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Pigott sails through Senate hearing

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Justice Eugene F. Pigott Jr. enjoys a laugh prior to his

ALBANY - The first jurist in a generation from the Buffalo area to be nominated to the state's highest court sailed through a State Senate judiciary confirmation hearing Thursday but not before lawmakers made clear their concerns about what they insist is an intrusion by the courts on the powers of the Legislature.

Eugene F. Pigott Jr., the presiding justice of a state appellate division with jurisdiction from Utica to Buffalo, won unanimous backing from Republicans and Democrats on the panel.

The Grand Island judge's confirmation moves to the full Senate today - a session his son, David, an Army captain, will be watching via the Internet from his base in Iraq.

confirmation hearing.

Called a "lawyer's lawyer" by one judge at the committee meeting, Pigott faced polite questioning from lawmakers. The only major controversy, which Democrats largely raised before the meeting, was a lack of diversity on the high court. Pigott will replace George Bundy Smith, the only African-American on the Court of Appeals.

Instead, lawmakers wanted to know more about how Pigott, who has risen through the judicial ranks over the years with the support of key Republican backers, felt about the separation of powers between the judicial and legislative branches.

A landmark case that could require the state to spend billions of additional dollars on education will be going before the high court on Oct. 10. Lawmakers say the courts have no legal right to order them specifically how much more to spend on schools, which they say is a function of the Legislature.

"How do you make the decision when you are encroaching on what is really a legislative prerogative?" Sen. Dean Skelos, a Long Island Republican, asked Pigott.

"I don't think I'm much smarter than this body or another court," said Pigott, pointing out unpopular decisions he has made because a law may have expired. He added that statutes passed by the Legislature have to "be the basis of any decision we make."

Gov. George E. Pataki last month nominated Pigott to the high court. If confirmed, as expected, Pigott, 57, will be the first jurist from the Buffalo area to serve on the Court of Appeals since the retirement of the late Judge Matthew J. Jasen in 1985.

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