

ALASKA STATE LEGISLATURE
SENATE SPECIAL COMMITTEE ON EDUCATION

February 27, 2008
8:00 a.m.

MEMBERS PRESENT

Senator Gary Stevens, Chair
Senator Charlie Huggins, Vice Chair

MEMBERS ABSENT

Senator Bettye Davis
Senator Donald Olson
Senator Gary Wilken

COMMITTEE CALENDAR

SENATE BILL NO. 285

"An Act relating to the power and duties of the Department of Education and Early Development for improving instructional practices in school districts; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 285

SHORT TITLE: STATE INTERVENTION IN SCHOOL DISTRICT

SPONSOR(S): SENATOR(S) STEVENS

02/19/08	(S)	READ THE FIRST TIME - REFERRALS
02/19/08	(S)	SED, FIN
02/27/08	(S)	SED AT 8:00 AM BUTROVICH 205

WITNESS REGISTER

TIM LAMKIN, Staff to Senator Stevens
Staff to Senator Stevens
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Introduced SB 285 on behalf of the sponsor.

EDDY JEANS, Director
School Finance and Facilities Section
Department of Education & Early Development
Juneau, AK

POSITION STATEMENT: Provided supporting information on SB 285.

NEIL SLOTNICK, Senior Assistant Attorney General
Civil Division
Labor and State Affairs Section
Department of Law
Juneau, AK

POSITION STATEMENT: Responded to questions related to SB 285.

ACTION NARRATIVE

CHAIR GARY STEVENS called the Senate Special Committee on Education meeting to order at [8:00:40 AM](#). Present at the call to order were Senators Gary Stevens and Charlie Huggins.

SB 285-STATE INTERVENTION IN SCHOOL DISTRICT

CHAIR STEVENS announced the consideration of SB 285.

[8:01:11 AM](#)

TIM LAMKIN, staff to Senator Stevens, introduced SB 285 on behalf of the sponsor. He explained that the bill is in response to Moore, et al. v. State of Alaska. It is an effort to demonstrate that the legislature is taking steps to remedy its perceived failure to adequately oversee underperforming school districts and schools in the state. To provide background he read the following excerpts from the Moore case into the record:

9. ...this Court also finds that the Education Clause requires the State to take ultimate responsibility for insuring that each child in this state is accorded a meaningful opportunity to achieve proficiency in reading, writing, math, and science -

476. The evidence at trial clearly established that considerably greater oversight by the State over the education of Alaska's children, at least at the state's most seriously underperforming schools, is critically needed.

41. In order to achieve compliance with the Education Clause's requirement to maintain a system of public schools, the State must do, at a minimum, two things. First, it must establish clear standards for school districts that are necessary for the district to retain full local control. ... Second, the State must exercise considerably more oversight and provide

considerably more assistance and direction to those schools that are identified as failing to meet the State's constitutional obligation, in a concerted effort to remedy the situation.

8:03:02 AM

EDDY JEANS, Director, School Finance and Facilities Section, Department of Education and Early Development (DEED), introduced himself and Mr. Slotnick, the department's attorney. DEED believes this bill sends a clear message to school districts, school boards, and school administrations that the Educational Clause places responsibility on the legislature rather than the local school board to establish and maintain public schools in the state. Obviously, when the local school board is doing its job DEED wants to allow that to happen. But this bill removes any question about where the obligation lies. The administration supports the bill, but it does have an amendment coming to fix language on page 1.

CHAIR STEVENS advised that the committee will not pass the bill today because only he and Senator Huggins are present. He'd like to get as much information as possible today and then deal with the bill when the full committee comes together. He asked Mr. Slotnick if he had any opening remarks.

8:05:06 AM

NEIL SLOTNICK, Senior Assistant Attorney General, Civil Division, Labor and State Affairs Section, Department of Law (DOL), said he is available to answer questions.

CHAIR STEVENS asked if the intent of this legislation gives authority that is lacking under the current system.

MR. JEANS replied the real purpose is to look beyond the district down to the level of individual schools. He noted that in some districts where DEED intervened there has been some "pushback." Some local school boards questioned whether the state has the authority to direct how money is spent or how personnel decisions are made. He reminded the committee that when DEED intervened in the Yupit School District, two schools promptly complied with the department's directions and in one school the principal was less cooperative. SB 285 would allow DEED, in similar circumstances, to direct the district to remove the uncooperative person. "It's a strong hammer but it sends the message and I believe that school districts will understand they have to cooperate with the department of education; it's not an option."

MR. SLOTNICK added that the judge found the best approach might be for the legislature to consider according DEED more authority to direct a school district to allocate more of its resources into the classroom. Judge Gleeson said:

The exact nature of these additional efforts should be for the State in the first instance to determine. But this Court finds that the efforts taken as of trial, particularly with respect to the Yupiit School District, are constitutionally inadequate.

Her recommendation came from testimony by Commissioner Sampson who was recognizing that as of the date of trial, DEED had, to the best of its ability, implemented the accountability system that the legislature adopted in 1998. But it's time to put more teeth in the accountability system, he said. DEED is only asking for authority to use district funds to hire contract personnel; there's no intention to create more infrastructure. The idea is to do what the judge said and direct additional resources into the classroom. "That's the point of this authority that we're asking for," he said.

[8:08:46 AM](#)

CHAIR STEVENS commented that when he was a school board president, one of the guiding principles was local control of education. He asked if he's hearing that school districts don't need to worry; this isn't a power grab by DEED. The department will only intervene in egregious situations where the school district has failed to provide students with the education they need.

MR. SAMPSON replied that is the department's intent and it is reflected in the intent language in the bill. Where there is evidence that local control is working, where a higher percentage of students are proficient or growing toward proficiency, then DEED will back off. Under its current authority DEED could have intervened in more school districts than it has. For example, in the Bering Strait District some schools are not showing high performance and that could have been sufficient justification to intervene. But the department looked at the elements and saw good leadership, growth in achievement, as well as use of data in the classroom and determined that local control was doing better than DEED could do from Juneau. In contrast, in another school district DEED saw that resources were not being directed into the classroom; the districts were buying new curriculum in an effort to correct

problems. What they needed to do was use the data they had, use continual assessment and feedback and get the teachers to talk to each other. DEED sent a team into that district to help them direct more resources into the classroom through those means. As Mr. Jeans said, there was pushback in some districts. In some instances the first thing the district did was consult their lawyer and they received the advice that they could mount a challenge to stop DEED. That hasn't happened. "We've already spent over \$1 million on one lawsuit; we don't want another one," he said.

[8:12:37 AM](#)

SENATOR HUGGINS asked if districts are still required to allocate 70 percent of their funding to classrooms and if that figure is tracked.

MR. JEANS replied it is tracked and 22 or 23 school districts didn't meet the 70 percent requirement this year.

SENATOR HUGGINS asked where the schools that had interventions fell on the scale.

MR. JEANS replied he would get the answer.

SENATOR HUGGINS described it as a fundamental question.

MR. JEANS relayed that he has a problem with the 70 percent requirement because it's based on statewide averages. For example, the Lower Kuskokwim School District has operation and maintenance expenses that are over 25 percent of their budget. They'll never be able to spend 70 percent on instructional programs unless a tremendous amount of money is infused into that district to offset those costs. In Alaska the system for accountability is the assessment system. He doesn't consider the 70/30 allocation to be an accountability system.

SENATOR HUGGINS said he agrees and perhaps the 70/30 provision should be reviewed. With regard to assessments, he said that some say they're helpful and others say they're a distracting waste of time. It appears that you ran into one of those schools of thought, he said.

MR. JEANS replied he finds the entire concept of assessments very interesting. Even people who disagree with standards-based assessments use some sort of assessment tool in their individual classrooms.

8:16:30 AM

SENATOR HUGGINS said part of the problem may be that some teachers set the list of indicators aside. "Then we never take the next step of how we address those individual indicators we have on kids in classrooms."

MR. JEANS agreed partially. When DEED intervenes it goes into schools to help teachers understand the assessment system and how it's aligned with grade-level expectations. DEED has online assessments to ensure that teachers are doing weekly student assessments and that's available to every teacher who wants to use it. But when DEED intervenes, the teachers are required to use the online assessment. "We believe that there's better instruction going on and we can actually see increased student achievement because of it," he said.

SENATOR HUGGINS suggested a stepped process so people are informed about what actions may be coming about. Also, the legislature has to be informed since it is responsible. He acknowledged that he had been unaware of the interventions.

8:19:09 AM

MR. JEANS explained that No Child Left Behind (NCLB) lays out the process the department must go through in evaluating school districts. Similar steps are used in evaluating individual schools, he said. "It shouldn't be new to school districts." He encouraged the committee to review the PowerPoint that Les Morse delivered to the to the NCLB winter conference. Through the lawsuit the judge made it very clear that it is the legislature's responsibility to operate and maintain; it is not the responsibility of the local school board. "Where students are not being afforded an opportunity to learn, the state absolutely has an obligation to step in," he said.

SENATOR HUGGINS said he hopes that this will be a cooperative process so that districts can take some ownership going forward.

MR. JEANS responded the intent is to work cooperatively through local school district administrations to develop an improvement plan that will lead to increased student achievement. There is no intention for DEED to step into the local school and start directing the principal on how to run his or her school.

SENATOR HUGGINS said he hopes there will be feedback from the 6 school districts that had interventions and the 16 school districts that DEED is looking at closely.

[8:21:35 AM](#)

CHAIR STEVENS observed that when he was school board president he assumed that local school boards control their districts, but he isn't sure where that notion came from. He questioned where that rule abides in law and how pervasive it is.

MR. SLOTNICK replied the court has always recognized the overriding concept of local control. State legislatures put it into statute and courts recognize that local control results in a tremendous buy-in into education on the local level. That's ingrained in this country's educational system, but it's not in the constitution. Prior to 1977 Alaska experimented with a state-run system in rural areas but it wasn't successful. A study indicated that after going to local control in rural districts there was significant improvement over 20 years. Now we're seeing that some of those school districts need help to progress to the next level, he said.

[8:24:11 AM](#)

CHAIR STEVENS asked what repercussions might be expected if the legislature doesn't comply with Judge Gleason's recommendations.

MR. SLOTNICK replied he would defend the current system as being consistent with the constitution, but if the legislature does nothing the judge might very well take action in the area of finances. That could be an expansion of the 70/30 rule or it could entail more accounting rules. It would be well-meaning but not necessarily effective. "What we're advocating is actual intervention in the classroom with professionals with ... something that gets directly to the students as opposed to working through the accountants and the business managers." The judge also spoke of a statewide curriculum, which is a different direction than facilitating local control so it can do a better job.

MR. SLOTNICK said he also worries about the exit exam. The judge made a finding that in school districts that are out of compliance with the Education Clause, the exit exam can't be implemented. But those are the districts that need the exit exam more than any others, he said.

MR. SLOTNICK stressed that it's important that the legislature clearly articulate what it wants from the education system. If it determines that an approach other than SB 285 would be consistent with the constitution, then DOL will defend that; but this bill does follow from the accountability system that the legislature adopted in 1998. "It seems clear to me that in order

to fully implement that system, we do need more authority. But it made sense to hold off giving us more authority until we showed that we're able to do what you asked us to do in '98."

8:28:15 AM

SENATOR HUGGINS asked what the reaction would be if Chair Stevens were to send the judge a letter saying that she has the legislature's attention and the districts will receive an extra \$2 million.

MR. JEANS replied he doesn't believe that would do any good because the judge found that the system is adequately funded. What she said is that based on the accountability system, some schools have very low performing students and the state is obliged to put forth its best effort to help those schools increase student achievement.

SENATOR HUGGINS asked if schools in the Bush offer as good an education as those in urban areas.

MR. JEANS offered his belief that regardless of where children reside, if they believe in the educational system and it's what they want, then it is theirs to take. What a student gets from the school depends on the individuals, their families, and the support they get as they move through the system.

8:31:05 AM

SENATOR HUGGINS said his point is that cultural standards differ depending on the area.

MR. JEANS agreed that cultural differences do impact where students end up at the end of their educational career.

8:32:28 AM

SENATOR HUGGINS said he isn't looking for an answer but he wonders whether that ought to be a factor in what the state does.

CHAIR STEVENS related a story about a boy who went through high school in Old Harbor on Kodiak Island and went on to get his PhD in anthropology. Recently he received the \$1 million McArthur Foundation award, which shows that some people will rise through whatever system they are part of and become an enormous success. He asked if there was anything else to bring before the committee.

MR. JEANS said that the following statement from the decision drives home why SB 285 is before the committee.

If a school, despite adequate funding, is failing to accord a child with a constitutionally adequate education - such as failing to give that child a meaningful opportunity to acquire proficiency in the State's own performance standards - then the concept of local control must give way because that school is not being maintained as required by the Education Clause.

At ease from [8:34:09 AM](#) to [8:36:37 AM](#).

CHAIR STEVENS thanked Mr. Jeans and Mr. Slotnick. He said that the school board association and individual school boards will have an opportunity to speak to this legislation on Saturday at 9:00 am. At that time there will be a committee substitute (CS). SB 285 was held in committee.

There being no further business to come before the committee, Chair Stevens adjourned the meeting at [8:37:51 AM](#).