

**ALASKA STATE LEGISLATURE  
SENATE EDUCATION STANDING COMMITTEE**

March 2, 2009  
8:02 a.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

Overview: Moore vs. State

**PREVIOUS COMMITTEE ACTION**

(Continuation of 2/20 meeting)

**WITNESS REGISTER**

EDDY JEANS, Director  
School Finance and Facilities Section  
Department of Education and Early Development (DEED)  
**POSITION STATEMENT:** Answered questions regarding impact of Moore vs. State.

NEIL SLOTNIK, Senior Assistant Attorney General  
Civil Division  
Labor and State Affairs Section  
Department of Law (DOL)  
Juneau, AK  
**POSITION STATEMENT:** Answered questions regarding impact of Moore vs. State.

**ACTION NARRATIVE**

8:02:31 AM

**CHAIR KIM ELTON** called the Senate Education Standing Committee meeting to order at 8:02 a.m. Present at the call to order were Senators Davis, Huggins, Olson and Elton.

**MOORE VS. STATE**

[8:03:56 AM](#)

CHAIR ELTON announced the continuation of the overview of Moore vs. State and what the department's and Legislature's role is in working to meet the mandates of Superior Court Judge Gleason. He asked Mr. Jeans to review what he thinks the judge told the department to do in 60 days.

SENATOR STEVENS joined the meeting.

[8:04:10 AM](#)

EDDY JEANS, Director, School Finance and Facilities Section, Department of Education and Early Development (DEED), deferred the answer to Mr. Slotnik.

NEIL SLOTNIK, Senior Assistant Attorney General, Civil Division Labor and State Affairs Section, Department of Law (DOL), said he was representing the DEED. He explained that in the most recent Moore decision, the court ruled that the state's intervention plans in the districts were not broad enough in scope and they have not considered early literacy standards for a broad-based education or curriculum alignment. Furthermore, the plans didn't look specifically enough at the strengths and weaknesses of each underperforming district, that existing intervention is too much of a one-size fits all, and noted the lack of teaching capacity in the intervention districts. The decision required the state to assess its own capacity to run these interventions and gave the state 60 days to bring back amended plans for each district to accomplish these objectives.

CHAIR ELTON asked him how far along they are on addressing the judge's concerns and said after that they could segue to whether or not the department would need help through the budget to accomplish that in this session.

[8:07:05 AM](#)

MR. JEANS said they came to the legislature last year for additional support as well as legislation to make it very clear to school districts and school boards that once the department has identified that a school or district is underperforming that the legislature gave the department clear authority to intervene in those districts or schools. And, he said, with SB 285 the legislature gave them clear authority to redirect resources or to make personnel decisions in those underperforming schools or

school districts basically from the principal on up - anybody that has to do with instruction outside of the teachers.

That gets back to the leadership component, he said. If the districts or individual schools have weak leadership, it's a good bet they'll be underperforming. When the department started its intervention strategies even before this last hearing, they found those schools and districts were lacking in three "foundational skills:" leadership, using formative assessments, and collaboration among the teachers to improve student achievement. This is where the judge found it was too uniform a program for the individual districts.

Commissioner LeDoux made school intervention strategies the main focus of the Deputy Commissioner, Les Morse, who is very familiar with the individual schools and district performance, as he has been doing that data collection and analyses in AYP for the last six or eight years. He had already started addressing many of the issues that Judge Gleason raised in her final order.

He is working with districts to individualize their school improvement plans and having meetings with the superintendents as well as the board president so that they understand what intervention means in their district. This gets back to the judge's ruling that the Legislature can delegate its authority to operate schools as long as they're performing. If they are not performing, local control must give way. That's what SB 285 made very clear.

[8:10:21 AM](#)

CHAIR ELTON said Judge Gleason was aware of what the Legislature had done last year but kind of questioned the department's capacity to fulfill what the Legislature granted.

MR. JEANS explained there were two pieces. First, she thought the two percent annual growth in reading, writing and math that a district would have to obtain before it could return to local control was too low. Mr. Jeans added that he still believes it was an adequate and appropriate measurement. The department wasn't sure the judge understood it was to be 2 percent in each category - reading, writing and math - for three consecutive years. Testimony from the department's experts said growth happened at a much higher rate.

JUDGE GLEASON'S second issue was the department's capacity, but SB 285 gave them three more positions. However, because of the

way the state budget process works, most people they would hire for those positions were already under contract, so it was difficult for them to immediately respond to the legislative action. The same would happen this year with the additional positions; most would already be employed. They are currently recruiting for additional positions to start July 1st.

[8:12:53 AM](#)

CHAIR ELTON asked if he means he's recruiting for more than the three positions they were expecting to fill.

MR. JEANS clarified that two out of the three positions are filled; they are recruiting for one as well as another position within the department that has been re-designated for interventions. They are asking for \$800,000 to expand their capacity to provide technical assistance, but they are not asking for more positions. They want to hire teachers from the districts similar to what is done with the mentoring program. These teachers would work under contract for the department for a couple of years and then return back to the district. They feel doing it that way gets the best expertise in the state into those areas.

[8:14:17 AM](#)

SENATOR STEVENS said he didn't understand the criticism of "one size fits all" and remarked that you have to have some common direction. What did the judge mean by that?

[8:14:42 AM](#)

MR. JEANS explained that the judge was looking at the very beginning of their intervention strategies. Their approach was to look at the foundational pieces that were missing within the districts and to address those first. But she says they have to look beyond those foundational pieces. That's why Deputy Commissioner Morse will be having those meetings with the board presidents and superintendents to get their additional input on what they believe they need as assistance.

He wanted to make it clear that the judge did say that the school districts have adequate resources to do the job they need to do. The department needs to help these districts identify what their weaknesses are and figure out what they need to address them. The department can help them find the resources within their own budgets.

[8:15:45 AM](#)

SENATOR HUGGINS wanted to know how many students they are talking about, and he also remarked that some of the schools were fairly small. Also he asked if Head Start Program funding is increased and more programs are started, how those positions would be developed.

MR. JEANS replied that Head Start is federally funded by grants such as "Rural Cap." The last couple of years the department asked for an additional \$600,000 to "cut in" to the statewide waiting list of 1,000. Head Start is a "wrap around" program that includes not only early learning, but dental and counseling services to both children and parents, and health care. The programs tend to operate pretty independently right now, but the Head Start legislation has a component that requires collaboration, and more of that is being seen.

One of the department's strategies is to put an early learning educator in the school who will collaborate with the Head Start Program in those communities instead of trying to duplicate services by starting a pre-K program in a community where 80-90 percent of the children are already being served through a head start program.

[8:18:18 AM](#)

SENATOR HUGGINS asked if they have problems with districts not supporting existing early learning programs now.

MR. JEANS replied that they get "mixed reviews" especially with Head Start, and building those bridges is what the department needs to work on. He admitted some programs in the state are effective, some are not. So to say districts need to add pre-K to the system isn't enough. The needs of the kids in a community need to be identified and then those needs have to be filled.

[8:19:25 AM](#)

CHAIR ELTON asked superintendents in the audience to raise their hands and to submit their questions to his office so he could respond to them. He asked Mr. Jeans what authority the department has in an underperforming district to change leadership, and how do they address teaching capacity.

[8:20:38 AM](#)

MR. JEANS answered that previous to SB 285, the only authority they had was through No Child Left Behind (NCLB) and that was a gray area. The department spoke to the school board in one district they had intervened in where the principal was a

problem; the board agreed and removed him. With this legislation, the department can force reassignment.

As for teaching capacity there is very high turn over in the rural communities, he stated. They are in discussions with UAA on developing programs to address that including providing incentives for people to go to those rural areas.

CHAIR ELTON asked if the judge expects them to be able to answer that issue in 60 days, as well.

MR. JEANS replied he thinks she just needs to see progress.

[8:23:09 AM](#)

SENATOR HUGGINS asked Mr. Jeans to explain the strategy behind the director of rural education position.

MR. JEANS explained that is another initiative from Commissioner LeDoux who wants to hire an Alaska Native who would be the director of rural education. He believes that a person of that stature could have discussions with individual leaders in rural communities that he and Deputy Commissioner Morse couldn't have to help bridge the gap between the department and the districts to help identify their needs. They are recruiting for that now and that is already included in their budget.

[8:24:15 AM](#)

SENATOR HUGGINS said it seems when people look at remediation plans for districts, they need a mid-term and long-term strategy, not just the short-term plan to satisfy the judge.

[8:25:03 AM](#)

MR. JEANS said he doesn't think this is a knee-jerk reaction to the ruling. The state's accountability system using their assessment system is relatively new. They are trying to build on the data that actually shows them specific areas children are underperforming in. They can help districts identify what resources areas have available and what programs work to increase student achievement in those particular areas. He thought they were already headed down this road without the judge's decision; she just wants them to move faster than they are.

[8:26:13 AM](#)

CHAIR ELTON said Senator Huggins was talking about both department and the legislature.

SENATOR HUGGINS agreed; he said 40 percent non-graduates is a long-term problem.

CHAIR ELTON directed them to the chart on reading proficiency that indicated improvement in three schools, and he asked if the department had identified what those districts are doing to achieve those improvements and if what they are doing is transferable.

[8:27:42 AM](#)

MR. JEANS replied that is what Deputy Commissioner Morse is looking at, but a specific program had not been identified. Hoonah has the "Parents as Teachers" program that helps a lot, but that has been in place for 14 years. So, he couldn't tie improvement back to that specific program. At St. Mary's Dave Herbert, the superintendent, is a very dedicated and very good instructional leader. "It starts with the leadership."

[8:28:49 AM](#)

CHAIR ELTON asked if four years is a long time for serving in these leadership positions.

MR. JEANS replied he isn't sure; Mr. Herbert had been at St. Mary's for a number of years.

CHAIR ELTON said he assumed these charts were used in the court case.

MR. JEANS confirmed that.

CHAIR ELTON asked if this is part of the data the judge used in attempting to determine what the department was capable of doing in some of those underperforming districts.

[8:29:46 AM](#)

MR. JEANS responded that he isn't convinced the judge totally understands the education landscape in Alaska, and that the state has 90 schools that are serving 30 or fewer students. Schools of that size have one or two teachers and it's very difficult to provide a very high quality educational program in that small of a setting. The judge used a lot of anecdotal information from people who testified.

[8:30:37 AM](#)

CHAIR ELTON responded that the judge has been hearing this case for several years, and if that is the case, you can't just say to her at the end of 60 days that she doesn't understand.

[8:31:31 AM](#)

MR. JEANS said they have no intention of doing that, but there is the reality of these small schools scattered throughout Alaska. Many teachers go into these schools as new teachers for a couple of years, but when they start their own families they don't want to stay there. Maybe the department needs to be looking at incentives to get experienced teachers to go to these areas and stay for three to five years at least. That is one of the things that kept coming up in the court case, the revolving door in these communities. The department is aware of the problem and is working on ways to improve retention.

[8:33:27 AM](#)

SENATOR HUGGINS agreed that continuity for the kids is important. He asked if they are talking about Title 1 schools and for him to explain what those schools get for being Title 1.

[8:34:15 AM](#)

MR. JEANS replied for the most part, they are talking about Title 1 schools. Title 1 schools are those that have a high percentage of their population in poverty, so they get additional resources through the federal government. The problem with that is strings are always attached. The NCLB might allow flexibility in how Title 1 funds are used to address deficiencies, but he didn't know if they could be used for retention bonuses.

[8:35:03 AM](#)

SENATOR HUGGINS said it would be helpful to know which schools are Title 1 and remarked that those schools also have an accountability factor.

MR. JEANS replied that the department has more flexibility in directing Title 1 funds under NCLB, but he'd like to think under SB 285 they are treating all schools the same way. The legislature gave them clear authority to redirect any of the districts' state resources to improve instructional practices. SB 285 was a huge step in the right direction.

SENATOR HUGGINS asked him to let him know how many communities have housing for teachers.

[8:36:40 AM](#)

SENATOR STEVENS said it seemed to him that in the 70's there were some good teachers in the rural communities around Kodiak,

and the state was paying the highest salaries in the nation at that time. He asked if there is a correlation with salary.

[8:37:18 AM](#)

MR. JEANS replied that is the kind of work that needs to be done through the university system. He has seen UAA studies that indicate that salary isn't what keeps people in rural Alaska. It's more the quality of life. They are trying to find ways to incent those experienced teachers whose families have graduated from high school and gone on to college to go back out to the rural areas.

[8:38:11 AM](#)

SENATOR DAVIS said she knows the department is working on the problems, but she wants to know exactly what they intend to do in 30 days when they go back to court.

[8:39:35 AM](#)

MR. JEANS answered that is what Deputy Commissioner Morse is doing with the superintendents and board presidents - rewriting individual school/district improvement plans. That is one of the key points the judge said they didn't do in their first go-round - that it was not a collaborative effort.

SENATOR DAVIS asked him to give the committee something on paper showing what they intend to present.

MR. JEANS said he would do that.

[8:41:06 AM](#)

SENATOR OLSON said in looking at the whole intervention process and the upheaval that happens within the school districts, there seems to be a tension between the department and the local districts. As it mounts, the students whom they are trying to help are the ones who are losing out. What is the status of that problem?

[8:42:07 AM](#)

MR. JEANS agreed there has been a lot of tension, which goes back to the local control issue. He explained that the state had a number of state operated schools in the 70s. Then it moved to the local control model, so there has been a question as to how much authority the department has when they know the schools are low performing. This lawsuit brought that to light. The judge made it very clear that if a school or district is chronically low-performing, the state has an obligation and a duty to

intervene, and local control must give way. The legislature understood that when they passed SB 285.

A number of school districts they are intervening in right now believe the judge said the department has to give them more resources; the department believes she said the department has to help them direct their resources more effectively. If they have to put people in the field to guarantee that programs are being implemented in the classrooms, "Then, Senator, we are ready to go there, if that's what it requires." But, he said, they would rather have the districts take the leadership role in that area and work with the department to implement those programs.

[8:44:18 AM](#)

CHAIR ELTON asked how this issue is being melded with the stimulus dollars that are coming for Title 1 schools.

MR. JEANS replied that their first effort is to try to understand the stimulus package. They believe they understand Judge Gleason's instructions with or without the stimulus package, but if they can make use of stimulus funds, they will be looking at doing that.

CHAIR ELTON asked how many dollars are coming from the stimulus package.

[8:46:13 AM](#)

MR. JEANS replied that he does not know, but he didn't think they would have a problem using them to improve instructional practices.

CHAIR ELTON said it seems to him that the department has not asked for a lot of new money, but it did ask for \$2 million for an early learning pilot program in both urban and rural Alaska. Given the Judge's concerns and specificity on early education, he asked if the department is thinking at all of having the pilot program in just rural Alaska rather than both.

MR. JEANS replied that the commissioner is dedicated to insuring that the districts the department is intervening in have quality early childhood programs. It doesn't have to come from that \$2 million. Districts have a number of resources available for that. If they offer a pre-K program, Impact Aide is a readily available resource. For example, Bering Straits School District generated \$1.1 million in Impact Aid for their three and four-

year olds. That is the level of detail they need to get into for each district.

CHAIR ELTON asked if Bering Straits was successful in getting those additional funds because their leadership team knows how to apply for them.

[8:48:40 AM](#)

MR. JEANS replied that he didn't think so; he thinks it's an awareness issue for the superintendents. "The ball is in their court. I can't force them to apply for Impact Aid funds, but it is a resource that is available." Some districts might not have enough students to make it a viable option.

CHAIR ELTON said it seems that given the authority the department got from the legislature last year on intervention, if there are Impact Aid dollars available and the districts aren't taking advantage of them, the department could apply for them on their behalf.

[8:49:55 AM](#)

MR. JEANS said Impact Aid is a direct relationship between the school districts and the federal government, and he cannot force a district to apply for it. He hadn't thought about whether SB 285 gives the department the ability to apply for those funds, but he didn't think they wanted to have that role anyhow.

[8:50:41 AM](#)

SENATOR HUGGINS asked about the bullet on the last page - technical support on governance.

[8:51:28 AM](#)

MR. JEANS said they have a contract with the School Boards Association's Norm Wooten who is providing some of the technical support on governance issues. This is a piece they are pulling together to make the whole system work.

[8:52:00 AM](#)

SENATOR STEVENS asked what the committee can expect to see in the future on using experienced teachers for the retention issue.

MR. JEANS responded that he needs to get together with the University that can provide research on whether or not that would be an effective tool, and then he could come back to the legislature with a proposal.

SENATOR STEVENS said he looks forward to that.

8:52:50 AM

CHAIR ELTON went back to Mr. Jeans' comment that it's difficult to provide quality education in the small communities. If that is the case, is the department looking at regional schools?

MR. JEANS replied that maybe he used too broad a brush in making that comment. With the high turnover in the small schools, it is difficult to maintain quality. They are looking at regional schools as a viable option on a voluntary basis, and are already doing that with Galena, Nenana Boarding School and Mt. Edgecumbe. The department is not advocating for additional regional schools, but the base closure in Galena has provided them with additional facilities and they would like to ramp up their program from 150 to 400 students.

8:54:35 AM

CHAIR ELTON reiterated Senator Davis's request for specifics regarding the department's response. He encouraged the superintendents to also put together some bullet points for the committee that suggest what they think some of the solutions are and whether or not they can be handled within the existing budget recipe.

There being no further business to come before the committee, Chair Elton adjourned the Senate Education Standing Committee meeting at 8:56.