program, the district shall, after administrative and judicial appeal periods have lapsed,  
24 immediately notify the affected students and the students' parents or guardians.

25 **Sec. 14.31.040. Regulations.** The department shall adopt regulations necessary  
26 to carry out the program in a manner that ensures the highest number of student and  
27 school participation, including

28 (1) procedures for calculating and distributing scholarships;

29 (2) timelines and procedures for application, renewal, and appeal for  
30 participating schools and students; and

31 (3) standards for acceptance, revocation, and denial for participating

1 schools.

2 **Sec. 14.31.045. Appropriations for scholarships.** The legislature may  
3 appropriate parental choice scholarship program funds to the department for  
4 distribution to the districts. If the appropriation for the program is insufficient in a  
5 given fiscal year, the department shall distribute the available funds to the districts  
6 prorated by the number of participating students in the program.

7 **Sec. 14.31.090. Definitions.** In this chapter,

8 (1) "district" has the meaning given in AS 14.17.990;

9 (2) "private school" means a school located in the state that provides  
10 education to students attending grades kindergarten through 12, or any combination of  
11 those grades, and that does not receive state funding under AS 14.17;

12 (3) "program" means the parental choice scholarship program;

13 (4) "student" means a person residing in the state who is at least five  
14 years of age but not more than 21 years of age.

15 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 CONTINGENCY. Section 1 of this Act takes effect only if an amendment to art. VII,  
18 sec. 1, Constitution of the State of Alaska, deleting the prohibition on the payment of public  
19 funds for the direct benefit of a private educational institution, is approved by the voters  
20 before July 1, 2013.

21 \* **Sec. 3.** If, under sec. 2 of this Act, sec. 1 of this Act takes effect, it takes effect on the  
22 effective date of the constitutional amendment described in sec. 2 of this Act.

#1

27-LS0223\D.6  
Mischel  
4/9/11

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE DICK

TO: CSHB 145( ), Draft Version "D"

- 1 Page 2, lines 6 - 7:  
2 Delete "equal to the lesser of  
3 (1)"  
4  
5 Page 2, line 8:  
6 Delete "and local contributions"  
7  
8 Page 2, line 10  
9 Delete "100 percent"  
10 Insert "70 percent"  
11 Delete "and local"  
12  
13 Page 2, line 11:  
14 Delete "; or"  
15 Insert "."  
16  
17 Page 2, lines 12 - 13:  
18 Delete all material.

Amendments were going to be discussed, but prior sponsor asked bill to be withdrawn.

Amendment #2 was adopted previously

Conceptual  
Amendment #2

Rep Dick

**Intent: Remove confusion regarding transportation of students.**

**~~Remove: Page 2 lines 14-18~~**

**Insert: Page 2 line 14-**

**Those parents who choose to send their children to schools of choice ~~(other than public schools)~~ will assume full responsibility for transporting their children to the school of their choice.**

Passed on Friday, April 8, 2011.

**AMENDMENT**

OFFERED IN THE HOUSE

BY REPRESENTATIVE DICK

TO: CSHB 145( ), Draft Version "D"

- 1 Page 2, line 15, following "section,":
- 2       Insert "the parent or legal guardian shall assume full responsibility for transporting the
- 3 student. However,"

# 3

27-LS0223\D.2  
Mischel  
4/6/11

AMENDMENT

By Rep Dick

OFFERED IN THE HOUSE

TO: CSHB 145( ), Draft Version "D"

- 1 Page 2, line 23, following "count":
- 2       Insert "submitted to the district"

# 4

27-LS0223\D.4  
Mischel  
4/9/11

**AMENDMENT**

OFFERED IN THE HOUSE

BY REPRESENTATIVE DICK

TO: CSHB 145( ), Draft Version "D"

- 1 Page 3, line 12, following "program":
- 2 Insert "and to meet applicable state and federal assessment standards."

# 5

27-LS0223\D.5  
Mischel  
4/9/11

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE DICK

TO: CSHB 145( ), Draft Version "D"

1 Page 3, following line 12:

2 Insert a new subsection to read:

3 "(c) Notwithstanding the standards for acceptance of a school for participation  
4 in the program under this section, a school district may not accept a school for  
5 participation in the program if the school's participation will result in enrollment of  
6 fewer than 10 students in a school in the district."

**AMENDMENT**

OFFERED IN THE HOUSE

BY REPRESENTATIVE DICK

TO: CSHB 145( ), Draft Version "D"

- 1 Page 2, line 15, following "section,":
- 2       Insert "the parent or legal guardian shall assume full responsibility for transporting the
- 3 student. However,"

27-LS0223\D  
Mischel  
3/24/11

Marked Up

**CS FOR HOUSE BILL NO. 145( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE KELLER

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing the parental choice scholarship program to be administered by  
2 school districts for the purpose of paying the cost of attending grades kindergarten  
3 through 12 at public and private schools; and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 \* **Section 1.** AS 14 is amended by adding a new chapter to read:

6 **Chapter 31. Parental Choice Scholarship Program.**

7 **Sec. 14.31.010. Parental choice scholarship program established.** The  
8 parental choice scholarship program is established for the purpose of providing public  
9 funding of the cost of attending grades kindergarten through 12 at a public or private  
10 school selected by the student's parent or legal guardian. Each school district shall  
11 administer the program under the provisions of this chapter. Participation of a school  
12 in the program does not confer authority over a school to a school district that is not  
13 expressly provided for in this title.

14 **Sec. 14.31.020. School selection and scholarship amount.** (a) A public or

1 private school in the state that is accepted for participation in the program may receive  
2 a scholarship under the program on behalf of a student who attends the school,  
3 regardless of the attendance area in the school district in which the student resides.

4 (b) Notwithstanding the calculations required under AS 14.17, the district  
5 shall pay to a participating school attended by the student under this section a parental  
6 choice scholarship that is ~~equal to the lesser of~~

#1

7 (1) the amount the school district in which the student resides would  
8 receive as state aid ~~and local contributions~~ under AS 14.17 for a similarly situated  
9 student to attend a public school in the district, except that the amount may not exceed  
10 <sup>70</sup>~~100~~-percent of the funding the school receives and expends from all state ~~and local~~  
11 sources for the student, ~~or~~

12 (2) ~~the actual annual cost to the school of educating the student,~~  
13 ~~including prorated facility and operating expenses.~~

14 (c) If a parent or legal guardian has selected a public school outside of the  
15 attendance area in which the student resides for a scholarship under this section, the  
16 school district in which the student resides may contribute to the reasonable costs of  
17 transporting the student to the scholarship recipient school with state aid available  
18 under AS 14.09.010 for transportation of the student.

19 (d) A scholarship received for the benefit of a student under this section must  
20 be used for educational purposes. A scholarship is transferable among participating  
21 schools.

#3

22 (e) A participating school shall include students who are enrolled under this  
23 section in the student count <sup>submitted to the district</sup> for purposes of calculating state aid under AS 14.17.610.

24 **Sec. 14.31.025. Accountability and enrollment standards for a**  
25 **participating school.** (a) A district shall accept a school for participation in the  
26 parental choice scholarship program if the school

27 (1) submits notice of participation to the district in which the student is  
28 a resident on a form approved by the district indicating that the school intends to  
29 participate in the program;

30 (2) meets the following financial accountability standards:

31 (A) demonstrates the school's financial ability to repay to the

#2  
Passed

Inserted - Conceptual "Those parents who choose to send their children to schools of choice will assume full responsibility for transporting their children to the school of their choice."  
CSHB 145( ) New Text Underlined [DELETED TEXT BRACKETED]

- 1 district any overpaid scholarship funds; and
- 2 (B) certifies the actual annual costs to the school of educating a
- 3 student, including a prorated amount for facility and operating costs; and
- 4 (3) is a school that is a
- 5 (A) public school or correspondence study program operated
- 6 by the department or a district in the state under this title;
- 7 (B) charter school established under AS 14.03.250 - 14.03.290;
- 8 or
- 9 (C) private school operated in compliance with AS 14.45.030
- 10 or AS 14.45.100 - 14.45.130.

11 (b) Nothing in this chapter authorizes a district or the state to regulate a  
 12 participating private school except as necessary to carry out the program.

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 →

and to meet applicable  
 state and federal assessment  
 standards

13 **Sec. 14.31.035. District duties.** (a) In implementing the parental choice  
 14 scholarship program, the district shall

- 15 (1) make scholarship payments directly to the school quarterly after
- 16 receiving proof satisfactory to the district that the student claimed under a scholarship
- 17 attends the school on a full-time basis;
- 18 (2) make available to students and students' parents or guardians a list
- 19 of schools that have been accepted to participate in the program; and
- 20 (3) provide a standard application for use by a school to enroll a
- 21 student under the program; a school may, however, supplement the application.

22 (b) If the district denies or revokes acceptance of a school to participate in the  
 23 program, the district shall, after administrative and judicial appeal periods have lapsed,  
 24 immediately notify the affected students and the students' parents or guardians.

25 **Sec. 14.31.040. Regulations.** The department shall adopt regulations necessary  
 26 to carry out the program in a manner that ensures the highest number of student and  
 27 school participation, including

- 28 (1) procedures for calculating and distributing scholarships;
- 29 (2) timelines and procedures for application, renewal, and appeal for
- 30 participating schools and students; and
- 31 (3) standards for acceptance, revocation, and denial for participating

#5

Add: Notwithstanding the standards for acceptance of a school  
 for participation in the program under this section, <sup>SHB 145( )</sup> a school  
 district may not accept a school for participation in the program if the  
 school participation will result in enrollment of fewer than ten students  
 in a school in the district.

New Text Underlined [DELETED TEXT BRACKETED]

1 schools.

2 **Sec. 14.31.045. Appropriations for scholarships.** The legislature may  
3 appropriate parental choice scholarship program funds to the department for  
4 distribution to the districts. If the appropriation for the program is insufficient in a  
5 given fiscal year, the department shall distribute the available funds to the districts  
6 prorated by the number of participating students in the program.

7 **Sec. 14.31.090. Definitions.** In this chapter,

8 (1) "district" has the meaning given in AS 14.17.990;

9 (2) "private school" means a school located in the state that provides  
10 education to students attending grades kindergarten through 12, or any combination of  
11 those grades, and that does not receive state funding under AS 14.17;

12 (3) "program" means the parental choice scholarship program;

13 (4) "student" means a person residing in the state who is at least five  
14 years of age but not more than 21 years of age.

15 \* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 CONTINGENCY. Section 1 of this Act takes effect only if an amendment to art. VII,  
18 sec. 1, Constitution of the State of Alaska, deleting the prohibition on the payment of public  
19 funds for the direct benefit of a private educational institution, is approved by the voters  
20 before July 1, 2013.

21 \* **Sec. 3.** If, under sec. 2 of this Act, sec. 1 of this Act takes effect, it takes effect on the  
22 effective date of the constitutional amendment described in sec. 2 of this Act.

with drawn (for re-write later)

Rep Dick

Conceptual  
Amendment #1

**Information:**

There is currently a 70/30 rule, where school districts must spend at least 70% of funding on classroom instruction unless waived.

**Intent of Amendment #1:**

The districts will pass through 70% of the monies received from the state for instruction, and the 30% administrative and building costs associated with each student will remain with the district to maintain .

**Amendment #1**

Remove p 2 lines 12-13.

Remove line 6 " (1) that is equal to the lesser of"

Add line 7 "70% of"

Remove line 10 "100 percent"

Add line 10 "70 percent"

Seaton Line 10 p. 2. strike "and local"

Keller - wants to go back to 100% if Seaton's amendment is passed.

Feige - then eliminate the 70%/30%

\* Ask for legal opinion

- Conceptual amendments drawn up by Rep Dick
- later formalized by Leg Services

Rep Dick

Conceptual  
Amendment #2

**Intent: Remove confusion regarding transportation of students.**

**Remove: Page 2 lines 14-18** — struck this (Lines left intact)

**Insert: Page 2 line 14-**

**Those parents who choose to send their children to schools of choice ~~other than public schools~~ will assume full responsibility for transporting their children to the school of their choice.**

struck words "other than public schools"

passed

# 3

27-LS0223\D.2  
Mischel  
4/6/11

Rep Dick

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 145( ), Draft Version "D"

- 1 Page 2, line 23, following "count":
- 2       Insert "submitted to the district"

**Amendment #4**

**Intent: Clarify obligation for testing of all students according to State and Federal guidelines.**

**Add: Page 3 line 12**

**All students will be tested annually in accordance with State regulations.**

Rep Dick

**Amendment #5**

**Intent: Make sure the enrollment of small schools are not reduced below 10 by the presence of schools of choice.**

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 145( ), Draft Version "D"

- 1 Page 2, line 23, following "count":
- 2       Insert "submitted to the district"

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

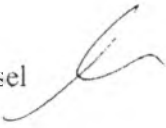
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 15, 2011

**SUBJECT:** Sectional Summary (HB 145 (Work Order No. 27-LS0223M))

**TO:** Representative Wes Keller  
Attn: Jim Pound

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Establishes a new program in the Department of Education and Early Development to be administered by school districts to provide for public funding of education at a private or public school in the state that is selected by a parent or guardian for students enrolled in grades kindergarten through 12. Describes eligibility, accounting, and enrollment standards.

**Section 2.** Provides a July 1, 2012 effective date for sec. 1 of the bill.

JMM:plm  
11-090.plm

# ALASKA STATE LEGISLATURE

**Interim:**

600 East Railroad Avenue  
Wasilla, Alaska 99654  
Phone (907) 373-1842  
Fax: (907) 373-4729



**Session:**

State Capitol Building  
Juneau, Alaska 99801-1182  
Phone: (907) 465-2186  
Fax: (907) 465-3818

## REPRESENTATIVE WES KELLER DISTRICT 14

### SPONSOR STATEMENT

#### HB 145

**"An Act establishing the parental choice scholarship program to be administered by school districts for the purpose of paying the cost of attending grades kindergarten through 12 at public and private schools; and providing for an effective date."**

House Bill 145 could well be the next critical step in allowing today's Alaskan children to compete with the world on an equal footing educationally. We do not hear of parents who do not want the best education for their child. It goes without saying that a child's parent or guardian is in the best position to make a choice of which school is appropriate for their child, especially when some of our schools are plagued with high drop-out rates and lack of success.

Parents or guardians are the most important part of the education experience and HB 145 gives them an appropriate opportunity to participate. They will review the local options available and decide where their children need to go to get the best education possible. Public, private, correspondence schools will all be on the table to compete for the funding that the legislature sends to school districts each year.

HB 145- **"The Parental Choice Scholarship Program"** brings the quality of K-12 education to a new level. Graduating seniors will be better prepared for the next step in their lives. Schools will face competition, which means they must rise to the goal of excellence.

E-Mail: [Representative Wes Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)

Call Juneau Toll free: (800) 468-2186

Website: [www.akrepublicans.org/keller/](http://www.akrepublicans.org/keller/)

Published on Monday, September 13, 2010 by Rethinking Schools

## The Proving Grounds: School “Reform” in Washington, D.C.

by Leigh Dingerson

Washington, D.C., is leading the transformation of urban public education across the country—at least according to Time magazine, which featured D.C. Schools Chancellor Michelle Rhee on its cover, wearing black and holding a broom. Or perhaps you read it in Newsweek or heard it from Oprah, who named Rhee to her “power list” of “remarkable visionaries.”



The model of school reform that’s being implemented here is popping up around the country, heavily promoted by the same network of conservative think tanks and philanthropists like Bill Gates, Eli Broad, and the Walton Family Foundation that has been driving the school reform debate for the past decade. It is reform based on the corporate practices of Wall Street, not on education research or theory. (photo by Flickr user Avolore)

But there’s nothing remarkably visionary going on in Washington. The model of school reform that’s being implemented here is popping up around the country, heavily promoted by the same network of conservative think tanks and philanthropists like Bill Gates, Eli Broad, and the Walton Family Foundation that has been driving the school reform debate for the past decade. It is reform based on the corporate practices of Wall Street, not on education research or theory. Indications so far are that, on top of the upheaval and distress Rhee leaves in her wake, the persistent racial gaps that plague D.C. student outcomes are only increasing.

Chancellor Rhee helicoptered into Washington in 2007 promising to change the culture of the District of Columbia Public Schools (DCPS). Everyone cheered. But we weren’t counting on the new culture coming straight out of Goldman Sachs. Suddenly, decisions were being made at the top and carried out with atomic force. Parents have been treated like consumers—informed about options and outcomes but denied a seat at the table. The district’s teachers have been insulted in the national media, fired or laid off in record numbers, and replaced by less credentialed and less experienced newcomers. The model views teachers as a delivery system, not as professionals. High turnover is not just the result—it’s the goal. Principals, too, are isolated and expendable. The district lauds the educational mavericks—principals whose “crusades” are described as “relentless” and “methodical”—those who see themselves as an army of one. We are becoming a district where the frontline workers are demoralized, people are looking out for themselves, and trust is all but gone.

Chancellor Rhee is the army of one at the top of the district’s lurching reform. An articulate and supremely confident 39-year-old, Rhee is, for now, the movement’s national poster child. Pundits debate her occasionally tactless comments in the media, but there has been little analysis of the reform model itself and how its “my way or the highway” culture affects students, parents,

Provided by Rep. Keller's Office

and teachers. Adopting the rhetoric for just one moment, in a cost-benefit analysis, are D.C. students gaining the benefits, or are we all paying the price?

### **The Proving Grounds**

DCPS has a reputation as one of the worst school systems in the nation. But it has not always been so troubled.

Washington, with its gleaming white facades and manicured parks, is home to a complicated mix of people and politics. Long a majority African American city, D.C. has only been self-governing since 1973, when a 100-year-long fight for home rule forced Congress to hold elections for the city's mayor and city council. Congress still reviews all legislation passed by the council before it becomes law and retains authority over the District budget.

The vast public sector employment created by the federal government helped establish a significant black middle class that supported its public schools. Many African American parents and grandparents remember *their* schools as neighborhood institutions and gateways to success. But many of D.C.'s middle-class blacks have left for suburban counties in Maryland and Virginia. What remains is a city with stark divisions—some of the most affluent neighborhoods in the nation, and some of the poorest.

Most of D.C.'s public schools are intensely segregated—like the city's neighborhoods. Though DCPS uses a traditional neighborhood boundary system, students from anywhere in the city may enter a lottery for available seats in any school after neighborhood enrollment is complete. At the elementary level, most schools reflect the demographics of their communities. But in the city's more affluent western wards, white parents begin pulling their children out of DCPS before middle school, sending them to one of the city's boutique charters or elite private schools. The availability of "out-of-boundary" slots increases, making middle and high schools in these neighborhoods the most integrated in the city. Every D.C. high school is majority students of color.

Many of the District's African American and Latino children are from economically isolated and badly neglected communities. For decades, there have been too few resources and too much infighting to support those communities and help their children succeed. Rather than digging deep to address the social, economic, and educational issues involved, however, District leadership has focused on attracting young white professionals back to the urban core. In the late '90s and early 2000s, construction cranes towered over the skyline as block after city block became home to yet another luxury condominium complex. These "urban pioneers"—mostly young, white professionals—have begun to staunch the city's declining population numbers. As they've settled in, they've also become players in school politics.

The current wave of education reform began with Adrian Fenty, a young and energetic city council member, born and raised in D.C. Elected in 2000 at the age of 30, Fenty proved to be a charismatic and effective politician, and was reelected without opposition in 2004. In September 2006 he easily won the Democratic primary for mayor. In hugely Democratic D.C., the primary

is, for all intents and purposes, the general election. It was only *after* his September victory that Fenty announced his plan to take over the District's schools.

### **Day One: Teachers Feel the Heat**

The day after he took office in January 2007, Fenty introduced legislation to eliminate the city's elected school board and consolidate control of the schools in the mayor's office. The council passed the bill in April, and submitted it for congressional approval. Both the House and Senate approved the bill in May, and it was signed into law by then-President Bush on June 1. Twelve days later, Fenty held a press conference to introduce his new chancellor, Michelle Rhee.

Rhee had just three years of teaching experience, through Teach for America, and no experience running a school, let alone a school system. After dipping her toes in teaching, Rhee had gone on to found and lead the New Teacher Project, an organization that collaborates with school districts to recruit, train, and develop teachers for high-needs schools.

Rhee lost no time proclaiming what was wrong in D.C.: "I know what the obstacles are in these systems that are not conducive to effecting change," Rhee said at the press conference.

The implications of her pronouncement were not lost on those who had been following the national education debate. Over the past decade, research funded by conservative foundations has systematically built a case for transforming teaching as a profession. It began with research connecting "high-quality" teachers to student academic gains. Therefore, pundits began to surmise, low-performing students must just have lazy or incompetent teachers. Once teachers were to blame, it was a hop, skip, and a jump to find the culprit—teachers' unions and collectively bargained contracts that guarantee teachers due process before dismissal. The rhetorical attack on teachers has been shrill enough to stifle what the *rest* of the decade's research has shown: that teachers generally get *better* with experience and support; that meaningful parent engagement, strong school leadership, and student-centered learning climates must also be present for schools to succeed; and that no single component by itself can carry a school and its students to their full potential.

Amidst the clamor of teacher bashing, some D.C. teachers experienced Rhee's comments as a bull's-eye drawn on their backs. "We were troubled by her remarks," recalls Kerry Sylvia, a veteran teacher at the city's Cardozo High School. It seemed clear that the "obstacles" that Rhee was referring to were district teachers.

### **Sweeping Change**

In her first months, Rhee demonstrated the frenetic pace of activity that has become her trademark. In the southern heat and humidity of a D.C. summer, Rhee crisscrossed the city, meeting with principals and cutting through the district's legendary red tape. Warehouses full of textbooks were emancipated, classrooms stocked. Checks were cut, paint was slapped on, and creaky gears started turning. Many—including principals and parents—were impressed. By the time school started, there was a palpable feeling of forward motion.

At the same time, Rhee was meeting privately with officials from the Gates and Broad foundations, the California-based NewSchools Venture Fund, the American Enterprise Institute, and other key players in the school reform movement. Adrian Fenty and Chancellor Rhee were their new darlings.

That spring, Rhee began firing principals. Sixty-one principals and assistant principals were fired at the end of the school year. Next came the teachers. By July of 2008, according to some reports (neither DCPS nor the Washington Teachers' Union will release actual numbers), Rhee had fired 250 teachers and 500 teachers aides, avoiding union due-process rules by utilizing the "highly qualified" certification requirements of the federal No Child Left Behind Act.

In October, stymied by her inability to negotiate a contract with the union (she wanted, among other things, new provisions in the contract to make it easier for her to fire teachers), Rhee announced that she would implement a little-used procedure allowing principals to place teachers on a 90-day "improvement plan," with the ability to fire them immediately after that.

### **All the Blame, Not Enough Support**

It is worth noting that, as a so-called "education reformer," Rhee has not focused on content or pedagogy. There have been no initiatives to improve teacher induction or strengthen instructional practice. The focus has remained on management and staffing, and the tone has been judgmental rather than supportive.

One of Rhee's early priorities was to establish a new teacher evaluation system that would, in part, make it easier to fire teachers based on their students' performance on standardized tests. It's the latest Wall Street concept embraced by the reformers. Indeed, U.S. Secretary of Education Arne Duncan has proposed that federal funding be contingent upon states developing teacher evaluations directly linked to student test scores. Rhee hoped to set the standard.

Her "director of human capital strategy" took the lead in designing the new system, called IMPACT. It was launched in the 2009–10 school year and again put Rhee into the national spotlight.

IMPACT is a complicated web of more than 20 separate evaluation processes. For teachers unlucky enough to teach subjects and grade levels with test data, 50 percent of their evaluation is based on a patently preposterous calculation of their effect on student scores. Teachers also undergo five short observations by their principal or a "master teacher," based on an extensive "teaching and learning framework" with dozens of indicators. One of the biggest concerns has been that IMPACT will snare some of the district's best teachers in its web—those who refuse to teach to the tests or conform to a checklist of specific practices. The Washington Teachers' Union was worried enough to demand a working group to monitor IMPACT's implementation and results.

Meanwhile, after three years of contentious negotiation, the union and the chancellor announced agreement on a new contract in the spring of 2010. The contract attached bonus money to teacher evaluations and included a significant increase in salaries (ratification of the new contract was

stalled briefly when it was revealed that the salary increases were being funded with \$64.5 million in one-time grants from the Broad and Walton foundations, among others, and that the grants were predicated on Rhee continuing as chancellor).

Throughout contract negotiations and the roll out of the IMPACT system, Rhee continued to target career teachers, in action and words. In the spring and summer of 2009 the district hired more than 900 new teachers—three times the usual number of summer hires. Then, in October, Rhee announced that a newly discovered budget shortfall required that 266 teachers be laid off. Because the layoffs were budget related, principals were free to ignore the “last hired-first fired” rules in the union contract. According to the union, a substantial number of the laid-off teachers were older, more senior teachers, rather than those who had been hired the previous spring and summer. Students and parents protested as beloved teachers and counselors were yanked out of buildings.

The layoffs created a firestorm of protest as classes were disrupted just weeks into the school year. The crisis got hotter when Rhee’s budget shortfall could not be verified and to some appeared contrived. But the final straw for many teachers was when the chancellor, in an interview with *Fast Company* magazine, justified the layoffs by saying, “I got rid of teachers who had hit children, who had had sex with children, who had missed 78 days of school.” Rhee was excoriated for the remark, which proved to be a gross overstatement, but the ousted teachers remained on the curb.

It was just one more in a series of what veteran teachers saw not only as personal attacks, but also as an indication that Rhee had no understanding of the challenges that they and their students face each day.

“It creates a very individualized and isolating feeling in the school,” says Sylvia, whose school population includes almost 100 homeless teens. “Our kids come in with a host of real problems. . . Teachers in the community need to be part of the process, not the object of it. . . . Feeling under attack all the time isn’t conducive to collaboration.”

Chris Bergfalk, a teacher at H.D. Cooke Elementary School, is convinced that the attacks on teachers spill over into the consciousness of parents as well. “You can feel it,” he says. “Parents come into the classroom thinking that teachers are the enemy. . . . It takes more than one meeting, sometimes, before the parents decide that you’re OK and basically competent. . . . I’ve never felt this level of suspicion and mistrust from my students’ parents.”

Crystal Sylvia, Kerry’s sister and a social worker at a struggling but improving elementary school, has a different way of putting it. “We get the message: If we were here, working in the schools before the chancellor arrived, we are part of the problem.”

In a fall 2009 survey of teachers conducted by DC VOICE, an education advocacy group, 80 percent of teachers, when asked whether they liked the way the school system was run, said “no.” Many of those said their chief complaint was the lack of respect and the blame cast upon teachers. It is difficult to imagine any CEO who has so severely alienated her own workforce being dubbed a “remarkable visionary” in the national press.

But Rhee wasn't done. On July 23, 2010, she announced 165 additional teacher firings. Of those, 76 were dismissed as a result of poor evaluations under IMPACT. And, as feared, some of the fired teachers were among the most experienced, dynamic, and beloved educators in the system. Rhee boasted that more than 700 *additional* teachers had been judged "minimally effective" through IMPACT, and that a significant number of *them* would no doubt be fired after the next school year. The union's working group had not even met.

Even before the most recent dismissals, Rhee's transformation of the D.C. teacher workforce has been significant. Almost 40 percent of the teachers now working in DCPS entered the workforce since the chancellor arrived. In the recently completed school year, 120 of those teachers were placed through Teach for America—virtually guaranteeing continued high teacher turnover in district classrooms.

### **The Living Room Approach to Community Engagement**

Chancellor Rhee's approach to parents and communities has been nearly as tone deaf as her dealings with teachers. "She creates lots of opportunities for people to learn what's going on," reflects Jill Weiler, a DCPS parent and community organizer. "I think she really does listen. But it doesn't seem to influence her." For example, in December 2007, Rhee announced the closing or consolidation of two dozen schools. Parents, teachers, and students were frustrated at Rhee's failure to *inform*, much less involve the impacted communities before the announcement. As required by district rules, Rhee subsequently held a series of community hearings at the affected schools, but made few changes to the plan.

Then, in April 2008, Rhee announced that as many as 10 high schools would undergo federally mandated "restructuring," and that several would be placed under external management. Rhee promised school communities a voice in selecting from among six "partner" organizations she had chosen. But at Anacostia High School, the parents' choice of outside partner was rejected. Instead, Rhee chose Friendship Public Charter School—a charter management organization with five D.C. charter schools—to take over operations at Anacostia. Marvin Tucker, a DCPS parent and assistant football coach at Anacostia, was frustrated by the process: "DCPS doesn't want parent participation. Neither does Friendship." The new management group fired 85 percent of Anacostia's teachers and disbanded the school's Local School Restructuring Team (LSRT)—a DCPS advisory council of teachers and parents at each school.

Rhee isn't deaf to all voices. Her inconsistency exploded into the media in December 2009 when she announced the replacement of the principal at Hardy Middle School—one of the top performing schools in the city, and also one of the most racially mixed. Hardy's art-centered curriculum draws students from across the city to fill seats not taken by students from the surrounding affluent Georgetown community. When a \$48 million renovation at the school was completed in 2009, it became at least a more physically attractive option for neighborhood parents. But apparently there was still concern. After the chancellor abruptly announced that she was removing the popular (and by all measures, successful) principal, it was revealed that she had met in a private living room with a dozen Georgetown parents. The group had complained that they didn't feel "welcome" at Hardy.

The announcement set off a firestorm at Hardy, where teachers and parents—even the school’s LSRT—had not been consulted or informed of the chancellor’s decision. At a subsequent community meeting at the school, emotions were raw. The racial implications of the move were unavoidable, as Rhee tried to explain why she had met privately with a small group of white parents but failed to discuss the move with the school’s mostly African American parent leadership. Jeffrey Watson, a parent of two Hardy students, charged that Georgetown neighborhood parents stayed away because they were not comfortable with the racial composition of the school, reported the *Washington Post*. “Don’t play games with people in here. We’re not stupid,” Watson said at the school hearing. “Rather than having private meetings with them, tell them to walk on over.” Despite impassioned pleas from teachers, parents, and students to reinstate the principal, Rhee refused to budge.

Her decisions at Hardy and elsewhere are clear nods to the District’s changing demographics. Since 2000—with the proliferation of luxury condominiums and the boom in the housing market—the District has gained 16,000 residents. The city’s white population has increased from 30 percent to 40 percent of the total, and the African American population has decreased from 60 percent to 54 percent. Per capita income (adjusted for inflation) has increased from \$28,659 to more than \$41,000.

The effort to bring middle-class whites back to the city’s public schools may be a laudable one, Rhee’s process notwithstanding. But for the district’s high-profile reform efforts, there is another advantage, whether the chancellor intends it or not.

### **D.C.’s Education Miracle a Chimera?**

Despite glowing reports from the adoring media, D.C.’s education miracle is a chimera at best. There have been dramatic drops in standardized assessment scores, and, on closer analysis, the highly touted increases in D.C. National Assessment of Educational Progress (NAEP) scores are a reflection of the changing demographics of the schools, not the result of any real improvement in the quality of education provided to D.C.’s poorest and neediest students.

Bergfalk has taught in the district for seven years, and was a finalist for D.C. Teacher of the Year in 2010. As a teacher, he is focused and energetic. He is also deeply skeptical. In March 2009, the district announced that the new NAEP scores showed dramatic student increases and progress in closing D.C.’s persistent achievement gap. Bergfalk decided to check it out for himself. Using NAEP’s own interactive website, Bergfalk deconstructed the data.

“These test scores are not the result of an increase in student achievement. Instead, they are a result of a change in who was tested,” says Bergfalk. He found that for the 4th-grade test, the percentage of African American kids in DCPS (the lowest scoring racial/ethnic group in D.C.) taking the test dropped from 67 percent of test takers to 53 percent of test takers between 2007 and 2009, while the percentage of Hispanic students (with average test scores 12 points higher) rose from 6 percent to 9 percent of test takers, and white students rose from 6 percent to 7 percent of test takers. Where aggregate scores appear to show improvement among DCPS students, the disaggregated data tell a different story. The district continues to have one of the highest achievement gaps among major U.S. cities.

Bergfalk found the same pattern on the 8th-grade NAEP reading test. The percentage of African American kids in DCPS taking the test dropped from 59 percent of test takers to 43 percent of test takers, which is why there was a statistically significant four-point increase overall from 2007 to 2009, but no statistically significant increase for any racial/ethnic subgroup. The overall increase, like that on the 4th-grade test, was again the result of a change in demographics rather than an increase in student achievement.

When DCPS released the results of local assessments in July 2010, the district touted what it called “unparalleled progress” in secondary school results. But at the elementary level, scores took a hit—in some schools dropping by more than 30 percent the past two years. Students in half of all D.C. public schools performed worse in the 2010 assessments than they did in 2009.

### **The Price of Autocratic Reform**

In a Feb. 1, 2010, article, the *Washington Post* reported that approval ratings for Mayor Fenty and his schools chief had dropped precipitously. The poll showed Chancellor Rhee’s approval rating had sunk from 59 percent of residents in January 2008 to 43 percent in early 2010.

The numbers are crucial for Fenty: The mayor is up for reelection this fall, and the race is being cast as hinging on public support for his school reform agenda. Fenty’s challenger, Vincent Gray, the current chair of the city council, has been a critic of Rhee’s leadership: “We need a mayor who understands that the best way to achieve real and lasting school reform is to involve the community. The best way to help every community in the district is to engage teachers, engage parents, engage principals, and engage students in the decision-making.”

Mary Filardo, director of the 21st Century School Fund, agrees. “School change should be about students, families, and communities taking ownership of their schools. “Although there is the *illusion* that parents may have more access—that Michelle Rhee will answer their emails—there is meager civic life around the public schools.”

Cathy Reilly, who leads the Senior High School Alliance of Parents, Principals, and Educators, notes: “It’s not an empowering model. . . . The players in the system—parents, teachers, and principals—are supposed to understand that things are being ‘fixed’ and to get with the program, or get out.”

For many parents and teachers, the problem with Rhee’s approach was best summed up by Diane Ravitch, former undersecretary at the Department of Education under President George H.W. Bush. Ravitch, speaking at a reception in D.C. last spring, was asked what she thought of D.C. school reform. Ravitch responded with the timeless adage, “It’s difficult to win a war when you’re firing on your own troops.”

# Michelle Rhee on D.C. Kids' 'Crappy Education'

Firebrand Schools Chancellor Michelle Rhee, the National Face for Education Reform, Could Lose Her Job



By **Z. BYRON WOLF** and **LEE FERRAN**

Sept. 16, 2010

"They are getting a crappy education," Rhee said while discussing the district's schoolchildren in an interview with ABC News. "I mean, you could try to sugar coat it all you want. Subpar, or whatever. But what it is in terms that everyone can understand -- they are getting a crappy education."

It could be comments like that, not to mention aggressive and controversial education policies, landed Rhee in the spotlight of a new documentary "Waiting for Superman," and could also cost her her job.

Rhee, who has become the national face of education reform, could end up jobless after D.C. voters ousted Mayor Adrian Fenty.

Under Rhee's three-year watch, more than 200 teachers have been fired, nearly 20 schools closed and pay has been tied to merit evaluations. But test scores have shot up for elementary and secondary school students, and teachers' salaries were raised.

"The situation we inherited three years ago in Washington, D.C., was absolutely deplorable," Rhee said. "People need to understand that and if that makes people uncomfortable, then so be it."

The victor in Tuesday's Democratic primary -- and therefore almost a sure winner come November in this overwhelmingly Democratic city -- is City Council Chairman Vincent Gray, a chief Rhee antagonist at oversight hearings.

Gray has not said he would fire Rhee, but he hasn't said he would keep her on either.

"I have said on many occasions that after this election is over, I'd like to sit down with Michelle Rhee and let us walk and talk through it, you know, how we might work together," Gray said on CNN Tuesday.

Rhee had campaigned for Fenty. The [Washington Teacher's Union](#) campaigned for Gray.

"This has been a significant change in direction and it's going to require me sitting down with Mayor Fenty, the chairman and other people to see what's in the best interests of our kids," Rhee said Wednesday in an interview with MSNBC.

### **Rhee Feels Guilty About Fenty Loss**

"I do feel sort of bad and guilty," she said. "This man, Adrian Fenty, is truly the best leader I've ever worked for. We need more leaders like him who are willing to stake everything to make sure our kids are getting a good education."

Obviously, D.C. voters disagree. And so do the leaders of local and national teachers unions.

An op-ed Wednesday morning by George Parker, president of the Washington Teacher's Union, and Randi Weingarten, president of the American Federation of Teachers, made no mention of Rhee. The article was titled "[No Turning Back for D.C. Kids](#)," and it suggested that the teachers would be happier and work more collaboratively with Gray.

"Public education is a marathon, not a sprint. Yes, there's urgency to fixing our schools, but we have to set ourselves on a long-term path toward constant and sustainable progress," wrote the union leaders.

President Obama stayed out of the race, but Secretary of Education [Arne Duncan](#) appeared at an event with Fenty and Rhee in the closing days of the election. It was not a campaign event, but Duncan announced the award of \$75 million in new federal funding for D.C. schools. He was noticeably absent from any event with Gray.

Wednesday, Nov. 26, 2008

## **Rhee Tackles Classroom Challenge**

By Amanda Ripley / Washington

In 11th grade, Allante Rhodes spent 50 minutes a day in a Microsoft Word class at Anacostia Senior High School in Washington. He was determined to go to college, and he figured that knowing Word was a prerequisite. But on a good day, only six of the school's 14 computers worked. He never knew which ones until he sat down and searched for a flicker of life on the screen. "It was like Russian roulette," says Rhodes, a tall young man with an older man's steady gaze. If he picked the wrong computer, the teacher would give him a handout. He would spend the rest of the period learning to use Microsoft Word with a pencil and paper.

One day last fall, tired of this absurdity, Rhodes e-mailed Michelle Rhee, the new, bold-talking chancellor running the District of Columbia Public Schools system. His teacher had given him the address, which was on the chancellor's home page. He was nervous when he hit SEND, but the words were reasonable. "Computers are slowly becoming something that we use every day," he wrote. "And learning how to use them is a major factor in our lives. So I'm just bringing this to your attention." He didn't expect to hear back. Rhee answered the same day. It was the beginning of an unusual relationship.

The U.S. spends more per pupil on elementary and high school education than most developed nations. Yet it is behind most of them in the math and science abilities of its children. Young Americans today are less likely than their parents were to finish high school. This is an issue that is warping the nation's economy and security, and the causes are not as mysterious as they seem. The biggest problem with U.S. public schools is ineffective teaching, according to decades of research. And Washington, which spends more money per pupil than the vast majority of large districts, is the problem writ extreme, a laboratory that failure made. ([See pictures of a diverse group of American teens.](#))

Rhee took over Anacostia High and the district's 143 other schools in June 2007, when Mayor Adrian Fenty named her chancellor. Her appointment stunned the city. Rhee, then 37, had no experience running a school, let alone a district with 46,000 students that ranks last in math among 11 urban school systems. When Fenty called her, she was running a nonprofit called the New Teacher Project, which helps schools recruit good teachers. Most problematic of all, Rhee is not from Washington. She is from Ohio, and she is Korean American in a majority-African-American city. "I was," she says now, "the worst pick on the face of the earth."

But Rhee came highly recommended by another prominent school reformer: Joel Klein, chancellor of New York City's schools. And Rhee was once a teacher--in a Baltimore elementary school with Teach for America--and the experience convinced her that good teachers could alter the lives of kids like Rhodes.

Anacostia High has a 24% graduation rate, and only 21% of its students read at grade level. Rhodes is well aware of the miserable statistics, and when he first saw his new chancellor from afar, he thought she looked petite, foreign and underqualified. "I was like, She doesn't look ready for urban kids." But after they exchanged e-mails, he agreed to meet her downtown. He realized almost at once that he had underestimated her. "She actually sat

with me," he says, "and talked eye to eye, like I was one of her co-workers." They decided to meet again, this time at Anacostia High. Rhodes began to talk about Rhee to his classmates, and they started writing an agenda for the meeting, detailing all the things that were wrong with the D.C. school system. They had much to tell.

Rhee has promised to make Washington the highest-performing urban school district in the nation, a prospect that, if realized, could transform the way schools across the country are run. She is attempting to do this through a relentless focus on finding--and rewarding--strong teachers, purging incompetent ones and weakening the tenure system that keeps bad teachers in the classroom. This fall, Rhee was asked to meet with both presidential campaigns to discuss school reform. In the last debate, each candidate tried to claim her as his own, with Barack Obama calling her a "wonderful new superintendent."

Hard as it is to imagine Washington schools ranking among the best in the country, the city does have some things working in its favor. The system is relatively small, making it easier to redirect. As in New York City, the board of education was recently dissolved, which means changes can be made without waiting for the blessing of a fractious body of overseers. And now that a third of Washington's kids are in charter schools, there is intense pressure on the public system to keep the students it still has. If they keep fleeing the system at the current rate, enrollment will drop 50% every 10 years.

Each week, Rhee gets e-mails from superintendents in other cities. They understand that if she succeeds, Rhee could do something no one has done before: she could prove that low-income urban kids can catch up with kids in the suburbs. The radicalism of this idea cannot be overstated. Now, without proof that cities can revolutionize their worst schools, there is always a fine excuse. Superintendents, parents and teachers in urban school districts lament systemic problems they cannot control: poverty, hunger, violence and negligent parents. They bicker over small improvements such as class size and curriculum, like diplomats touring a refugee camp and talking about the need for nicer curtains. To the extent they intervene at all, politicians respond by either throwing more money at the problem (if they're on the left) or making it easier for some parents to send their kids to private schools (if they're on the right).

Meanwhile, millions of students left behind in confused classrooms spend another day learning nothing.

[See pictures of eighth-graders being recruited for college basketball.](#)

See TIME's special report on paying for college.

### A Teacher from Toledo

ONE DAY IN AUGUST, I SPENT THE MORNING with Rhee as she made surprise visits to Washington public schools. She emerged from her chauffeured black SUV with two BlackBerrys and a cell phone and began walking--fast--toward the front door of the first school. She wore a black pencil skirt, a delicate cream blouse and strappy high heels. When we got inside, she walked into the first classroom she could find and stood to the side, frowning like a specter. When a teacher stopped lecturing to greet her, she motioned for the teacher to continue. Rhee smiled only when students smiled at her first. Within two minutes, she had seen enough, and she stalked out to the next classroom.

In the hallway, she muttered about teachers who spend too much time cutting out elaborate bulletin-board decorations or chitchatting at "morning meetings" with their third-graders before the real work begins. "We're in Washington, D.C., in the nation's capital," she said later. "And yet the children of this city receive an education that every single citizen in this country should be embarrassed by." (See pictures of teens and how they would vote.)

In the year and a half she's been on the job, Rhee has made more changes than most school leaders--even reform-minded ones--make in five years. She has shut 21 schools--15% of the city's total--and fired more than 100 workers from the district's famously bloated 900-person central bureaucracy. She has dismissed 270 teachers. And last spring she removed 36 principals, including the head of the elementary school her two daughters attend in an affluent northwest-D.C. neighborhood.

Rhee is convinced that the answer to the U.S.'s education catastrophe is talent, in the form of outstanding teachers and principals. She wants to make Washington teachers the highest paid in the country, and in exchange she wants to get rid of the weakest teachers. Where she and the teachers' union disagree most is on her ability to measure the quality of teachers. Like about half the states, Washington is now tracking whether students' test scores improve over time under a given teacher. Rhee wants to use that data to decide who gets paid more--and, in combination with classroom evaluation, who keeps the job. But many teachers do not trust her to do this fairly, and the union bristles at the idea of giving up tenure, the exceptional job security that teachers enjoy.

Rhee grew up in a nice neighborhood in Toledo, Ohio, a middle child, between two brothers. Her parents immigrated from South Korea several years before she was born so that her father could study medicine at the University of Michigan. He became a specialist in rehabilitation and pain medicine, and her mother owned a women's clothing store. Education was highly valued in the family, as was independence. After Rhee finished sixth grade, her parents sent her to South Korea to live with an aunt and attend a Korean school, a harrowing experience for a child in a strange land with limited skills in its language. When she returned a year later, her parents sent her to a private school because they found the public schools lacking.

After Rhee graduated from Cornell University in 1992, she joined Teach for America. She spent three years teaching at Harlem Park Elementary, one of the lowest-performing schools in Baltimore. Her parents visited and were stunned by the conditions of the neighborhood. "The area where the kids lived reminded me of a scene after the Korean War," says her father Shang Rhee.

Rhee suffered during that first year, and so did her students. She could not control the class. Her father remembers her returning home to visit and telling him she didn't want to go back. She had hives on her face from the stress.

The second year, Rhee got better. She and another teacher started out with second-graders who were scoring in the bottom percentile on standardized tests. They held on to those kids for two years, and by the end of third grade, the majority were at or above grade level, she says. (Baltimore does not have good test data going back that far, a problem that plagues many districts, so this assertion cannot be checked. But Rhee's principal at the time has confirmed the claim.) The experience gave Rhee faith in the power of good teaching. Yet what happened afterward broke her heart. "What was most disappointing was to watch these kids go off into the fourth grade and just lose everything," Rhee says, "because they were in classrooms with teachers who weren't engaging them."

The summer after her second year of teaching, Rhee met Kevin Huffman, a fellow Teach for America member. They married two years later and had two daughters, Starr and Olivia, now 9 and 6. They moved to Colorado to be closer to Rhee's parents, but the marriage faltered. Huffman and Rhee separated, agreeing to joint custody of the kids. And then Rhee got the offer to run Washington's schools. Huffman, now head of public affairs for Teach for America, had no illusions about the challenges Rhee would face. But when he heard about

the job offer, he decided to follow her to D.C. "Even though moving didn't sound like a whole lot of fun," he says, "the reality is that I genuinely believed that she had the potential to be the best superintendent in the country. Most people think about their own longevity, about political considerations." He adds, "Very few people genuinely don't care about anything other than the end result for kids. Michelle will compromise with no one when it comes to making sure kids get what they deserve."

### Scorched Earth

WHEN THEY ARRIVED IN WASHINGTON, Huffman and Rhee anted up. They enrolled Starr and Olivia in Oyster-Adams, a public elementary school. Although the school is considered among the best in the city, Rhee quickly concluded that it was inferior to the Colorado public school her daughters had been attending. Among other things, the homework was sporadic and unchallenging, she says. Rhee dismissed the principal before the school year was out, a move that sparked outrage across the city and in her own home. "That," she says, "was probably the decision I got the most grief about."

Rhee is, as a rule, far nicer to students than to most adults. In many private encounters with officials, bureaucrats and even fundraisers--who have committed millions of dollars to help her reform the schools--she doesn't smile or nod or do any of the things most people do to put others at ease. She reads her BlackBerry when people talk to her. I have seen her walk out of small meetings held for her benefit without a word of explanation. She says things most superintendents would not. "The thing that kills me about education is that it's so touchy-feely," she tells me one afternoon in her office. Then she raises her chin and does what I come to recognize as her standard imitation of people she doesn't respect. Sometimes she uses this voice to imitate teachers; other times, politicians or parents. Never students. "People say, 'Well, you know, test scores don't take into account creativity and the love of learning,'" she says with a drippy, grating voice, lowering her eyelids halfway. Then she snaps back to herself. "I'm like, 'You know what? I don't give a crap.' Don't get me wrong. Creativity is good and whatever. But if the children don't know how to read, I don't care how creative you are. You're not doing your job."

[See pictures of a diverse group of American teens.](#)

[See pictures of the college dorm's evolution.](#)

Rhee's ferocity has alienated many people--even those who support her ideas and could be helpful to her. This summer the chair of the Washington city council called dealing with Rhee a "nightmare." There has been talk of passing legislation to rein her in. "Michelle Rhee believes in scorched earth," says Randi Weingarten, president of the American Federation of Teachers, a national union that has become unusually involved in local matters in Washington. "I am not saying that D.C.'s school system doesn't need a lot of help. But I have been part of a lot of reforms, and the one thing I have never seen work is a hierarchical, top-down model."

Rhee is aware of the criticism, but she suggests that a certain ruthlessness is required. "Have I rubbed some people the wrong way? Definitely. If I changed my style, I might make people a little more comfortable," she says. "But I think there's real danger in acting in a way that makes adults feel better. Because where does that stop?"

#### The Data

ON RHEE'S TOUR OF SCHOOLS DURING the first week of classes this year, a parent stopped her to praise her accomplishments so far. Rhee listened with a small smile while systematically cracking each of her knuckles with the thumb of the same hand. Then she got back into her SUV and began furiously e-mailing. When she calls her staff, she does not say hello; she just starts talking. She answered 95,000 e-mails last year, according to her office.

She frequently sounds exasperated. "People come to me all the time and say, 'Why did you fire this person?'" she says. The whiny voice is back. "'She's a good person. She's a nice person.' I'm like, 'O.K., go tell her to work at the post office.' Just because you're a nice person and you mean well does not mean you have a right to a job in this district."

The data back up Rhee's obsession with teaching. If two average 8-year-olds are assigned to different teachers, one who is strong and one who is weak, the children's lives can diverge in just a few years, according to research pioneered by Eric Hanushek at Stanford. The child with the effective teacher, the kind who ranks among the top 15% of all teachers, will be scoring well above grade level on standardized tests by the time she is 11. The other child will be a year and a half below grade level--and by then it will take a teacher who works with the child after school and on weekends to undo the compounded damage. In other words, the child will probably never catch up.

The ability to improve test scores is clearly not the only sign of a good teacher. But it is a relatively objective measure in an industry with precious few. And in schools where kids are struggling to read and subtract, it is a prerequisite for getting anything else done. In their defense, Washington teachers and principals, like educators in many of the country's worst school districts, talk about trying to teach a seventh-grader who is eight months pregnant; about being assaulted by students; about holding meetings for parents, replete with free food, and no one showing up. Washington Teachers' Union leader George Parker worries that test-score data cannot take all this into account: "I don't think our teachers are afraid of demonstrating student growth, but you have to look at the dynamics of the children you're dealing with. If I'm teaching children who have computers at home, who have educated parents, those students can move a lot faster than kids whose parents can't read."

Rhee says she does not expect all kids to move up the charts at the same rate; the important thing is to demand that most do move up. "This is a cultural shift," says Kaya Henderson, Rhee's deputy. "For years, there were no data, and you were a good teacher because the parents or your principal told you so. And so this is a scary thing."

The most glaring example of the backward logic of schools is the way most teachers receive lifetime job security after one or two years of work. As Larry Rosenstock, CEO of eight California charter schools, noted at an education panel last spring, we don't give that kind of job security to pilots or doctors--or any others who hold our children's fate in their hands: "What is it that is so exceptional about teachers that they should have this unique right?"

Teachers got tenure rights in the early 20th century to protect them against meddling politicians and school-board members who treated their jobs as patronage pawns. But the rationale is plainly antiquated. Today dozens of federal and state laws protect teachers (and other people) from arbitrary firing. But most teachers still receive tenure almost automatically. In fact, even before they get tenure, they are rarely let go. Schools spend millions of dollars evaluating teachers, but principals have little incentive to shake up their staffs, and so most teachers end up scoring near the top. "What I'm finding is that our principals are ridiculously--like ridiculously--conflict-averse," Rhee says. "They know someone is not so good, and they want to give him a 'Meets expectations' anyway because they don't want to deal with the person coming into the office and yelling and getting the parents riled up."

Right now, schools assess teachers before they teach--filtering for candidates who are certified, who have a master's degree, who have other pieces of paper that do not predict good teaching. And we pay them the same regardless of their effectiveness.

By comparison, if we wanted to have truly great teachers in our schools, we would assess them after their second year of teaching, when we could identify very strong and very weak performers, according to years of research. Great teachers are in total control. They have clear expectations and rules, and they are consistent with rewards and punishments. Most of all, they are in a hurry. They never feel that there is enough time in the day. They quiz kids on their multiplication tables while they walk to lunch. And they don't give up on their worst students, even when any normal person would.

See pictures of teens and how they would vote.

See pictures of college mascots.

Students know this instinctively. Acquirra Carter, 14, attends Washington's Cardozo High School, where, she complains, kids walk out of classes when they get bored and certain teachers talk on their cell phones when they are supposed to be teaching. But there are exceptions, and Carter knows them when she sees them. "Some teachers find a way. Mrs. Brown, they would not dare walk out of her class. She has total control. Mrs. Lawton, nobody leaves her class. This boy whispered, and she knew it!"

Minefields in the Schoolyard

IN THE VIEW OF RHEE AND REFORMERS like her, the struggle to fix America's failing school system comes down to a simple question: How do you get the best teachers and principals to work in the worst schools? In her quest to figure this out, Rhee has already suffered a major setback. Earlier this year, she proposed a revolutionary new model to let teachers choose between two pay scales. They could make up to \$130,000 in merit pay on the basis of their effectiveness--in exchange for giving up tenure for one year. Or they could keep tenure and accept a smaller raise. (Currently, the average teacher's salary in Washington is \$65,902.) The proposal divided the city's teachers into raging, blogging factions. This fall, the union declined to put Rhee's proposal to a vote, and its relationship with her has become increasingly hostile.

In October, Rhee vowed to purge incompetent teachers through any means necessary. She has brought on extra staff to help principals navigate the byzantine termination process and says an unprecedented number of teachers have already been put on notice. But she cannot give teachers the huge raises she proposed unless the union agrees to a new contract. So this approach will be slower, more litigious and less inspiring. In other words, it will be all stick and no carrot. It's hard to say if anyone else would have been able to persuade the union to trade away tenure for cash bonuses, but Rhee's sometimes dismissive attitude made it harder for some teachers to trust her.

For now, Mayor Fenty says he still has full confidence in Rhee, and he claims that Washington residents share his enthusiasm. "Regular people love the fact that for once someone is making tough decisions for D.C. schools," says Fenty, who attended the district's public schools. But the disconnect between Rhee's confident, sweeping rhetoric and the tortured reality is sizable, and it is most apparent at ground level, in the schools she is trying to save.

Rhee likes to tell the story of how Rhodes got in touch with her. She recounted it on TV on The Charlie Rose Show in July: "A student sent me this e-mail and said, basically, If you really want to know what's wrong with our schools, you should come and talk to the kids because I'm afraid that by talking to the adults, you might not be getting the real story."

Rhodes has a more nuanced version of the story. After their initial meeting, they met for a second time at Anacostia High, in a room off the library. Rhodes had invited eight fellow students, and they gave Rhee their typed agenda. They talked about the need for better teachers, as Rhee emphasizes when she tells the story. But Rhodes says he also told her about the holes in the floors, the lack of supplies and the fact that most classes did not have enough books for the students to take home. Rhee listened but did not offer many specific solutions. "She was vague," Rhodes says. "I got the sense she didn't want to make promises she couldn't keep."

Then one day last May, Rhee dismissed Anacostia's principal. Rhodes was devastated. He sent Rhee a furious e-mail. "My principal is a mother, mentor and a teacher to us all," he wrote. "I refuse, NO! we refuse the students of Anacostia to let her go." Rhee wrote him back. "She told me not to worry about it," Rhodes says quietly.

One of the things that make school reform so wrenching and slow is that schools become embedded in people's hearts. This is true in rich neighborhoods and poor ones, with good

schools and bad. Rhodes talks about his school as if it were an extension of himself. He talks about "my teachers" and "my staff," and he refers to other students as "my colleagues." "I love Anacostia High School," he says. At the same time, he is dismayed by his school. He walks through his halls, pointing out the litter on the floor and the broken lockers. Rhodes is 6 ft. 8 in. (2 m) tall, so he has to look down to talk to almost everyone. He wears white tube socks under his black Nike flip-flops and carries his large frame deliberately, like a gentle overseer. "You see all these lockers? None of them work," he says. "This classroom over here is supposed to be for home economics, but it's never been fixed up."

Rhodes did not contact Rhee again. This year Anacostia has a new principal, and Rhodes admits that the school is functioning better. "All the children are wearing their uniforms," he says. "No kids are in the hallways." If you come to school without your uniform on, a security guard or an assistant principal will "snatch you up and just send you home." All the computers in his Microsoft Word classroom now work.

But on Nov. 19, Rhodes had to evacuate his school when fights broke out in the hallways and three students were stabbed. And he still doesn't use the school bathrooms, which are filthy and sometimes unsafe. He waits until he returns to his grandmother's house, where he lives.

Now that he is a senior, Rhodes spends much of his time worrying about getting into college. As we stand on the front steps of the school one autumn evening after class, I ask him what he wants to study. He answers quickly: "Public administration, with a minor in English." I ask him how he can be so sure. "Because someone told me that's what I have to do to take Chancellor Rhee's job," he says matter-of-factly, watching his drum corps practice and his baton twirlers twirl in the twilight.

## **AS 14.17.410. Public School Funding.**

(a) A district is eligible for public school funding in an amount equal to the sum calculated under (b) and (c) of this section.

(b) *Public school funding consists of state aid, a required local contribution, and eligible federal impact aid determined as follows:*

(1) state aid equals basic need minus a required local contribution and 90 percent of eligible federal impact aid for that fiscal year; basic need equals the sum obtained under (D) of this paragraph, multiplied by the base student allocation set out in AS 14.17.470 ; district adjusted ADM is calculated as follows:

(A) the ADM of each school in the district is calculated by applying the school size factor to the student count as set out in AS 14.17.450 ;

(B) the number obtained under (A) of this paragraph is multiplied by the district cost factor described in AS 14.17.460 ;

(C) the ADMs of each school in a district, as adjusted according to (A) and (B) of this paragraph, are added; the sum is then multiplied by the special needs factor set out in AS 14.17.420 (a)(1);

(D) the number obtained for intensive services under AS 14.17.420(a)(2) and the number obtained for correspondence study under AS 14.17.430 are added to the number obtained under (C) of this paragraph;

(2) the required local contribution of a city or borough school district is the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110 , not to exceed 45 percent of a district's basic need for the preceding fiscal year as determined under (1) of this subsection.

(c) In addition to the local contribution required under (b)(2) of this section, a city or borough school district in a fiscal year may make a local contribution of not more than the greater of

(1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110 ; or

(2) 23 percent of the district's basic need for the fiscal year under (b)(1) of this section.

(d) State aid may not be provided to a city or borough school district if the local contributions required under (b)(2) of this section have not been made.

(e) If a city or borough school district is established after July 1, 1998, for the first three fiscal years in which the city or borough school district operates schools, local contributions may be less than the amount that would otherwise be required under (b)(2) of this section, except that (1) in the second fiscal year of operations, local contributions must be at least the greater of (A) the local contributions, excluding federal impact aid, for the previous fiscal year; or (B) the sum of 10 percent of the district's eligible federal impact aid for that year and the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the city or borough school district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110 ; and

(2) in the third year of operation, local contributions must be at least the greater of (A) the local contributions, excluding federal impact aid, for the previous fiscal year; or (B) the sum of 10 percent of the district's eligible federal impact aid for that year and the equivalent of a three mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110 .

(f) A school district is eligible for additional state aid in the amount by which the local contributions that would otherwise have been required under (b)(2) of this section exceed the district's actual local contributions under (e) of this section.

§ 14.45.030. Non-exempt schools, AK ST § 14.45.030

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 45. Private and Denominational Schools

Article 1. Non-Exempt Religious and Private Schools

AS § 14.45.030

§ 14.45.030. Non-exempt schools

Currentness

Teachers and others in charge of religious or other private schools not operated in compliance with AS 14.45.100 - 14.45.130 are not exempt from laws and regulations relating to education. Non-exempt schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools.

**Credits**

SLA 1984, ch. 11, § 4.

**Prior Codifications:** ACLA 1949, § 37-11-3.

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

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§ 14.45.100. Exemption, AK ST § 14.45.100

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West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 45. Private and Denominational Schools

Article 2. Exempt Religious and Other Private Schools

AS § 14.45.100

§ 14.45.100. Exemption

Currentness

A religious or other private school that complies with AS 14.45.100 - 14.45.130 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.

**Credits**

SLA 1984, ch. 11, § 5.

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§ 14.45.110. Requirements of exempt schools, AK ST § 14.45.110

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 45. Private and Denominational Schools

Article 2. Exempt Religious and Other Private Schools

AS § 14.45.110

§ 14.45.110. Requirements of exempt schools

Currentness

(a) The parent or guardian of a child of compulsory school age enrolled in a religious or other private school that complies with AS 14.45.100 - 14.45.130 shall file an annual notice of enrollment in the school for the child with the local public school superintendent for the area in which the child resides on a form provided by the department. The form shall be signed by the parent or guardian and the chief administrative officer of the school and returned to the local public school superintendent by the parent or guardian. The school shall notify the local public school superintendent within a reasonable time if the child is no longer enrolled in or attending the school.

(b) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.130 shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, shall make an annual report to the commissioner of the number of students in each grade and the school calendar, and shall comply with the provisions concerning missing children under AS 14.30.700 - 14.30.720.

**Credits**

SLA 1984, ch. 11, § 5; SLA 1990, ch. 202, § 2.

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

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§ 14.45.120. Standardized testing requirements, AK ST § 14.45.120

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 45. Private and Denominational Schools

Article 2. Exempt Religious and Other Private Schools

AS § 14.45.120

§ 14.45.120. Standardized testing requirements

Currentness

(a) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.130 shall administer a nationally standardized test selected by the chief administrative officer of the school to all students enrolled in grades four, six, and eight at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious or other private school that elects to comply with AS 14.45.100 - 14.45.130 shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student. Each school shall make composite test results for the school available annually to an authorized representative of the department. The composite test results of a religious or other private school operated in compliance with AS 14.45.100 - 14.45.130 are not public information unless each public school

(1) is also required to administer a nationally standardized test that measures achievement in English grammar, reading, spelling, and mathematics; and

(2) the composite test results for each public school are public information.

**Credits**

SLA 1984, ch. 11, § 5.

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

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West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 45. Private and Denominational Schools

Article 2. Exempt Religious and Other Private Schools

AS § 14.45.130

§ 14.45.130. Records

Currentness

(a) A religious or other private school that elects to comply with AS 14.45.100--14.45.130 shall maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, courses taken at the school, and level of eligibility for an Alaska merit scholarship program scholarship under AS 14.43.810--14.43.849.

(b) The chief administrative officer of a school that elects to comply with AS 14.45.100 - 14.45.130 shall certify to the department, under oath or by affirmation, that the records required under (a) of this section are being maintained.

**Credits**

SLA 1984, ch. 11, § 5. Amended by SLA 2010, ch. 14, § 7, eff. July 1, 2011.

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§ 14.09.010. Transportation of pupils, AK ST § 14.09.010

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 09. Transportation of Pupils

AS: § 14.09.010

§ 14.09.010. Transportation of pupils

Currentness

(a) A school district that provides student transportation services is eligible to receive funding for operating the student transportation system. Subject to appropriation, the amount of funding provided by the state under this section is the amount of the school district's ADM, less the ADM for the district's correspondence programs during the current fiscal year, multiplied by the per student amount for the school district as follows:

DISTRICT	PER STUDENT AMOUNT
Alaska Gateway	\$1,566
Aleutians East	265
Anchorage	384
Annette Island	61
Bering Strait	45
Bristol Bay	2,187
Chatham	73
Copper River	1,387
Cordova	278
Craig	266
Delta/Greely	1,413
Denali	1,708
Dillingham	1,020
Fairbanks	665
Galena	241
Haines	592
Hoonah	281
Iditarod	178
Juneau	525
Kake	193
Kashunamiut	5
Kenai Peninsula	638
Ketchikan	686
Klawock	210
Kodiak Island	560
Kuspuk	618
Lake and Peninsula	359
Lower Kuskokwim	198
Lower Yukon	1
Matanuska-Susitna	726
Nenana	530

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Nome	368
North Slope	896
Northwest Arctic	21
Pelican	68
Petersburg	261
Saint Mary's	71
Sitka	404
Skagway	34
Southeast Island	1,040
Southwest Region	565
Tanana	451
Unalaska	612
Valdez	629
Wrangell	563
Yakutat	683
Yukon Flats	237
Yukon/Koyukuk	282
Yupiit	2.

(b) In this section,

(1) "ADM" has the meaning given in AS 14.17.990;

(2) "district's ADM" means the sum of the ADMs in the district.

(c) Repealed by SLA 2008, ch. 9, § 11, eff. June 30, 2011.

**Credits**

SLA 1966, ch. 39, § 1; SLA 1966, ch. 98, § 1; 1st Sp. Sess. 1996, ch. 2, § 1; SLA 1998, ch. 83, §§ 15, 16; SLA 2003, ch. 54, § 1. Amended by SLA 2008, ch. 9, § 1, eff. July 1, 2008; SLA 2008, ch. 9, § 2, eff. June 25, 2008.

Notes of Decisions (13)

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 09. Transportation of Pupils

AS § 14.09.020

§ 14.09.020. Transportation for nonpublic school students

Currentness

In those places in the state where the department or a school district provides transportation for children attending public schools, the department also shall provide transportation for children who, in compliance with the provisions of AS 14.30, attend nonpublic schools that are administered in compliance with state law where the children, in order to reach the nonpublic schools, must travel distances comparable to, and over routes the same as, the distances and routes over which the children attending public schools are transported. The commissioner shall administer this nonpublic school student transportation program, integrating it into existing systems as much as feasible, and the cost of the program shall be paid from funds appropriated for that purpose by the legislature.

**Credits**

SLA 1972, ch. 157, § 1.

Notes of Decisions (4)

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§ 14.17.300. Public education fund, AK ST § 14.17.300

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.300

§ 14.17.300. Public education fund

Currentness

(a) The public education fund is established. The fund consists of appropriations for

(1) distribution to school districts, to the state boarding school, and for centralized correspondence study under this chapter; and

(2) transportation of pupils under AS 14.09.010.

(b) Money appropriated to the fund may be expended without further appropriation. Money appropriated to the fund does not lapse. The money in the fund may be expended only in aid of public schools and for centralized correspondence study programs under this chapter and for transportation of pupils under AS 14.09.010. Interest earned on money held in the fund before expenditure may be appropriated to the fund by the legislature.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2005, ch. 4, § 1.

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.400

§ 14.17.400. State aid for districts

Currentness

(a) The state aid for which a school district is eligible in a fiscal year is equal to the amount for which a district qualifies under AS 14.17.410.

(b) If the amount appropriated to the public education fund for purposes of this chapter is insufficient to meet the amounts authorized under (a) of this section for a fiscal year, the department shall reduce pro rata each district's basic need by the necessary percentage as determined by the department. If the basic need of each district is reduced under this subsection, the department shall also reduce state funding for centralized correspondence study and the state boarding school by the same percentage.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2005, ch. 4, § 2.

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.410

§ 14.17.410. Public school funding

Currentness

- (a) A district is eligible for public school funding in an amount equal to the sum calculated under (b) and (c) of this section.
- (b) Public school funding consists of state aid, a required local contribution, and eligible federal impact aid determined as follows:
- (1) state aid equals basic need minus a required local contribution and 90 percent of eligible federal impact aid for that fiscal year; basic need equals the sum obtained under (D) of this paragraph, multiplied by the base student allocation set out in AS 14.17.470; district adjusted ADM is calculated as follows:
- (A) the ADM of each school in the district is calculated by applying the school size factor to the student count as set out in AS 14.17.450;
- (B) the number obtained under (A) of this paragraph is multiplied by the district cost factor described in AS 14.17.460;
- (C) the ADMs of each school in a district, as adjusted according to (A) and (B) of this paragraph, are added; the sum is then multiplied by the special needs factor set out in AS 14.17.420(a)(1) and the high school vocational education factor set out in AS 14.17.420(a)(3);
- (D) the number obtained for intensive services under AS 14.17.420(a)(2) and the number obtained for correspondence study under AS 14.17.430 are added to the number obtained under (C) of this paragraph;
- (E) notwithstanding (A)--(C) of this paragraph, if a school district's ADM adjusted for school size under (A) of this paragraph decreases by five percent or more from one fiscal year to the next fiscal year, the school district may use the last fiscal year before the decrease as a base fiscal year to offset the decrease, according to the following method:
- (i) for the first fiscal year after the base fiscal year determined under this subparagraph, the school district's ADM adjusted for school size determined under (A) of this paragraph is calculated as the district's ADM adjusted for school size, plus 75 percent of the difference in the district's ADM adjusted for school size between the base fiscal year and the first fiscal year after the base fiscal year;
- (ii) for the second fiscal year after the base fiscal year determined under this subparagraph, the school district's ADM adjusted for school size determined under (A) of this paragraph is calculated as the district's ADM adjusted for school size, plus 50 percent of the difference in the district's ADM adjusted for school size between the base fiscal year and the second fiscal year after the base fiscal year;
- (iii) for the third fiscal year after the base fiscal year determined under this subparagraph, the school district's ADM adjusted for school size determined under (A) of this paragraph is calculated as the district's ADM adjusted for school

§ 14.17.410. Public school funding, AK ST § 14.17.410

size, plus 25 percent of the difference in the district's ADM adjusted for school size between the base fiscal year and the third fiscal year after the base fiscal year;

(F) the method established in (E) of this paragraph is available to a school district for the three fiscal years following the base fiscal year determined under (E) of this paragraph only if the district's ADM adjusted for school size determined under (A) of this paragraph for each fiscal year is less than the district's ADM adjusted for school size in the base fiscal year;

(G) the method established in (E) of this paragraph does not apply to a decrease in the district's ADM adjusted for school size resulting from a loss of enrollment that occurs as a result of a boundary change under AS 29;

(2) the required local contribution of a city or borough school district is the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110, not to exceed 45 percent of a district's basic need for the preceding fiscal year as determined under (1) of this subsection.

(c) In addition to the local contribution required under (b)(2) of this section, a city or borough school district in a fiscal year may make a local contribution of not more than the greater of

(1) the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110; or

(2) 23 percent of the district's basic need for the fiscal year under (b)(1) of this section.

(d) State aid may not be provided to a city or borough school district if the local contributions required under (b)(2) of this section have not been made.

(e) If a city or borough school district is established after July 1, 1998, for the first three fiscal years in which the city or borough school district operates schools, local contributions may be less than the amount that would otherwise be required under (b)(2) of this section, except that

(1) in the second fiscal year of operations, local contributions must be at least the greater of

(A) the local contributions, excluding federal impact aid, for the previous fiscal year; or

(B) the sum of 10 percent of the district's eligible federal impact aid for that year and the equivalent of a two mill tax levy on the full and true value of the taxable real and personal property in the city or borough school district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110; and

(2) in the third year of operation, local contributions must be at least the greater of

(A) the local contributions, excluding federal impact aid, for the previous fiscal year; or

(B) the sum of 10 percent of the district's eligible federal impact aid for that year and the equivalent of a three mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year, as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110.

(f) A school district is eligible for additional state aid in the amount by which the local contributions that would otherwise have been required under (b)(2) of this section exceed the district's actual local contributions under (e) of this section.

**Credits**

SLA 1998, ch. 83, § 2. Amended by SLA 2008, ch. 9, § 3, eff. July 1, 2008; 1st Sp. Sess. 2011, ch. 7, § 2, eff. July 23, 2011.

§ 14.17.410. Public school funding, AK ST § 14.17.410

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Notes of Decisions (6)

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§ 14.17.420. Funding for special needs, high school vocational..., AK ST § 14.17.420

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.420

§ 14.17.420. Funding for special needs, high school vocational and technical instruction, and intensive services

Currentness

(a) As a component of public school funding, a district is eligible for special needs and high school vocational and technical instruction funding and may be eligible for intensive services funding as follows:

(1) special needs funding is available to a district to assist the district in providing special education, gifted and talented education, vocational education, and bilingual education services to its students; a special needs funding factor of 1.20 shall be applied as set out in AS 14.17.410(b)(1);

(2) in addition to the special needs funding for which a district is eligible under (1) of this subsection, a district is eligible for intensive services funding for each special education student who needs and receives intensive services and is enrolled on the last day of the count period; for each such student, intensive services funding is equal to the intensive student count multiplied by 13;

(3) in addition to the special needs and intensive services funding available under (1) and (2) of this subsection, high school vocational and technical instruction funding is available to assist districts in providing vocational and technical instruction to students who are enrolled in grades nine through 12; a high school vocational and technical instruction funding factor of 1.01 shall be applied as set out in AS 14.17.410(b)(1); in this paragraph, "vocational and technical instruction" excludes costs associated with

(A) administrative expenses; and

(B) instruction in general literacy, mathematics, and job readiness skills.

(b) If a district offers special education, gifted and talented education, vocational education, or bilingual education services, in order to receive funding under (a)(1) of this section, the district must file with the department a plan that indicates the services that will be provided to students who receive these services.

(c) In this section, "intensive services" has the meaning given by the department by regulation adopted under AS 14.30.180--14.30.350.

**Credits**

SLA 1998, ch. 83, § 2. Amended by SLA 2008, ch. 9, § 4, eff. July 1, 2008; SLA 2008, ch. 9, § 5, eff. July 1, 2009; SLA 2008, ch. 9, § 6, eff. July 1, 2010; 1st Sp. Sess. 2011, ch. 7, § 3, eff. July 23, 2011.

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§ 14.17.430. State funding for correspondence study, AK ST § 14.17.430

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.430

§ 14.17.430. State funding for correspondence study

Currentness

Except as provided in AS 14.17.400(b), funding for the state centralized correspondence study program or a district correspondence program, including a district that offers a statewide correspondence study program, includes an allocation from the public education fund in an amount calculated by multiplying the ADM of the correspondence program by 80 percent.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2005, ch. 4, § 3.

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§ 14.17.440. State funding for state boarding schools, AK ST § 14.17.440

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.440

§ 14.17.440. State funding for state boarding schools

Currentness

(a) Except as provided in AS 14.17.400(b), funding for state boarding schools established under AS 14.16.010 includes an allocation from the public education fund in an amount calculated by

(1) determining the ADM of state boarding schools by applying the school size factor to the student count as described in AS 14.17.450;

(2) multiplying the number obtained under (1) of this subsection by the special needs factor in AS 14.17.420(a)(1) and the high school vocational education factor set out in AS 14.17.420(a)(3) and multiplying that product by the base student allocation; and

(3) multiplying the product determined under (2) of this subsection by the district cost factor that is applicable to calculation of the state aid for the adjacent school district under AS 14.17.460.

(b) State boarding schools are also eligible for intensive services funding under AS 14.17.420(a)(2).

**Credits**

SLA 1998, ch. 83, § 2; SLA 2005, ch. 4, § 4. Amended by 1st Sp. Sess. 2011, ch. 7, § 4, eff. July 23, 2011.

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§ 14.17.450. School size factor, AK ST § 14.17.450

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.450

§ 14.17.450. School size factor

Currentness

(a) For purposes of calculating a school's ADM to determine state aid, the ADM of each school in a district shall be computed by applying the following formula:

If the student count in a school is			The adjusted student count is				
At least		But less than	Base	Multiplier			The number of students in excess of
10	-	20	39.6				
20	-	30	39.6	+	(1.62	x	20)
30	-	75	55.8	+	(1.49	x	30)
75	-	150	122.85	+	(1.27	x	75)
150	-	250	218.1	+	(1.08	x	150)
250	-	400	326.1	+	(0.97	x	250)
400	-	750	471.6	+	(0.92	x	400)
750 or over			793.6	+	(0.84	x	750).

(b) If the ADM in a school is less than 10, those students shall be included in the ADM of the school in that district with the lowest ADM as determined by the most recent student count data for that district.

(c) Except as provided in (d) of this section, if the student count in a charter school is less than 150, the adjusted student count for the school shall be calculated by multiplying the student count by the student rate for a school that has a student count of 400.

(d) If a charter school has a student count of more than 120 but less than 150 for the current year and is in the first year of operation or had a student count of 150 or more in the previous year of operation,

(1) the adjusted student count for the school shall be calculated by multiplying the student count by 95 percent of the student rate for a school that has a student count of 150; and

(2) not later than February 15, the charter school shall submit for approval of the governing board of the district a plan for the following school year that includes a statement about whether the school will continue to operate if the student count remains the same that year and, if so, a projection of the funding anticipated from the state and other sources, a proposed budget, and a description of anticipated changes to the school staff, program, and curriculum; if the school intends to close if the student count remains the same the following year, the plan must describe transfer plans for students, staff, facilities, and materials.

(e) If an alternative school has a student count of more than 120 but less than 175 for the current year and is in the first year of operation or had a student count of 175 or more in the previous year of operation, the adjusted student count for the school shall be calculated by multiplying the student count by 95 percent of the student rate for a school that has a student count of 175.

**§ 14.17.450. School size factor, AK ST § 14.17.450**

(f) In (c)--(e) of this section, "student rate" is calculated by adding the base and the multiplier provided under (a) of this section and dividing the sum by the student count.

**Credits**

SLA 1998, ch. 83, § 2. Amended by SLA 2009, ch. 9, § 1, eff. Aug. 13, 2009.

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Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.460

§ 14.17.460. District cost factors

Currentness

(a) For purposes of calculating a district's adjusted ADM under AS 14.17.410(b)(1), the district cost factor for a school district is (1) for the fiscal year ending June 30, 2009, the factor set out under column (A) of this subsection, (2) for the fiscal year ending June 30, 2010, the factor set out under column (B) of this subsection, (3) for the fiscal year ending June 30, 2011, the factor set out under column (C) of this subsection, (4) for the fiscal year ending June 30, 2012, the factor set out under column (D) of this subsection, and (5) for fiscal years ending on or after June 30, 2013, the factor set out under column (E) of this subsection:

DISTRICT	DISTRICT COST FACTOR				
	(A)	(B)	(C)	(D)	(E)
Alaska Gateway	1.443	1.481	1.519	1.557	1.594
Aleutians East	1.707	1.778	1.849	1.920	1.991
Aleutians Region	1.838	1.864	1.890	1.916	1.939
Anchorage	1.000	1.000	1.000	1.000	1.000
Annette Island	1.175	1.216	1.257	1.298	1.338
Bering Strait	1.762	1.821	1.880	1.939	1.998
Bristol Bay	1.370	1.397	1.424	1.451	1.478
Chatham	1.348	1.405	1.462	1.519	1.576
Chugach	1.395	1.420	1.445	1.470	1.496
Copper River	1.246	1.264	1.282	1.300	1.316
Cordova	1.165	1.182	1.199	1.216	1.234
Craig	1.108	1.133	1.158	1.183	1.206
Delta/Greely	1.174	1.191	1.208	1.225	1.241
Denali	1.323	1.326	1.329	1.332	1.332
Dillingham	1.300	1.312	1.324	1.336	1.346
Fairbanks	1.055	1.059	1.063	1.067	1.070
Galena	1.370	1.376	1.382	1.388	1.391
Haines	1.104	1.128	1.152	1.176	1.200
Hoonah	1.227	1.270	1.313	1.356	1.399
Hydaburg	1.295	1.348	1.401	1.454	1.504
Iditarod	1.658	1.705	1.752	1.799	1.846
Juneau	1.075	1.093	1.111	1.129	1.145
Kake	1.242	1.296	1.350	1.404	1.459
Kashunamiut	1.504	1.533	1.562	1.591	1.619
Kenai Peninsula	1.088	1.109	1.130	1.151	1.171
Ketchikan	1.085	1.106	1.127	1.148	1.170
Klawock	1.160	1.196	1.232	1.268	1.302

§ 14.17.460. District cost factors, AK ST § 14.17.460

Kodiak Island	1.191	1.216	1.241	1.266	1.289
Kuspuk	1.584	1.622	1.660	1.698	1.734
Lake and Peninsula	1.776	1.831	1.886	1.941	1.994
Lower Kuskokwim	1.577	1.599	1.621	1.643	1.663
Lower Yukon	1.650	1.703	1.756	1.809	1.861
Matanuska-Susitna	1.040	1.048	1.056	1.064	1.070
Mt. Edgecumbe	1.098	1.123	1.148	1.173	1.195
Nenana	1.304	1.313	1.322	1.331	1.338
Nome	1.385	1.402	1.419	1.436	1.450
North Slope	1.648	1.684	1.720	1.756	1.791
Northwest Arctic	1.686	1.720	1.754	1.788	1.823
Pelican	1.384	1.408	1.432	1.456	1.477
Petersburg	1.122	1.153	1.184	1.215	1.244
Pribilof	1.555	1.589	1.623	1.657	1.691
Sitka	1.098	1.123	1.148	1.173	1.195
Skagway	1.159	1.163	1.167	1.171	1.174
Southeast Island	1.264	1.299	1.334	1.369	1.403
Southwest Region	1.554	1.587	1.620	1.653	1.685
St. Mary's	1.488	1.522	1.556	1.590	1.624
Tanana	1.641	1.677	1.713	1.749	1.786
Unalaska	1.343	1.368	1.393	1.418	1.441
Valdez	1.133	1.143	1.153	1.163	1.170
Wrangell	1.080	1.100	1.120	1.140	1.159
Yakutat	1.229	1.275	1.321	1.367	1.412
Yukon Flats	1.892	1.948	2.004	2.060	2.116
Yukon/Koyukuk	1.669	1.711	1.753	1.795	1.835
Yupitit	1.596	1.628	1.660	1.692	1.723

(b) The department shall monitor the cost factors established under (a) of this section and shall prepare and submit to the legislature by January 15 of every other fiscal year proposed district cost factors.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2006, ch. 41, § 5, eff. July 1, 2006; SLA 2006, ch. 41, § 6, eff. July 1, 2007. Amended by SLA 2008, ch. 9, § 7, eff. July 1, 2008.

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Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.470

§ 14.17.470. Base student allocation

Currentness

The base student allocation is \$5,680.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2001, ch. 95, § 2; SLA 2003, ch. 54, § 2; SLA 2004, ch. 58, § 1; 1st Sp. Sess. 2005, ch. 6, § 1; SLA 2006, ch. 41, § 7, eff. July 1, 2006. Amended by SLA 2008, ch. 9, § 8, eff. July 1, 2008; SLA 2008, ch. 9, § 9, eff. July 1, 2009; SLA 2008, ch. 9, § 10, eff. July 1, 2010.

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§ 14.17.480. Quality school funding, AK ST § 14.17.480

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.480

§ 14.17.480. Quality school funding

Currentness

(a) As a component of public school funding, a district is eligible to receive a quality school funding grant not to exceed the district's adjusted ADM multiplied by \$16. The department shall by regulation establish a grant process to implement this section.

(b) For purposes of the reduction required under AS 14.17.400(b), funding authorized under (a) of this section is treated the same as the state share of public school funding under AS 14.17.410.

**Credits**

SLA 1998, ch. 83, § 2.

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Chapter 17. Financing of Public Schools

Article 1. State Aid to Public Schools

AS § 14.17.490

§ 14.17.490. Public school funding adjustments

Currentness

(a) Except as provided in (b)--(e) of this section, if, in fiscal year 1999, a city or borough school district or a regional educational attendance area would receive less public school funding under AS 14.17.410 than the district or area would have received as state aid, the district or area is, in each fiscal year, eligible to receive additional public school funding equal to the difference between the public school funding the district or area was eligible to receive under AS 14.17.410 in fiscal year 1999 and the state aid the district or area would have received in fiscal year 1999.

(b) A city or borough school district is not eligible for additional funding authorized under (a) of this section unless, during the fiscal year in which the district receives funding under (a) of this section, the district received a local contribution equal to at least the equivalent of a four mill tax levy on the full and true value of the taxable real and personal property in the district as of January 1 of the second preceding fiscal year as determined by the Department of Commerce, Community, and Economic Development under AS 14.17.510 and AS 29.45.110.

(c) For the purposes of the reduction required under AS 14.17.400(b), funding authorized under (a) of this section is treated the same as the state share of public school funding under AS 14.17.410.

(d) Beginning in fiscal year 2000, if a district receives more public school funding under AS 14.17.410 than the district received in the preceding fiscal year, any amount received by the district under this section shall be reduced. The amount of the reduction required under this subsection is equal to the amount of increase from the preceding fiscal year in public school funding multiplied by 40 percent. In this subsection, "public school funding" does not include funding under this section.

(e) Beginning in fiscal year 2000, in each fiscal year, the department shall compare each district's ADM with the district's ADM in fiscal year 1999. If the current fiscal year ADM is less than 95 percent of the district's ADM in fiscal year 1999, the department shall reduce the district's public school funding calculated under (a) of this section by a percentage equal to the percentage of decrease in the district's ADM.

(f) For purposes of this section, "state aid" means state aid distributed under the provisions of AS 14.17, as those provisions read on January 1, 1998, and additional district support appropriated by the legislature for fiscal year 1998.

**Credits**

SLA 1998, ch. 83, § 2.

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

§ 14.17.500. Student count estimate, AK ST § 14.17.500

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 2. Preparation of Public School Funding Budget

AS § 14.17.500

§ 14.17.500. Student count estimate

Currentness

(a) A district shall prepare and submit to the department by November 5 of each fiscal year, in the manner and on forms prescribed by the department, an estimate of its ADM and other student count data, including per school student count data, for the succeeding fiscal year upon which computations can be made to estimate the amount of state aid for which the district may be eligible under AS 14.17.400 in the succeeding fiscal year. In making its report, the district shall consider its ADM, other student count data, the pattern of growth or decline of the student population in preceding years, and other pertinent information available to the district.

(b) Part-time students shall be included in the student count data in accordance with regulations adopted by the department.

(c) When reporting a district's ADM, a part-time student who is a correspondence student may not be counted as more than one full-time equivalent student.

**Credits**

SLA 1998, ch. 83, § 2; SLA 1998, ch. 120, § 3.

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

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§ 14.17.505. Fund balance in school operating fund, AK ST § 14.17.505

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 2. Preparation of Public School Funding Budget

AS § 14.17.505

§ 14.17.505. Fund balance in school operating fund

Currentness

(a) A district may not accumulate in a fiscal year an unreserved portion of its year-end fund balance in its school operating fund, as defined by department regulations, that is greater than 10 percent of its expenditures for that fiscal year.

(b) The department shall review each district's annual audit under AS 14.14.050 for the preceding fiscal year to ascertain its year-end operating fund balance. The amount by which the unreserved portion of that balance exceeds the amount permitted in (a) of this section shall be deducted from the state aid that would otherwise be paid to the district in the current fiscal year.

**Credits**

SLA 1998, ch. 83, § 2.

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 2. Preparation of Public School Funding Budget

AS § 14.17.510

§ 14.17.510. Determination of full and true value by Department  
of Commerce, Community, and Economic Development

Currentness

(a) To determine the amount of required local contribution under AS 14.17.410(b)(2) and to aid the department and the legislature in planning, the Department of Commerce, Community, and Economic Development, in consultation with the assessor for each district in a city or borough, shall determine the full and true value of the taxable real and personal property in each district in a city or borough. If there is no local assessor or current local assessment for a city or borough school district, then the Department of Commerce, Community, and Economic Development shall make the determination of full and true value guided by AS 29.45.110 and based on a determination of full and true value made by the state assessor at least every two years using the best information available, including on-site inspections made by the state assessor in each of those districts at least once every four years. For purposes of this subsection, the full and true value of taxable real and personal property in any area detached shall be excluded from the determination of the full and true value of the municipality from which the property was detached for the two years immediately preceding the effective date of the detachment. Also, in making the determination for a municipality that is a school district, or for a city that is within a borough school district, the assessed value of property taxable under AS 43.56 shall be excluded if a tax is not levied under AS 29.45.080 by the municipality that is the school district. The determination of full and true value shall be made by October 1 and sent by certified mail, return receipt requested, on or before that date to the president of the school board in each city or borough school district. Duplicate copies shall be sent to the commissioner. The governing body of a city or borough that is a school district may obtain judicial review of the determination. The superior court may modify the determination of the Department of Commerce, Community, and Economic Development only upon a finding of abuse of discretion or upon a finding that there is no substantial evidence to support the determination.

(b) Motor vehicles subject to the motor vehicle registration tax under AS 28.10.431 shall be treated as taxable property under this section.

(c) Notwithstanding AS 14.17.410(b)(2) and the other provisions of this section, if the assessed value in a city or borough school district determined under (a) of this section increases from the base year, only 50 percent of the annual increase in assessed value may be included in determining the assessed value in a city or borough school district under (a) of this section. The limitation on the increase in assessed value in this subsection applies only to a determination of assessed value for purposes of calculating the required contribution of a city or borough school district under AS 14.17.410(b)(2) and 14.17.490(b). In this subsection, the base year is 1999.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2001, ch. 95, § 3; SLA 2006, ch. 5, § 1, eff. June 14, 2006.

Notes of Decisions (2)

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

§ 14.17.510. Determination of full and true value by Department..., AK ST § 14.17.510

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 2. Preparation of Public School Funding Budget

AS § 14.17.520

§ 14.17.520. Minimum expenditure for instruction

Currentness

(a) A district shall budget for and spend a minimum of 70 percent of its school operating expenditures in each fiscal year on the instructional component of the district budget.

(b) The commissioner shall reject a district budget that does not comply with (a) of this section and, unless a waiver has been granted by the board under (d) of this section, shall withhold payments of state aid from that district, beginning with the payment for the second full month after rejection and continuing until the school board of the district revises the district budget to comply with (a) of this section.

(c) The commissioner shall review the annual audit of each district for compliance with the expenditure requirements of (a) of this section. If the commissioner determines that a district does not meet those requirements, the commissioner shall advise the district of the determination, calculate the amount of the deficiency, and deduct that amount from state aid paid to the district for the current fiscal year. A deduction in state aid required under this subsection begins with the payment for the second full month after the determination, unless a waiver has been granted by the board under (d) of this section.

(d) A district that has been determined by the commissioner to be out of compliance with the requirements of this section may, within 20 days of the commissioner's determination, request a waiver by the board of the imposition by the commissioner of any reduction in state aid payments under (b) or (c) of this section. The request must be in writing and must include an analysis of the reasons and causes for the district's inability to comply with the requirements of this section. The board may grant the waiver if the board determines that the district's failure to meet the expenditure requirements of this section was due to circumstances beyond the control of the district. The request must also be submitted to the Legislative Budget and Audit Committee, which shall review the district's request and forward the committee's recommendations on it to the board.

(e) The commissioner shall submit an annual report on actions taken by the commissioner or the board under this section to the Legislative Budget and Audit Committee by April 15 of each year.

(f) In this section, "instructional component" includes expenditures for teachers and for pupil support services.

**Credits**

SLA 1998, ch. 83, § 2.

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

§ 14.17.600. Student count periods, AK ST § 14.17.600

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 3. Procedure for Payments of State Aid

AS § 14.17.600

§ 14.17.600. Student count periods

Currentness

(a) Within two weeks after the end of the 20-school-day period ending the fourth Friday in October, each district shall transmit a report to the department that, under regulations adopted by the department, reports its ADM for that count period and other student count information that will aid the department in making a determination of its state aid under the public school funding program. For centralized correspondence study, the October report shall be based on the period from July 1 through the fourth Friday in October. The department may make necessary corrections in the report submitted and shall notify the district of changes made. The commissioner shall notify the governor of additional appropriations the commissioner estimates to be necessary to fully finance the public school funding program for the current fiscal year.

(b) Upon written request and for good cause shown, the commissioner may permit a district to use a 20-school-day count period other than the period set out in (a) of this section. However, a count period approved under this subsection must be 20 consecutive school days unless one or more alternate count periods are necessary to permit a district to implement flexible scheduling that meets the district's needs and goals without jeopardizing the state aid for which the district would ordinarily be eligible under this chapter.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2003, ch. 114, § 6. Amended by SLA 2009, ch. 41, § 15, eff. June 21, 2009.

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§ 14.17.900. Construction and implementation of chapter, AK ST § 14.17.900

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 4. General Provisions

AS § 14.17.900

§ 14.17.900. Construction and implementation of chapter

Currentness

(a) This chapter does not create a debt of the state. Each district shall establish, maintain, and operate under a balanced budget. The state is not responsible for the debts of a school district.

(b) Money to carry out the provisions of this chapter may be appropriated annually by the legislature into the public education fund. If the amount appropriated to the fund for the purposes of this chapter is insufficient to meet the allocations authorized under AS 14.17.400--14.17.470 for a fiscal year, state aid shall be reduced according to AS 14.17.400(b).

**Credits**

SLA 1998, ch. 83, § 2; SLA 2005, ch. 4, § 6.

Notes of Decisions (1)

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

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§ 14.17.905. Facilities constituting a school, AK ST § 14.17.905

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 4. General Provisions

AS § 14.17.905

§ 14.17.905. Facilities constituting a school

Currentness

(a) For purposes of this chapter, the determination of the number of schools in a district is subject to the following:

(1) a community with an ADM of at least 10, but not more than 100, shall be counted as one school;

(2) a community with an ADM of at least 101, but not more than 425, shall be counted as

(A) one elementary school, which includes those students in grades kindergarten through six; and

(B) one secondary school, which includes students in grades seven through 12;

(3) in a community with an ADM of greater than 425, each facility that is administered as a separate school shall be counted as one school, except that each alternative school with an ADM of less than 175 shall be counted as a part of the school in the district with the highest ADM.

(b) Notwithstanding (a)(3) of this section and for purposes other than calculations under AS 14.17.450, a charter school shall be counted as a separate school if the charter school has an ADM of at least 150 students.

**Credits**

SLA 1998, ch. 83, § 2; SLA 2001, ch. 70, § 7; SLA 2001, ch. 95, § 4. Amended by SLA 2009, ch. 9, § 2, eff. Aug. 13, 2009.

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§ 14.17.910. Restrictions governing receipt and expenditure of..., AK ST § 14.17.910

West's Alaska Statutes Annotated

Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 4. General Provisions

AS § 14.17.910

§ 14.17.910. Restrictions governing receipt and expenditure of district money

Currentness

(a) Each district shall maintain complete financial records of the receipt and disbursement of state aid, money acquired from local effort, and other money received or held by the district. The records must be in the form required by the department and are subject to audit by the department at a time and place designated by the department.

(b) State aid provided under this chapter is for general operational purposes of the district. All district money, including state aid, shall be received, held, allocated, and expended by the district under applicable local law and state and federal constitutional provisions, statutes, and regulations, including those related to ethical standards and accounting principles.

**Credits**

SLA 1998, ch. 83, § 2.

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 4. General Provisions

AS § 14.17.920

§ 14.17.920. Regulations

Currentness

The department shall adopt regulations necessary to implement this chapter.

**Credits**

SLA 1998, ch. 83, § 2.

Current through the 2011 of the First Regular Session and First Special Session of the 27th Legislature

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Title 14. Education, Libraries, and Museums (Refs & Annos)

Chapter 17. Financing of Public Schools

Article 4. General Provisions

AS § 14.17.990

§ 14.17.990. Definitions

Currentness

In this chapter, unless the context requires otherwise,

- (1) "ADM or average daily membership" means the aggregate number of full-time equivalent students enrolled in a school district during the student count period for which a determination is being made, divided by the actual number of days that school is in session for the student count period for which the determination is being made;
- (2) "district" means a city or borough school district or a regional educational attendance area;
- (3) "district adjusted ADM" means the number resulting from the calculations under AS 14.17.410(b)(1);
- (4) "district ADM" means the sum of the ADMs in a district;
- (5) "eligible federal impact aid" means the amount of federal impact aid received by a district as of March 1 of the fiscal year as a result of an application submitted in the preceding fiscal year, including advance payments and adjustments received since March 1 of the preceding fiscal year from prior year applications, under 20 U.S.C. 7701--7714, except payments received under former 20 U.S.C. 7703(f)(2)(B), to the extent the state may consider that aid as local resources under federal law;
- (6) "local contribution" means appropriations and the value of in-kind services made by a district;
- (7) "taxable real and personal property" means all real and personal property taxable under the laws of the state.

**Credits**

SLA 1998, ch. 83, § 2. Amended by SLA 2009, ch. 41, § 16, eff. June 21, 2009.

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While our concern is more a warning to religious and parochial schools that receive the money, it is good to remind everyone that increasing dependence on such monies can and often does result in the increasing vulnerability of the religious mission of these schools through state programming regulations, such as, determining what can and cannot be taught, and during a major financial crunch cause the crippling and shut down of said schools due to the sweeping withdrawal of such voucher based financial support.

That being said we are neither for or against this proposal. We are simply offering principles for church institutions to consider when evaluating the acceptability of State Financial aid.

In dealing with the practical question of when is it appropriate for church schools or institutions in the faith community to accept support or funding from the government, the following principles should be considered:

1. Would accepting the aid establish a precedent that would undercut the religious freedom protections guaranteed by the First Amendment, and the broad principle it embraces - the separation of church and state?
2. Does the aid come attached with conditions or requirements that would inhibit or interfere with the religious mission or goals of the institution, such as the restriction of its religious activities or standards?
3. Is there a reasonable likelihood that the aid would create a dependency by the religious institution on the government benefit program - so much so that it would inhibit its future ability to act independently?

In conclusion, the Northwest Religious Liberty Association, and its board of directors offer these principles in the form of questions so that meaningful dialogue can occur at all levels of the faith community. In the spirit of helpfulness, we believe that these three questions can substantially safeguard the faith community and its institutions from undue compromise and hardship in the future, and thus protect the vitality of its prophetic mission in America.



January 22, 2012

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Re: **HB 145: Public Funding of Religious Schools**  
**ACLU Review of Constitutional Issues**

Dear Chair Dick & Vice-Chair Pruitt:

Thank you for the opportunity to provide written testimony with respect to House Bill 145, and associated draft Committee Substitutes thereto.

The American Civil Liberties Union of Alaska represents thousands of members and activists throughout Alaska who seek to preserve and expand the individual freedoms and civil liberties guaranteed by the United States and Alaska Constitutions. From that perspective, we wish to advise the Committee of two issues of concern with this proposed legislation: it may violate the federal and Alaska Establishment Clauses and students at private schools (both religious and secular) will enjoy fewer protections than their public school counterparts.

#### **Potential Violations of the Federal and State Establishment Clauses**

The Establishment Clauses of the United States and Alaska Constitutions forbid the State from establishing a religion. U.S. Const., Amend. I ("Congress shall make no law respecting an establishment of religion . . ."); Alaska Const., Art. I, § 4 ("No law shall be made respecting an establishment of religion . . .").

Of course, parents have a constitutional right to send their children to religious schools. *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary*, 268 U.S. 510, 534–35 (1925). The important religious freedoms of belief and practice also guaranteed by the US and Alaska Constitutions are core American values, and the ACLU has often defended – and will continue to defend – those rights.

The constitutional problems in HB 145 are thus not whether Alaskans may attend a religious school, but **whether the religious school’s tuition shall be publically subsidized.**

HB 145’s answer to that question is “yes,” that religious schools should be allowed to receive public funds.

As the Committee is aware, this is in direct conflict with the Alaska Constitution, and it is proposed that this Bill would “be moved together” with House Joint Resolution 16. HJR 16 contemplates a State constitutional amendment that would eliminate Article VII, section 1’s prohibition on paying “public funds for the direct benefit of any religious or other private educational institution” and would amend Article IX, section 6 to permit “payment from public funds for the direct educational benefit of students as provided by law.” Section 2 of working drafts HB 145D and HB 145X condition the legislation’s effectiveness on the approval of an amendment equivalent to the one proposed by HJR 16.<sup>1</sup>

### Religious Neutrality

The Legislature may not enact a law with “the ‘purpose’ or ‘effect’ of advancing or inhibiting religion,” *Zelman v. Simmons-Harris*, 536 U.S. 639, 648–49 (2002), and this secular purpose “has to be genuine, not a sham, and not merely secondary to a religious objective,” *McCreary County, Kentucky v. American Civil Liberties Union of Kentucky*, 545 U.S. 844, 864 (2005).

Alaska’s sensitivity to religious neutrality dates back to our Constitutional Convention, when the delegates defeated a “motion . . . to delete entirely the direct benefit prohibition of article VII, section 1.” *Sheldon Jackson College v. State*, 599 P.2d 127, 129 (Alaska 1979). This sensitivity is important in light of the Alaska school system’s specific details. During the 2009–2010 school year, Alaska had 57 private schools, of which 72 percent, or 41 schools, were religiously affiliated.”<sup>2</sup>

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1. As noted, absent amendments similar to those in HJR 16 are enacted, HB 145 is clearly unconstitutional under Alaska Const. art. VII, § 1 and art. IV, § 6.

2. Data from National Center for Education Statistics, (part of the U.S. Department of Education) and the “primary federal entity for collecting and analyzing data related to education in the U.S. and other nations.” National Center for Education Statistics, About Us at <http://nces.ed.gov/about/> (last visited Jan. 20, 2012). Additional data from: <http://nces.ed.gov/surveys/pss/privateschoolsearch/> (last visited Jan. 20, 2012).

While the U.S. Supreme Court has upheld an Ohio secular and religious school voucher program, *Zelman*, 536 U.S. at 644, **that decision does not necessarily immunize HB 145 from constitutional challenge.** HB 145 is substantively different in at least four ways:

- (1) HB 145 has weaker nondiscrimination requirements,
- (2) HB 145 may unconstitutionally permit religious instruction and proselytization,
- (3) Alaska would directly pay the religious schools; and
- (4) HB 145 may unconstitutionally incentivize religious schools.

***HB 145 Permits Religious and Ethnic Discrimination and May Permit Sexual and Racial Discrimination.***

A private school, in order to participate in *Zelman*'s Ohio voucher program, must have "agree[d] not to discriminate on the basis of race, religion or ethnic background, or to 'advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion.'" *Zelman*, 536 U.S. at 645. HB 145's nondiscrimination requirements are tepid in comparison.

Only HB 145A alters private schools' ability to discriminate on the basis of sex or race. HB 145D and HB 145X both permit private schools that are exempt under Alaska Stat. § 14.45.100 to sexually and racially discriminate against students and employees. Under all versions of HB 145, an Alaska private school, receiving taxpayer funds from our multi-religious, multiethnic citizens, may use that very religious and ethnic diversity as grounds to discriminate against potential students or employees. A court might view such discrimination, particularly in the religious context, as unconstitutionally "[m]anifesting a purpose to favor one faith over another" or abandoning the "mandate[d] government neutrality between . . . religion and nonreligion." *McCreary*, 545 U.S. at 860 (internal quotation omitted).

*Zelman* upheld the Ohio program because it "is entirely neutral with respect to religion." *Zelman*, 536 U.S. at 662. As HB 145 is not "entirely neutral," it is subject to suit and being struck down.

***HB 145 May Allow Unconstitutional Religious Instruction and Proselytization.***

The Ohio voucher program, in addition to requiring a robust nondiscrimination pledge from the private schools, stated that those schools could not "'advocate or foster unlawful behavior or teach hatred of any person or group on the basis of race, ethnicity, national origin, or religion.'" *Zelman*, 536 U.S. at 645 (quoting Ohio Rev. Code Ann. § 3313.976(A)(6)).

Not only does HB 145 lack such a substantive bar on a private school's curriculum, it explicitly exempts private secular and religious schools from essentially all state regulation. Many

religious schools teach religion (as catechism, not as an academic discipline) and proselytize their pupils. Indeed, that is part of religious schools' reason for being and it is one of the facets that make them attractive to families.

HB 145 would violate the Establishment Clauses if, however, it gave money to a religious entity that has the "objective . . . to further religious beliefs or dogmas" and "teach . . . religion[.]" *Lien v. City of Ketchikan*, 383 P.2d 721, 724 (Alaska 1963). "Partisan, sectarian, or denominational doctrines may not be advocated in a public school during the hours the school is in session. A teacher or school board violating this section may not receive public money." Alaska Stat. § 14.03.090. The mix of (1) proselytization and religious teaching with (2) government money could cause a court to conclude that HB 145 "favor[s] one faith over another, or adherence to religion generally," *McCreary*, 545 U.S. at 860. This conclusion would be especially likely were a court to determine that HB 145 was causing payment of nearly three out of every four vouchers to a religious school.

#### ***The State Will Directly Pay the Religious Schools.***

Ohio's private religious schools did not directly receive public money; instead, individuals directly received the "government aid . . . [and they], in turn, direct[ed] government aid to religious schools wholly as a result of their own genuine and independent private choice[.]" *Zelman*, 536 U.S. at 652. HB 145 directly transfers public money to private religious schools, even though "a direct transfer of funds from the state to a private school will of course render a program constitutionally suspect." *Sheldon Jackson College*, 599 P.2d at 130.

#### ***HB 145 Is Financially Skewed In Favor of Private Schools.***

Ohio tailored its school voucher scheme to avoid a financial windfall to private schools. The program "create[d] financial *disincentives* for religious schools," because they "receiv[ed] only half the government assistance given to community schools and one-third the assistance given to magnet schools." *Zelman*, 536 U.S. at 654 (emphasis in original). Families shared this disincentive: families with income below 200 percent of the poverty line could receive a voucher for no more than 90 percent of the private school's tuition, up to \$2,250, and they faced a possible copayment to the school of up to \$250; all other families could receive a voucher for no more than 75 percent of the private school's tuition, up to \$1,875, and an unlimited copayment cap. *Id.* at 646. A family who chose "a community school, magnet school, or traditional public school" – independent of the family's income – "pa[id] nothing." *Id.* at 654.

HB 145, however, does not avoid possible "financial incentive[s]" that might "ske[w] the program toward religious schools." *Id.* at 653 (internal quotations omitted and alterations in original). If passed, private schools would receive the lesser of (1) the amount the public school district would receive to educate that student or, under HB 145A and HB 145D, (2) the private

school's entire annual cost "of educating the student, including prorated facility and operating expenses." Families do not have a mandatory copayment under any version of HB 145.

Though this financial calculus may seem neutral, private schools' economics are more favorable than public schools and private schools will receive a financial benefit that public schools will not. Private school teachers, unlike their public school counterparts, tend to be non-unionized, and also unlike public schools, private schools are exempt from an array of regulations.<sup>3</sup>

Religious schools' exemptions are even broader: they do not have to comply with Title IX's non-sexual discrimination requirements,<sup>4</sup> 20 U.S.C. § 1681(a)(3), and they are exempt from at least part of the federal Americans with Disabilities Act and employment discrimination laws, *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. —, 2012 WL 75047, at \*16 (2012).

### **HB 145 Would Violate the Alaska Constitution, Even Were It To Pass Federal Review**

Federal case law may instruct a court's Alaska Establishment Clause analysis of HB 145, but that federal precedent does not bind the Alaska courts. If an Alaska court concluded that HB 145 did not violate the federal Establishment Clause, it may interpret the Alaska Establishment Clause more narrowly and strike down HB 145. *See Locke v. Davey*, 540 U.S. 712, 722, 725 (2004).

Since the Nation's founding, "there have been popular uprisings against procuring taxpayer funds to support church leaders, which was one of the hallmarks of an 'established' religion." *Id.* at 722. The U.S. Supreme Court "can think of few areas in which a State's antiestablishment interests come more into play." *Id.*

**The Framers adopted the First Amendment because "they fervently wished to stamp out . . . the centuries [long] . . . turmoil, civil strife, and persecutions, generated in large part by established sects determined to maintain their absolute political and religious supremacy." *Everson v. Board of Education of Ewing Township*, 330 U.S. 1, 8–9 (1947).** The Framers designed the Establishment Clause "to preserve liberty for themselves and their posterity." *Id.* at 8.

Alaska's history is no different. Our state constitutional delegates rejected a "motion . . . to delete entirely the direct benefit prohibition of article VII, section 1." *Sheldon Jackson College*, 599 P.2d at 129. Their vote was rooted in the "clear . . . wish[] [for] the constitution to support

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3. HB 145 (exempting private schools from most state regulations); Alaska Stat. § 14.45.100 ("A religious or other private school that complies with AS 14.45.100–14.45.130 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations.").

4. Title IX of the Educational Amendments of 1972, 20 U.S.C. §§ 1681–1688.

and protect a strong system of public schools.” *Id.* Delegate Coghill was concerned “that the amount of tax dollars available for the support of public schools might be lessened if public funds were used to support a great many private schools.” *Id.* at 129 n.6.

**The constitutional delegates adopted the Alaska Establishment Clause on February 5, 1956. The people ratified it on April 24, 1956, and it became operative on January 3, 1959. In 1956, the federal Clause “mean[t] at least this: Neither a state nor the Federal Government . . . can pass laws which aid one religion, aid all religions, or prefer one religion over another,” and “[n]o tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion.” *Everson*, 330 U.S. at 15–16.**

### **A School Voucher Program Must Be Religiously Neutral**

This “government aid program” must be “neutral with respect to religion,” *Zelman*, 536 U.S. at 652, and it must have a “genuine . . . secular purpose” that is “not a sham [nor] merely secondary to a religious objective,” *McCreary*, 545 U.S. at 864. The school vouchers cannot be paid to schools that “further religious beliefs or dogmas” or that are “teaching [students] religion[.]” *Lien*, 383 P.2d at 724. *See also* Alaska Stat. § 14.03.090.

HB 145 fails this test. Rather than requiring schools that receive vouchers to refrain from religious instruction and proselytization, HB 145 provides that “[a] district *shall* approve a school” for the voucher scheme if it meets various requirements, none of which are refraining from proselytizing or religious indoctrination.

A court would likely hold that in order to be constitutional, HB 145 must require religious schools to give up their *sine qua non*, religious instruction, to receive public funds. Though HB 145 has the professed aim of expanding access (by reducing price) to religious schools, the required modifications would actually reduce access by forcing religious schools to choose between (1) not participating in the voucher program or (2) participating but diluting their religiosity.

### **Private Schools Lack Public Rights**

Students at private schools, both secular and religious, have less constitutional and statutory rights than students at public schools. Both this Committee and families that may use vouchers for private schools should know that children are less protected from multiple types of discrimination in private schools.

Private schools, both religious and secular, may exempt themselves from nearly all state educational laws and regulations, including the sexual and racial nondiscrimination laws of Alaska Stat. §§ 14.18.010–14.18.110. Alaska Stat. § 14.45.100. (Private schools may not

exempt themselves from “law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examination.” Alaska Stat. § 14.45.100.)

Private school students may be religiously and ethnically discriminated against. Students at religious schools may find themselves even further outside the law’s protection: in addition to possible religious and ethnic discrimination, they may be sexually discriminated against and without recourse to Title IX, 20 U.S.C. § 1681(a)(3); and they may be discriminated against for an otherwise-protected physical or mental disability, *Hosanna-Tabor*, 565 U.S. —, 2012 WL 75047, at \*16.

### Conclusion

We hope that the Education Committee will recognize that these are just some of the constitutional infirmities in House Bill 145.

Legislative efforts to strengthen our State’s primary and secondary educational system must be well-crafted to achieve that purpose. Instead of achieving such an educational goal, were HB 145 to pass – be it version 145A, 145D, or 145X – these constitutional infirmities and policy problems would expose Alaska’s families and children to the threat of discrimination, and will render the State subject to the needless risk of lengthy and expensive litigation, to protect the history of religious freedom established by our State’s founders.

Thank you again for letting us share our concerns. Please feel free to contact the undersigned if you have any questions or wish additional information.

Sincerely,



Jeffrey Mittman  
*Executive Director*  
ACLU of Alaska

cc: Representative Eric Feige  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative Sharon Cissna  
Representative Scott Kawasaki

**From:** JW DIAMOND [REDACTED]

**Sent:** Wednesday, February 16, 2011 6:24 PM

**To:** Rep. Wes Keller

**Cc:** Rep. Alan Dick; Rep. Lance Pruitt; Rep. Eric Feige; Rep. Paul Seaton; Rep. Peggy Wilson; Rep. Sharon Cissna; Rep. Scott Kawasaki; Rep. Max Gruenberg

**Subject:** IN SUPPORT OF - House Bill No. 145, the Parental Choice Scholarship Program

Representative Keller,

I am an Anchorage resident of District 20 and considered a Supper Voter.

I write regarding House Bill No. 145, the Parental Choice Scholarship Program. I strongly support this bill. I urge you to move this bill out of the Education Committee right away. I also urge you to co-sponsor this bill for the benefit of all Alaskan children. The status quo of spending more money is not working. We need to do what's right for the kids, not the adults. Thank you for your time and service.

Best wishes.

--

JW [Jack] DIAMOND  
[REDACTED]

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

cost # codes

Bill Version

**CSHB145**

Fiscal Note Number

Publish Date

Identifier (file name) HB145-EED-ESS-11-9-11

Dept. Affected Education & Early Development

Title "An Act establishing the parental choice scholarship program."

Appropriation Education Support Services

Allocation School Finance & Facilities

Sponsor Representative Keller

Requester (H)EDC

OMB Component Number 2737

**Expenditures/Revenues**

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits	***	***	***	***	***	***	***
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

**FUND SOURCE**

(Thousands of Dollars)

1002	Federal Receipts						
1003	GF Match						
1004	GF	***	***	***	***	***	***
1005	GF/Prgm (DGF)						
1037	GF/MH (UGF)						
1178	temp code (UGF)						
<b>TOTAL</b>		<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

**POSITIONS**

Full-time							
Part-time							
Temporary							

**CHANGE IN REVENUES**

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Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Not applicable, initial version. Fiscal Note has been updated on the 2012 form.

Prepared by Elizabeth Nudelman, Director  
 Division School Finance & Facilities  
 Approved by Mike Hanley  
Commissioner

Phone 465-8679  
 Date/Time 11/17/11 12:00 AM  
 Date 12/9/2011

## FISCAL NOTE

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. CSHB145

### Analysis

The bill amends AS 14 by adding a new section establishing the Parental Choice Scholarship Program. The parental choice scholarship program would provide public funding for the cost of K-12 students attending a participating public or private school selected by the student's parent or guardian.

The school districts under the new chapter are responsible with administering the program. Administering the program requires school districts to approve participating schools if they operate within stated compliance requirements and if the private schools follow financial accountability standards. School districts will also be required to administer payments and verify student claims at the participating schools; make available to parents participating school lists; providing applications; and make notification to parents and guardians for denials after administrative and judicial appeal periods have lapsed.

The Department of Education and Early Development is required to develop regulations to carry out the program that ensure the highest number of student and school participation and includes procedures for calculating and distributing scholarship funds; timelines and procedures for the application, renewal, and appeal for participating schools and students; and standards for approval, revocation, and denial for participating schools.

Sec. 14.31.020 establishes the amount of each scholarship as the lesser of, the amount the school district would receive under AS 14.17 for a similarly situated student to attend public school not to exceed 100% of the funding the school receives for educating the student, or the actual annual cost of education the student including prorated facility and operating expenses. Parents who choose to send their child to a public school outside their attendance area will be responsible for transportation their child to the school of choice.

The bill requires a participating school include students who are enrolled under this section in the student count for purposes of calculating state aid under AS 14.17.610. The participating school will have to maintain an October count period.

Sec. 14.31.025(b) provides that participating schools are to be autonomous and not subject to additional regulation by the state unless authorized under AS 14.31.010-14.31.090.

The bill provides that the legislature may appropriate parental choice scholarship program funds to the department for distribution to districts. If the appropriation is insufficient then the department will prorate the available funds based on the number of participating students in the program.

This bill cannot be implemented without amending the Constitution of the State of Alaska. House Joint Resolution No. 16 proposes amendments to the Constitution of the State of Alaska that would remove the restriction on the use of public funds being used for the direct benefit of a religious or private educational institution.

The Department of Education & Early Development does not have an estimate count of new students, not currently enrolled, that may choose to participate in the new program therefore the fiscal note amount remains indeterminate.

# FISCAL NOTE

STATE OF ALASKA  
2011 LEGISLATIVE SESSION

Fiscal Note Number \_\_\_\_\_  
Bill Version HB145  
( ) Publish Date \_\_\_\_\_

Identifier (file name) HB145-EED-ESS-3-23-11 Dept. Affected EED  
Title "An Act establishing the parental choice scholarship program." Appropriation Education Support Services  
Allocation School Finance & Facilities  
Sponsor Representative Keller  
Requester (H)EDC OMB Component Number 2737

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
<b>OPERATING EXPENDITURES</b>							
Personal Services	**		**	**	**	**	**
Travel							
Services							
Commodities							
Capital Outlay							
Grants	**		**	**	**	**	**
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>**</b>		<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES</b>							
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF	**		**	**	**	**	**
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other (please identify)							
<b>TOTAL</b>	<b>**</b>		<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

Estimate of any current year (FY2011) cost \_\_\_\_\_

**POSITIONS**

Full-time	**						
Part-time							
Temporary							

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version.

Prepared by Elizabeth Nudelman, Director  
Division School Finance & Facilities  
Approved by Mike Hanley, Commissioner

Phone 465-8679  
Date/Time 3/23/11 5:37pm  
Date 3/23/2011

## FISCAL NOTE

STATE OF ALASKA  
2011 LEGISLATIVE SESSION

BILL NO. HB145

### Analysis

The bill proposes an amendment to AS 14 by adding a new section establishing the Parental Choice Scholarship Program. As stated by the new section, the parental choice scholarship program is established for the purpose of providing public funding for the cost of attending grades kindergarten through 12 at a public or private school (participating school) selected by the student's parent or legal guardian.

The burden of administering the program under the new chapter is placed at the school district level. A school district shall approve participating schools if they operate in compliance with stated requirements and if the private schools follow financial accountability standards. School districts will be tasked with administering payments and verifying student claims at the participating schools; making available to parents participating school lists; providing applications; and making notification to parents and guardians for denials after administrative and judicial appeal periods have lapsed.

The Department of Education and Early Development would be tasked with developing regulations to carry out the program that include timelines that result in the highest number of student and school participation, procedures for calculating and distributing scholarship funds, procedures for application, renewal, and appeal for participating schools and students; and standards for approval, revocation, and denial for participating schools.

Sec. 14.31.020 establishes the amount of each scholarship as the lesser of, the amount the school district in which the student resides would receive under AS 14.17 for a similarly situated student to attend public school not to exceed 100% of the funding the school receives and expends from all state and local sources for the student; or the actual annual cost to the school of educating the student, including prorated facility and operating expenses. In addition, the bill provides for transportation costs as available under 14.09.010, the department's reimbursement program for school district transportation.

The bill provides that a participating school shall include students who are enrolled under this section in the student count for purposes of calculating state aid under AS 14.17.610. The participating school will maintain an October count period.

Under 14.31.025 (b) it is understood that the sponsor intends that private participating schools are to be autonomous and not subject to additional regulation by the state unless authorized under AS 14.31.010 - 14.31.090. Public participating schools remain under state regulation.

The bill provides that the legislature may appropriate parental choice scholarship program funds to the department for distribution to districts.

At this time, the Department of Education & Early Development does not have an estimated count of new students, not currently enrolled, that may choose to participate in the new program therefore the fiscal note amount remains indeterminate .

In addition to House Bill 145, the sponsor proposes House Joint Resolution No. 16 proposing amendments to the Constitution of the State of Alaska relating to state aid for education.