

HOUSE BILL NO. 133

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-SECOND LEGISLATURE - FIRST SESSION
BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Introduced: 3/10/21
Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska savings program for eligible individuals; relating to**
2 **education savings programs; relating to the Education Trust of Alaska; relating to the**
3 **Alaska advance college tuition savings fund; relating to the Alaska education savings**
4 **program for children; and relating to the Governor's Council on Disabilities and Special**
5 **Education."**

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

7 * **Section 1.** AS 06.65.020 is amended by adding a new subsection to read:

8 (b) When exercising its powers and duties under this chapter, the department
9 shall consult with the Governor's Council on Disabilities and Special Education
10 established under AS 47.80.030.

11 * **Sec. 2.** AS 06.65.100 is amended to read:

12 **Sec. 06.65.100. Eligible individuals.** To be eligible for a program account,
13 when an individual or the individual's representative establishes the program account

1 or makes a distribution to another program account under AS 06.65.200, the individual
 2 **must** [SHALL] be [AN INDIVIDUAL]

3 (1) [WHO IS] entitled to benefits based on blindness or disability
 4 under 42 U.S.C. 401 - 434 or 42 U.S.C. 1381 - 1383f, and the blindness or disability
 5 **must have** occurred before the date on which the individual reached **the** [26 YEARS
 6 OF] age **required by the federal authorizing law for this purpose**; or

7 (2) **an individual** for whom a disability certification that satisfies the
 8 secretary and the federal authorizing law is filed with the secretary for the calendar
 9 year in which the eligible individual or the eligible individual's representative opens
 10 the program account.

11 * **Sec. 3.** AS 06.65.160(a) is amended to read:

12 (a) As provided by the federal authorizing law, a person may make a
 13 contribution to a program account for the designated beneficiary. **A person may also**
 14 **make a contribution to a program account under AS 14.40.802(f)(3)**.

15 * **Sec. 4.** AS 06.65.160(c) is amended to read:

16 (c) Any person may make a contribution to a program account, but the amount
 17 that the person may contribute is subject to the limits set by the federal authorizing
 18 law, [OR] the department, **or AS 14.40.802(f)(3)**.

19 * **Sec. 5.** AS 06.65.200(a) is amended to read:

20 (a) Subject to the restrictions in the federal authorizing law for rollover
 21 distributions, a designated beneficiary or the designated beneficiary's representative
 22 may make a distribution of the money in a program account to another

23 (1) program account if the designated beneficiary of the program
 24 account to which the distribution is being made is

25 (A) [(1)] the same eligible individual; or

26 (B) [(2)] an eligible individual who is a member of the family
 27 of the designated beneficiary from whom the distribution is made; **or**

28 (2) **account allowed by the federal authorizing law**.

29 * **Sec. 6.** AS 06.65.390(1) is amended to read:

30 (1) "department" means the Department of **Health and Social**
 31 **Services** [REVENUE];

1 * **Sec. 7.** AS 09.38.015(a) is amended to read:

- 2 (a) An individual is entitled to exemption of the following property:
 - 3 (1) a burial plot for the individual and the individual's family;
 - 4 (2) health aids reasonably necessary to enable the individual or a dependent to work or to sustain health;
 - 5 (3) benefits paid or payable for medical, surgical, or hospital care to the extent they are or will be used to pay for the care;
 - 6 (4) an award under AS 18.67 (Violent Crimes Compensation Board) or a crime victim's reparations act of another jurisdiction;
 - 7 (5) benefits paid or payable as a longevity bonus under AS 47.45;
 - 8 (6) compensation or benefits paid or payable and exempt under federal law;
 - 9 (7) liquor licenses granted under AS 04;
 - 10 (8) tuition credit or savings accounts under an [A HIGHER] education savings account established under AS 14.40.802 or an advance college tuition savings contract authorized under AS 14.40.809(a);
 - 11 (9) a permanent fund dividend to the extent allowed under AS 43.23.140;
 - 12 (10) [REPEALED]
 - 13 (11) benefits paid or payable under AS 47.45.301 - 47.45.309.

14 * **Sec. 8.** AS 14.40.170(a) is amended to read:

- 15 (a) The Board of Regents shall
 - 16 (1) appoint the president of the university by a majority vote of the whole board, and the president may attend meetings of the board;
 - 17 (2) fix the compensation of the president of the university, all heads of departments, professors, teachers, instructors, and other officers;
 - 18 (3) confer appropriate degrees as it may determine and prescribe;
 - 19 (4) have the care, control, and management of
 - 20 (A) all the real and personal property of the university; and
 - 21 (B) land
 - 22 (i) conveyed to the Board of Regents by the

commissioner of natural resources in the settlement of the claim of the University of Alaska to land granted to the state in accordance with the Act of March 4, 1915 (38 Stat. 1214), as amended, and in accordance with the Act of January 21, 1929 (45 Stat. 1091), as amended; and

(ii) conveyed to the Board of Regents in trust for the University of Alaska by the commissioner of natural resources under AS 14.40.365;

(5) keep a correct and easily understood record of the minutes of every meeting and all acts done by it in pursuance of its duties;

(6) under procedures to be established by the commissioner of administration, and in accordance with existing procedures for other state agencies, have the care, control, and management of all money of the university and keep a complete record of all money received and disbursed;

(7) adopt reasonable rules for the prudent trust management and the long-term financial benefit to the university of the land of the university;

(8) provide public notice of sales, leases, exchanges, and transfers of the land of the university or of interests in land of the university;

(9) administer, manage, market, and promote an [A POSTSECONDARY] education savings program, including the [ALASKA HIGHER] Education [SAVINGS] Trust of Alaska under AS 14.40.802 and the Alaska advance college tuition savings fund under AS 14.40.803 - 14.40.817;

(10) designate buildings owned by the university as covered buildings for purposes of paying the costs of use, management, operation, maintenance, and depreciation from the fund established under AS 37.05.555.

* **Sec. 9.** AS 14.40.802(a) is amended to read:

(a) The [ALASKA HIGHER] Education [SAVINGS] Trust of Alaska is established in the University of Alaska. The purpose of the [THIS] trust is to secure obligations to participants and beneficiaries under an [A POSTSECONDARY] education savings program operated by the University of Alaska and to provide participants a convenient method of saving for [COLLEGE OR OTHER POSTSECONDARY] education. The Board of Regents of the University of Alaska

1 shall

2 (1) adopt policies that provide for the administration, management,
3 promotion, and marketing of the trust;

4 (2) maintain the trust in compliance with requirements of 26 U.S.C.
5 (Internal Revenue Code) for a qualified state tuition program as defined in 26 U.S.C.
6 529;

7 (3) coordinate savings options established under the trust and the
8 administration of the trust with the Alaska advance college tuition savings fund
9 (AS 14.40.803), including the creation of common administrative and record-keeping
10 systems, marketing programs, and operating reserves;

11 (4) establish participation agreements, including application, savings
12 options, and withdrawal procedures;

13 (5) enter into participation agreements with participants for the
14 (A) accumulation, investment, and distribution of funds;
15 (B) payment or reimbursement of qualified [HIGHER]
16 education expenses; and

17 (C) benefit of a beneficiary;

18 (6) enter into contracts with one or more contractors, including
19 investment managers; in determining the persons to act as investment managers,
20 consideration must be given to the qualifications of the contractor, including the
21 contractor's ability to

22 (A) administer financial programs with individual account
23 maintenance and reporting;

24 (B) develop, market, and administer investment options
25 appropriate for the trust; and

26 (C) augment the savings program with other beneficial
27 products and services;

28 (7) allow both residents and nonresidents to participate in the trust;

29 (8) allow the transfer or rollover of funds from the Alaska advance
30 college tuition savings fund and other qualified state tuition programs under 26 U.S.C.
31 529 and the participation agreement;

(9) allow withdrawals from the trust to be used for qualified [HIGHER] education expenses [, INCLUDING ROOM AND BOARD] as allowed by 26 U.S.C. 529;

(10) establish penalties for withdrawals from the trust for nonqualified expenses and other distributions as required under 26 U.S.C. 529 or as provided in the participation agreement;

(11) engage an independent firm of certified public accountants to audit the financial position of the trust.

* **Sec. 10.** AS 14.40.802(f) is amended to read:

(f) A participant has the right, as provided in the participation agreement, to

(1) change the beneficiary of an account; [TO ANOTHER INDIVIDUAL WHO IS A MEMBER OF THE FAMILY OF THE FORMER BENEFICIARY; OR]

(2) direct that all or a portion of an account be transferred to an account with a new beneficiary; **or**

(3) direct that all or a portion of an account be transferred to a program account as a contribution under AS 06.65.160 if the contribution

(A) when added to any other contributions made to the program account during the same federal tax year, does not exceed the limit for a contribution under 26 U.S.C. 529A(b)(2)(B)(ii); and

(B) is for the beneficiary or for a [IF THE] new **individual who** [BENEFICIARY] is a member of the family of the former beneficiary **and an eligible individual under AS 06.65.100; in this subparagraph, "eligible individual" and "member of the family" have the meanings given in AS 06.65.390.**

* Sec. 11. AS 14.40.802(g) is amended to read:

(g) The right to change the beneficiary or to **make transfers** [TRANSFER BETWEEN ACCOUNTS] described in (f) of this section may be denied or limited as provided in the participation agreement, including transfers that would result in contributions or account balances in excess of allowable limits under the participation agreement, **or, with regard to a change or transfer under (f)(3) of this section, the**

change or transfer does not satisfy the requirements of AS 06.65.

* **Sec. 12.** AS 14.40.802(j) is amended to read:

(j) A participant may, as provided in the participation agreement, designate a person other than the participant as a successor participant. [THE DESIGNATION OF A SUCCESSOR PARTICIPANT DOES NOT TAKE EFFECT UNTIL THE PARTICIPANT DIES OR IS DECLARED LEGALLY INCOMPETENT. IF A PARTICIPANT DIES OR IS DECLARED LEGALLY INCOMPETENT WITHOUT HAVING EFFECTIVELY DESIGNATED A SUCCESSOR PARTICIPANT, THE BENEFICIARY MAY DESIGNATE A SUCCESSOR PARTICIPANT IN THE MANNER PRESCRIBED ABOVE IF THE BENEFICIARY IS NOT THE SAME PERSON AS THE SUCCESSOR PARTICIPANT.]

* **Sec. 13.** AS 14.40.802(n)(2) is amended to read:

(2) "beneficiary" means **a** [ANY PERSON] designated **beneficiary as defined under 26 U.S.C. 529(e)** [BY A PARTICIPATION AGREEMENT, OR BY ANOTHER METHOD OF DESIGNATION AUTHORIZED IN THIS SECTION, TO BENEFIT FROM PAYMENTS FOR QUALIFIED HIGHER EDUCATION EXPENSES AT AN ELIGIBLE EDUCATIONAL INSTITUTION]:

* Sec. 14. AS 14.40.802(n)(7) is amended to read:

(7) "qualified [HIGHER] education expenses" has the meaning given to **"qualified higher education expenses"** in **26 U.S.C. 529(c) and (e)** [26 U.S.C. 529(e)]:

* **Sec. 15.** AS 14.40.802(n)(8) is amended to read:

(8) "trust" means the [ALASKA HIGHER] Education [SAVINGS]

* Sec. 16. AS 14.40.809(b) is amended to read:

(b) The board shall

(1) make appropriate arrangements as necessary to fulfill the board's obligations under an advance college tuition savings contract;

(2) establish and adopt a formal plan for administration of the advance college tuition savings program; the terms and conditions of the plan shall be considered a part of an advance college tuition savings contract:

(3) establish investment objectives, criteria, and asset allocation guidelines for the fund based on prudent institutional investor guidelines and actuarial analysis of the earnings requirements for the advance college tuition savings plan;

(4) enter into contracts or agreements considered necessary for the investment of the fund, including contracts or agreements with investment managers, consultants, and other custodians of the fund;

(5) engage a financial advisor to report annually on the investment performance of the fund;

(6) engage an independent firm of certified public accountants to audit the financial position of the fund;

(7) do all acts, whether or not expressly authorized, that the board considers necessary or proper in administering the assets of the fund;

(8) enter into reciprocal agreements with Alaska Pacific University and other eligible educational institutions or state tuition programs that the board determines to be beneficial to the advance college tuition savings program;

(9) coordinate savings options established under the Alaska advance college tuition savings program and the administration of the fund with the [ALASKA HIGHER] Education [SAVINGS] Trust of Alaska (AS 14.40.802), including the creation of common administrative and record-keeping systems, marketing programs, and operating reserves.

* **Sec. 17.** AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under

1 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
2 or retain federal assistance;

3 (6) records or information compiled for law enforcement purposes, but
4 only to the extent that the production of the law enforcement records or information

5 (A) could reasonably be expected to interfere with enforcement
6 proceedings;

7 (B) would deprive a person of a right to a fair trial or an
8 impartial adjudication;

9 (C) could reasonably be expected to constitute an unwarranted
10 invasion of the personal privacy of a suspect, defendant, victim, or witness;

11 (D) could reasonably be expected to disclose the identity of a
12 confidential source;

13 (E) would disclose confidential techniques and procedures for
14 law enforcement investigations or prosecutions;

15 (F) would disclose guidelines for law enforcement
16 investigations or prosecutions if the disclosure could reasonably be expected to
17 risk circumvention of the law; or

18 (G) could reasonably be expected to endanger the life or
19 physical safety of an individual;

20 (7) names, addresses, and other information identifying a person as a
21 participant in the [ALASKA HIGHER] Education [SAVINGS] Trust of Alaska under
22 AS 14.40.802 or the advance college tuition savings program under AS 14.40.803 -
23 14.40.817;

24 (8) public records containing information that would disclose or might
25 lead to the disclosure of a component in the process used to execute or adopt an
26 electronic signature if the disclosure would or might cause the electronic signature to
27 cease being under the sole control of the person using it;

28 (9) reports submitted under AS 05.25.030 concerning certain
29 collisions, accidents, or other casualties involving boats;

30 (10) records or information pertaining to a plan, program, or
31 procedures for establishing, maintaining, or restoring security in the state, or to a

1 detailed description or evaluation of systems, facilities, or infrastructure in the state,
 2 but only to the extent that the production of the records or information

3 (A) could reasonably be expected to interfere with the
 4 implementation or enforcement of the security plan, program, or procedures;

5 (B) would disclose confidential guidelines for investigations or
 6 enforcement and the disclosure could reasonably be expected to risk
 7 circumvention of the law; or

8 (C) could reasonably be expected to endanger the life or
 9 physical safety of an individual or to present a real and substantial risk to the
 10 public health and welfare;

11 (11) [REPEALED]

12 (12) records that are

13 (A) proprietary, privileged, or a trade secret in accordance with
 14 AS 43.90.150 or 43.90.220(e);

15 (B) applications that are received under AS 43.90 until notice is
 16 published under AS 43.90.160;

17 (13) information of the Alaska Gasline Development Corporation
 18 created under AS 31.25.010 or a subsidiary of the Alaska Gasline Development
 19 Corporation that is confidential by law or under a valid confidentiality agreement;

20 (14) information under AS 38.05.020(b)(11) that is subject to a
 21 confidentiality agreement under AS 38.05.020(b)(12);

22 (15) records relating to proceedings under AS 09.58 (Alaska Medical
 23 Assistance False Claim and Reporting Act);

24 (16) names, addresses, and other information identifying a person as a
 25 participant in the Alaska savings program for eligible individuals under AS 06.65;

26 (17) artists' submissions made in response to an inquiry or solicitation
 27 initiated by the Alaska State Council on the Arts under AS 44.27.060;

28 (18) records that are

29 (A) investigative files under AS 45.55.910; or

30 (B) confidential under AS 45.56.620.

31 * **Sec. 18.** AS 47.10.093(b) is amended to read:

(b) A state or municipal agency or employee shall disclose appropriate confidential information regarding a case to

(1) a guardian ad litem appointed by the court;

(2) a person or an agency requested by the department or the child's legal custodian to provide consultation or services for a child who is subject to the jurisdiction of the court under AS 47.10.010 as necessary to enable the provision of the consultation or services;

(3) an out-of-home care provider as necessary to enable the out-of-home care provider to provide appropriate care to the child, to protect the safety of the child, and to protect the safety and property of family members and visitors of the out-of-home care provider;

(4) a school official as necessary to enable the school to provide appropriate counseling and support services to a child who is the subject of the case, to protect the safety of the child, and to protect the safety of school students and staff;

(5) a governmental agency as necessary to obtain that agency's assistance for the department in its investigation or to obtain physical custody of a child;

(6) a law enforcement agency of this state or another jurisdiction as necessary for the protection of any child or for actions by that agency to protect the public safety;

(7) a member of a multidisciplinary child protection team created under AS 47.14.300 as necessary for the performance of the member's duties;

(8) the state medical examiner under AS 12.65 as necessary for the performance of the duties of the state medical examiner;

(9) a person who has made a report of harm as required by AS 47.17.020 to inform the person that the investigation was completed and of action taken to protect the child who was the subject of the report;

(10) the child support services agency established in AS 25.27.010 as necessary to establish and collect child support for a child who is a child in need of aid under this chapter;

(11) a parent, guardian, or caregiver of a child or an entity responsible

1 for ensuring the safety of children as necessary to protect the safety of a child;

2 (12) a review panel, including a variance committee established under
 3 AS 47.05.360, established by the department for the purpose of reviewing the actions
 4 taken by the department in a specific case;

5 (13) the University of Alaska under the Alaska [HIGHER] education
 6 savings program for children established under AS 47.14.400, but only to the extent
 7 that the information is necessary to support the program and only if the information
 8 released is maintained as a confidential record by the University of Alaska;

9 (14) a child placement agency licensed under AS 47.32 as necessary to
 10 provide services for a child who is the subject of the case;

11 (15) a state or municipal agency of this state or another jurisdiction
 12 that is responsible for delinquent minors, as may be necessary for the administration of
 13 services, protection, rehabilitation, or supervision of a child or for actions by the
 14 agency to protect the public safety; however, a court may review an objection made to
 15 a disclosure under this paragraph; the person objecting to the disclosure bears the
 16 burden of establishing by a preponderance of the evidence that disclosure is not in the
 17 child's best interest; and

18 (16) a sibling of a child who is the subject of the case to allow the
 19 siblings to contact each other if it is in the best interests of the child to maintain
 20 contact; in this paragraph, "sibling" means an adult or minor who is related to the child
 21 who is the subject of the case by blood, adoption, or marriage as a child of one or both
 22 of the parents of the child who is the subject of the case; a sibling who is adopted by a
 23 person other than the parent of the child who is the subject of the case remains a
 24 sibling of the child.

25 * **Sec. 19.** AS 47.12.310(b) is amended to read:

26 (b) A state or municipal agency or employee shall disclose

27 (1) information regarding a case to a federal, state, or municipal law
 28 enforcement agency for a specific investigation being conducted by that agency;

29 (2) appropriate information regarding a case to

30 (A) a guardian ad litem appointed by the court;

31 (B) a person or an agency requested by the department or the

1 minor's legal custodian to provide consultation or services for a minor who is
2 subject to the jurisdiction of the court under this chapter as necessary to enable
3 the provision of the consultation or services;

4 (C) school officials as may be necessary to protect the safety of
5 the minor who is the subject of the case and the safety of school students and
6 staff or to enable the school to provide appropriate counseling and supportive
7 services to meet the needs of a minor about whom information is disclosed;

8 (D) a governmental agency as may be necessary to obtain that
9 agency's assistance for the department in its investigation or to obtain physical
10 custody of a minor;

11 (E) a law enforcement agency of this state or another
12 jurisdiction as may be necessary for the protection, rehabilitation, or
13 supervision of any minor or for actions by that agency to protect the public
14 safety;

15 (F) a victim or to the victim's insurance company as may be
16 necessary to inform the victim or the insurance company about the arrest of the
17 minor, including the minor's name and the names of the minor's parents, copies
18 of reports, or the disposition or resolution of a case involving a minor;

19 (G) the state medical examiner under AS 12.65 as may be
20 necessary to perform the duties of the state medical examiner;

21 (H) foster parents or relatives with whom the child is placed by
22 the department as may be necessary to enable the foster parents or relatives to
23 provide appropriate care for the child who is the subject of the case, to protect
24 the safety of the child who is the subject of the case, and to protect the safety
25 and property of family members and visitors of the foster parents or relatives;

26 (I) the Department of Law or its agent for use and subsequent
27 release if necessary for collection of an order of restitution on behalf of the
28 recipient;

29 (J) the Violent Crimes Compensation Board established in
30 AS 18.67.020 for use in awarding compensation under AS 18.67.080;

31 (K) a state, municipal, or federal agency of this state or another

1 jurisdiction that has the authority to license adult or children's facilities and
2 services;

3 (L) a child placement agency licensed under AS 47.32 as
4 necessary to provide services for a minor who is subject to the jurisdiction of
5 the court under this chapter; and

6 (M) a state or municipal agency of this state or another
7 jurisdiction that is responsible for child protection services, as may be
8 necessary for the administration of services, protection, rehabilitation, or
9 supervision of a minor or for actions by the agency to protect the public safety;
10 and

11 (3) to the University of Alaska under the Alaska [HIGHER] education
12 savings program for children established under AS 47.14.400 information that is
13 necessary to support the program, but only if the information released is maintained as
14 a confidential record by the University of Alaska.

15 * **Sec. 20.** AS 47.14.400(a) is amended to read:

16 (a) The department shall administer a program to encourage investment by a
17 person or entity in the [HIGHER] education of eligible children in the state. The
18 program must include

19 (1) a central office, dedicated to faith-based and community services,
20 for development and marketing of the program;

21 (2) a mechanism for the department to establish and maintain an
22 education [A UNIVERSITY OF ALASKA COLLEGE] savings plan under
23 AS 14.40.802 - 14.40.817 for an eligible child who is a beneficiary of the program;

24 (3) a process for identifying donors and eligible beneficiaries;

25 (4) a process for distributing nonidentifying information about an
26 eligible beneficiary to a potential donor, including the age, sex, and general location of
27 the beneficiary, unless the information readily leads to the identification of the eligible
28 beneficiary;

29 (5) terms and conditions for participation in the program that are
30 consistent with the education [UNIVERSITY OF ALASKA COLLEGE] savings plan
31 restrictions and with federal law pertaining to [HIGHER] education savings accounts;

1 and

2 (6) a procedure for monitoring success of the program, for record
3 keeping, and for maintaining confidentiality of records as required by federal and state
4 law.

5 * **Sec. 21.** AS 47.14.400(b) is amended to read:

6 (b) A person is eligible for participation in the [HIGHER] education savings
7 program for children as a beneficiary if the person was ordered committed to the
8 custody of the department under AS 47.10.080(c) or AS 47.12.120(b)(1) or (3), was
9 placed in out-of-home care for not less than two years, and is a resident of the state.

10 * **Sec. 22.** AS 47.14.400(c) is amended to read:

11 (c) The commissioner of health and social services or the commissioner's
12 designee may name a new beneficiary to an existing education [COLLEGE] savings
13 plan established under (a) of this section if the new designation is not prohibited under
14 federal law or under the education [UNIVERSITY OF ALASKA COLLEGE] savings
15 plan and if the named beneficiary dies, fails to enroll in an eligible program before the
16 beneficiary becomes 30 years of age, or fails to meet conditions established in
17 regulations adopted by the commissioner of health and social services.

18 * **Sec. 23.** AS 47.14.400(e)(3) is amended to read:

19 (3) "donor" means the person or entity who contributes to the
20 [HIGHER] education savings program for children for the purpose of establishing or
21 contributing to an education [A COLLEGE] savings plan [ACCOUNT] established
22 for a child under this section;

23 * **Sec. 24.** AS 47.14.400(e) is amended by adding a new paragraph to read:

24 (5) "education savings plan" means an education savings program
25 established under AS 14.40.802 - 14.40.817.

26 * **Sec. 25.** AS 47.14.400(e)(2) is repealed.