

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3399

251

SESSION ADDRESS:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4925  
Fax: (907) 465-3517  
Toll Free: 1-800-821-4925

# Senator Gary Stevens

## Alaska State Legislature

INTERIM ADDRESS:  
112 Mill Bay Road  
Kodiak, Alaska 99615  
(907) 486-4925  
Fax: (907) 486-5264



### Senate Bill 285

### SPONSOR STATEMENT

**“An Act relating to the power and duties of the Department of Education and Early Development for improving instructional practices in school districts.”**

SB 285 has been introduced in response to the court case decision of Moore et. al.vs. State of Alaska (3AN-04-9756 Civil), which pertains to the Legislature fulfilling its constitutional mandate of overseeing school districts and schools in Alaska. The case concludes in part that the Legislature is failing this duty as regards schools with long-standing poor performance.

The education clause of Alaska's Constitution states that the Legislature has the obligation to establish and maintain public schools in Alaska. The Legislature has delegated this responsibility to the Department of Education and Early Development (DEED). As is common among states, there has been a long-standing policy of maximizing local control of Alaska's schools and education. However, when it is determined that a local school district continually fails to provide a child a meaningful opportunity to learn, local control must give way to Legislative intervention, via DEED. Alaska must make its best effort to remedy the situation by implementing specific, focused strategies and professional development designed to increase student learning and proficiency.

SB 285 requires that regulations be drafted establishing criteria under which DEED may intervene and provide direction to a district to develop school and district-level improvement plans targeted to increase student achievement. The commissioner will use multiple measures and data in making such a determination. Passage of SB 285 will make it clear to Alaska's school districts that they must cooperate with DEED or risk specific directives, delineated in regulation, regarding district personnel decisions and expenditures of district funds necessary to improve instructional practices in the district schools. Passage of SB 285 will also demonstrate to the Judicial branch that the Legislature is acting to better ensure total fulfillment of the mandates established in the education clause of Alaska's constitution.

I encourage your support of this important leadership role we must assume in Alaska's education policy.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 31, 2008

**SUBJECT:** Questions (CSSB 285(FIN) (Work Order No. 25-LS1522(L))

**TO:** Representative Peggy Wilson  
Chair of House Health, Education and Social Service Committee  
Attn: Becky Rooney

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have asked a series of questions about CSSB 285(FIN). As a preliminary matter, the Department of Law, as an advocate for the defendant State of Alaska, is the best judge of the effect of the above legislation and legislative hearings on the pending lawsuit, *Moore v. State of Alaska*, Case No. 3AN-04-9756.

As you know, the legislature has delegated the responsibility of providing a system of public education required under art. VII, sec. 1 of the Alaska Constitution to the Department of Education and Early Development (DEED) and local school districts through statutory mandates and authorizations. The plaintiffs acknowledged in *Moore* that the state has already set detailed educational standards that, if followed, would provide each child with a constitutionally adequate education. The court in *Moore* is reviewing the department's compliance with those mandates and authorities. SB 285 provides clarification that the Department of Education and Early Development is specifically authorized to intervene in school districts and schools to bring them into compliance with existing standards.

Without an exhaustive review, impossible at this point in the legislative session, it is my opinion that the department has previously been generally authorized by the legislature to audit school districts and to withhold state funds for noncompliance with state law. AS 14.07.060 expressly provides that the state Board of Education and Early Development "shall adopt regulations that are necessary to carry out the provisions of this title." In addition, AS 14.07.070 states: "State funds may not be paid to a school district or teacher that fails to comply with the school laws of the state or with the regulations adopted by the department."

It is my understanding that some school districts have questioned the authority of DEED and the board to intervene in personnel decisions or to withhold or redirect state funds for failure to comply with curriculum, teaching, or accountability standards established by statute and regulation. That is the apparent reason for the proffered legislation. The

Representative Peggy Wilson

March 31, 2008

Page 2

department has previously adopted regulations to allow "corrective actions," to close schools, and to establish testing and accountability standards based upon its existing statutory authority. The department has also recently published additional proposed regulations to further define its audit and compliance functions.

The questions presented by the committee are as follows:

1. What are the potential ramifications of legislative committee discussion and testimony in the context of future Supreme Court action pending on *Moore v. State of Alaska*?

The case is currently still pending at the Superior Court level. Since the Superior Court is a trial court and the court has called for at least one additional hearing, either party may introduce committee discussion and testimony at the hearing, subject to court approval for relevancy and other evidentiary grounds. The court may or may not defer to the facts and opinions expressed in committee but would likely take them into consideration in making its decision. That evidence will be available to the Alaska Supreme Court on review of the Superior Court decision, if an appeal is filed and the record is not otherwise limited.

2. The presentation [by DEED] included information about a pending June 2008 deadline for Legislative action. Just what is the expectation? What happens if the Court decides we did not meet the deadline? What are the specific ramifications of action (or inaction) of the legislature in the next 30 days of session? Does the Department of Law suggest timely legislative action?

The Superior Court asked the state to bring back additional information one year following its initial determination in June 2007 that the public education system was constitutionally inadequate if the state's oversight of local control did not result in affording all students the opportunity to meet statewide competency standards required to pass the high school qualifying examination.<sup>1</sup> The court postponed the effect of its decision declaring the system inadequate and set a June 8, 2008 hearing to consider further evidence of adequacy of the educational system in the context of state oversight. If the legislature does not pass legislation this session, the state would be expected to assert that the legislation was not necessary but that it was desirable to overcome local objections to its oversight and intervention. It is apparent, based on the statements made by the Department of Law and the Department of Education and Early Development, that they would prefer that the legislature clarify DEED's oversight authority before the

---

<sup>1</sup> The *Moore* decision provided that:

At this juncture, this Court recognizes that the legislative and executive branches of government, and not the Court, are in a considerably better position to address these issues. So as to accord the State an opportunity to do so, this decision is being stayed for a period of one year.

hearing. There is some risk that the court, in a separate action, would invalidate pending regulations without clarification of DEED's authority.

3. Is the DEED evaluation that the *Moore* decision somehow negates the delegation of authority to local school districts accurate? If it is accurate, what is the scope of possible legislative responses that might increase Legislative oversight of school districts and satisfy the court?

The *Moore* decision addressed local control this way:

. . . there is a benefit in experimentation and in according to local school districts the opportunity to direct their funds in the manner that they believe will best meet the needs of students within their district, particularly given the great diversity within this state. But the Alaska Constitution sets some limits. If generations of children within a school district are failing to achieve proficiency, if a school or a district has not adopted an appropriate curriculum to teach language arts and math that is aligned with the State's performance standards, if basic learning is not taking place for a substantial majority of a school's children, then the Constitution places the obligation upon the Legislature to insure that the State is directing its best efforts to remedy the situation. Here, the evidence has persuasively demonstrated that more funding is not the answer. For the State to fail to take a considerably more directive role in the face of chronically poor performance, at least for the children in Yupiit, amounts to an impermissible "legislative abdication" of the State's constitutional responsibility to maintain public schools in this state.

*Moore*, at p.188 (citations omitted)

DEED is looking for clarification and support of its authority to intervene in schools and districts from the legislature, which is the ultimate authority over public education. Since the legislature set up a system that was based in part on local control, clarification may be warranted. SB 285 provides a fairly broad authorization for intervention in failing districts and schools. The legislature could, instead, amend existing authorizations in statute one-by-one to clarify those but the process would be more complex.

4. While it was not explicitly said that SB 285 and proposed regulations, 4 AAC 06.872 are [D]EED recommendations for legislative responses to the judge, it was implied by association. Should not [D]EED include a disclaimer or limited endorsement that acknowledges that there may be other ideas?

The regulations and proposed legislation are DEED's expert interpretation and implementation of existing statutory authority. Obviously, the legislature may restrict the department, adopt the regulations in statute, or provide a broader authorization (as in SB 285) that clarifies that the regulations are fine with the legislature. The court appeared to agree that additional legislative direction may be warranted.

5. Could the legislature also respond to the Court's direction by virtually any education policy reform legislation aimed at incentivizing better local involvement/oversight and better education results? NCLB requirements for failing schools include increased choice options and provision of appropriate supplemental and tutorial programs.

The legislature could do that but the incentives must include state oversight and intervention under the *Moore* decision. The local control and school improvement provisions currently in statute are apparently insufficient incentives in some areas of the state despite broad local authority and DEED technical assistance. Even with additional guidance and incentives for local oversight and improved results, the state is ultimately responsible under the constitution,

The *Moore* decision expressly called for more state involvement. The court stated:

The Education Clause does not require the State to "take over" these troubled school districts or fire key personnel. Indeed, evidence introduced at trial indicated that such approaches may well be counterproductive. Commissioner Sampson's suggestion -- that the Legislature look to according [D]EED more authority to direct a school district's resource allocation into the classroom -- may result in considerably greater success. The exact nature of those additional efforts should be for the State, in the first instance, to determine. But this Court finds that the efforts taken as of trial, particularly with respect to the Yupit School District, are constitutionally inadequate.

. . . the State must insure that each school district has a demonstrated plan to provide children a meaningful opportunity to achieve proficiency in the State's performance standards, and meaningful exposure on the remaining content standards -- and insure that the district's plan is fully implemented and actually in use in the district's classrooms. [ ] the State must exercise considerably more oversight and provide considerably more assistance and direction to those schools that are identified as failing to meet the State's constitutional obligation, in a concerted effort to remedy the situation.

*Moore* at pp. 189 - 190

6. Did [D]EED not have statutory authority to enact existing 4 AAC 06.840 and 845? It would seem that authority these regs give to be involved in personnel decisions, curriculum selection, and administrative restructure (sic) are fairly dramatic powers similar to what is being established in SB 285. Are law suits pending or threatened on these existing regulations?

See general discussion, above. When the regulations were adopted and proposed, the department's more general authority was relied upon as well as the accountability standards set out in previous legislation. I am not aware of pending or threatened litigation on the regulations but the department has stated that the districts have been

Representative Peggy Wilson  
March 31, 2008  
Page 5

"pushing back" and the department would like some clarification from the legislature to support its position in the event that a lawsuit challenging its authority is filed.

If I may be of further assistance, please advise.

JMM:med  
08-237.med



Health, Education, and Social Services Committee  
Alaska State Legislature  
House of Representatives  
Representative Peggy Wilson - Chair

During a presentation by the Department of Law and the Department of Education and Early Development on "Moore v. State of Alaska" on Saturday morning, March 15, in the House Health, Education, several questions arose.

As a result of this case SB285 has been introduced and will be heard in House HESS. The HESS committee would like some clarifications from our legal department on these questions.

1. What are the potential ramifications of legislative committee discussion and testimony in the context of future Supreme Court action pending on Moore v. State of Alaska?
2. The presentation included information about a pending June, 2008 deadline for Legislative action. Just what is the expectation? What happens if the Court decides we did not meet the deadline? What are the specific ramifications of action (or inaction) of the legislature in the next 30 days of session? Does the Department of Law suggest timely Legislative action?
3. Is the EED evaluation that the Moore decision somehow negates the delegation of authority to local school districts accurate? If it is accurate, what is the scope of possible legislative responses that might increase Legislative oversight of school districts and satisfy the court?
4. While it was not explicitly said that SB 285 and proposed regulations 4 AAC 06.872 are EED recommendations for legislative responses to the judge, it was implied by association. Should not EED include a disclaimer or limited endorsement that acknowledges that there may be other ideas and
5. Could the legislature also respond to the Court's direction by virtually any education policy reform legislation aimed at incentivizing better local involvement/ oversight and better education results? NCLB requirements for failing schools include increased choice options and provision of appropriate supplemental and tutorial programs.
6. Did EED not have statutory authority to enact existing 4 AAC 06.840 & 845?. It would seem that authority these regs give to be involved in personnel decisions, curriculum selection, and administrative restructure are fairly dramatic powers similar



Health, Education, and Social Services Committee  
Alaska State Legislature  
House of Representatives  
Representative Peggy Wilson - Chair

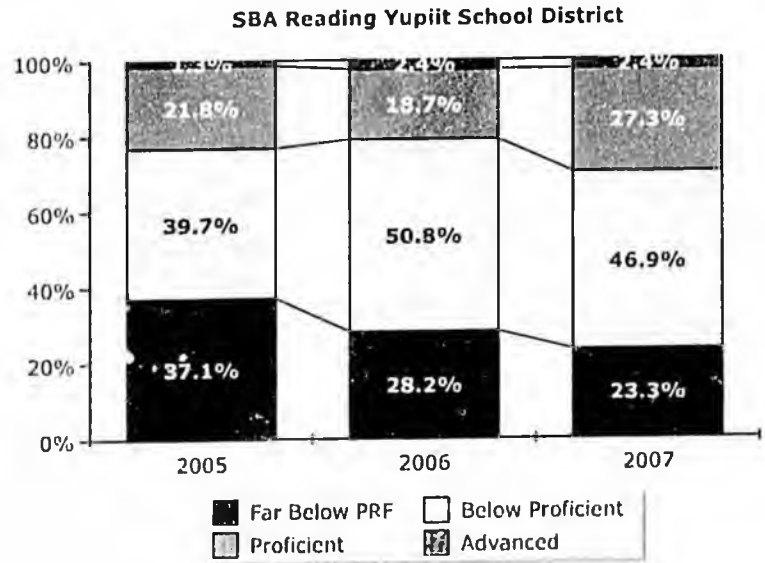
to what is being established in SB 285. Are law suits pending or threatened on these existing regulations?

# READING TESTS SCORES AFTER STATE INTERVENTION

## Yupit School District

### State Intervention

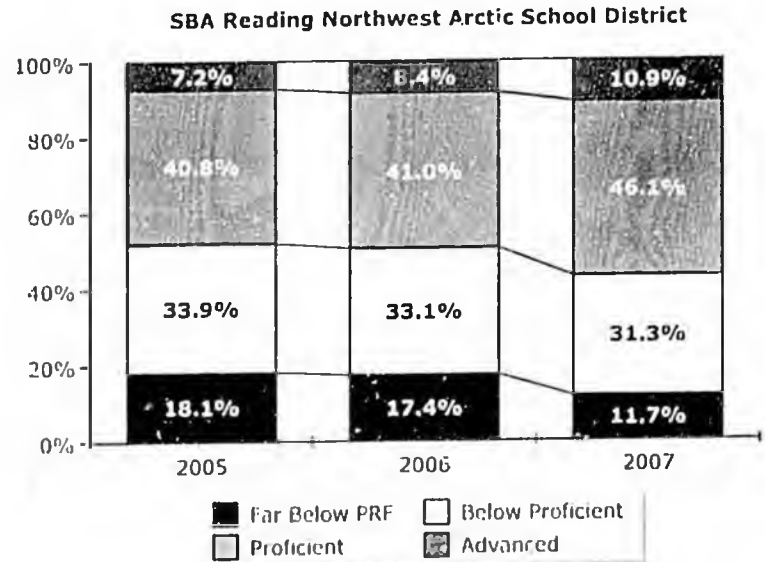
2005  
2006  
2007



## Northwest Arctic School District

### State Intervention

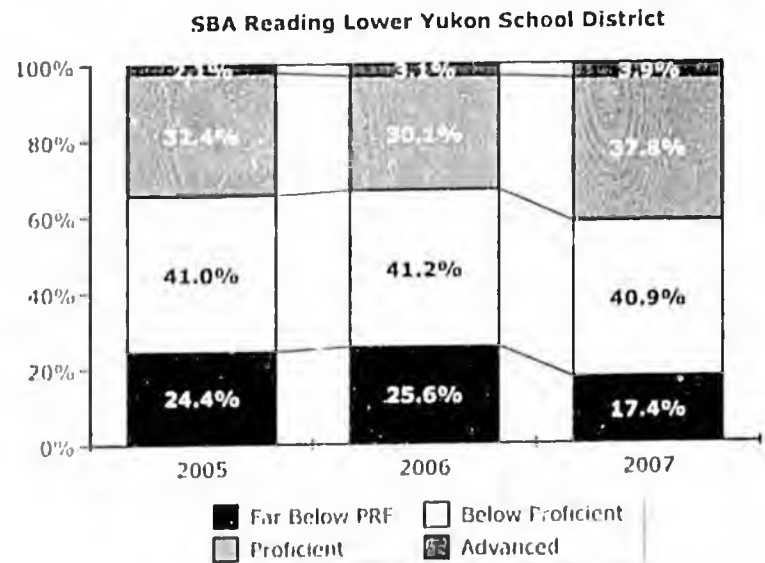
2006  
2007



## Lower Yukon School District

### State Intervention

2006  
2007

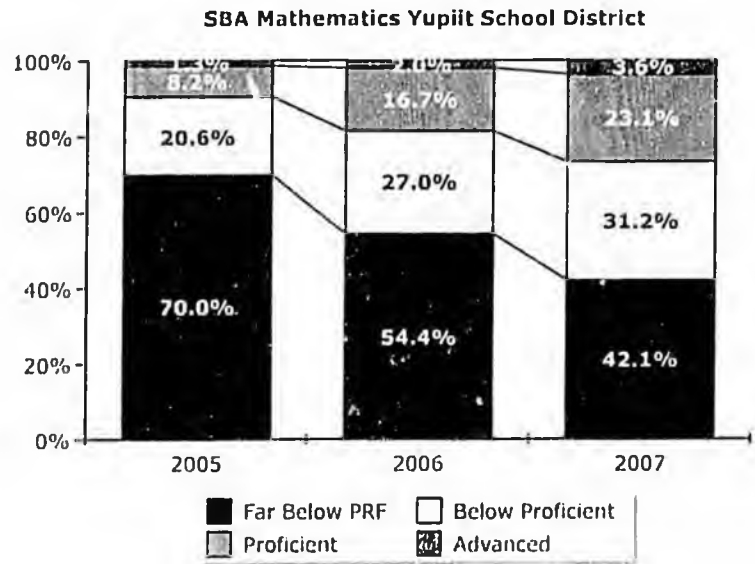


**MATH TESTS SCORES AFTER STATE INTERVENTION**

**Yupit School District**

State Intervention

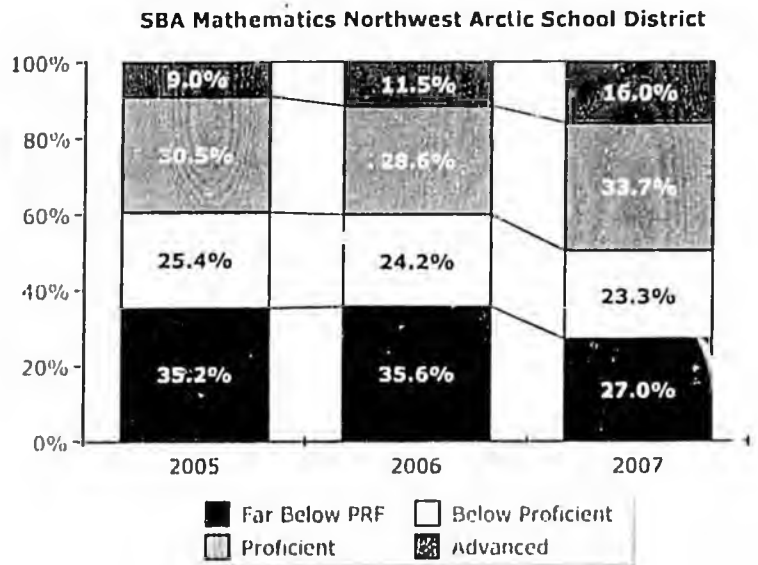
2005  
2006  
2007



**Northwest Arctic School District**

State Intervention

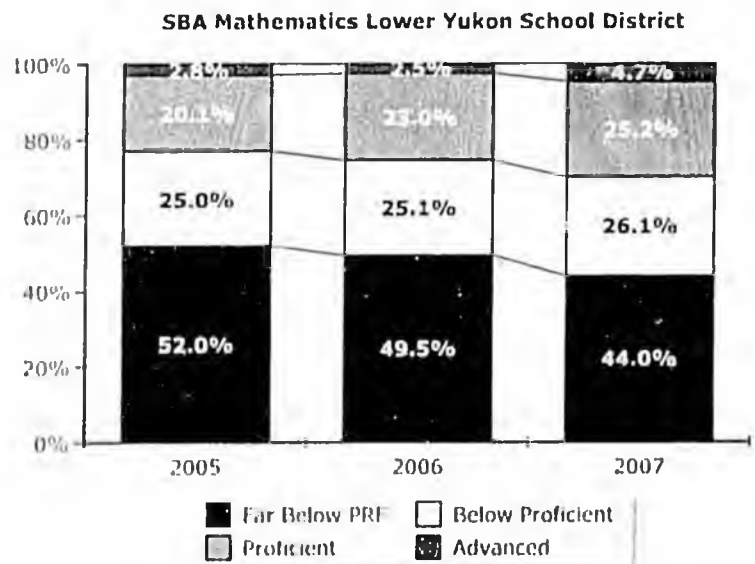
2006  
2007



**Lower Yukon School District**

State Intervention

2006  
2007



# **THE EDUCATION CLAUSE**

## **Alaska Constitution**

### **Article VII**

#### **Health, Education and Welfare**

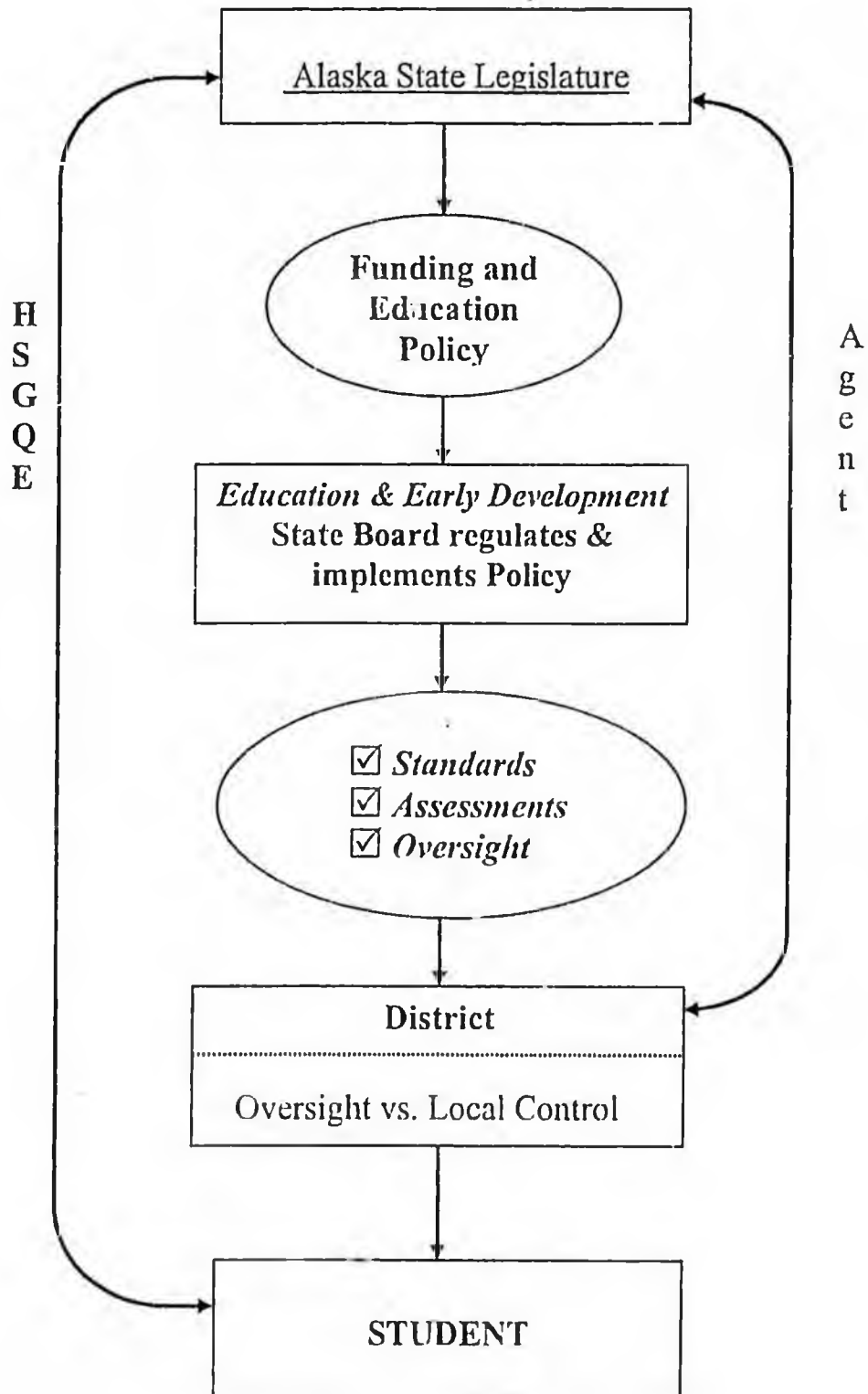
##### **§ 1. Public Education**

The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

## **Court's Decision in *Moore v. State***

<b><u>Requirement of Education Clause</u></b>	<b><u>Is Legislature in Compliance?</u></b>
1. Funding	Yes
2. Standards	Yes
3. Assessment System	Yes
4. State Oversight of School Districts and Schools.	(a) Yes as to districts where local control has worked. (b) No as to Yupiit School District, and maybe other districts or schools with long-standing poor performance.
<b><u>Requirement of Due Process Clause</u></b>	
1. Must be meaningful opportunity to learn in order to require High School Exit Exam for diploma	(a) Yes as to districts where local control has worked. (b) No as to Yupiit School Districts and maybe other districts or schools with long-standing poor performance.

# Alaska Public School System



State's Oversight/ Accountability System:

<b>A. Districts we looked closely at:</b>	<b>B. Districts in which we intervened:</b>
1. Alaska Gateway	1. Lower Yukon (2006)
2. Anchorage	2. Northwest Arctic (2006)
3. Bering Strait	3. Southwest Region (2008)
4. Fairbanks	4. Yukon Flats (2007)
5. Juneau	5. Yukon Koyukuk (2007)
6. Kuspuk	6. Yupiit (2005)
7. Lake & Peninsula	
8. Lower Kuskokwim	
9. Lower Yukon	
10. Mat-Su	
11. North Slope	
12. Northwest Arctic	
13. Southwest Region	
14. Yukon Flats	
15. Yukon/Koyukuk	
16. Yupiit	

Note 1: All decisions are data-driven.

Note 2: Results of the intervention in three districts are attached, and show growth.

Note 3: Interventions have including drafting of improvement plans that mandate a three-step foundation program for improvement.

4 AAC 06 is amended by adding new sections to read:

**4 AAC 06.872. School-level desk audits.** (a) Each year, at the same time the department is conducting district desk audits under 4 AAC 06.840(j), the department shall conduct a school-level desk audit of all schools in the state. The department shall identify a school as needing additional analysis if the school

(1) did not make adequate yearly progress under 4 AAC 06.805;

(2) has fewer than 50 percent of its full-academic-year students score as proficient or higher on the mathematics, reading, or writing standards-based assessments; and

(3) has a school growth index score under 4 AAC 33.540 of 85 or lower.

(b) The department shall determine whether the schools identified in (a) of this section would benefit from being placed on a program for improvement of school performance as described in (c) of this section. In making this determination, the department may consult with the superintendent of the district in which the school is located and shall consider:

(1) the reasons the school has been identified, including whether the school serves a special population;

(2) whether the district is under state-mandated corrective action as a result of an instructional audit under 4 AAC 06.840(j);

(3) whether the district has implemented a comparable program in the school;

(4) whether the school has shown substantial growth; and

(5) for a school with fewer than 20 tested students, multiple years of data.

(c) After the department has determined under (b) of this section that a school would benefit from a program for improvement of school performance, the department shall send notice of this determination to the district in which the school is located. Within 30 days of receiving the notice, the district shall take action to ensure that it is effectively implementing a program for improvement of student performance in the school, and shall verify in writing to the department that it has taken this action. A program for improvement of student performance shall include

(1) weekly collaborative meetings of teaching staff to discuss individual student progress; logs of the meeting shall be recorded and sent to the superintendent;

(2) regular use of assessments that provide feedback for adjustment of ongoing teaching and learning to improve achievement of intended instructional outcomes; and

(3) school-level instructional management that provides professional development and technical assistance to staff and addresses grade level expectations in the instruction.

(d) The department shall provide technical assistance to the district regarding the implementation of the program in (b) of this section, unless the commissioner determines that technical assistance is not required. Technical assistance may be provided by department personnel or by a contractor, and may include a site visit. The department shall withhold from the district's foundation funding the money to pay for services by a contractor that the commissioner determines are necessary under this section.

(e) The commissioner may require the district to implement at the school any of the corrective actions described in 4 AAC 06.840 or 4 AAC 06.865, or to submit or

amend a remediation plan under 4 AAC 06.759 for students at the school who have not passed the HSGQE. If a district fails to take the action required under this section, the commissioner may, after notice to the district and an opportunity for the district to respond, withhold foundation funding from the district until the action is completed.

Before requiring action under this subsection, the commissioner will consider the

- (1) comments from the superintendent of the district;
- (2) action taken by the district to improve the school;
- (3) number of years the school has been identified under this section; and
- (4) factors listed in (c) of this section.

(f) Notwithstanding any other provision of this section, the department shall not take action under this section unless it has reached a conclusion, after consideration of the evidence, that its action will likely improve student achievement.



*Leading the Way*

# Northwest Arctic Borough School District

"Educating Our Children to Lead Successful Lives"

P.O. Box 264 • Kotzebue, Alaska, 99752 • Phone (907) 442-3472 • Fax (907) 442-2392

*Vision: "By 2012, NWABSD will be in the top 10% of district in Alaska based on graduation rates and student achievement."*

March 7, 2008

The Honorable Gary Stevens  
State Capitol Room 103  
Juneau, Alaska 99801-1182

Dear Senator Stevens:

I am writing in response to SB 285: "State Intervention in School District," which you have sponsored. As superintendent of a school district that is operating under a state imposed District Improvement Plan (DIP), I have some insight into the interventions imposed by DEED to improve the delivery of local education.

Let me begin by saying that I appreciate the intent of Senate Bill 285 and welcome the legislatures continued interest in improving school district performance.

Presently, our school district is in the second semester of its second year of intervention under a DIP imposed by DEED. Although I believe the intent of the department is sincere, I am disappointed in their development and deployment of the DIP they imposed on us. Quite simply, it was not well thought through. I have communicated my concerns to the department and worked closely and cooperatively with Interim Commissioner Thompson and members of her staff to address shortcomings in their plan.

As you and others deliberate on SB 285, I would like to offer some suggestions:

1. DEED should be required to obtain legislative or other neutral third party approval before intervening in a school district and imposing a DIP.

A neutral third party needs to be involved in this determination to ensure the department does not act arbitrarily. Presently, it is unclear why some districts are chosen for intervention while others who have as many or more schools deemed in crisis are not. Oversight would ensure accountability on the part of DEED and an appropriate response by the district(s) involved.

2. Require DEED and districts selected for intervention to develop a joint DIP during the budget cycle prior to the intervention. In our case, the budget, plan of service, school calendar, etc., had been developed, approved, and implemented according to state requirements. All of these were arbitrarily disrupted by DEED's imposed DIP, resulting in unbudgeted expenditures in excess of \$100,000, weeks of lost instructional time for key staff, and unnecessary confusion for our district.

3. Require DEED to develop specific entry and exit criteria for district improvement plans. I find it ironic that DEED spent almost a decade building a standards-based education system for the state, yet operates in the absence of standards when it comes to determining how a district gets into and out of a DIP. Teachers, parents, and board members ask me what we must do to be exited from the DIP, I tell them I do not know and DEED does not know either.

4. DEED should refine the approach to working with targeted districts. When it intervened in our district, three (3) of our 12 schools were identified as needing improvement under NCLB criteria. Other schools in our district were performing at satisfactory and in some cases exemplary levels, yet DEED targeted our entire school district. I am still at a loss to understand why the entire district had to be disrupted when we could have focused on the schools that needed help. Certainly, DEED is capable of a more refined approach to working with districts to improve student achievement.

5. Authority and responsibility go hand-in-hand. If DEED takes control of the resources and activities of a school district, they should also assume responsibility for outcomes. School board members, like legislators, are elected and granted authority to act in the best interest of their constituents. Taking that authority away from an elected governing board and granting it to an appointed DEED designee who is not accountable to anyone locally is a VERY serious action for the state to take. DEED should be held accountable by the legislature for the results it produces when it intervenes.

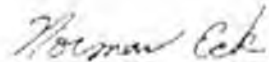
6. DEED should be working with local districts to bring about change rather than imposing sanctions. To my knowledge, no state department of education has shown evidence that forced intervention in a school district has resulted in sustained educational improvements.

7. Arbitrarily assigning coaches to school districts who are under a DIP has the potential to create acrimony between DEED and local school districts. I strongly believe that districts under a DIP should have equal say in who their coach will be.

Please use this opportunity to fashion something that brings people together, promotes collaboration, engages the public, protects local control of schools, and improves student achievement.

Thank you, Senator Stevens, for the opportunity to respond.

Sincerely yours,



Norman Eck, Ph.D.  
Superintendent



## THE LAKE AND PENINSULA SCHOOL DISTRICT

101 Jensen Drive  
P.O. Box 498  
King Salmon, Alaska 99613  
Phone (907) 246-4280 / Fax (907) 246-4473



March 8, 2008

Honorable Gary Stevens  
State Capitol Room 103  
Juneau, AK 99801-1182

Dear Senator Stevens,

I am writing to comment on your sponsored legislation, Senate Bill 285. As you may know, the bill has caused a fair amount of discussion concerning the role and action of DEED when working with school districts that have low academic performance. What follows are my thoughts concerning the issue of school improvement and how the state can best offer assistance to struggling schools.

First of all, I am supportive of your bill. I feel that in light of the Moore Case and the federal requirements of No Child Left Behind, it is appropriate for the legislature to require DEED to offer assistance to low performing schools. Please note that I use the term assistance instead of intervene. I do so because intervene suggests that low performance is solely due to misguided instructional practices. I don't feel however, that this is necessarily the case for most of our low performing schools. Nevertheless, I do feel that it is appropriate for DEED to draft regulations that will be used to meet the intent of this legislation. It is my hope that such regulations will be written in a collaborative forum with school superintendents.

In SB 285's Sponsor Statement, it states that DEED should intervene when "it is determined that a local school district continually fails to provide a child a meaningful opportunity to learn". I believe that this statement misses the mark. What really is in question here is student performance, which may or may not be in response to this opportunity to learn. That is, if a student is not prepared to learn, then the opportunity to do so is not embraced. As such, I feel that school performance must be considered from the vantage of co-production.

While the idea of co-producing education for our children is not a new concept, it is one that is not given sufficient attention when considering accountability sanctions on schools. All educators know that a child with supportive parents or guardians and a community that embraces the schooling process is likely to have a higher level of academic success than a student who struggles to get enough sleep and has little or no external support for learning. This is exemplified by what occurred in my district last year. At LPSD our curriculum and much of our instruction is standardized. Yet, we had schools with the highest growth index in the state but we also had one with one of the

lower indexes. In sum, I feel that DEED should work to support low performing school districts. But, it also makes sense to include other non-educational entities in the improvement efforts.

I believe that it is fair to state that most in education welcome the accountability movement; we are all trying to improve. Such improvement however, needs to be a comprehensive effort and not one that is solely dependent on DEED.

I look forward to discussing this issue with you when I am in Juneau next week.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Atwater". The signature is fluid and cursive, with a large initial "S" and "A".

Steve Atwater  
Superintendent

# Reading District Data

*The Desk & Instructional Audit Revealed*

NCLB Winter Conference  
January 17, 2008



Presentation can be found on the web at:

[http://www.eed.state.ak.us/nclb/2008wc/Reading\\_District\\_Data.pdf](http://www.eed.state.ak.us/nclb/2008wc/Reading_District_Data.pdf)

# Desk Audit

- 4 AAC 06.840 (j)
  - May be conducted when district is at level 2 or higher
  - 4 AAC 06.8040 (j) (1) “desk audit” means a review of data to determine the reasons a district has not demonstrated adequate yearly progress

# Instructional Audit

- 4 AAC 06.840 (j) (2)
  - “instructional audit” means an on-site review of the instructional policies, practices, and methodologies of the district or one or more schools within the district; ...

# Instructional Audit

- An instructional audit may include a review of the district's or school's
  - Curriculum, including whether it is aligned with the state's standards & GLEs
  - Assessment policy and practice
  - Instruction
  - School learning environment
  - Professional development policy and practices
  - Leadership

# District Corrective Action Plan

- Does the plan address areas that have caused district to not meet AYP?
- Does the plan have a method of determining student progress throughout the year?
- EED requires plans to include:
  - interim or formative assessments to regularly monitor ALL student achievement
  - staff collaboration for regular discussions related to ALL student achievement
  - Leadership at site level to lead collaboration meetings and ensure GLEs are incorporated into daily instruction

**SB**

**285**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/29/08

FURTHER:

DATE TURNED  
IN TO OFFICE: 3/19/08

Finance Committee considered SENATE BILL NO. 285

## SB 285 STATE INTERVENTION IN SCHOOL DISTRICT

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

and recommends:

- be replaced with  SCS or  CS 285 (FIN)
- adopt previous  SCS or  CS \_\_\_\_\_ (\_\_\_\_)
- attached amendment(s)
- adopt FIN Letter of Intent
- further referral to \_\_\_\_\_ Committee

<b>SENATE BILL:</b>	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
<b>HOUSE BILL:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

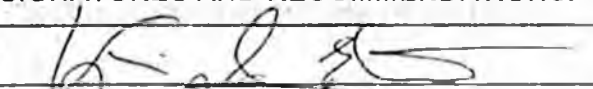
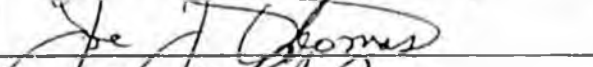
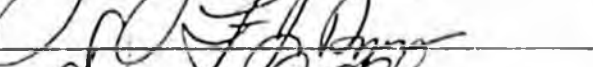
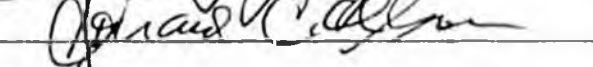

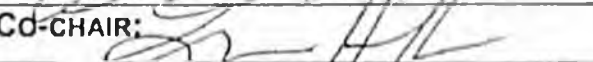
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
EED	2/22/08	✓			1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	E Thomas	✓			
	Thomas	✓			
	Dyson				✓
	DYSON			✓	
CO-CHAIR: 	S. Hoffman			✓	
CO-CHAIR: 	HOFFMAN			✓	

# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSSB 285(SED)  
(S) Publish Date: 2/29/08

Identifier :SB 285: SB285-DEED-SF-02-22-08  
Title An Act relating to the power and duties of the Department of Education and Early Development for improving...  
Sponsor Senator Stevens  
Requester Senate Special Committee on Education  
Dept. Affected: Education & Early Development  
RDU Education Support Services  
Component Executive Administration  
Component Number 2736

**Expenditures/Revenues** (Thousands of  
Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services	268.4		268.4	268.4	268.4	268.4	268.4	268.4
Travel	25.0		25.0	25.0	25.0	25.0	25.0	25.0
Contractual	215.0		215.0	215.0	215.0	215.0	215.0	215.0
Supplies	30.0							
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>538.4</b>	<b>0.0</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>

<b>CAPITAL EXPENDITURES</b>								
-----------------------------	--	--	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>								
-------------------------------	--	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF	538.4		508.4	508.4	508.4	508.4	508.4	508.4
1005 GF/Program Receipts								
TOTAL								
Other Interagency Receipts								
<b>TOTAL</b>	<b>538.4</b>	<b>0.0</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>	<b>508.4</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time	3.0							
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

SB295 requires that regulations be drafted that establish criteria under which the Department of Education & Early Development may intervene and provide direction to a district to develop school and district-level improvement plans targeted to increase student achievement. The commissioner will use multiple measures and data in making such a determination. This law will make it clear to Alaska school district that they must cooperate with the Department of Education & Early Development or risk specific directives, delineated in regulation, regarding district personnel decisions and expenditures of district funds necessary to improve instructional practices in the district schools.

Prepared by: Eddy Jeans, Director Phone 465-2803  
Division School Finance Date/Time 2/22/2008  
Approved by: Barbara Thompson, Interim Commissioner Date 2/22/2008

<b>71000 Personal Services</b>	<b>\$268.4</b>
Education Administrator II, Range 22	\$100.3
Education Specialist II, Range 21	\$92.0
Education Associate III, Range 17	\$76.1
<b>72000 Travel</b>	<b>\$25.0</b>
<b>73000 Contractual</b>	<b>\$215.0</b>
District Coaches, instructional materials, training Professional development	
<b>74000 Commodities</b>	<b>\$30.0</b>
Desktop PCs/Laptops/Printer/Supplies	
<b>Total</b>	<b>\$538.4</b>

25-LS1522K  
Mischel  
3/17/08

*Handwritten notes:*  
Mischel  
3/17/08

**CS FOR SENATE BILL NO. 285( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR STEVENS**

**A BILL**

**FOR AN ACT ENTITLED**

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

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 **\* Section 1. AS 14.07.020(a) is amended to read:**

6 (a) The department shall

7 (1) exercise general supervision over the public schools of the state  
8 except the University of Alaska;

9 (2) study the conditions and needs of the public schools of the state,  
10 adopt or recommend plans, administer and evaluate grants to improve school  
11 performance awarded under AS 14.03.125, and adopt regulations for the improvement  
12 of the public schools;

13 (3) provide advisory and consultative services to all public school  
14 governing bodies and personnel;

1 (4) prescribe by regulation a minimum course of study for the public  
2 schools; the regulations must provide that, if a course in American Sign Language is  
3 given, the course shall be given credit as a course in a foreign language;

4 (5) establish, in coordination with the Department of Health and Social  
5 Services, a program for the continuing education of children who are held in detention  
6 facilities in the state during the period of detention;

7 (6) accredit those public schools that meet accreditation standards  
8 prescribed by regulation by the department; these regulations shall be adopted by the  
9 department and presented to the legislature during the first 10 days of any regular  
10 session, and become effective 45 days after presentation or at the end of the session,  
11 whichever is earlier, unless disapproved by a resolution concurred in by a majority of  
12 the members of each house;

13 (7) prescribe by regulation, after consultation with the state fire  
14 marshal and the state sanitarian, standards that will assure healthful and safe  
15 conditions in the public and private schools of the state, including a requirement of  
16 physical examinations and immunizations in pre-elementary schools; the standards for  
17 private schools may not be more stringent than those for public schools;

18 (8) exercise general supervision over pre-elementary schools that  
19 receive direct state or federal funding;

20 (9) exercise general supervision over elementary and secondary  
21 correspondence study programs offered by municipal school districts or regional  
22 educational attendance areas; the department may also offer and make available to any  
23 Alaskan through a centralized office a correspondence study program;

24 (10) accredit private schools that request accreditation and that meet  
25 accreditation standards prescribed by regulation by the department; nothing in this  
26 paragraph authorizes the department to require religious or other private schools to be  
27 licensed;

28 (11) review plans for construction of new public elementary and  
29 secondary schools and for additions to and major rehabilitation of existing public  
30 elementary and secondary schools and, in accordance with regulations adopted by the  
31 department, determine and approve the extent of eligibility for state aid of a school

1 construction or major maintenance project; for the purposes of this paragraph, "plans"  
2 include educational specifications, schematic designs, and final contract documents;

3 (12) provide educational opportunities in the areas of vocational  
4 education and training, and basic education to individuals over 16 years of age who  
5 are no longer attending school;

6 (13) administer the grants awarded under AS 14.11;

7 (14) establish, in coordination with the Department of Public Safety, a  
8 school bus driver training course;

9 (15) require the reporting of information relating to school disciplinary  
10 and safety programs under AS 14.33.120 and of incidents of disruptive or violent  
11 behavior;

12 (16) establish by regulation criteria under which the department  
13 may intervene as necessary in a school district to improve instructional practices,  
14 as described in AS 14.07.030(14) or (15); the regulations must include

15 (A) a notice provision that alerts the district of the  
16 deficiencies and the instructional practice changes proposed by the  
17 department;

18 (B) an end date for departmental intervention after the  
19 district demonstrates three consecutive years of improvement consisting of  
20 not less than two percent increases in student proficiency on standards-  
21 based assessments in math, reading, and writing as provided in  
22 AS 14.03.123(f)(2)(A); and

23 (C) a process for districts to petition the department for  
24 continuing or discontinuing the department's intervention;

25 (17) notify the legislative committees having jurisdiction over  
26 education before intervening in a school district under AS 14.07.030(14) or  
27 withholding public school funding under AS 14.07.030(15).

28 \* Sec. 2. AS 14.07.030 is amended to read:

29 Sec. 14.07.030. Powers of the department. The department may

30 (1) establish, maintain, govern, operate, discontinue, and combine area,  
31 regional, and special schools;

1 (2) enter into contractual agreements with the Bureau of Indian Affairs  
2 or with a school district to share boarding costs of secondary school students;

3 (3) provide for citizenship night schools when and where expedient;

4 (4) provide for the sale or other disposition of abandoned or obsolete  
5 buildings and other state-owned school property;

6 (5) prescribe a classification for items of expense of school districts;

7 (6) acquire and transfer personal property, acquire real property, and  
8 transfer real property to federal agencies, state agencies, or to political subdivisions;

9 (7) enter into contractual agreements with school districts to provide  
10 more efficient or economical education services; reasonable fees may be charged by  
11 the department to cover the costs of providing services under an agreement, including  
12 costs for professional services, reproduction or printing, and mailing and distribution  
13 of educational materials;

14 (8) provide for the issuance of elementary and secondary diplomas to  
15 persons not in school who have completed the equivalent of an 8th or 12th grade  
16 education, respectively, in accordance with standards established by the department;

17 (9) apply for, accept, and spend endowments, grants, and other private  
18 money available to the state for educational purposes in accordance with AS 37.07  
19 (Executive Budget Act);

20 (10) set student tuition and fees for educational and extracurricular  
21 programs and services provided and schools operated by the department under the  
22 provisions of (1) of this section and AS 14.07.020(a)(9), (11), and (12);

23 (11) charge fees to cover the costs of care and handling with respect to  
24 the acquisition, warehousing, distribution, or transfer of donated foods;

25 (12) establish and collect fees for the rental of school facilities and for  
26 other programs and services provided by the schools;

27 (13) develop a model curriculum and provide technical assistance for  
28 early childhood education programs;

29 (14) notwithstanding any other provision of this title, intervene as  
30 necessary in a school district to improve instructional practices under standard  
31 established by the department in regulation, including directing the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

(A) employees identified by the department to exercise supervisory authority for instructional practices in the district or in a specified school;

(B) use of appropriations under this title for distribution to a district;

(15) notwithstanding any other provision of this title, redirect public school funding under AS 14.17 appropriated for distribution to a school district, after providing notice to the district and an opportunity for the district to respond, when

(A) necessary to contract for services to improve instructional practices in the district; or

(B) the district has failed to take an action required by the department to improve instructional practices in the district; if funding is redirected under this subparagraph, the department shall provide the redirected funding to the district when the department has determined that the required action is satisfactorily completed.

\* Sec. 3. AS 14.07 is amended by adding a new section to read:

Sec. 14.07.032. Definition for AS 14.07.020 - 14.07.032. In AS 14.07.020 - 14.07.032, "instructional practices" means the strategies and methods used in teaching or delivering information, skills, and material to a student to help the student achieve intended educational outcomes.

\* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE

## SENATE FINANCE COMMITTEE

Senator Bert Stedman, Co-Chair  
State Capitol, Room 516  
Juneau, AK 99801-1182  
(907) 465-3873 - Phone  
(907) 465-3922 - Fax  
Senator\_Bert\_Stedman@legis.state.ak.us



Official Business

Senator Lyman Hoffman, Co-Chair  
State Capitol, Room 518  
Juneau, AK 99801-1182  
Phone - (907) 465-4453  
Fax - (907) 465-4523  
Senator\_Lyman\_Hoffman@legis.state.ak.us

---

### Letter of Intent

It is the intent of the Legislature that the Department of Education and Early Development (DEED) provide state oversight of public education, and that state oversight promote local control of public education where local control has resulted in effective instructional practices.

It is the intent of the Legislature that the DEED intervene in a school district when the department has evidence that intervention by the department can result in improvement in instructional practices in the school district, consistent with the accountability system established in AS 14.03.123, the secondary student competency examination in AS 14.03.075, and the decision of the Alaska Superior Court in *Moore v. State*, No. 3AN-04-9756 CI (Alaska Super. 2007).

It is the intent of the Legislature that if intervention actions being taken by DEED involve the hiring of district or school coaches, to the extent practicable, only Alaskan professionals with significant experience working in Alaska's educational system and instructional practices be utilized.

AMENDMENT # 2

OFFERED IN: The Senate Finance Committee

TO: CSIB 285(FIN)

25-LS1522M

OFFERED BY: Senator Fred Dyson

- 1 Page 3, after line 11 add new subparagraph:
- 2 (16) audit schools for compliance with AS 14.33.120, and provide a
- 3 report on the results to all parents of students in the respective schools.
- 4
- 5 Renumber following subparagraphs as appropriate.

**SENATE FINANCE  
COMMITTEE  
ROLL CALL**

DATE: 3/19/08

Amendment: # 1

MEMBER

Favor

Oppose

SEN. THOMAS		✓
SEN. DYSON	✓	
SEN. ELTON		✓
SEN. HUGGINS		✓
SEN. OLSON		✓
SEN. HOFFMAN		✓
SEN. STEDMAN		✓

YEA 1

NAY 6

**SENATE FINANCE  
COMMITTEE  
ROLL CALL**

DATE: 3/19/08

Amendment: #2

MEMBER

Favor

Oppose

MEMBER	Favor	Oppose
SEN. OLSON		✓
SEN. THOMAS		✓
SEN. DYSON	✓	
SEN. ELTON		✓
SEN. HUGGINS		✓
SEN. STEDMAN		✓
SEN. HOFFMAN		✓

YEA 1

NAY 6

## Suggested changes to CS for Senate Bill No. 285

Location	Language	Rationale
Page 3, Section 1. 16 (C)	"a process for districts to petition the department prior to the initiation, continuation, or discontinuation of a department intervention."	This will allow a district to appeal to the state board on the front end of intervention.
Page 5, Section 2. 15 (C)	"School improvement grants shall be made available to the district or school under intervention when the district or school improvement plan requires additional service to support student achievement. Additional funds may be used for curricular materials and/or educational specialists (such as school psychologists, speech pathologist, community school liaisons, etc. as written in the district or school improvement plan)."	Depending upon the size of district and/or schools in intervention, and number of students affected, this could be a grant ranging from \$250,000 to \$1,500,000 per district. For example, with 5 districts in intervention, these supplemental grants would total \$5 to \$6 million dollars, statewide total.
Page 5, Section 2. 15 (D)	"In districts where less than half the schools are the target of the intervention, the intervention should be focused on those schools, not the entire district."	For example, if a large district such as Anchorage has several schools under intervention, the intervention activities should not disrupt the entire district or the other well-performing schools in Anchorage.

Respectfully submitted:  
 Norman Eck, Ph.D.  
 Superintendent, Northwest Arctic Borough School District  
 March 18, 2008

Final

AMENDMENT # 1

OFFERED IN: The Senate Finance Committee

TO: CSHB 285(FIN)

25-LS1522M

OFFERED BY: Senator Fred Dyson

1 Page 4, after line 18 add new subparagraphs:

2 (14) assure that all school board members

3 (A) have adequate training defining the boards'

4 responsibilities, authority, and assistance resources; and

5 (B) have ready access to legal, business, and accounting

6 consulting and guidance assistance.

7 (15) assure that all school personnel and parents have access to

8 information about available education choices including, but not limited to

9 (A) cyber schools;

10 (B) home schools;

11 (C) boarding schools;

12 (D) charter schools; and

13 (E) tutoring.

14 (16) assure school personnel and parents know how to access the

15 choices set forth in (15) above.

16

17 Rerumber following subparagraphs as appropriate.

40. Based on the evidence presented at trial, it would appear likely that the majority – perhaps the substantial majority -- of school districts within this state are meeting the State's constitutional obligation to provide an adequate education to Alaska's children. The State's accountability standards, in which each school's and district's testing results are widely disseminated, together with EED's support services and assistance, appear to provide sufficient standards and oversight for the majority of districts, at least from a constitutional perspective.

41. In order to achieve compliance with the Education Clause's requirement to maintain a system of public schools, the State must do, at a minimum, two things. First, it must establish clear standards for school districts that are necessary for the district to retain full local control. These standards must focus on whether the school district is fulfilling the State's constitutional obligation to provide an education to the children within the district. In short – the State must insure that each school district has a demonstrated plan to provide children a meaningful opportunity to achieve proficiency in the State's performance standards, and meaningful exposure on the remaining content standards – and insure that the district's plan is fully implemented and actually in use in the district's classrooms. Second, the State must exercise considerably more oversight and provide considerably more assistance and direction to those schools that are identified as failing to meet the State's constitutional obligation, in a concerted effort to remedy the situation.

Quotes

476. The evidence at trial clearly established that considerably greater oversight by the State over the education of Alaska's children, at least at the state's most seriously underperforming schools, is critically needed. Whether such oversight is constitutionally mandated by the Education Clause of Alaska's Constitution is a determination to be made only after careful consideration of the relevant legal rulings on this issue.

### LEGAL ANALYSIS

#### *1. The Education Clause in Alaska*

The Education Clause of the Alaska Constitution provides: "The legislature shall by general law establish and maintain a system of public schools open to all children of the State." Art. VII, § 1. The Alaska Supreme Court has addressed this constitutional provision in several opinions.

The primary Alaska Supreme Court decision regarding the Education Clause is Hootch v. Alaska State-Operated School System, 536 P.2d 793 (Alaska 1975). In Molly Hootch, a number of students who resided in small rural communities filed suit seeking to compel the State to provide secondary schools in their communities of residence. Students seeking a secondary school education in rural Alaska at that time were required to attend state-operated boarding schools. The students asserted that the phrase "open to all children" in the Education Clause created a right to be educated in one's own community. Id. at 799. In addressing this constitutional issue, the Supreme Court indicated it would "look to the intent of the framers of the constitution concerning the nature of the right

*Adopted  
3/7/08*

CS FOR SENATE BILL NO. 285( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR STEVENS

A BILL  
FOR AN ACT ENTITLED

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

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

5 \* Section 1. AS 14.07.020(a) is amended to read:

6 (a) The department shall

7 (1) exercise general supervision over the public schools of the state  
8 except the University of Alaska;

9 (2) study the conditions and needs of the public schools of the state,  
10 adopt or recommend plans, administer and evaluate grants to improve school  
11 performance awarded under AS 14.03.125, and adopt regulations for the improvement  
12 of the public schools;

13 (3) provide advisory and consultative services to all public school  
14 governing bodies and personnel;

1 (4) prescribe by regulation a minimum course of study for the public  
2 schools; the regulations must provide that, if a course in American Sign Language is  
3 given, the course shall be given credit as a course in a foreign language;

4 (5) establish, in coordination with the Department of Health and Social  
5 Services, a program for the continuing education of children who are held in detention  
6 facilities in the state during the period of detention;

7 (6) accredit those public schools that meet accreditation standards  
8 prescribed by regulation by the department; these regulations shall be adopted by the  
9 department and presented to the legislature during the first 10 days of any regular  
10 session, and become effective 45 days after presentation or at the end of the session,  
11 whichever is earlier, unless disapproved by a resolution concurred in by a majority of  
12 the members of each house;

13 (7) prescribe by regulation, after consultation with the state fire  
14 marshal and the state sanitarian, standards that will assure healthful and safe  
15 conditions in the public and private schools of the state, including a requirement of  
16 physical examinations and immunizations in pre-elementary schools; the standards for  
17 private schools may not be more stringent than those for public schools;

18 (8) exercise general supervision over pre-elementary schools that  
19 receive direct state or federal funding;

20 (9) exercise general supervision over elementary and secondary  
21 correspondence study programs offered by municipal school districts or regional  
22 educational attendance areas; the department may also offer and make available to any  
23 Alaskan through a centralized office a correspondence study program;

24 (10) accredit private schools that request accreditation and that meet  
25 accreditation standards prescribed by regulation by the department; nothing in this  
26 paragraph authorizes the department to require religious or other private schools to be  
27 licensed;

28 (11) review plans for construction of new public elementary and  
29 secondary schools and for additions to and major rehabilitation of existing public  
30 elementary and secondary schools and, in accordance with regulations adopted by the  
31 department, determine and approve the extent of eligibility for state aid of a school

1 construction or major maintenance project; for the purposes of this paragraph, "plans"  
2 include educational specifications, schematic designs, and final contract documents;

3 (12) provide educational opportunities in the areas of vocational  
4 education and training, and basic education to individuals over 16 years of age who  
5 are no longer attending school;

6 (13) administer the grants awarded under AS 14.11;

7 (14) establish, in coordination with the Department of Public Safety, a  
8 school bus driver training course;

9 (15) require the reporting of information relating to school disciplinary  
10 and safety programs under AS 14.33.120 and of incidents of disruptive or violent  
11 behavior;

12 (16) establish by regulation criteria under which the department  
13 may intervene as necessary in a school district to improve instructional practices,  
14 as described in AS 14.07.030(14) or (15);

15 (17) notify the legislative committees having jurisdiction over  
16 education before intervening in a school district under AS 14.07.030(14) or  
17 withholding public school funding under AS 14.07.030(15).

18 \* Sec. 2. AS 14.07.030 is amended to read:

19 Sec. 14.07.030. Powers of the department. The department may

20 (1) establish, maintain, govern, operate, discontinue, and combine area,  
21 regional, and special schools;

22 (2) enter into contractual agreements with the Bureau of Indian Affairs  
23 or with a school district to share boarding costs of secondary school students;

24 (3) provide for citizenship night schools when and where expedient;

25 (4) provide for the sale or other disposition of abandoned or obsolete  
26 buildings and other state-owned school property;

27 (5) prescribe a classification for items of expense of school districts;

28 (6) acquire and transfer personal property, acquire real property, and  
29 transfer real property to federal agencies, state agencies, or to political subdivisions;

30 (7) enter into contractual agreements with school districts to provide  
31 more efficient or economical education services; reasonable fees may be charged by

1 the department to cover the costs of providing services under an agreement, including  
2 costs for professional services, reproduction or printing, and mailing and distribution  
3 of educational materials;

4 (8) provide for the issuance of elementary and secondary diplomas to  
5 persons not in school who have completed the equivalent of an 8th or 12th grade  
6 education, respectively, in accordance with standards established by the department;

7 (9) apply for, accept, and spend endowments, grants, and other private  
8 money available to the state for educational purposes in accordance with AS 37.07  
9 (Executive Budget Act);

10 (10) set student tuition and fees for educational and extracurricular  
11 programs and services provided and schools operated by the department under the  
12 provisions of (1) of this section and AS 14.07.020(a)(9), (11), and (12);

13 (11) charge fees to cover the costs of care and handling with respect to  
14 the acquisition, warehousing, distribution, or transfer of donated foods;

15 (12) establish and collect fees for the rental of school facilities and for  
16 other programs and services provided by the schools;

17 (13) develop a model curriculum and provide technical assistance for  
18 early childhood education programs;

19 (14) notwithstanding any other provision of this title, intervene as  
20 necessary in a school district to improve instructional practices under standards  
21 established by the department in regulation, including directing the

22 (A) personnel decisions of a district; and

23 (B) use of appropriations under this title for distribution to  
24 a district;

25 (15) notwithstanding any other provision of this title, withhold  
26 public school funding under AS 14.17 appropriated for distribution to a school  
27 district, after providing notice to the district and an opportunity for the district  
28 to respond, when

29 (A) necessary to contract for services to improve  
30 instructional practices in the district; or

31 (B) the district has failed to take an action required by the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

department to improve instructional practices in the district; if funding is withheld under this subparagraph, the department shall provide the funding withheld to the district when the department has determined that the required action is satisfactorily completed.

\* Sec. 3. AS 14.07 is amended by adding a new section to read:

Sec. 14.07.032. Definition for AS 14.07.020 - 14.07.032. In AS 14.07.020 - 14.07.032, "instructional practices" means the strategies and methods used in teaching or delivering information, skills, and material to a student to help the student achieve intended educational outcomes.

\* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Learning District Association

# Reading District Data

*The Desk & Instructional Audit Revealed*

NCLB Winter Conference  
January 17, 2008



Presentation can be found on the web at:

[http://www.eed.state.ak.us/nclb/2008wc/Reading\\_District\\_Data.pdf](http://www.eed.state.ak.us/nclb/2008wc/Reading_District_Data.pdf)

# Desk Audit

- 4 AAC 06.840 (j)
  - May be conducted when district is at level 2 or higher
  - 4 AAC 06.8040 (j) (1) “desk audit” means a review of data to determine the reasons a district has not demonstrated adequate yearly progress

# Instructional Audit

- 4 AAC 06.840 (j) (2)
  - “instructional audit” means an on-site review of the instructional policies, practices, and methodologies of the district or one or more schools within the district; ...

# Instructional Audit

- An instructional audit may include a review of the district's or school's
  - Curriculum, including whether it is aligned with the state's standards & GLEs
  - Assessment policy and practice
  - Instruction
  - School learning environment
  - Professional development policy and practices
  - Leadership

# District Corrective Action Plan

- Does the plan address areas that have caused district to not meet AYP?
- Does the plan have a method of determining student progress throughout the year?
- EED requires plans to include:
  - interim or formative assessments to regularly monitor ALL student achievement
  - staff collaboration for regular discussions related to ALL student achievement
  - Leadership at site level to lead collaboration meetings and ensure GLEs are incorporated into daily instruction

SESSION ADDRESS:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4925  
Fax: (907) 465-3517  
Toll Free: 1-800-821-4925

**Senator Gary Stevens**  
**Alaska State Legislature**

INTERIM ADDRESS:  
112 Mill Bay Road  
Kodiak, Alaska 99615  
(907) 486-4925  
Fax: (907) 486-5264



**LETTER OF INTENT**

**March 10, 2008**

**Senator Bert Stedman, Co-Chair**  
**Senate Finance Committee**

**Ref: SENATE BILL 285: "An Act relating to the power and duties of the Department of Education and Early Development for improving instructional practices in school districts; and providing for an effective date."**

I'm happy to provide the Senate Finance Committee the following intent statement to be included with Senate Bill 285 as it continues through the Legislative process.

**I would offer the following:**

It is the intent of the Legislature that the Department of Education and Early Development (DEED) provide state oversight of public education, and that state oversight promote local control of public education where local control has resulted in effective instructional practices.

It is the intent of the Legislature that the DEED intervene in a school district when the department has evidence that intervention by the department can result in improvement in instructional practices in the school district, consistent with the accountability system established in AS 14.03.123, the secondary student competency examination in AS 14.03.075, and the decision of the Alaska Superior Court in Moore v. State, No. 3AN-04-9756 CI (Alaska Super. 2007).

It is the intent of the Legislature that if intervention actions being taken by DEED involve the hiring of district or school coaches, to the extent practicable, only Alaskan professionals with significant experience working in Alaska's educational system and instructional practices be utilized.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Stevens", written over a horizontal line.

Senator Gary Stevens

Senate District R  
Senator\_Gary\_Stevens@legis.state.ak.us



# Northwest Arctic Borough School District

"Educating Our Children to Lead Successful Lives"

P.O. Box 264 • Kotzebue, Alaska, 99752 • Phone (907) 442-3472 • Fax (907) 442-2392

*Vision: "By 2012, NWABSD will be in the top 10% of district in Alaska based on graduation rates and student achievement."*

*Leading the Way*

March 7, 2008

The Honorable Gary Stevens  
State Capitol Room 103  
Juneau, Alaska 99801-1182

Dear Senator Stevens:

I am writing in response to SB 285: "State Intervention in School District," which you have sponsored. As superintendent of a school district that is operating under a state imposed District Improvement Plan (DIP), I have some insight into the interventions imposed by DEED to improve the delivery of local education.

Let me begin by saying that I appreciate the intent of Senate Bill 285 and welcome the legislatures continued interest in improving school district performance.

Presently, our school district is in the second semester of its second year of intervention under a DIP imposed by DEED. Although I believe the intent of the department is sincere, I am disappointed in their development and deployment of the DIP they imposed on us. Quite simply, it was not well thought through. I have communicated my concerns to the department and worked closely and cooperatively with Interim Commissioner Thompson and members of her staff to address shortcomings in their plan.

As you and others deliberate on SB 285, I would like to offer some suggestions:

1. DEED should be required to obtain legislative or other neutral third party approval before intervening in a school district and imposing a DIP.

A neutral third party needs to be involved in this determination to ensure the department does not act arbitrarily. Presently, it is unclear why some districts are chosen for intervention while others who have as many or more schools deemed in crisis are not. Oversight would ensure accountability on the part of DEED and an appropriate response by the district(s) involved.

2. Require DEED and districts selected for intervention to develop a joint DIP during the budget cycle prior to the intervention. In our case, the budget, plan of service, school calendar, etc., had been developed, approved, and implemented according to state requirements. All of these were arbitrarily disrupted by DEED's imposed DIP, resulting in unbudgeted expenditures in excess of \$100,000, weeks of lost instructional time for key staff, and unnecessary confusion for our district.

3. Require DEED to develop specific entry and criteria exit criteria for district improvement plans. I find it ironic that DEED spent almost a decade building a standards-based education system for the state, yet operates in the absence of standards when it comes to determining how a district gets into and out of a DIP. Teachers, parents, and board members ask me what we must do to be exited from the DIP, I tell them I do not know and DEED does not know either.

4. DEED should refine the approach to working with targeted districts. When it intervened in our district, three (3) of our 12 schools were identified as needing improvement under NCLB criteria. Other schools in our district were performing at satisfactory and in some cases exemplary levels, yet DEED targeted our entire school district. I am still at a loss to understand why the entire district had to be disrupted when we could have focused on the schools that needed help. Certainly, DEED is capable of a more refined approach to working with districts to improve student achievement.

5. Authority and responsibility go hand-in-hand. If DEED takes control of the resources and activities of a school district, they should also assume responsibility for outcomes. School board members, like legislators, are elected and granted authority to act in the best interest of their constituents. Taking that authority away from an elected governing board and granting it to an appointed DEED designee who is not accountable to anyone locally is a VERY serious action for the state to take. DEED should be held accountable by the legislature for the results it produces when it intervenes.

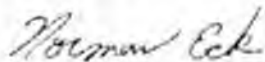
6. DEED should be working with local districts to bring about change rather than imposing sanctions. To my knowledge, no state department of education has shown evidence that forced intervention in a school district has resulted in sustained educational improvements.

7. Arbitrarily assigning coaches to school districts who are under a DIP has the potential to create acrimony between DEED and local school districts. I strongly believe that districts under a DIP should have equal say in who their coach will be.

Please use this opportunity to fashion something that brings people together, promotes collaboration, engages the public, protects local control of schools, and improves student achievement.

Thank you, Senator Stevens, for the opportunity to respond.

Sincerely yours,



Norman Eck, Ph.D.  
Superintendent

SESSION ADDRESS:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4925  
Fax: (907) 465-3517  
Toll Free: 1-800-821-4925

**Senator Gary Stevens**  
**Alaska State Legislature**

INTERIM ADDRESS:  
112 Mill Bay Road  
Kodiak, Alaska 99615  
(907) 486-4925  
Fax: (907) 486-5264



**Senate Bill 285**  
**SPONSOR STATEMENT**

**“An Act relating to the power and duties of the Department of Education and Early Development for improving instructional practices in school districts.”**

SB 285 has been introduced in response to the court case decision of Moore et. al.vs. State of Alaska (3AN-04-9756 Civil), which pertains to the Legislature fulfilling its constitutional mandate of overseeing school districts and schools in Alaska. The case concludes in part that the Legislature is failing this duty as regards schools with long-standing poor performance.

The education clause of Alaska’s Constitution states that the Legislature has the obligation to establish and maintain public schools in Alaska. The Legislature has delegated this responsibility to the Department of Education and Early Development (DEED). As is common among states, there has been a long-standing policy of maximizing local control of Alaska’s schools and education. However, when it is determined that a local school district continually fails to provide a child a meaningful opportunity to learn, local control must give way to Legislative intervention, via DEED. Alaska must make its best effort to remedy the situation by implementing specific, focused strategies and professional development designed to increase student learning and proficiency.

SB 285 requires that regulations be drafted establishing criteria under which DEED may intervene and provide direction to a district to develop school and district-level improvement plans targeted to increase student achievement. The commissioner will use multiple measures and data in making such a determination. Passage of SB 285 will make it clear to Alaska’s school districts that they must cooperate with DEED or risk specific directives, delineated in regulation, regarding district personnel decisions and expenditures of district funds necessary to improve instructional practices in the district schools. Passage of SB 285 will also demonstrate to the Judicial branch that the Legislature is acting to better ensure total fulfillment of the mandates established in the education clause of Alaska’s constitution.

I encourage your support of this important leadership role we must assume in Alaska’s education policy.

# ALASKA STATE LEGISLATURE

## SENATE FINANCE COMMITTEE

Senator Bert Stedman, Co-Chair  
State Capitol, Room 516  
Juneau, AK 99801-1182  
(907) 465- 3873 - Phone  
(907) 465-3922 - Fax  
Senator\_Bert\_Stedman@legis.state.ak.us



Official Business

Senator Lyman Hoffman, Co-Chair  
State Capitol, Room 518  
Juneau, AK 99801-1182  
Phone - (907) 465- 4453  
Fax - (907) 465- 4523  
Senator\_Lyman\_Hoffman@legis.state.ak.us

Schedule week of March 10 – March 15, 2008

*All Senate Finance Committee hearings will be teleconferenced*

Monday, March 10, 2008

Senate Finance Room 532

9:00 AM

HB 310-APPROP: OPERATING BUDGET/LOANS/FUNDS

HB 312-APPROP: MENTAL HEALTH BUDGET

SB 221-BUDGET: CAPITAL, SUPP. & OTHER APPROPS

Department Presentations:

Department of Transportation and Public Facilities

Department of Environmental Conservation

Department of Natural Resources

Bills Previously Heard/Scheduled

1:30 PM

SB 289-HOME ENERGY CONSERVATION

Senator Lyman Hoffman,

John Weise, Staff

Still in L&C

SB 285-STATE INTERVENTION IN SCHOOL DISTRICT

**Senator Gary Stevens**

**Tim Lamkin, Staff**

HB 260-STATE OFFICERS COMPENSATION COMMISSION

**Representative Mike Dougan**

**Ryan Jager, Staff**

Backup done

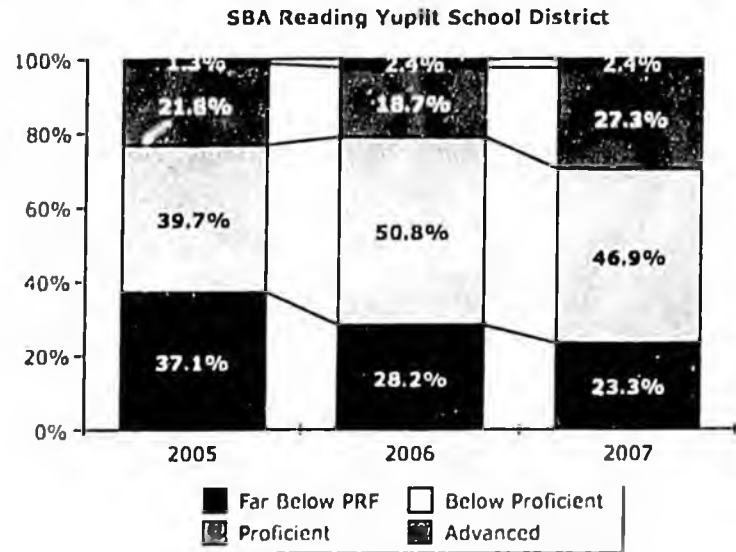
Bills Previously Heard/Scheduled

# READING TESTS SCORES AFTER STATE INTERVENTION

## Yupit School District

### State Intervention

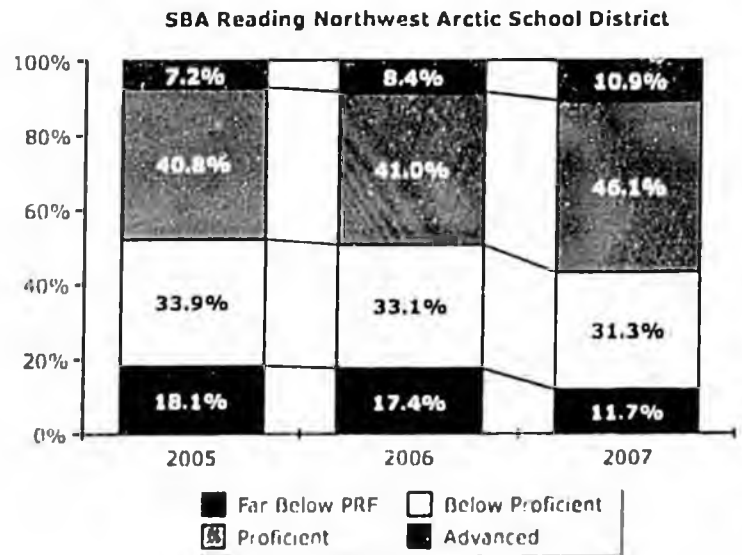
2005  
2006  
2007



## Northwest Arctic School District

### State Intervention

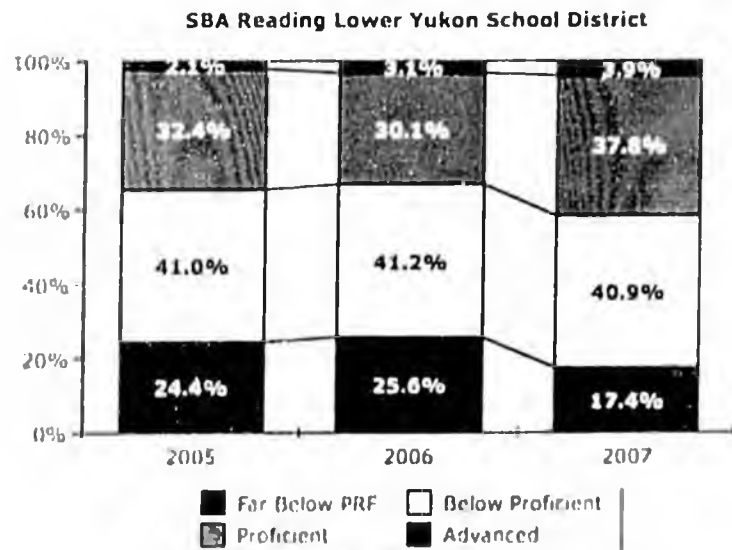
2006  
2007



## Lower Yukon School District

### State Intervention

2006  
2007

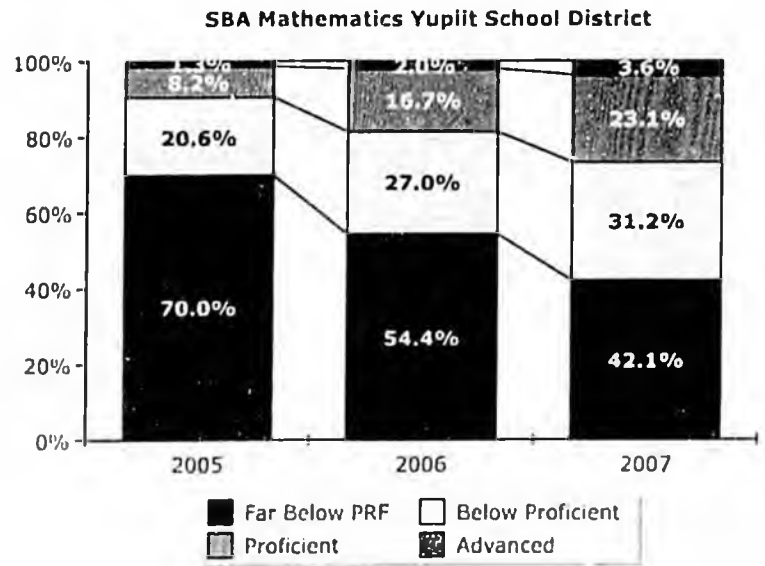


# MATH TESTS SCORES AFTER STATE INTERVENTION

## Yupit School District

### State Intervention

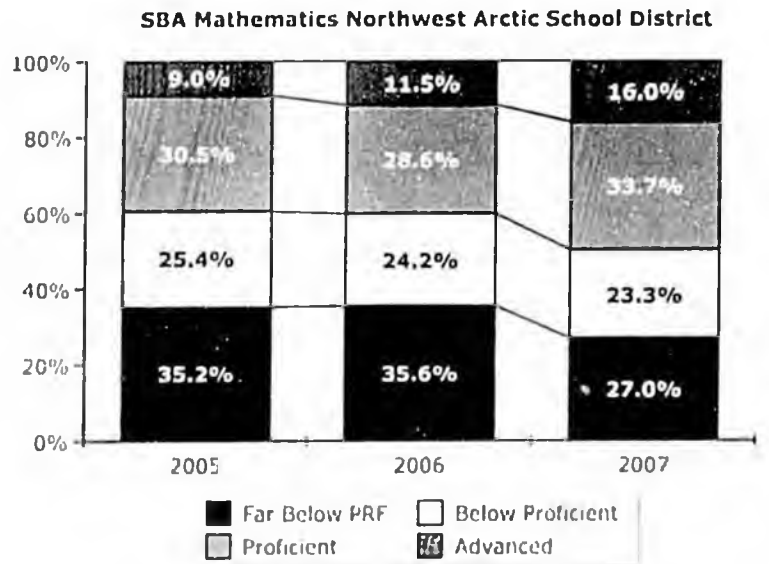
2005  
2006  
2007



## Northwest Arctic School District

### State Intervention

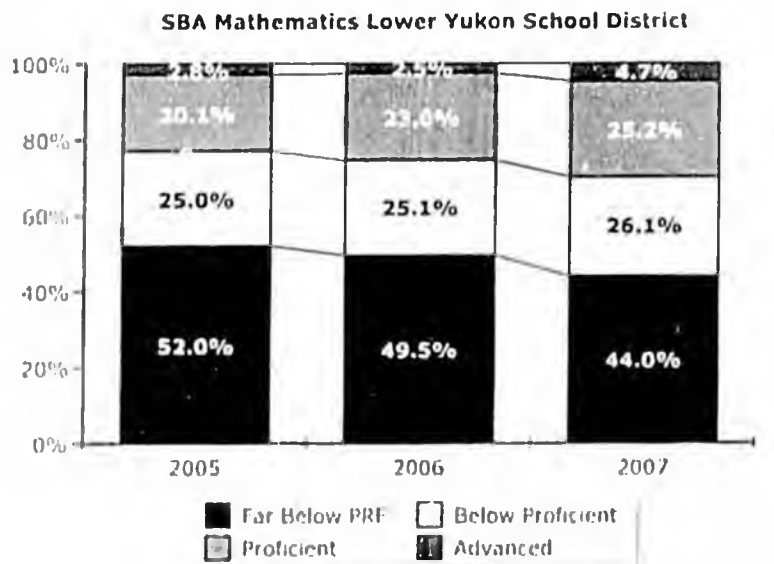
2006  
2007



## Lower Yukon School District

### State Intervention

2006  
2007



# **THE EDUCATION CLAUSE**

## **Alaska Constitution**

### **Article VII**

### **Health, Education and Welfare**

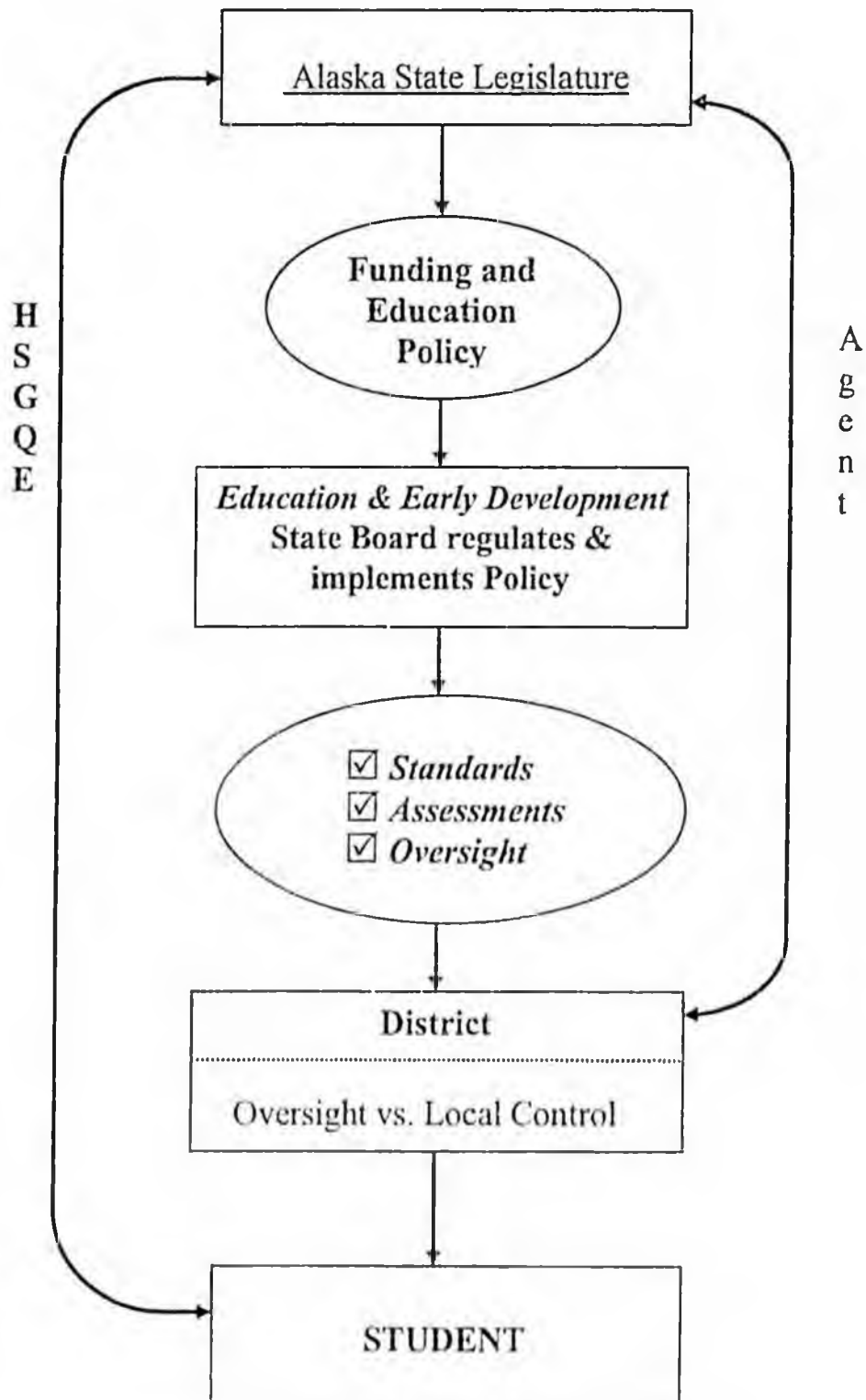
#### **§ 1. Public Education**

The legislature shall by general law establish and maintain a system of public schools open to all children of the State, and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

## **Court's Decision in *Moore v. State***

<b><u>Requirement of Education Clause</u></b>	<b><u>Is Legislature in Compliance?</u></b>
1. Funding	Yes
2. Standards	Yes
3. Assessment System	Yes
4. State Oversight of School Districts and Schools.	(a) Yes as to districts where local control has worked. (b) No as to Yupiit School District, and maybe other districts or schools with long-standing poor performance.
<b><u>Requirement of Due Process Clause</u></b>	
1. Must be meaningful opportunity to learn in order to require High School Exit Exam for diploma	(a) Yes as to districts where local control has worked. (b) No as to Yupiit School Districts and maybe other districts or schools with long-standing poor performance.

# Alaska Public School System



p. 12

State's Oversight/ Accountability System:

<b>A. Districts we looked closely at:</b>	<b>B. Districts in which we intervened:</b>
1. Alaska Gateway	1. Lower Yukon (2006)
2. Anchorage	2. Northwest Arctic (2006)
3. Bering Strait	3. Southwest Region (2008)
4. Fairbanks	4. Yukon Flats (2007)
5. Juneau	5. Yukon Koyukuk (2007)
6. Kuspuk	6. Yupiit (2005)
7. Lake & Peninsula	
8. Lower Kuskokwim	
9. Lower Yukon	
10. Mat-Su	
11. North Slope	
12. Northwest Arctic	
13. Southwest Region	
14. Yukon Flats	
15. Yukon/Koyukuk	
16. Yupiit	

Note 1: All decisions are data-driven.

Note 2: Results of the intervention in three districts are attached, and show growth.

Note 3: Interventions have including drafting of improvement plans that mandate a three-step foundation program for improvement.

4 AAC 06 is amended by adding new sections to read:

**4 AAC 06.872. School-level desk audits.** (a) Each year, at the same time the department is conducting district desk audits under 4 AAC 06.840(j), the department shall conduct a school-level desk audit of all schools in the state. The department shall identify a school as needing additional analysis if the school

(1) did not make adequate yearly progress under 4 AAC 06.805;

(2) has fewer than 50 percent of its full-academic-year students score as proficient or higher on the mathematics, reading, or writing standards-based assessments; and

(3) has a school growth index score under 4 AAC 33.540 of 85 or lower.

(b) The department shall determine whether the schools identified in (a) of this section would benefit from being placed on a program for improvement of school performance as described in (c) of this section. In making this determination, the department may consult with the superintendent of the district in which the school is located and shall consider:

(1) the reasons the school has been identified, including whether the school serves a special population;

(2) whether the district is under state-mandated corrective action as a result of an instructional audit under 4 AAC 06.840(j);

(3) whether the district has implemented a comparable program in the school;

(4) whether the school has shown substantial growth; and

(5) for a school with fewer than 20 tested students, multiple years of data.

(c) After the department has determined under (b) of this section that a school would benefit from a program for improvement of school performance, the department shall send notice of this determination to the district in which the school is located. Within 30 days of receiving the notice, the district shall take action to ensure that it is effectively implementing a program for improvement of student performance in the school, and shall verify in writing to the department that it has taken this action. A program for improvement of student performance shall include

(1) weekly collaborative meetings of teaching staff to discuss individual student progress; logs of the meeting shall be recorded and sent to the superintendent;

(2) regular use of assessments that provide feedback for adjustment of ongoing teaching and learning to improve achievement of intended instructional outcomes; and

(3) school-level instructional management that provides professional development and technical assistance to staff and addresses grade level expectations in the instruction.

(d) The department shall provide technical assistance to the district regarding the implementation of the program in (b) of this section, unless the commissioner determines that technical assistance is not required. Technical assistance may be provided by department personnel or by a contractor, and may include a site visit. The department shall withhold from the district's foundation funding the money to pay for services by a contractor that the commissioner determines are necessary under this section.

(e) The commissioner may require the district to implement at the school any of the corrective actions described in 4 AAC 06.840 or 4 AAC 06.865, or to submit or

amend a remediation plan under 4 AAC 06.759 for students at the school who have not passed the HSGQE. If a district fails to take the action required under this section, the commissioner may, after notice to the district and an opportunity for the district to respond, withhold foundation funding from the district until the action is completed.

Before requiring action under this subsection, the commissioner will consider the

- (1) comments from the superintendent of the district;
- (2) action taken by the district to improve the school;
- (3) number of years the school has been identified under this section; and
- (4) factors listed in (c) of this section.

(f) Notwithstanding any other provision of this section, the department shall not take action under this section unless it has reached a conclusion, after consideration of the evidence, that its action will likely improve student achievement.

**SB**

**289**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2008 LEGISLATIVE SESSION

Fiscal Note Number 1  
Bill Version SB 289  
(S) Publish Date 1/12/08

Identifier (file name): SB289-DOR-AHFC-3-3-08 Dept. Affected: Revenue  
Title Home Energy Conservation RDU AK Housing Finance Corp  
Sponsor Senator Hofman Component Operations  
Requester Senate Labor and Commerce Component Number 110

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>							
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>							

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts	0.0						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: 0.0

**POSITIONS**

Full-time	0.0						
Part-time	0.0						
Temporary	0.0						

**ANALYSIS:** (Attach a separate page if necessary)

SB 289 will expand and update the weatherization and home energy rating rebate programs in the Alaska Housing Finance Corporation. There is a zero fiscal note attached to this legislation.

Although the passage of this bill will not add operating expenses to the Corporation, there is currently \$300 million in SB 256, the FY08 supplemental appropriations bill, for these two programs. Should SB 256 pass and get signed into law, the effect on the Corporation would require the addition of six new positions to administer the expansion of the programs as well as funds for travel, marketing and outreach. The estimate for the first year would be approximately \$700,000. This would be funded through CIP Receipts from the appropriation in SB 256.

Prepared by Bryan Butcher, Director, Governmental Relations, Public Affairs Phone 330-8445  
Division Alaska Housing Finance Corporation Date Time 3/3/08 12:00 PM  
Approved by Jony Burnett Date 3/3/2008  
Department of Revenue

# SB 289 Home Energy

House Finance Committee

John Weise, Ph.D.

Staff to Senator Hoffman

# Housing Assessment Survey 2005

- Estimated Housing Stock 2005 -- 278,118
- % older housing (21+ yrs) increasing
- % new housing (0-10 yrs) decreasing
- Households income eligible for weatherization services – 45,000
- Households report being drafty – 45%

Survey by Information Insights

# SB 289 Home Energy

- Responsive to Alaskans being impacted by high energy costs
- Updates and expands the home energy efficiency and weatherization programs in the AHFC

# SB 289 Weatherization

- Focus on energy-efficient improvements
- Direct the available funding to items that will save the most energy
- Typical improvements include air sealing, insulating and improved heater efficiencies

# **Energy Efficiency and Weatherization Program**

- Eligibility for home energy efficiency programs extended from 60% to 100% median income.
- Low income Alaskans will continue to receive the priority focus of the program.

# Median Income Guidelines

Family Size	60% Median	100% Median
1	\$23,887	\$39,812
2	\$31,236	\$52,060
3	\$38,586	\$64,310
4	\$45,936	\$76,560
5	\$53,286	\$88,810

Each add'l person – 60% \$1378 and 100% \$2296

# SB 289 Impact

Past Years	\$4.8 million (\$1.8 m federal \$3 m AHFC)	600 households	1700 people
Current Program 60% median income	With \$48 million	4167 households	11,800 people
Expanded Program Adjust to 100% median income	\$200 million	17,400 households	49,000 people