

ALASKA STATE LEGISLATURE
SENATE EDUCATION STANDING COMMITTEE

March 15, 2010

8:02 a.m.

MEMBERS PRESENT

Senator Kevin Meyer, Co-Chair
Senator Bettye Davis, Vice Chair
Senator Charlie Huggins
Senator Donald Olson
Senator Gary Stevens

MEMBERS ABSENT

Senator Joe Thomas, Co-Chair

COMMITTEE CALENDAR

SENATE BILL NO. 224

"An Act establishing the governor's performance scholarship program and relating to the program; establishing the governor's performance scholarship fund and relating to the fund; relating to student records; making conforming amendments; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 224

SHORT TITLE: POSTSECONDARY SCHOLARSHIPS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/19/10	(S)	READ THE FIRST TIME - REFERRALS
01/19/10	(S)	EDC, FIN
02/03/10	(S)	EDC AT 8:00 AM BARNES 124
02/03/10	(S)	Heard & Held
02/03/10	(S)	MINUTE(EDC)
02/15/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/15/10	(S)	Heard & Held
02/15/10	(S)	MINUTE(EDC)
02/19/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/19/10	(S)	Heard & Held
02/19/10	(S)	MINUTE(EDC)
02/22/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/22/10	(S)	Heard & Held

02/22/10	(S)	MINUTE(EDC)
02/26/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
02/26/10	(S)	Heard & Held
02/26/10	(S)	MINUTE(EDC)
03/01/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
03/01/10	(S)	Heard & Held
03/01/10	(S)	MINUTE(EDC)
03/10/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
03/10/10	(S)	Heard & Held
03/10/10	(S)	MINUTE(EDC)
03/12/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)
03/12/10	(S)	Heard & Held
03/12/10	(S)	MINUTE(EDC)
03/15/10	(S)	EDC AT 8:00 AM BELTZ 105 (TSBldg)

WITNESS REGISTER

JOMO STEWART, aide to Senator Meyer
 Alaska State Legislature
 Juneau, AK

POSITION STATEMENT: Addressed the items of concern from the Department of Education and Early Development on SB 224.

MURREY RICHMOND, aide to Senator Thomas
 Alaska State Legislature
 Juneau, AK

POSITION STATEMENT: Addressed the items of concern from the Department of Education and Early Development on SB 224.

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

POSITION STATEMENT: Expressed concerns with provisions in CSSB 224, version S.

DIANE BARRANS, Executive Director
 Alaska Commission of Postsecondary Education (ACPE),
 Juneau, AK

POSITION STATEMENT: Expressed concerns with provisions in CSSB 224, version S.

JEAN MISCHEL, Attorney
 Legislative Legal Services
 Legislative Affairs Agency
 Juneau, AK

POSITION STATEMENT: Addressed the legal issues of using intent language within a piece of legislation.

ACTION NARRATIVE

[8:02:12 AM](#)

CO-CHAIR KEVIN MEYER called the Senate Education Standing Committee meeting to order at 8:02 a.m. Present at the call to order were Senators Huggins, Davis, and Co-Chair Meyer.

SB 224-POSTSECONDARY SCHOLARSHIPS

[8:02:21 AM](#)

CO-CHAIR MEYER announced continued consideration of SB 224. He called on the two committee aids to walk the committee through the points of consideration and offer some suggestions and compromises to the concerns that Commissioner LeDoux had.

[8:04:36 AM](#)

SENATOR OLSON and **SENATOR STEVENS** joined the meeting.

[8:04:56 AM](#)

JOMO STEWART, aide to Senator Meyer, said he would like to address the items of major concern which he included in a handout to the members of the committee.

The first item of concern was the issue of non-traditional student accommodations. There were three main points under discussion: the six month proviso, the reinsertion of the six year scholarship timeline and the reinsertion of the eight semester scholarship termination. In regards to the six month proviso the intent was to ensure that students do not apply too early for the scholarship.

SENATOR STEVENS asked what is the earliest that a student could apply. He requested that Mr. Stewart give an example.

MR. STEWART answered six months before graduation, which would be around the month of December. The administration explained to him that the six month proviso was simply meant to safeguard against too early an application for certification. With consideration of the six year termination date, after graduation a student would have as much time as they like to apply within.

SENATOR STEVENS said he is concerned about the application timeline. He wondered whether six months would be enough time to apply.

MR. STEWART referred that question to the DEED.

8:09:07 AM

MR. STEWART continued with the next point of consideration. He said with the original bill students had six years to use their scholarship before it was terminated. Under the committee substitute (CS), version S it is open ended with no termination. There are other ways to structure this time by lengthening or shortening the time limit. Finally there is the eight semester maximum limit included in the original bill. Within this eight semester maximum, if a student were to take courses half time, they would still use up one of their allotted semesters even though had used only half the award. He acknowledged the interest of the committee on adding some flexibility to accommodate non-traditional students. Mr. Stewart pointed out the addendum he included in his handout which gives a synopsis for how SB 224, version E, and the CS function and practice. He said he broke the issue down into four negotiable components regarding non-traditional students: the eligibility for application window, the scholarship use duration (six years), the semester count (8 semesters versus 12 semesters), and the semester count methodology (i.e. how a student uses up a semester). He said that the co-chairs' proposed solution to accommodate the administration's desire to have some certainty for how long students would be in the system, while also giving flexibility to non-traditional students. The co-chairs' proposed solution would allow for the following:

to extend the "6 years to termination" from the Governor's version to 10 years, keep the 8 semester count and include a "half-time" as "half-burn" proviso.

Under this scenario a student could attend half-time for 16 semesters (eight years), achieve their degree, and still have two years of flexibility on either end for any circumstances that might arise.

MURREY RICHMOND, aide to Senator Thomas, added that a student would only be able to receive half of their scholarship if they were attending half-time.

SENATOR HUGGINS asked if Mr. Stewart has thought about using credit hours.

MR. STEWART answered that the administration's definition under the university of half time is 6-11 credit hours; anything more than 11 is full time. Credit hours could certainly be used instead of a semester count.

SENATOR STEVENS asked if Mr. Stewart is confident that all institutions in Alaska are on a semester basis and not a term basis. That could complicate the matter.

MR. STEWART deferred the question the DEED.

CO-CHAIR MEYER clarified that Senator Stevens was taking into consideration that some institutions may be on a quarter system.

SENATOR STEVENS agreed.

CO-CHAIR MEYER commented that they came up with ten years as a compromise with the administration. This gives some additional flexibility for non-traditional students but does impose some limits. He suggested that they hear from the administration on the points raised so far before going on.

[8:17:02 AM](#)

SENATOR STEVENS restated that he wonders if all Alaska institutions are on a semester basis.

DIANE BARRANS, Executive Director, Alaska Commission of Postsecondary Education (ACPE), answered that all of those that meet the definition of college or university in this bill are on a semester system.

SENATOR STEVENS asked about the application date of applying six months before graduation. He also asked how long the application process takes.

MS. BARRANS said that ideally families would begin planning for financial aid much earlier than six months before graduation. In terms of the application process for scholarships and financial aid students typically begin applying in January and February so that six month time-frame is reasonable.

LARRY LEDOUX, Commissioner, Department of Education and Early Development (DEED), added that most students will not have many of the necessary requirements until the end of the school year.

SENATOR STEVENS asked about the matter of "pass/fail" in college classes and how they would fit into the grading system to maintain the scholarship.

MS. BARRANS said she will have to check with the university but said there is typically a cap to the number of pass/fail classes allowed to graduate.

CO-CHAIR MEYER asked them about the ten year maximum time frame.

COMMISSIONER LEDOUX said it is certainly closer to what they believe to be financially sound system but it still means a higher price tag. He also reminded the committee that research shows the longer students take to embark on their college career, the less likely they are to graduate. Part of the purpose of the scholarship is to teach students about good life choices.

SENATOR STEVENS said he assumes Commissioner LeDoux has the similar concerns about the half-time provisions that allow a student to go for a longer period of time.

COMMISSIONER LEDOUX responded that if the student is required to have continuous enrollment it shows diligence. He said he would have the concerns if their attendance were hit and miss. He would like to see a continuous enrollment requirement added to that in order to accomplish the goals of the program.

MS. BARRANS added that she fears they compromise the success of the program if they don't structure it to achieve the desired results.

SENATOR STEVENS said he understands now that this is not the place to address non-traditional student. Perhaps the place to address non-traditional students is in the Alaska Advantage Program.

[8:25:24 AM](#)

CO-CHAIR MEYER asked if he is correct in understanding that Commissioner LeDoux is willing to accept the ten year limit but still wants students to finish in eight semesters.

COMMISSIONER LEDOUX replied yes.

SENATOR HUGGINS asked about the Department of Military and Veterans Affairs (DMVA) tuition assistance program and what the relationship between the two programs will be.

COMMISSIONER LEDOUX answered that he did not know.

MS. BARRANS said she believes they would be complementary. However, for an individual who receives DMVA assistance, has other non-loan financial aid and does not have remaining need they may not be eligible for the entire award under this. But if an individual did have that amount of needs they would qualify for both forms of aid.

SENATOR HUGGINS recommended that the committee get some input from the DMVA. He asked about addressing the shortage in certain disciplines in the state, for example math teachers.

COMMISSIONER LEDOUX answered that he found a number of programs to encourage young people to enter the math and science areas of instruction. However, he believes that while this program doesn't specifically target areas of shortage he thinks it will help because it will increase the number of graduates in the state who will have the skills to be successful.

SENATOR HUGGINS said it takes away some incentives down the line. In previous programs there has been incentive for individuals to earn certain degrees (for example, math teachers) and teach in the bush. These programs gave a loan forgiveness incentive to get teachers to stay and work in a remote school. If an individual has already had their tuition paid, then a loan forgiveness program is no longer an incentive. He encouraged the committee to look into certain degrees that will help students become more productive after college for the state.

SENATOR DAVIS said she agrees with Senator Stevens regarding non-traditional students. However, she is still concerned about asking half-time students to finish in eight semesters.

COMMISSIONER LEDOUX reiterated that one of the intents of the program is to get students to graduate as soon as possible. There is some research that indicates that the longer a student takes, the less likely they are to graduate. He reiterated that if a student was continuously enrolled and was half-time it may not be as problematic. However, if a student is taking half-time semesters sporadically then we are not achieving what we hope to accomplish with this program.

SENATOR DAVIS agreed with Commissioner LeDoux. However, if half-time students have the scholarship to assist them, they might be able to go to school half-time continuously.

MS. BARRANS said the concerns she would have is the question of the trade-off for a student. The trade-off would be a student having eight semesters over six years to finish, or making sure that a half-time student be continuously enrolled. This might do more unintended harm than good for the student because it may not be possible for them to be continuously enrolled.

SENATOR DAVIS said that she strongly feels that input from students already enrolled in college is needed.

SENATOR STEVENS asked about the criteria other than grades that will determine who receives the scholarship in situations where there are too many applicants.

MS. BARRANS answered that currently there is no method in the bill for prioritization. Without a method she believes it is beyond the authority of the commission to create separate criteria or priority. Currently the bill states that the distribution of the award to individuals would be pro-rata. This means that every student would get the same proportion of their award amount rather than some individuals getting their entire award and some individuals receiving none.

8:36:45 AM

SENATOR OLSON reiterated Senator Huggins' point about finding incentives for graduates to go to rural Alaska and fill the needs that are out there.

COMMISSIONER LEDOUX said that retaining teachers in rural Alaska is one of the department's major concerns. DEED is actively looking at federal and state options to do that. There is some evidence that the mentor program is being effective. One challenge is to make sure that there are not only teachers in rural Alaska, but outstanding teachers. They are approaching it by promoting early learning programs in the state. He agreed that it is a critical need.

SENATOR DAVIS agreed with Commissioner LeDoux's point that the best idea is to produce a professional workforce within the state. Kids from rural areas who go to school in state and become teachers are more likely to go back home to teach. She thinks this scholarship will help accomplish this.

COMMISSIONER LEDOUX agreed with Senator Davis.

SENATOR STEVENS said this bill is completely bifurcated. We can set up a great program here, he said, but once it gets to Finance, they get to decide how much money it will receive. He is concerned that if the idea is to get kids through college, they need to be fully funded. The pro-rata idea could make this fail program. He asked whether they should establish criteria that the program will fully fund as many students as possible and when the money for the program runs out, the program ends.

CO-CHAIR MEYER said he has brought up a good point.

8:42:26 AM

MS. BARRANS shared Senator Steven's concerns. That was one of prime motivators against proposing the funding structure that the bill has proposed. If the program were to be outrageously successful with high rates of graduation and eligibility, the funding issue would have to be readdressed since assumptions have been made on the funding needed. She agreed there is a point of diminishing return if the pro-rata amount that students receive is too small.

COMMISSIONER LEDOUX said many states control the flow of money by tightening certain criteria (for instance, by raising the ACT/SAT scores or requiring continuous enrollment). Our program is much looser and, if it is successful it will cost the state more, but we may achieve some of those results Senator Davis alluded to. The needs based program is a significant cost to the program. It is important to note, he said, that the way that the legislature is designed will have to allocate, design and approve the funds of the scholarship. He is concerned that tightening the criteria could make it too elitist and not help the kids he hopes to attract and get engaged with the system. If the requirements are raised too much, the goals of the program will not be met. That is why he is being more restrictive on some of his responses to the questions and ideas the committee has brought up.

CO-CHAIR MEYER agreed with Commissioner LeDoux. The program and its funding will, in all likelihood, be tweaked and changed over the next few years as certain necessary changes arise.

SENATOR DAVIS referred to the problems with pro-rata disbursements. She said Finance needs to look into the possibility of financing next year so that the needs-based component can be addressed and split. Continuing, She asked why the issue of including 2010 student in the bill was not included on the list for discussion.

CO-CHAIR MEYER said the list only contains the contentious issues.

SENATOR DAVIS asked if she can assume that this is not a contentious item.

CO-CHAIR MEYER asked Commissioner LeDoux to comment.

COMMISSIONER LEDOUX answered that the program was designed to begin with the graduating class of 2011. They can do it but they have not done the analysis yet. He noted that it would be very difficult to develop the regulations between now and the fall of the 2010/2011 school year.

MS. BARRANS said she thought she had heard Senator Davis describe say at a prior hearing is that she does not expect the state to pay for their first year retroactively but to qualify them for eligibility for the scholarship.

SENATOR DAVIS agreed.

CO-CHAIR MEYER asked to move on to the next item listed in the handout.

[8:51:28 AM](#)

MR. STEWART continued on to item two on the list for discussion. In the original bill there were two tracks: academic and career and technical track. Associated with the career and technical career was a \$3,000.00 per year cap on awards. Under the CS, there is a loss of distinction between the two tracks. The administration has asked the committee to reinsert the career track to allow for a differentiated curriculum. The justification being that a student moving towards career training may not need the same curriculum as those going on to an academic program.

CO-CHAIR MEYER asked if the \$3,000.00 per year career and technical school funding would be implemented on a pro-rata basis assuming the program runs short on money.

MR. STEWART answered that the justification for the \$3,000.00 cap was to guard against tuition increase.

CO-CHAIR MEYER asked for confirmation that on the CS there is no cap on career and technical schools.

MR. RICHMOND answered yes; it is one scholarship that could be used at a career or academic institution.

CO-CHAIR MEYER acknowledged Commissioner LeDoux's concern that some of the vocational and technical schools are much less and they may be tempted to raise their tuition because of this.

MR. STEWART added that it is under the proviso that the state will never pay more than the actual cost of tuition.

MR. RICHMOND pointed out that since a career track student is only going to get \$3000.00 per year there would be less incentive to take a more rigorous curriculum in high school.

SENATOR DAVIS asked that if a career class was to cost more than the allotted \$3,000.00, why penalize a career track student.

SENATOR STEVENS asked how the committee can decide what the needs are going to be in 10-20 years from now. He is concerned about creating a \$3,000.00 per year limit when that may not be enough money for such a program down the line.

[8:57:31 AM](#)

CO-CHAIR MEYER confirmed that these are all good thoughts, although he does understand the Commissioner's concerns about the added costs to the program.

SENATOR HUGGINS asked to see the list that the Department of Labor (DOL) is supposed to maintain of eligible career training programs.

MR. STEWART answered that he has looked at the three existing lists: one maintained by the ACPS, one by DOL, and one that is embedded in statute. Under any of the constructs however, a master list will be created. One question has been whether it this master list needs to be reviewed by the legislature. However, there is no unified master list at this time.

CO-CHAIR MEYER asked Commissioner LeDoux to address these issues.

[8:59:54 AM](#)

COMMISSIONER LEDOUX replied that the list will be developed by the DOL and continuously reviewed and updated by DEED and ACPE. Also, the legislation requires that DEED report annually to the legislature of any issues. This would allow the option to review the amount of money available for these courses on an annual

basis and adjust accordingly. He agreed that these courses will be evolving and that review and adjustment may be necessary. If students work hard and qualify for the academic track they will have the academic funding available and can choose to use the additional funds if needed. It is important that the career and technical path is clear and is not lost in the college path way.

SENATOR DAVIS said she is only concerned that those funds be sufficient. She wants to see some data on the present costs of the career and technical courses currently available.

SENATOR STEVENS asked about schools that train pilots, for instance, and the cost of that.

MS. BARRANS answered that there are courses that are more expensive. Regarding flight training, those are probably the most expensive. Specifically for flight training, often the military is the conduit for an individual who wants to fly commercially. However, there are collegiate programs that lead to pilot license and certification, including the University of Alaska. Any unmet need for a more expensive program would be covered in the needs-based funding of the program.

SENATOR DAVIS asked where in the bill it says that, if students qualify for the academic scholarship they can use that award for career training.

MS. BARRANS replied that it was a revision in the CS House version.

SENATOR DAVIS said she wants that in senate CS.

CO-CHAIR MEYER asked his staff to make a note.

MR. STEWART continued on to item five regarding intent language. He said the original bill included a number of goals in the bill language. The CS proposed to remove those to an accompanying letter of intent. This is customary, he said, within the legislature so that such language would not have the force of law but would still act as a guiding mechanism and be available to the courts as a reference. However, it seems to staff that the inclusion of the purpose language would give it the force of law and make it actionable in court. They have asked legislative legal to address the issue.

[9:08:37 AM](#)

JEAN MISCHEL, Legislative Legal Services, Legislative Affairs Agency, said the drafting rules adopted by the Legislative Council discourage inclusion of intent language in bills. The purpose of this is to encourage legislators to be clear that the laws that they draft are not open to ambiguity or interpretation. She is not sure what the benefit of adding the programmatic goals to the bill are if the goals are not actually accomplished. In particular, the CS adds grade-point standards that were previously left to the Department of Education to interpret. From a judicial standpoint the use of a letter of intent if this bill were to be adopted would be reviewed if there were any ambiguities discovered in the bill. Leaving in policy goals may also provide added incentive to litigate applicability of certain provisions. She suggests the letter of intent be read on the floor along with the bill.

CO-CHAIR MEYER asked whether a letter of intent, if it is approved and passed, is it noted in the statute book.

MS. MISCHEL answered that she does not believe so. However, it would be clear from the journal on the bill.

CO-CHAIR MEYER asked if Ms. Michel recalled if the house CS incorporated the goals in the bill.

MS. MISCHEL replied yes.

SENATOR STEVENS asked if Ms. Mischel is discouraging a letter of intent.

MS. MISCHEL answered that she neither discourages nor encourages the use of a letter of intent. She discourages placing the goals in the substance of the bill because the intent should be clear from the language of the bill.

SENATOR DAVIS asked if Commissioner LeDoux could comment on that. She asked if the goals could be accomplished through the regulation.

COMMISSIONER LEDOUX answered that he believes so and that the committee will have to make a decision based on the best legal advice that they have. He does not want the integrity of the program to be lost, that was his position for wanting to include the goals in the bill. He said that the regulations that they promulgate through the State Board of Education must be specifically related to a law. He would have to seek advice with

an attorney to see if these goals could be accomplished through regulation.

CO-CHAIR MEYER said they need to talk about this further. He agrees with the goals but has concerns about the legal ramifications of placing them in statute.

9:18:31 AM

CO-CHAIR MEYER reiterated that the goal here is to develop a CS they are comfortable with and can pass by Friday and that they will continue reviewing the issues on Wednesday. [SB 224 was held in committee.]

9:20:01 AM

There being no further business to come before the committee, CO-CHAIR MEYER adjourned the meeting at 9:20 a.m.