

ALASKA STATE LEGISLATURE  
**SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE**

March 20, 2002

1:37 p.m.

**MEMBERS PRESENT**

Senator Lyda Green, Chair  
Senator Loren Leman, Vice Chair  
Senator Gary Wilken  
Senator Jerry Ward  
Senator Bettye Davis

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Senator Gene Therriault

**COMMITTEE CALENDAR**

Minimum Expenditure for Instruction Requirement

**WITNESS REGISTER**

Mr. Eddy Jeans  
Manager  
School Finance and Facilities Section  
School Support Services  
Department of Education and Early Development  
801 W. 10<sup>th</sup> St. Ste. 200  
Juneau, AK 99801-1894

**ACTION NARRATIVE**

**TAPE 02-22, SIDE A**

**CHAIRWOMAN LYDA GREEN** called the Senate Health, Education & Social Services Committee meeting to order at 1:37 p.m. Present were Senators Leman, Therriault, Wilken and Chairwoman Green. Senator Davis and Senator Ward arrived later.

She announced the committee would discuss the minimum expenditure for instruction requirement. She said each school district was required to spend a certain percentage of its budget on

instruction under SB 36 [legislation enacted during a previous session]. She said the committee wanted to make sure that the intent of the legislation was being followed. She said Mr. Eddy Jeans was speaking on behalf of the Department of Education and Early Development (DEED). She asked if Senator Therriault had any comments.

SENATOR THERRIAULT said the legislature was better able to evaluate how well the school districts were able to meet the 70% requirement because they had all come into compliance with a uniform chart of accounting. He said AS 14.17.520 required that the Division of Legislative Budget & Audit (LB&A) received information and evaluate requests for waivers to make recommendations to the State Board of Education & Early Development (SBEED). He said school districts requesting a waiver were supposed to send a copy to LB&A as well as DEED but LB&A wasn't receiving waiver requests from all of the districts even though DEED had informed them of the requirement. He said he received a report from DEED one day before the SBEED meeting to consider the waiver requests. He said there was no time for LB&A to offer any kind of opinion.

CHAIRWOMAN GREEN said in addition to the discussion on the history of the minimum expenditure for instruction requirement, the committee would discuss a system by which LB&A could receive information concurrent with DEED in order to allow them to make recommendations.

SENATOR THERRIAULT said DEED could inform LB&A of the number of districts they should be expecting waiver requests from. He said the districts could be checked off as the requests were received by LB&A and then LB&A could get the missing information from DEED. He said LB&A needed a better way to get the information if they were supposed to have any meaningful input into the process.

CHAIRWOMAN GREEN said the letter sent out with the instructions of the waiver process to the school districts specified that a copy of the waiver request must be sent to LB&A. She said the committee had to figure out a way for LB&A and DEED to confirm back and forth during the waiver process. She said that would take care of Senator Therriault's primary concern that LB&A would have all the information necessary to make a recommendation to the SBEED.

SENATOR THERRIAULT said there was also the consideration that perhaps the committee should be making the recommendations rather than LB&A.

CHAIRWOMAN GREEN asked Mr. Eddy Jeans to give his presentation.

1:43 p.m.

MR. EDDY JEANS, Manager, School Finance and Facilities Section, School Support Services, DEED, said the minimum expenditure for instruction requirement in AS 14.17.520 was passed in 1998 within SB 36 and implemented in FY 99. He said the requirement was phased in so that 60% was required in FY 99, 65% was required in FY 00 and 70% was finally required in FY 01.

He said DEED worked with key legislators in implementing the requirement to ensure that the appropriate components of the operating fund were being measured. He said it was a work in progress and there had been amendments to what was being measured each year. He said the financial information from FY 02 would really be the baseline. He said instruction, special education, special education support services, support services for students and support services were included in FY 99. He said that was expanded to include school administration, which was school principals and support staff, in FY 01. He said that category was split into two pieces so that school administration, which includes the principal, assistant principal and certified staff, was separate from school administration support services, which includes the classified staff. He said the classified staff no longer counted in the minimum expenditure.

SENATOR LEMAN asked if DEED differentiated between a principal who taught and a principal who did not.

MR. JEANS said no. He said the principal was considered the instructional leader of the school.

He said the second page of the handout in the committee packets showed the actual percentages of school districts' budgets spent on instruction each year. He said DEED was required to calculate the percentages on the district budgets at the beginning of the year. He said if they didn't meet the minimum expenditure for instruction requirement, the budget was rejected and the district could either request a waiver or modify their budget. DEED was also required to calculate the instructional expenditures on the audited financial statements of the districts. He said a waiver granted at the beginning of the year was good for the entire year. He explained that the chart showed that in the first year 13 school districts had instructional expenditures below 60%, 14 districts spent between 60% and 65%, 18 spent between 65% and 70%, and 8 school districts spent more than 70%. He said in FY 02, only two school districts spent less than 60%. He said that

was probably due to economies of scale because some very small school districts had high fixed costs.

SENATOR LEMAN said Tanana School District spent less than 50% on instruction. He said he had been to Pelican and understood why that district had such a low instructional expenditure. He said Tanana School District was larger. He asked if there was anything systemic that contributed to Tanana's percentage being so low.

MR. JEANS said he was not prepared to speak to individual districts but he would research the issue and get back to the committee.

CHAIRWOMAN GREEN asked if the difference between 2001 and 2002 was because of the changes in what was measured.

1:48 p.m.

MR. JEANS said yes. He said school administration was split into the two components between 2001 and 2002.

He addressed the handout again. He said the trends showed that the districts were headed in the direction the legislature had intended. He said 24 school districts met the 70% requirement. He said 21 districts spent between 65% and 70%. He thought that was pretty good.

MR. JEANS stated that DEED was required to provide the legislature with an annual report by August 15 of each year. He said the committee should have copies of the SBEED packet for the waiver requests in the annual report.

He said the third page of the handout outlined some of the reasons that districts could not meet the 70% requirement. SBEED was concerned about the reasons some school districts weren't meeting the 70% requirements so DEED put together the matrix to identify key problem areas. He said there were a number of school districts that had very small student populations and served a large number of communities. Those districts had fixed costs that couldn't be spread across the student population. DEED directed school districts to submit waiver requests to LB&A but had not been following up on the directive. The committee had a copy of a letter from Representative Gail Phillips to Commissioner Rick Cross dated March 2000. He said the letter implied that LB&A would be using the annual report. That didn't allow LB&A an opportunity to comment to SBEED but that was the process Representative Phillips said she was going to use. DEED

would be happy to amend their process to ensure that LB&A got the requests in a timely manner.

He said school districts had 20 days to request a waiver or amend their budget after DEED rejected their budget. DEED had two internal auditors that worked with those districts in refining the waiver requests because the issues weren't always clearly outlined. That helped DEED make recommendations to SBEED. He said the budgets were carefully scrutinized before they were rejected or accepted. DEED kept a file with the budget, DEED's letters to the district, follow up documentation and contact sheets for each district. DEED did not rubber stamp the waiver requests. He said the districts had to "go through the drill" in order to ensure that DEED had adequate information to make an appropriate recommendation to SBEED.

CHAIRWOMAN GREEN asked what would be the basis for denying a waiver.

MR. JEANS said if a school district's waiver request was denied, the penalty would be a reduction in state funding by the same percentage that they missed the requirement by. He said that would put the district in a downward trend and they would not be able to meet the requirement the following year. He said DEED focused on reviewing and scrutinizing the budgets at the beginning of the school year so that they didn't have to recommend a punitive assessment on the district after the audit was performed. He said DEED didn't want a district saying they were going to meet the 70% requirement and then have the audit show that only 65% had been spent on instruction and cause 5% of their state funding to be withheld. He said that wouldn't help the students.

He said there were four waiver requests in 2000 based on audits. DEED recommended that two of those requests be granted and two be denied. He said the superintendents of the two districts DEED recommended denying made presentations to SBEED in person. Both were new superintendents that had nothing to do with the original budget submission or the expenditures of the district in the prior year. He thought SBEED granted those districts waivers based on the testimony of the superintendents and their commitment to submit documents amending their budget that reflected how they intended to meet the 70% requirement.

He said there were no waiver requests based on audits in 2001.

CHAIRWOMAN GREEN asked if there were two waivers.

MR. JEANS said there were two reviews. He said the waiver request graph in the handout showed the instructional expenditure percentage based on the initial budgets and the audits.

SENATOR THERRIAULT said LB&A was supposed to be involved in the process when DEED was considering the waiver requests based on the initial budgets. He said LB&A was supposed to render some kind of opinion but didn't get the information in time. He said the statute could be modified to require DEED to give LB&A a list of the districts that had their budgets rejected so that LB&A could check off the districts as they received the waiver requests. He said if LB&A didn't get information from one of the districts, a copy of their waiver request could be obtained from DEED.

He wasn't sure that LB&A would really have anything meaningful to input into the process. He said the committee could decide that it might be better for DEED to come to the legislature and have the discussion and leave LB&A out of the process.

MR. JEANS said DEED would amend its procedure to provide LB&A with copies of the waiver requests. He explained there was a lot of work that occurred between the receipt of the initial waiver request and the waiver recommendations made to SBEED. A lot of interaction occurred between DEED staff and school districts to make sure that DEED understood exactly what the waiver request was saying. LB&A would not have the same opportunity. He said he could direct his staff to send copies of waiver requests to LB&A without a statutory amendment but a statutory amendment would be needed if the committee wanted to take LB&A out of the process.

He said LB&A could also continue down the path Representative Phillips was following, which was to rely on the annual report and then make a recommendation to SBEED of items that should be looked at.

CHAIRWOMAN GREEN was not sure that would meet the intent of SB 36. She asked Senator Wilken if he remembered what the intent was.

SENATOR WILKEN thought the most important thing had been to set up a system by which the numbers could be accumulated. He thought Senator Therriault was right in that the Senate and House Health, Education and Social Services Committees ought to be discussing the waiver requests rather than LB&A.

SENATOR THERRIAULT thought LB&A was chosen because the

legislature wanted some oversight of the waiver process. He said the Health, Education and Social Services Committees could probably provide better oversight because they had more power while the legislature was in session. He said the committee might want to consider removing LB&A from the process and requiring DEED to come to the legislature each year to look at the trends.

He said DEED could probably fix the problem of information getting to LB&A in a timely manner without a statutory amendment.

2:06 p.m.

CHAIRWOMAN GREEN thought SB 36 intended the legislature to be involved in the waiver process in the beginning rather than after the fact.

SENATOR THERRIAULT said the oversight that year had involved him sitting down with a one-inch stack of waiver requests and trying to wade through the requests. He didn't know that his input had been very meaningful. He also noted that he didn't have all of the requests.

MR. JEANS said the waiver requests were probably incomplete as well. DEED often got initial requests that didn't state the reasons the district was requesting the waiver so it worked with the districts to get a complete waiver request.

He said there were some other changes DEED would request if the committee was going to amend the statute. He said the timing of the waiver process was very difficult to work with. He said DEED amended its regulations so that it issued an acceptance or rejection letter to every school district in the state on September 1. He said that was done to buy a little bit of time because DEED was required to issue foundation payments by the 15<sup>th</sup> of each month and is supposed to withhold state aid if they rejected the district's budget. The September 1 deadline allowed districts an additional month to complete the waiver requests. DEED was also able to convene a SBEED meeting. He said a special telephonic meeting was held each year. If the board rejected a school district's budget waiver request, DEED would have to send another letter to the district and the 20-day clock would start again. Another SBEED meeting would have to be convened to reconsider the waiver. He said they had not had to go that far yet but they might at some point in time.

CHAIRWOMAN GREEN asked if that had been a deterrent in turning down a waiver.

MR. JEANS said it was not. DEED worked very hard to structure the timing so that the waiver requests could be fully reviewed before DEED made a recommendation to SBEED. He wanted to point out that they did hold an extra SBEED meeting, which was not as costly because it was held telephonically.

CHAIRWOMAN GREEN asked if he would move it earlier in the summer.

MR. JEANS didn't think that could be done. He said the budgets weren't due to DEED until July 15. He said the penalties seemed harsh. He said it was fortunate that they had not had to go through the second round.

CHAIRWOMAN GREEN thought the intent was that the penalties be harsh if the district refused to take DEED's suggestions and work with DEED.

MR. JEANS said DEED reminded the districts of that quite often.

CHAIRWOMAN GREEN didn't think the penalties were meant to be something that DEED didn't have to use. She asked if Mr. Jeans felt there were some districts that were refusing to be a party to the process.

MR. JEANS believed they had made a lot of progress in the previous three years.

CHAIRWOMAN GREEN agreed. She didn't think that it was much of a problem if a district could only spend 69% on instruction rather than 70%. She was concerned about the districts that still weren't able to spend more than 60% of their budgets on instruction. She said there might be some anomaly that would keep districts below 70%. She noted that a wide variety of school districts were managing to spend 70% or more on instruction.

MR. JEANS said some districts were never going to be able to meet the 70% requirement. He said some districts might be very small single-site districts or serving multiple communities. He said those school districts serving a dense population in a few locations were meeting the requirement and would continue to meet the requirement.

2:13 p.m.

SENATOR WILKEN said there was a lot of acrimony while discussing SB 36. He thought everyone was concerned that Senator Torgerson

had discovered that some school districts were spending more on administration than on teaching. He thought that surprised everyone. He said Commissioner Cross went to bat under tough circumstances to encourage the 70% requirement for instructional spending. He said the legislature set the minimum expenditure for instruction at 70% as a goal. The legislature also put into place a process to discuss the issue every year, accumulate data and track the progress of school districts. He said the data didn't mean much unless the chart of accounts was aligned. He appreciated that DEED had separated out certified and classified school administration. He said that year would be the year that they set up the baseline information.

He asked if the uniform chart of accounts was being used by all of the school districts.

MR. JEANS said DEED also expanded definitions to provide clarity in the chart of accounts when the school administration was split into two groups. He believed there was more uniformity in the use of the chart of accounts.

SENATOR WILKEN asked if any districts were not using the chart of accounts as intended.

MR. JEANS said all districts were using the uniform chart of accounts as required.

SENATOR WILKEN said the 70% requirement considered state, local, federal and other moneys but did not consider special revenues. He said 2% to 49% of the school districts' budgets were from special revenues. He asked why special revenues weren't considered.

MR. JEANS said the statute specified that the 70% requirement applied to school operating expenditures and not special revenue funds.

SENATOR WILKEN asked why that was. He said special revenue funds were part of the operation of the school districts. Some of the schools that were struggling to meet the 70% requirement received only 10% to 20% of their total budget in special revenues.

MR. JEANS said DEED did not collect budgets for special revenue funds. He said DEED only collected budgets on the school operating fund, which was tied to the foundation formula.

SENATOR WILKEN said the special revenues came from other sources such as the federal government and went directly to the school

district while the operating funds came through the foundation formula from the state.

MR. JEANS said that was correct for the most part.

CHAIRWOMAN GREEN thought some special money was designated for Native children through the Elementary & Secondary Education Act. She asked if that would be considered special revenue funds.

MR. JEANS said it would. He said school districts received money through a number of different federal programs such as migrant education, special education and vocational education. Those were categorical funds that the school districts apply for or had to meet certain eligibility requirements.

CHAIRWOMAN GREEN asked if those were considered special revenue funds.

MR. JEANS said they were considered special revenue funds because they had specific expenditure requirements.

CHAIRWOMAN GREEN asked if that was separate from the 20% in the foundation formula for special education.

MR. JEANS said yes. He said the 20% for special education in the foundation formula was discretionary money that went to the school districts' operating funds. He said the districts could allocate those moneys any way they chose.

He said the impact aid to districts was federal discretionary money that went into the school operating fund and was measured in the foundation formula.

SENATOR WILKEN was surprised at how much special revenue some districts received. He said \$1.9 million of Chugach School District's \$3.8 million total budget and \$1.8 of Delta Greely School District's \$7.8 million total budget was special revenue.

He addressed the chart outlining the reasons why districts could not meet the 70% requirement. He said 25 districts cited high costs in maintenance and operations. Those 25 districts spent between 17% and 22% of their budget on maintenance and operations. He said it would be interesting to compare the maintenance and operations budget percentage of districts that could meet the 70% with those that couldn't meet the 70%. Districts such as Tanana School District were going to continually struggle. He said maybe a few years down the road, the legislature might want to consider two categories of school

districts.

He read the following from AS 14.17.520(d), "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." He asked if there was a definition of what "beyond the control of the district" meant.

MR. JEANS said no.

SENATOR WILKEN said the committee might consider determining some categories to describe "beyond the control of the district." Two years previously he asked the Commissioner about a situation in which SBEED denied some waiver requests, the districts made their pleas and SBEED reversed their decisions. He said the chair of SBEED said that was because both districts expressed concern about at-risk students in an at-risk community. He said that entered a new facet into the discussion of what was "beyond the control of the district." He said that may be something to discuss when trying to define what was "beyond the control of the district." He asked if a definition would help.

MR. JEANS said the legislature could provide SBEED with more direction if it would like.

CHAIRWOMAN GREEN asked what Mr. Jeans would do to decrease the number of waivers.

MR. JEANS said it needed to be recognized that 70% was a reasonable requirement for some districts but not for all districts. He said the size of the student population, the size of the district and the number of communities served needed to be taken into consideration because they added fixed costs across the board. He said some school districts could meet the requirement if they had more money and would hire more teachers if they could. He said there wasn't an easy solution. More school districts were putting an effort into spending their money on instruction rather than administrative costs. That was one of the primary concerns during the discussions on SB 36.

**TAPE 02-22, SIDE B**

CHAIRWOMAN GREEN asked if DEED looked at a budget without considering the previous year's budget.

MR. JEANS said DEED did not look at a budget in isolation in a given year. DEED looked at trends and what the districts had

done in the past and where they were going. He said if they saw a trend in the wrong direction, they would follow up with phone calls and letters. One anomaly that could occur was new teachers coming in at lower pay levels and replacing tenured teachers. He said DEED looked at multiple years when they considered budgets.

CHAIRWOMAN GREEN said the committee would look at the issues. She said there probably wasn't time to work out changes that year. She would be happy to discuss changes in the process and the proper roles for LB&A and the Health, Education and Social Services Committees in the waiver process along with any other changes.

MR. JEANS said DEED would automatically forward the waiver requests to LB&A.

CHAIRWOMAN GREEN asked if there were any further questions or comments for Mr. Jeans. There were none.

ADJOURNMENT

There being no further business before the committee, the Senate Health, Education & Social Services Committee meeting was adjourned at 2:28 p.m.