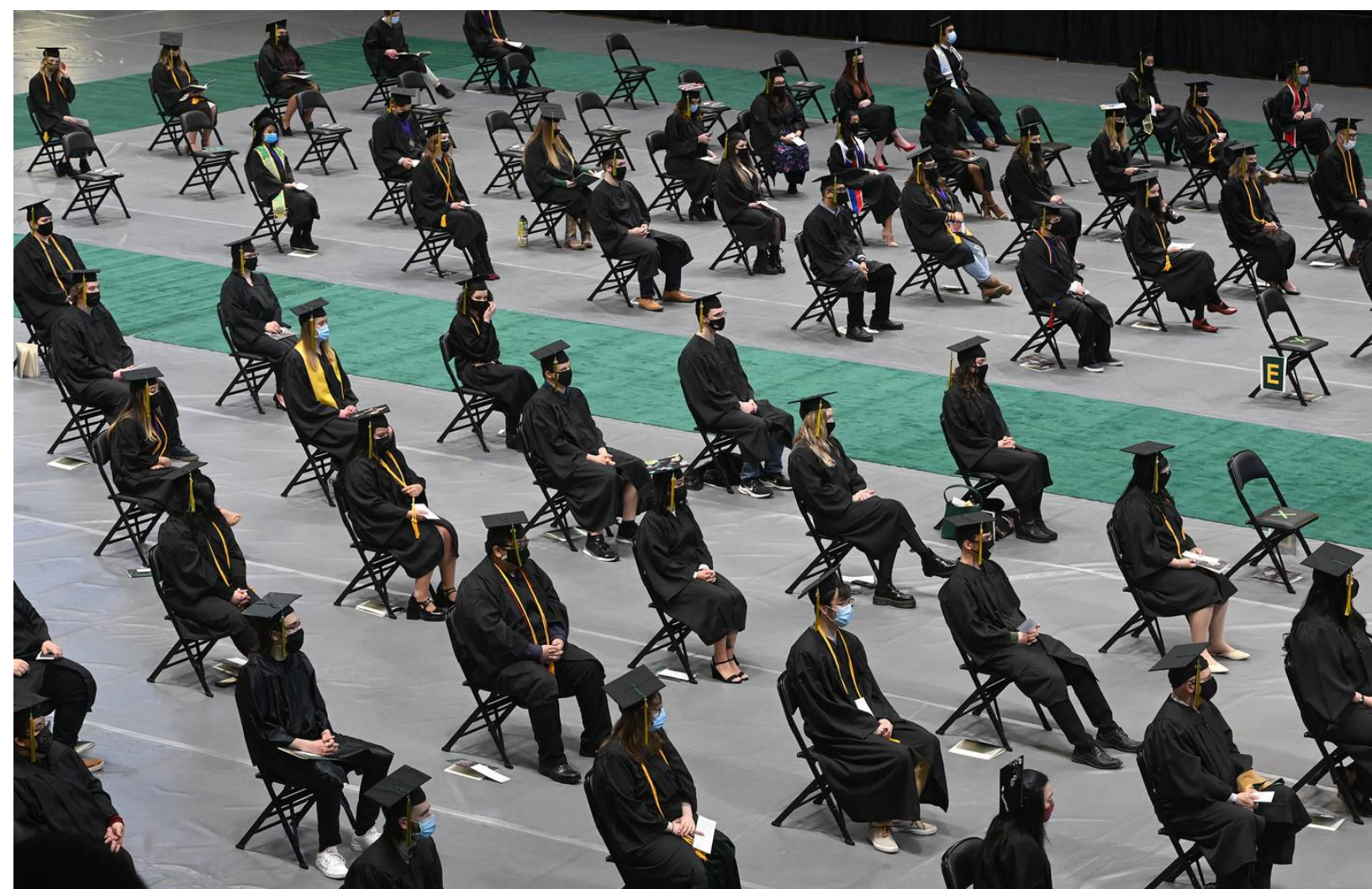


Alaska university students file lawsuit challenging decision that drained scholarship fund

By James Brooks

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University of Alaska Anchorage held their first in-person commencement in two years at the Alaska Airlines Center on Sunday, Dec. 12, 2021. Four university students, including one from UAA, filed a lawsuit Jan. 4 to challenge a decision that drained the state trust fund that pays for scholarships. (Bill Roth / ADN)

A new lawsuit is challenging a decision by the administration of Gov. Mike Dunleavy that emptied Alaska's \$410 million higher-education trust fund last year, eliminating a reliable source of funding for college scholarships and the state's equivalent of medical school.

On Tuesday, four university students [filed suit](#) against Dunleavy and two state agencies in Anchorage Superior Court, seeking to reverse the decision. The plaintiffs asked for [summary judgment](#), which could move the case speedily through the courts.

Dunleavy's office issued a statement Wednesday morning saying that the governor has directed the Department of Law to seek fast resolution as well and that funding for the scholarship programs will continue while the lawsuit proceeds.

Attorneys representing the students answered questions about the case in writing.

"They believe that future Alaska students should have the same level of certainty and opportunity they were given, and therefore filed this suit to return the over \$400 million back to the Fund where it belongs. They also recognize that the loss of a dependable funding source for these programs would be detrimental to Alaska's future," the statement said in part.

The students are being represented by attorneys from Cashion, Gilmore and Lindemuth, a firm that has repeatedly challenged the Dunleavy administration and includes former officials from the administration of Gov. Bill Walker.

Tuesday's suit is almost identical to [one filed last year](#) by the Alaska Federation of Natives that challenged the draining of the state fund that subsidizes rural electricity prices. In that case, an Anchorage Superior Court judge [ruled against the state](#) and ordered the preservation of the fund.

The state [declined to appeal](#) that decision to the Alaska Supreme Court, which meant there was no opportunity for a broader ruling that could have prevented additional lawsuits like the one filed Tuesday.

According to the attorneys representing the students, Tuesday's lawsuit is being funded by Providence Alaska — the state's largest hospital system — and private funds directed by University of Alaska interim president Pat Pitney.

A spokesman for the hospital said it is supporting the lawsuit because it believes a steady supply of trained health care workers is critical.

In a statement sent to University of Alaska supporters on Tuesday, Pitney said the university supports the lawsuit.

“The University of Alaska and the more than 5,500 students who count on funding through the Alaska Performance Scholarship (APS), Alaska Education Grant (AEG), and the Washington-Wyoming-Alaska-Montana-Idaho (WWAMI) medical school program need certainty for the future funding of the programs,” she said.

Before leading the university, Pitney was director of the state’s Office of Management and Budget under Walker.

In that role, Pitney — as had prior budget officials — considered the higher-education fund and rural-electricity fund as unaffected by a provision in the state constitution that automatically sweeps unspent money into the state’s Constitutional Budget Reserve at the end of the fiscal year.

Until 2019, that provision had been annually and uncontroversially stopped and reversed by the Alaska Legislature.

But that year, Dunleavy’s initial budget proposal called for the sweep to take place, and budget officials re-examined the list of funds subject to the sweep. Budget director Neil Steininger said in [a sworn affidavit](#) last year that he believes prior reviews were faulty.

The new review, which he participated in, relabeled the higher-education fund and rural-electricity fund as sweepable.

Jeff Turner, the governor’s deputy communications director, disputes that the relabeling was “a major shift in interpretation.”

Had the Alaska Legislature continued to stop and reverse the sweep, the reclassification wouldn’t have mattered. But in 2021, legislative Republicans’ opposition caused the reverse sweep to fail and dozens of funds to be drained.

While programs supported by those funds are still running, they will now compete with other priorities in the state’s annual budget process and are more vulnerable to cuts.

In his statement Wednesday, Dunleavy said he is not proposing cuts to the scholarship programs.

“I have supported scholarship funding every year I have been in office and will continue to do so. Alaska’s students can be assured their scholarships will continue to be funded regardless of this lawsuit,” he said.

Scholarships are funded through the spring semester, but those paid in the fall semester — the 2022-23 school year — are subject to the budget that will be considered in the upcoming legislative session.

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Juneau-based James Brooks covers state government, the Alaska Legislature and general assignments for the Daily News. He previously reported and edited for the Juneau Empire, Kodiak Daily Mirror and Fairbanks Daily News-Miner.

