

**ALASKA STATE LEGISLATURE
SENATE EDUCATION STANDING COMMITTEE**

February 20, 2009
8:03 a.m.

MEMBERS PRESENT

Senator Gary Stevens
Senator Donny Olson
Senator Bettye Davis
Senator Kim Elton

MEMBERS ABSENT

Senator Charlie Huggins

COMMITTEE CALENDAR

Overview: Moore vs. State
HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record.

WITNESS REGISTER

NEAL SLOTNIK Assistant Attorney General
Representing the Department of Education
Alaska Department of Law
Juneau, AK

POSITION STATEMENT: Provided details about Moore vs. State.

JOHN HOLST, Consultant
Avant-Guard Learning Foundation
Sitka, AK

POSITION STATEMENT: Discussed what the state needs to do to improve education in rural Alaska.

JIM HICKERSON, Superintendent
Bering Strait School District
Unalakleet, AK

POSITION STATEMENT: Stressed the importance of early learning programs.

LARRY LEDOUX, Commissioner
Alaska Department of Education and Early Development (DEED)

Juneau, AK

POSITION STATEMENT: Discussed what the Department of Education is doing to address Moore vs. State and the educational challenges in rural Alaska.

ACTION NARRATIVE

[8:03:06 AM](#)

CHAIR KIM ELTON called the Senate Education Standing Committee meeting to order at 8:03 a.m. Present at the call to order were Senators Olson, Stevens and Elton.

Overview: Moore vs. State

CHAIR ELTON announced the business before the committee would be to hear an overview of Moore vs. State. He expressed his appreciation to the people who were present to help the committee begin a dialog on exactly what Moore vs. State means, not only to the Department of Education and the executive branch, but to the legislative branch, and how they can work together given the strict timelines they are facing. He also stated that the committee is not interested in past or future legal strategy but in looking forward to what the legislature's and the executive branch's responsibilities are going to be and what the executive branch expects from the legislature.

With that, he asked how the executive branch would like to proceed with this presentation.

[8:04:53 AM](#)

NEAL SLOTNIK Assistant Attorney General, Alaska Department of Law (DOL), said he was Chief Council in the Moore vs. State litigation. He brought one of the handouts produced for the trial, which shows some of the statistics the Department of Education gathers; it is a year-over-year comparison from 2005 to 2008 of all the districts in the state and what percent of children in those districts are proficient in reading on the standards based assessment (SBA). The red blocks on the chart show where the districts were in 2005 and the bars show where they were on the most recent SBA in 2008.

He said this is a result of the accountability system called the "designator system," that the legislature established in 1998, which merged with the No Child Left Behind (NCLB) Accountability System that came later. The reason this comparison only dates back to 2005 is that they have to have comparable tests in every year; they can't compare to a different test.

8:06:51 AM

SENATOR DAVIS joined the meeting.

8:07:06 AM

MR. SLOTNIK pointed out that the graph generally shows improvement across the state and added that it tops out at 90 percent; they cannot say a school is 100 percent proficient because that would identify individual children's records. He said the point he is making with this graph is that this is the result of the designator accountability system working in most of these districts. The issue is that in some districts they weren't seeing sufficient progress; so Commissioner Samson made the decision to intervene in those districts in 2006. He had to be careful, because he didn't want to intervene where the accountability system was working; that would result in two different systems and could cause back-sliding. Commissioner Samson worked very hard to develop the Desk Audit System, the Instructional Audit System, to determine in what districts the state can help and what the state can do once it goes into a district. The department's focus is on building the capacity of the district to make progress on its own using the data the state is able to provide. The department presented that intervention system to the legislature last year; it was focused on leadership, collaboration among teachers; and getting more information in the classroom using formative assessments. Interventions began in school year 2006; by 2007 there were five districts in which the department had determined the state could help.

In 2004 the Moore case was filed.

8:10:09 AM

SENATOR STEVENS asked how he can determine where interventions have taken place.

MR. SLOTNIK answered that the intervention districts are in light blue on the graph. The cross-hashed districts are plaintiffs in the Moore case but are not intervention districts.

CHAIR ELTON asked how the department decides where to intervene. Chatham and Yukon Kuskokwim have almost the same percentile and YK seems to have made more progress, yet they are intervening in YK and not in Chatham.

8:10:37 AM

MR. SLOTNIK said the process is very deliberate, very complicated and looks at individual children, year-over-year growth and where growth is occurring, how many schools are in the district etc. He could not answer the specific question regarding Chatham and YK; he suggested that is a question for Mr. Morse.

CHAIR ELTON indicated they can discuss that later.

[8:11:46 AM](#)

MR. SLOTNIK continued; while they were building the intervention system in 2004, the Moore case was filed. The plaintiffs took the same data that was provided to the committee and said "Look at this achievement gap; this is proof that there's not enough money in education." They argued that, under the education clause of the state constitution, this type of an achievement gap proves the state does not have a system of public schools and that the legislature isn't doing its job to establish and maintain those schools. The plaintiffs argued that it is because there isn't enough money in those systems.

As a result of the original trial in this case, the judge disagreed with the plaintiffs that money is the answer. She established a four-part test:

- There must be enough money.
She found that the funding formulas satisfied the constitutional requirements.
- There have to be assessments.
- The state has to provide standards to the districts.
The judge determined that the Department of Education's standards and assessments were some of the best in the country.
- There has to be state oversight and accountability.
On this point, the judge found there was sufficient oversight and accountability in most districts by virtue of having local control answerable to voters; but in chronically underperforming districts, the state's "hands-off" approach to oversight wasn't working well enough. The judge seemed to be focusing on the state's local control statutes, which were a reaction to the earlier system in rural Alaska of state-operated schools, which wasn't especially successful.

He thinks the judge was looking at the statutes instead of at the designator system the department was trying to direct her to; she did not feel there was enough authority for the Department of Education to intervene meaningfully. So last year

the department discussed this with Senator Stevens and he carried SB 285, which provided the department with limited intervention authority where they were able to identify that instructional practices could be improved by state intervention.

8:15:44 AM

Returning to the judge's findings in the Moore case, Mr. Slotnik said she found there was evidence that there was not sufficient oversight in Yupiiit School District. There was evidence that the district was not focused on improving its instructional practices and there needed to be more state involvement in that district. She instructed the Department of Education to go to the legislature, to identify any other districts needing state oversight and to report back [to the court] in one year.

MR. SLOTNIK stated that, until this time, the department thought this case was about money and hadn't presented a lot of evidence about the designator system, the accountability system or the intervention process that already existed. When they went back to court last fall, they presented evidence of the ongoing interventions in five districts, about the system for identifying which districts need intervention and which are making progress on their own; they gave her information about the elements of the interventions, the implementation of the interventions and what was happening with them at that time. He admitted there were aspects of the implementations that didn't always go well and they brought that evidence to her. In their closing arguments, they told her that she no longer needed to oversee this process because the state board and the legislature were already providing oversight. The judge agreed that the identification system was working and that elements of the intervention were consistent with best practices. She was critical of the implementation however, and the scope of the interventions, which she felt was too narrow. When the department goes into a district to intervene, it can't make too many changes too quickly; so it is true that the scope was limited during the first couple of years. It is also true that the scope was expanding, even as the trial progressed.

The court instructed the department to work with intervention districts to amend the district improvement plans and expand the scope of those interventions. In addition, where she makes a finding of unconstitutional quality of education, which she made only for the Yupiiit School District, the department cannot administer the high school exit exam and has to require remediation for the students. The department stepped in and

required a remediation plan and the judge found the scope of that plan was also too narrow.

8:20:54 AM

CHAIR ELTON interjected that they are running out of time and should probably discuss the exit exam question next week. They have scheduled a bill by Senator Davis about the exit exam and may want to discuss that bill in the context of amending the law to accommodate the judge's ruling.

MR. SLOTNIK agreed that it is a topic for another day.

8:21:46 AM

He wanted to make one other point for the record. The department is working with this decision and they believe they are in compliance. He does not want to leave the impression that they concur with the judge's legal findings; that would not be accurate. Even though they may disagree with those legal findings however, it does not mean that they don't agree that this achievement gap needs to be addressed. That is the legislature's goal and, to the extent that the legislature's goal is in concurrence with the court's requirements, they are prepared to address it.

8:23:23 AM

SENATOR STEVENS said he wants to be sure he understands what the department is and is not in agreement with.

8:23:50 AM

MR. SLOTNIK said the first question is "What is the floor for education; what is the minimum the constitution requires?" The department does not agree that she has drawn the line in the right place, but even given where she has drawn it, the second question is "Does the evidence show we're in compliance?" The department thinks that they are.

8:24:41 AM

JOHN HOLST, Consultant, Sitka, AK, is taking Shirley Holloway's place here today representing "Avant-Guard Learning Foundation." He is also a contractor working with the Northwest Arctic [School District] as the district improvement coach. He was a school principal for 13 years, taught for eight years, was a superintendent in two districts in Alaska and retired as superintendent eight years ago. During the last seven years, he has been consulting extensively; he worked from 2001 to 2005 in Lower Yukon and for the last two years in Northwest Arctic. He has done instructional audits in Yupiit and Yukon Flats and has

done other work in Hoonah, Juneau, Tanana, Nenana, Sand Point, Bristol Bay and other places in Alaska.

He said he assumes what they want to know is "what's needed." In speaking to Dr. Holloway of Avant-Guard about phase two of the alignment study completed last fall, the two gaping holes they found in the alignment study were pre-K and the transition from high school to the world of work. The most important thing to talk about today is pre-K.

MR. HOLST said the difficulty is that children in much of rural Alaska, especially those in predominantly native communities, are arriving in kindergarten two to three years behind in language development. So the teachers are expected to get the kids to advance two years in each of the years from kindergarten through second grade in order to catch up. These are the schools that have the highest turnover of teachers; some districts have as high as a 60 percent turnover. Judge Gleason asked him during the Moore trial what he would do and he suggested that the state should intervene in the pre-kindergarten time frame and should assist families. This is not a school issue alone; there needs to be a parent component. Parents are the first teachers of the children and in homes where parents exercise that responsibility, the children come to school better prepared. There also needs to be a community component, some sort of support system in the community to value language development. He clarified that when he says "language development and early literacy" he doesn't believe it matters what language it is; if it is an indigenous language, so much the better.

[8:31:11 AM](#)

In some cases there is a difference of two to four times as many words in the vocabulary of high performing kids as in the vocabulary of low performing kids... 50 versus 250 words. This emphasized that this has nothing to do with the intelligence of the students; with the exception of the few students who have issues with fetal alcohol or something, they are all capable of learning at the same pace. He referenced an article entitled "Closing the Opportunity Gap" by Arthur Griffin, which is about pre-K literacy. He commented that when he talks about "literacy" he is talking about the language development component, not forming letters or reading, but the ability to develop communication skills so children understand what is being said and can let others know what they are thinking.

[8:33:28 AM](#)

SENATOR OLSON wondered whether language literacy hasn't improved with the advent of television in the rural areas.

MR. HOLST said TV has enhanced the opportunities but has also become a surrogate for parenting. There are educational TV programs, but they cannot substitute for real interaction.

[8:34:37 AM](#)

SENATOR OLSON asked if the high incidence of otitis media in rural Alaska was taken into consideration.

MR. HOLST said he doesn't think it is as big a factor as others such as fetal alcohol syndrome and in some communities, a lack of law enforcement to ensure safe places for adults and kids.

[8:35:32 AM](#)

CHAIR ELTON wondered whether people who deliver other services in rural communities were involved at the time the judge was making her decision.

[Unidentified representatives of the Department of Education and Early Development (DEED) nodded.]

CHAIR ELTON continued; the committee probably needs to talk about how the department is working with other departments to address the preschool component.

MR. HOLST believes what is needed is a balanced home-based program, with the school program helping parents to carry the role of first-teachers. Just having a daycare isn't enough; what is needed is quality, professionally-trained and certificated teachers directing the programs and delivering the services if possible. If that is not possible, then they need programs like the "Step up to Learning" program in Northwest Arctic, which focuses on all of those components and uses Sandy Covey to help develop the programs.

[8:38:00 AM](#)

SENATOR STEVENS wanted to talk about the article "Closing the Opportunity Gap." He commented that the ending quote by Mark Twain, "I have never let my schooling interfere with my education," seems to fly in the face of what Mr. Holst just said about the need for trained teachers.

MR. HOLST disagreed. A good early childhood education focuses on language development, which is what these children need. That does not mean teaching four year olds how to read and that is

what he takes away from the quote by Mark Twain in terms of this article; there have to be balanced components. That is why it is so important to have community and parent involvement. Offering only the school component is not going to provide the success they are looking for.

[8:39:36 AM](#)

He went on to say that one of the problems he's seen is that there is a wide range of quality in the rural Head Start programs. Although the programs are offered by well-meaning, hard-working people, they often don't have enough training or professional development to be as successful as they could be.

[8:40:37 AM](#)

CHAIR ELTON said when he hears the word "training", he questions who does it, what other programs are out there, what other service-delivery people are out there and who pays for it. For instance, the native community has some wonderful health providers who can help families; so what is role of each of these providers?

[8:41:17 AM](#)

MR. HOLST said the state is beyond saying they are going to run a pilot program; there have been pilot programs since the 70s, some of which were very successful. They need to deliver services to these kids today. The underperforming schools on the chart don't have opportunities, choices in those communities. He suggested that the state allow districts that are under scrutiny by the department to do early entrance for four year olds as kindergarteners and fund that with literacy grants. As a tradeoff, they would be required to use those funds to provide the kind of quality literacy programs he has been talking about.

[8:43:50 AM](#)

CHAIR ELTON thanked Mr. Holst. He asked Mr. Hickerson, who was waiting to testify, how long his presentation would be.

MR. HICKERSON said Mr. Holst covered almost everything he was going to say, so it would be short.

CHAIR ELTON thanked him and asked him to proceed.

[8:45:05 AM](#)

JIM HICKERSON, Superintendent, Bering Strait School District, Unalakleet, AK, has been with the Bering Strait School District for 28 years; it is his second year as superintendent. He wanted to follow up on the need for effective early childhood programs.

Mr. Holst covered some key points regarding how they might be implemented but, he added, in communities where there is a Head Start or Rural Cap program, he supports partnerships between the district and those programs to provide professional staff to work with the local providers.

MR. HICKERSON appreciated the commissioner's work on the pilot, but concurred with Mr. Holst that the state needs to move more quickly. He closed by saying that having the department sit down with law enforcement and the local social services is what it is going to take to fix things in his district. The schools can only control the variables between 8:30 AM to 3:30 PM; it is all of the things that happen before and after that time that have a tremendous impact on what happens in school. Until they start addressing the whole child 24 hours a day, they will not have the success they need.

[8:48:50 AM](#)

CHAIR ELTON told Mr. Hickerson it would be a big help if he would put some thought into what other organizations could be part of the solution and submit something to the committee in writing.

MR. HICKERSON said he would be happy to.

CHAIR ELTON noted for the record that Mr. Hickerson is the superintendent of a school district that is being intervened with and is a plaintiff in Moore vs. State.

MR. HICKERSON corrected that they aren't under intervention; they will be having an instructional audit March 2, 2009.

CHAIR ELTON apologized to the department for allowing so little time for their testimony. He asked them if they would provide a broad overview for today and said he would schedule another meeting to talk about what the department expects of the legislature over the next 60 days.

[8:51:26 AM](#)

LARRY LEDOUX, Commissioner, Department of Education and Early Development, said all of the literature agrees that success starts with early literacy; the Alaska Department of Education has been moving to improve the success of kids in Alaska for some time. He just left a meeting with Jim Hickerson in Anchorage, where they were talking about immediate steps the state can take to intervene in the graduation rate. One of the earliest steps they can take is to move to a comprehensive early

childhood program, to make sure that every child enters school with the pre-literacy skills they need to succeed.

The landscape in early education is very complex. There are a number of service providers delivering services; many of the districts in which the state is intervening have had early childhood programs funded through Head Start or Impact Aid for years. As the department moves in to support districts, they are moving from a philosophy of independent local control to one of active participation and sometimes taking over certain parts of the district. This is a major change in philosophy and the department wants to move in with the minimum of interference necessary to insure that each child is successful in school. It is complicated because they have to maximize community ownership, so the people will value their schools and feel a part of their mission; they have to improve instructional practices and work with teachers to make sure assessments and quality teaching are driving instruction. They have to improve teacher retention and work with community Leadership. And finally, they need to create attitudes of success among kids. The key in the long-term is to make sure that every child comes to school ready to read and the department is moving in that direction.

[8:55:26 AM](#)

COMMISSIONER LEDOUX said the pilot is designed to be implemented in throughout the state; it is designed to increase the capacity of parents to work with their own children. He agreed that the school cannot do everything, but said they can do more to help parents gain the skills necessary to help their children read. He added that this is not a problem reserved to rural Alaska. He was an elementary principal for ten years and as communities worked together to find out what they needed to do to be successful, they quickly identified that many of their young people came to school without any early learning experience.

COMMISSIONER LEDOUX said that the department has recognized that they have to work together and has developed close partnerships between the University of Alaska, the Department of Labor, and Health and Social Services. Many of the interventions they've implemented this year were not considered by the judge. He said he has several pages of implementation steps they have carried out this year that were not considered in the latest court decision.

In reference to Senator Elton's question he said, what the legislature can do right now is to consider their pilot program

so when they expand this program it will be efficient and will actually meet the needs of children; the state can't afford to spend resources without careful thought. He also hopes the legislature will support their request for increased Head Start funding so the department can target those resources to communities that need a slot or that don't have a program due to lack of funding. He recognized that the department has to move from the stance of providing compliance and monitoring to one of active technical support; so they have an increment in the budget of over \$800,000 to contract for technical support to districts in everything from the arts to technology and reading. They are also recruiting for a reading specialist to work in the department to facilitate programs in schools.

[8:57:39 AM](#)

COMMISSIONER LEDOUX assured the committee that the department would be back to request increased money for early learning and technical support; this is just the first step, but they want to do it well. In future hearings, when Deputy Commissioner Morse, who has been tasked specifically to lead the school improvement effort, has a chance to share some of the things the department is doing with current resources, he believes the legislators will realize they are using their funds efficiently and directly. He said that more money alone will not solve the issues, nor will more training; they know their success in Alaska will be multidimensional and they intend to pursue it that way.

[8:58:25 AM](#)

CHAIR ELTON thanked Commissioner Ledoux and said it might be helpful if he would provide copies to the committee before the next meeting of the pages of implementation steps he referred earlier. He also said he is not hearing all he wants to about partnerships; his reaction is that they need to expand beyond state agencies to include people in organizations that are already providing services in rural communities.

[8:59:40 AM](#)

SENATOR STEVENS said the issue that is troubling to him is local control versus the state taking over; he wants to hear more about how they are going work their way through that.

[9:00:35 AM](#)

CHAIR ELTON announced that the committee will recess now and reconvene in the Senate Finance Committee room for a joint presentation on seismic hazards.