

**ALASKA STATE LEGISLATURE**  
**SENATE SPECIAL COMMITTEE ON EDUCATION**

March 14, 2008

8:01 a.m.

**MEMBERS PRESENT**

Senator Gary Stevens, Chair  
Senator Charlie Huggins, Vice Chair  
Senator Bettye Davis  
Senator Donald Olson  
Senator Gary Wilken

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 290

"An Act relating to school construction and major maintenance grant applications; and establishing a single set of priorities and a project funding schedule for school construction and major maintenance grants and bond debt reimbursement funding."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 290

SHORT TITLE: SCHOOL CONSTRUCTION FUNDING

SPONSOR(S): SENATOR(S) HOFFMAN

02/19/08	(S)	READ THE FIRST TIME - REFERRALS
02/19/08	(S)	SED, FIN
03/14/08	(S)	SED AT 8:00 AM BUTROVICH 205

**WITNESS REGISTER**

JOHN WEISE

staff to Senator Lyman Hoffman

Alaska State Capitol

Juneau, AK

**POSITION STATEMENT:** Commented on SB 290 for the sponsor.

EDDY JEANS, Director

School Finance and Facilities Section

Department of Education and Early Development (DEED)

Juneau AK

**POSITION STATEMENT:** Opposed SB 290.

SAM KITO, III, Facilities Manager  
School Finance and Facilities Section  
Department of Education and Early Development (DEED)

**POSITION STATEMENT:** Commented on SB 290.

#### **ACTION NARRATIVE**

**CHAIR GARY STEVENS** called the Senate Special Committee on Education meeting to order at [8:01:08 AM](#) Present at the call to order were Senators Donald Olson, Charlie Huggins, Bettye Davis, Huggins, Gary Wilken, and Gary Stevens.

#### **SB 290-SCHOOL CONSTRUCTION FUNDING**

[8:01:51 AM](#)

CHAIR STEVENS announced consideration of SB 290.

JOHN WEISE, staff to Senator Lyman Hoffman, sponsor of SB 290, pointed out that the members' packets should contain copies of the bill, the sponsor's statement, a sectional summary by Legislative Legal Services and a report by the Department of Education and Early Development (DEED) on the funding for the past 29 years, starting in 1980. He said he is prepared to speak mostly from the summary page of that DEED grant and bond funding report and asked how Chair Stevens would like him to proceed.

CHAIR STEVENS asked him to explain what the bill does and why it is more equitable than the present system.

He recognized Senator Donald Olson.

MR. WEISE explained that Alaskan schools are funded by two methods; districts in the unorganized areas receive 100 percent grant funding and districts in the organized areas go out to their voters for bonding; if approved by the voters they come to the state of Alaska and under current statute, are approved for either 70 percent reimbursement (if they follow state guidelines). If they choose not to follow state guidelines, they can receive up to 60 percent reimbursement. The argument presented in SB 290 is that districts with wealth are receiving a higher percentage of funding from the state, which is unfair and inequitable. The wording in the bill removes reference to the grant process and calls it a "fund." It asks that all of the schools be placed on a need priority basis by the DEED and

funded in that order. For example, if one school was grant-funded and another was bond-funded, and the grant-funded school was ranked number 2 by the DEED and the bond-funded school was ranked number 1, if the bond-funded school went out to bond, it would be funded because it was ranked number 1. However, if the situation was reversed and the bond-funded school was ranked number 2, SB 290 intends that it could not receive state funding ahead of the grant-funded school.

[8:05:40 AM](#)

CHAIR STEVENS asked him to show the committee where the legislature has been unfair to students and where, after removing the amount paid by the local communities, less funding has gone to students in unorganized areas than in organized areas.

MR. WEISE directed their attention to the chart that summarizes all of the DEED's grant and bond funding from 1980-2008. Near the middle of the page is a column called the "Annual Organized Percent," which displays the percent of funding received by the organized areas for that year. In 1980, organized areas received 100 percent of the funding. On the right side of the page it shows that the unorganized schools received zero percent that year.

CHAIR STEVENS asked if he was saying that in 1980, of all the schools funded, 100 percent went to organized areas.

MR. WEISE replied yes. The chart indicates that over the past 29 years, an average of 75 percent of the funding has gone to the organized areas and only 25 percent to the unorganized areas.

CHAIR STEVENS stated that it is not based on a per student, but just a dollar amount.

MR. WEISE confirmed that is correct.

CHAIR STEVENS asked if he had translated that into per student figures.

[8:07:41 AM](#)

MR. WEISE replied that he had not.

CHAIR STEVENS asked if that isn't the point - showing that it's unfair. He said he'd like to know that percentage at some point.

MR. WEISE responded that clearly it's unfair for unorganized areas to receive zero percent funding in any year; in 5 of those 29 years they received zero-percent funding.

SENATOR WILKEN commented that they received funding in 24 of those years.

MR. WEISE acknowledged that was correct and added that in 12 of the 29 years or 41 percent of the time, the unorganized areas received less than 7 percent of the funding. He said the DEED looked at this issue and said that unorganized areas should receive 30-40 percent of the total funding, as they have during most of the last 10 years. So, the department thinks the situation has corrected itself despite the five years of zero funding.

8:10:07 AM

CHAIR STEVENS asked if he agreed that 35 percent is a good average.

MR. WEISE replied that the 35 percent in the last 10 years is better than zero; but it may still be inequitable if the schools that are most in need of funding are not being funded.

SENATOR HUGGINS looked at the annual unorganized percentile column, which showed that nine years that were significantly higher spending. He asked why the percentage jumped so dramatically.

MR. WEISE replied that he could only guess that those were the years when the legislature funded them on need.

SENATOR HUGGINS pointed out that the percentages since 2005 are dramatically higher than 25 percent; and the trend for the past 4 years is pretty positive.

MR. WEISE agreed that the trend is positive now; but the problem still exists. Knowing that the legislature funded unorganized areas at 0 percent for five years and below 7 percent for seven additional years indicates that the problem could reoccur. He said they are asking for protection through SB 290 so that schools in the unorganized areas will receive consideration.

SENATOR OLSON remarked that the trend now is positive; but the sponsor's goal is to make sure of equitable protection.

SENATOR HUGGINS asked if the downturn in the economy might have something to do with it.

MR. WEISE replied there has always been money to spend. The organized area column shows that they have received funding every year.

SENATOR OLSON asked when the department made the recommendation that 30-40 percent funding would be equitable for the unorganized areas.

MR. WEISE replied that report was dated February 1, 2006.

[8:16:33 AM](#)

CHAIR STEVENS asked whether he thinks the 35 percent average is fair.

MR. WEISE replied yes; however they maintain in their bill that fairness is everyone being placed on a priority list and being funded by need.

SENATOR OLSON asked Mr. Weise how many times schools that are bonded were placed in front of those unorganized areas.

MR. WEISE replied that wherever the chart shows 0 percent or under 7 percent for a given year; anytime funding was less than 30-40 percent, they were stepped over. He pointed out that funding was in that range in only 10 out of the last 30 years.

SENATOR WILKEN asked Mr. Weise for an example of when an unorganized school was stepped over because did not think it was true. He said one could assert that, but he had not seen any proof of it. He asserted that those lists are held in high esteem, and unless there is some proof that people have taken advantage of the list, he hoped they would not allow it to go on the record unchallenged. Senator Wilken also said he wasn't here to atone for the sins of people who were here 30 years ago; he is interested in what has happened over the past 10 years.

[8:20:20 AM](#)

SENATOR WILKEN continued that the legislature has responded. Back in the late 90s, the Kasayulie case was filed [1997] because some people thought that unorganized Alaska was being taken advantage of. The judge's preliminary decision stayed the case to find out what the legislature was going to do. When they looked at that in early 2000, they found that the Attorney General had given the judge years 1997-1999, the three worst

years, and he was handed his hat over that one; but the effect of that case lingered. The legislature did focus on unorganized Alaska; it has spent hundreds of millions of dollars in the last 10 years and has aligned itself with what the department thinks is an appropriate and fair level. He said, he does not think it's time to pull out the fire hose because he doesn't think there is a problem.

He counseled that they remember a little bit of history and that people haven't been abused and "stepped over;" the legislature has responded to the needs of unorganized Alaska.

SENATOR HUGGINS said that could explain the high near-term figures.

CHAIR STEVENS asked Mr. Weise to respond to Senator Wilken's comments on "stepped over," to first define what he meant by that term and then give examples.

MR. WEISE responded that he didn't have exact lists with him, but his understanding is that schools that are placed on a priority list are mostly those in the unorganized areas. The organized area schools really don't have a list; they just go up for bonding and once they get voter approval, they come to the State of Alaska for reimbursement at either 70 or 60 percent. In fact, as this report from the DEED shows, a lot of the districts with wealth are choosing to by-pass state guidelines and be reimbursed at 60 percent rather than 70 percent. They are using their wealth to get more schools.

CHAIR STEVENS said he sensed some unfairness there because his district has often voted down school bonds and so is left with an inadequate high school that, by anyone's standards, needs considerable work. He felt that also needed to be taken into consideration; some local communities don't think they are rich enough to pay for schools.

MR. WEISE replied that the contention in SB 290 is that everyone should be on a list and when your community chooses to bond, it should only be funded if the need is established by the DEED.

SENATOR HUGGINS said he felt very uncomfortable with the rural/urban conversation. His neighbors are in mutiny over the property taxes they are being asked to pay for bonding and a number of the bonds are not succeeding; so it's not a clear path just because potentially you might have the money to build schools.

CHAIR STEVENS said he also has a concern because, when he was Chair of Community and Regional Affairs, they studied the areas of the state that chose not to become organized when they could afford to be, because they would have to pay for their schools. They are not stepping up to the plate as many other responsible citizens do, to pay property taxes to support their schools

SENATOR WILKEN said it is not an urban/rural thing at all, and the wealth thing is vapor also. The people of St. Mary's and Tanana are two organized areas that come to mind; there are areas of the state that are far wealthier than those folks but are not paying for their schools. Those folks aren't wealthy, but still give a local contribution of 4 mils.

The disconnect with SB 290 is that it prioritizes those that have the capacity to help with their schools, but refuse to accept that responsibility over those that have the capacity to help with their schools and accept that responsibility through organized Alaska. He referred Mr. Weise to a report done in 2003, which was controversial because it showed four areas of the state that have far more capacity to help pay for their schools than some others but refuse to do so.

8:27:47 AM

SENATOR WILKEN said his point is that, before they start talking about rich versus poor, urban versus rural, they should talk about responsibility. If there is a gate a community has to pass through to prove they are not capable of funding schools in their area and that puts you on some sort of a list, then Okay let's talk about that; but for a community to say well I'm unorganized and I'm going to stay that way and require the state to pay for their schools before the folks in Fairbanks have an opportunity, when the people in Fairbanks want to pay for their schools out of their own checkbook, that's the unfairness in this concept. He said:

We are not passing over the areas of the state that need schools - White Mountain. We jumped immediately when they needed a school. And we've done over the last 10 years. We've spent hundreds of millions of dollars to build schools in unorganized Alaska. It's not wealth; it's not fairness; it's not urban/rural; it's just simple responsibility. And this bill doesn't even address this and it's where this bill should start. Thank you.

MR. WEISE responded that the Constitution of the State of Alaska says that people may organize so it doesn't require it. That is a separate issue from the issue of whether or not children in Alaska who have the greatest need should or should not receive a school that is funded in whole or in part by the state. "We believe that it should be based on need." He said that recent court cases have said that it is inequitable to fund schools based on a formula that relies on districts' wealth. It is improving for the unorganized areas. It appears the Department of Education has found a compromise in the 30-40 percent range; however they still believe schools should be funded based on need and not the wealth of a district.

8:30:10 AM

SENATOR WILKEN responded that within the last year the Moore versus State court case gave the state's system of funding education a clean bill of health.

CHAIR STEVENS said the state forced his district to become a borough and it hasn't worked out too badly.

SENATOR OLSON wanted to respond to some of the issues that were raised. He commented that one reason people choose to not become a borough is that if they organized, they would never get any schools because of their inability to raise the 40 percent matching funds.

MR. WEISE reiterated that there is a problem with how schools are funded in this state and the present situation is not fair or equitable to the children of Alaska.

8:34:00 AM

CHAIR STEVENS asked Mr. Jeans to come forward and offer his position or answer some questions.

EDDY JEANS, Director, School Finance and Facilities Section, Department of Education and Early Development (DEED), said they understand the bill sponsor's concerns. Currently he said, municipalities are allowed to submit applications for grant projects; the first projects on both lists happen to be for municipal school districts. The department's analysis for the report was based on grants versus debt, not unorganized versus municipality; so the 30-40 percent range was a recommendation of grant funding versus debt funding and obviously there will be some municipalities in those grant projects.

MR. JEANS opined that if they went to a single list as proposed by SB 290 there is no way a municipality would issue debt; it would sit right there and wait for the state to pay for it through grants. So there may be some unintended consequences here, where municipalities would no longer use that debt mechanism that is available to them in the current system.

CHAIR STEVENS asked how the timing would work with a single list; would bonding still be workable.

MR. JEANS answered that, as he sees it they would still need two lists - one for school construction and one for major maintenance. He reiterated that the first projects on both of their lists for the current year are municipal projects; both are in the governor's budget to receive grants. He didn't know if the sponsor intended for those two projects would have to go out for bonding. He said his point is that, if he were number 1 on the project list he would sit there and wait for a grant even if he had bonding authority, because they couldn't go down the list until they funded his project.

SAM KITO III, Facilities Engineer, School Finance and Facilities Section, Department of Education and Early Development (DEED), said the way the bonding works now, a district applying for a bond project can submit an application at any time during the year. The department reviews that application approves it, denies it or requests additional information. Both debt and grant projects have to be submitted by September 1st of each year and be put on the list. The list comes out in November and is finalized sometime in February and then the legislature considers the grant list. During that time, he did not know if they would be able to consider authorizing bond projects. They would have to wait until the legislature finished considering grant projects; so bond projects could only be considered over the summer for the fall. If a district wanted to bond for a project, they would have to be at least 12 months or more ahead of that schedule in order to get on the list and be approved for bonds.

SENATOR HUGGINS recalled that the number 1 school on the list is Susitna Valley, which burned down. They are working out of portables while they find out if there is insurance money and other kinds of things, which means the clock on when dirt is turned is still ticking. He asked if this would be a show-stopper for those projects below them on the list.

MR. KITO answered that under the proposed legislation a project on the top of the list wouldn't stop any other projects; but if a project that was number five on the grant list and project number six was eligible for debt, project number six couldn't happen until the legislature funded project number five.

CHAIR STEVENS asked if Mr. Kito could address the question of whether students in unorganized areas are being treated unfairly.

MR. KITO replied that the Department of Education doesn't control the level of funding in either the grant or the debt lists. It creates the priority list. For the debt program, it's how many communities come in and request debt, and at this point there is no ceiling on the amount of debt. So department does not control the amount of debt that can be expended for the school construction projects, neither does it control the amount that the legislature appropriates for the grant projects.

[8:42:04 AM](#)

SENATOR HUGGINS said it looks like the trend line is relatively positive; in 2008, 70 percent of the funding goes to unorganized areas. He asked Mr. Kito if that trend is a phenomenon or there is some explanation.

MR. KITO commented that 2008 is an anomaly because all of the bond requests have not been authorized. When those are added, it brings the percentage down to about 50 and there are still four months left in the fiscal year. Applications coming into the department indicate more pressure at the municipal level not to spend an excessive amount of money on bonds. At the same time, the legislature has been responding with grant projects so it has remained at about the 35 percent level.

SENATOR HUGGINS said that is an interesting phenomenon of self-leveling.

SENATOR OLSON reflected on what he thinks is the sentiment of the bill's sponsor. History repeats itself and those who don't learn from it will repeat the same mistakes. He thought what they were seeing is a concern that, while the pendulum has swung the other way, it will swing back to single digits like they saw in the 90s. The unorganized boroughs don't ever want to go back to zero funding.

[8:45:06 AM](#)

CHAIR STEVENS asked if the state is in a different place than it was before the Kasayulie Case occurred on complying with court ordered responsibilities of education.

MR. JEANS responded that the Kasayulie case had two pieces; one was on the funding mechanisms for school construction and major maintenance in the state and the second was dealing with the Public School Trust Fund and if it was adequately capitalized. That particular piece is still being decided right now; in fact, the Department of Law is working with the plaintiffs on trying to resolve that particular issue. Once the trust issue is resolved, he believed the courts would issue a final decision; but he believed the recent funding history would influence the court's final decision. He said the courts found inequity in the system at the time the lawsuit was decided. Clearly the legislature stepped up to the table and has provided funding to the grant program for the past number of years. He thought the price of oil helped; in the lean years there wasn't a whole lot of grant funding going on anywhere.

CHAIR STEVENS asked if he understood that the department would be uncomfortable with a single list.

MR. JEANS replied that the department is very comfortable with its current process of prioritizing projects. His concern is who would make the determination which projects have to be debt-funded versus grant-funded. If all projects are required to go on a priority list, a municipal district at the top of the list could just hold out for grant funding; that is the part he is uncomfortable with.

SENATOR OLSON said there are different categories for funding schools - major maintenance, school construction and the operating budget. He wanted to know which of those categories the Moore case was addressing and what court found - because this bill has to do only with school construction.

MR. JEANS replied that the Moore case was based on school operating expenditures and Judge Gleason did find that the state is providing adequate funding for school districts' operations.

SENATOR OLSON said that is different than construction.

MR. JEANS agreed he is correct; the construction lawsuit was the Kasayulie lawsuit. The judge's initial decision found an inequity in the funding scheme of debt versus grants, but the court hasn't issued a final ruling on that.

SENATOR OLSON said that is the point he wanted to make - this bill deals with school construction and not with the broad idea of adequate funding.

8:51:09 AM

CHAIR STEVENS said this has been a fascinating discussion and he would hold the bill in committee. He asked Mr. Weise if he wished to make any closing comments.

MR. WEISE offered in closing that one possible solution to the concern that a district might vote not to bond is that the legislature could decide to fund the first 10 schools on the list at 70 percent level and appropriate the funds and whether the municipality decided to bond or not would determine whether those state funds would be used.

There being no further business to come before the committee, Chair Stevens adjourned the meeting at 8:52:09 AM.