

CS FOR SENATE BILL NO. 104(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/23/16

Referred: Finance

Sponsor(s): SENATORS GIESSEL, Ellis, Micciche, Stoltze, Gardner, Wielechowski, Stevens, Bishop, Egan

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing a program for financial accounts for individuals with disabilities;**
2 **creating a property exemption for money in or paid from a financial account in the**
3 **program for an individual with a disability; exempting the procurement of contracts for**
4 **the program from the State Procurement Code; exempting certain information on**
5 **participants in the program from being subject to inspection as a public record;**
6 **providing that an account under the program for an individual with a disability is not a**
7 **security; allowing a state to file a claim against an individual's financial account under**
8 **the program to recover Medicaid payments after the individual's death; relating to the**
9 **distribution by the Department of Health and Social Services of the proceeds of a**
10 **permanent fund dividend trust for a child in need of aid; and providing for an effective**
11 **date."**

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

1 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 SHORT TITLE. AS 06.65, enacted by sec. 2 of this Act, may be cited as the Alaska
4 ABLE Savings Program Act.

5 * **Sec. 2.** AS 06 is amended by adding a new chapter to read:

6 **Chapter 65. Alaska Savings Program for Eligible Individuals.**

7 **Sec. 06.65.010. Program authorized.** The Alaska savings program for eligible
8 individuals is created in the department. The department shall implement and
9 administer the program under this chapter and as required by the federal authorizing
10 law.

11 **Sec. 06.65.020. General department duties.** To implement and administer the
12 program, the department shall, in addition to the other powers and duties provided to
13 the department under this chapter,

14 (1) develop, set, and approve the terms and conditions of the program,
15 consistent with this chapter and the federal authorizing law, including limiting the
16 nature and amount of contributions that may be made to a program account;

17 (2) supervise the decisions about the investment of contributions to a
18 program account;

19 (3) seek required federal, state, and other regulatory agency rulings and
20 exemptions;

21 (4) arrange for the timely filing of required regulatory notices,
22 disclosure documents, and reports;

23 (5) arrange for the program to be audited annually; and

24 (6) take other action that is not specifically identified in this section but
25 that is necessary to

26 (A) obtain and maintain the tax benefits allowed under the
27 federal authorizing law; and

28 (B) maintain favorable treatment for designated beneficiaries
29 under state and federal programs that use a means test for eligibility.

30 **Sec. 06.65.030. Modification of program.** Consistent with this chapter and
31 the federal authorizing law, the department may modify the terms and conditions of

1 the program as the department considers necessary or desirable for the effective and
2 efficient operation of the program.

3 **Sec. 06.65.040. Additional department powers.** The department may

4 (1) set fees the department considers necessary or desirable for
5 program transactions and services; and

6 (2) develop marketing plans and materials to promote the benefits of
7 the program that are available to contributors under the program and to beneficiaries
8 under the program.

9 **Sec. 06.65.050. Contracting authority; procurement exemption.** (a) The
10 department may contract with a person to advise and assist in the implementation and
11 operation of the program.

12 (b) The department may contract with a person to provide services for the
13 program.

14 (c) The department may enter into a contract with other states to obtain or
15 provide the services for implementing the program. The contract may include
16 cooperative procurement by the states of a person to provide services for the program,
17 including investment and record-keeping services.

18 (d) Notwithstanding the other provisions of this chapter, the department may
19 enter into a contract with another state to allow the residents of

20 (1) this state to participate in a program established by another state
21 under the federal authorizing law, instead of establishing the program in this state;

22 (2) that contracting state to participate in the program in this state.

23 (e) The procurement of contracts for the program, including procurement of
24 services under a contract with other states, is exempt from AS 36.30.

25 **Sec. 06.65.060. Investment oversight.** The department shall

26 (1) oversee and approve the selection of investment managers and
27 advisors for the program;

28 (2) oversee all aspects of the program's investments and investment
29 performance and decisions regarding the investment of program assets; and

30 (3) oversee all investment disclosure documents and regulatory filings
31 related to program investments.

1 **Sec. 06.65.070. Financial contractor obligations.** In addition to any other
2 obligations imposed by the contract with the department, if the department enters into
3 a contract with a person to provide program accounts, the financial contractor shall

4 (1) provide program accounts that comply with the federal authorizing
5 law;

6 (2) take the action necessary to keep the program in compliance with
7 the requirements of this chapter and to manage the program accounts in compliance
8 with the federal authorizing law;

9 (3) keep adequate records of each program account and keep each
10 program account segregated from other program accounts;

11 (4) as requested by the department, compile the information contained
12 in statements required to be prepared under AS 06.65.210 and provide the statements
13 and the compiled material to the department;

14 (5) provide the department with access to the books and records of the
15 financial contractor to the extent needed to determine compliance with the contract,
16 this chapter, and the federal authorizing law;

17 (6) hold program accounts for the benefit of the program account
18 owner;

19 (7) be audited at least annually by a firm of certified public
20 accountants acceptable to the department and provide the results of the audits to the
21 department;

22 (8) upon request of the department, provide the department with copies
23 of all filings and reports related to the program made by the financial contractor during
24 the contract or while the financial contractor holds program accounts;

25 (9) upon request of the department, make available to the department
26 for review the results of periodic examinations of the financial contractor by a state or
27 federal banking, insurance, or securities agency, except to the extent that the report is
28 confidential under state or federal law; and

29 (10) ensure that the descriptions of the program in the media that the
30 financial contractor uses to promote the program are consistent with a marketing plan
31 developed for the program.

1 **Sec. 06.65.080. Additional audits.** In addition to the annual audit required by
 2 AS 06.65.020(5), the department may require a financial contractor to have an audit
 3 conducted of the financial contractor's operations and financial position when the
 4 department is concerned about the financial position, the record-keeping practices, or
 5 the status of the program accounts of the financial contractor.

6 **Sec. 06.65.090. Contract termination; nonrenewal.** The department may
 7 terminate or fail to renew a financial contract. If the department terminates or does not
 8 renew a contract with a financial contractor, the department shall take custody of the
 9 program accounts held by the financial contractor and transfer the program accounts to
 10 another financial contractor as soon as possible and into program accounts that are as
 11 similar as possible to the types of program accounts being transferred.

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
 14 or makes a distribution to another program account under AS 06.65.200, the individual
 15 shall

16 (1) be an individual who is entitled to benefits based on blindness or
 17 disability under 42 U.S.C. 401 - 434 or 42 U.S.C. 1381 - 1383f, and the blindness or
 18 disability occurred before the date on which the individual reached the age of 26; or

19 (2) be an individual for whom a disability certification, which satisfies
 20 the secretary and the federal authorizing law, is filed with the secretary for the
 21 calendar year in which the eligible individual or the eligible individual's representative
 22 opens the program account.

23 **Sec. 06.65.110. Representative of eligible individual.** (a) A person may act as
 24 the representative of an eligible individual under this chapter if the eligible individual
 25 is a minor or lacks decision-making capacity and if the person is

26 (1) a parent, guardian, or conservator of the eligible individual; in this
 27 paragraph,

28 (A) "conservator" has the meaning given in AS 13.06.050;

29 (B) "guardian" has the meaning given in AS 13.06.050;

30 (C) "parent" includes a stepparent; or

31 (2) a trustee of the property of the eligible individual.

1 (b) The representative of an eligible individual may establish a program
2 account for the eligible individual, and the eligible individual is the designated
3 beneficiary of the program account. The representative shall manage the program
4 account for the benefit of the designated beneficiary.

5 (c) In this section, "decision-making capacity" means the ability to understand
6 and appreciate the nature and consequences of a decision and the ability to reach and
7 communicate an informed decision.

8 **Sec. 06.65.120. Program account ownership.** (a) The owner of a program
9 account is the designated beneficiary of the program account.

10 (b) If a representative of an eligible individual establishes a program account
11 for an eligible individual, the representative is not an owner of the program account
12 and does not have or acquire an interest in the assets of the program account.

13 **Sec. 06.65.130. Number of program accounts.** An eligible individual may
14 not be the designated beneficiary on more than one program account.

15 **Sec. 06.65.140. Program account application.** The application for a program
16 account must be in the form established by the department and contain

17 (1) the name, address, and social security number of the program
18 account owner and, if applicable, the representative who opens the program account
19 for the eligible individual; and

20 (2) additional information that the department and the secretary
21 determine is necessary.

22 **Sec. 06.65.150. Program account establishment fee.** The financial contractor
23 may charge an eligible individual a nonrefundable fee for establishing a program
24 account. The department shall establish the amount of the fee by contract with the
25 financial contractor or by regulation.

26 **Sec. 06.65.160. Program account contributions.** (a) As provided by the
27 federal authorizing law, a person may make a contribution to a program account for
28 the designated beneficiary.

29 (b) A person may not make a contribution to open or add to a program account
30 unless the person makes the contribution by using a method of payment acceptable to
31 the department.

1 (c) Any person may make a contribution to a program account, but the amount
2 that the person may contribute is subject to the limits set by the federal authorizing law
3 or the department.

4 (d) The department or the financial contractor shall reject or withdraw from a
5 program account

6 (1) that part of a contribution that exceeds the limit established under
7 (c) of this section; or

8 (2) the total amount of a contribution, if the department or the financial
9 contractor determines that

10 (A) the value of the program account without the contribution
11 is equal to or greater than the maximum limit established by the federal
12 authorizing statute for the program account; or

13 (B) the designated beneficiary is not an eligible individual
14 during the calendar year in which the contribution is made.

15 (e) If a person makes a distribution from a program account during a calendar
16 year, the financial contractor shall report the distribution to the federal Internal
17 Revenue Service and to the account owner or the representative of the account owner.

18 (f) The report under (e) of this section must include the distribution
19 information required by state and federal law.

20 **Sec. 06.65.170. Limited investment direction.** A designated beneficiary or
21 the designated beneficiary's representative may not, directly or indirectly, direct the
22 investment of a program account, including the earnings on the program account,
23 more than twice in one calendar year.

24 **Sec. 06.65.180. Change of designated beneficiary.** A designated beneficiary
25 or the designated beneficiary's representative may change the designated beneficiary
26 of a program account to an eligible individual who is a member of the family of the
27 previous designated beneficiary.

28 **Sec. 06.65.190. Distributions for qualified expenses.** Except as allowed
29 under AS 06.65.200, a designated beneficiary or the representative of the designated
30 beneficiary may not make a withdrawal or other distribution from a program account
31 unless the withdrawal or other distribution is used to pay for the qualified expenses of

1 the designated beneficiary.

2 **Sec. 06.65.200. Rollover distribution.** (a) Subject to the restrictions in the
3 federal authorizing law for rollover distributions, a designated beneficiary or the
4 designated beneficiary's representative may make a distribution of the money in a
5 program account to another program account if the designated beneficiary of the
6 program account to which the distribution is being made is

7 (1) the same eligible individual; or

8 (2) an eligible individual who is a member of the family of the
9 designated beneficiary from whom the distribution is made.

10 (b) To qualify as a distribution allowed under (a) of this section, the
11 designated beneficiary or the designated beneficiary's representative shall make the
12 distribution to the other program account before the 60th day after the designated
13 beneficiary or the designated beneficiary's representative makes the distribution from
14 the program account.

15 **Sec. 06.65.210. Statements.** (a) A financial contractor shall provide program
16 account statements to the designated beneficiary, or the designated beneficiary's
17 representative, of each program account established with the financial contractor at
18 least four times each year and at the times the department establishes.

19 (b) A financial contractor shall provide the department with the reports and
20 information that the department requests that are related to the program account
21 statements.

22 **Sec. 06.65.220. Preparation and filing.** In addition to the other reporting
23 requirements of this chapter, a financial contractor shall prepare and file the
24 statements, program account information, and other information as required by state
25 and federal law and state and federal agencies.

26 **Sec. 06.65.230. Separate accounting.** A financial contractor shall provide
27 separate accounting for each program account established with the financial
28 contractor.

29 **Sec. 06.65.240. Annual fee.** A financial contractor may impose an annual fee
30 as may be established by the department on the program account owner for the
31 maintenance of a program account.

1 **Sec. 06.65.250. Use as security.** A person may not use a program account or
 2 an interest in a program account as security for a loan. If a person pledges a program
 3 account or an interest in a program account as security for a loan, the pledge is void.

4 **Sec. 06.65.260. Exemption from creditor claims.** The money in a program
 5 account and money paid out of a program account are exempt from a claim by the
 6 creditors of the designated beneficiary of the program account during the life of the
 7 designated beneficiary.

8 **Sec. 06.65.270. No state obligation.** (a) This chapter may not be construed to
 9 create an obligation of the state, the department, or an agency or instrumentality of the
 10 state to guarantee for the benefit of a designated beneficiary

11 (1) the return of the principal deposited in the program account;

12 (2) a rate of interest or other return on the principal in a program
 13 account; or

14 (3) the payment of interest or other return on the principal in a program
 15 account.

16 (b) Every contract, application, and other document that may be used in
 17 connection with opening a program account must clearly state that the state does not
 18 insure a program account or guarantee the items described in (a) of this section.

19 **Sec. 06.65.280. Confidentiality.** The department, the Department of Health
 20 and Social Services, and another state agency that receives information under
 21 AS 06.65.290 shall maintain the confidentiality of the information they receive or
 22 exchange under this chapter about eligible individuals, designated beneficiaries, and
 23 program accounts as required by state and federal law.

24 **Sec. 06.65.290. Exchange of information.** The department may exchange
 25 information with the Department of Health and Social Services and other state
 26 agencies to determine whether an individual is an eligible individual.

27 **Sec. 06.65.300. Treatment under means test programs.** (a) Notwithstanding
 28 a contrary provision of law, a state agency may not consider a program account
 29 amount in this or another state when determining the eligibility of the designated
 30 beneficiary of the program account to receive state assistance or state benefits or when
 31 determining the amount of state assistance or state benefits to be received by the

1 designated beneficiary of the program account.

2 (b) In this section, "program account amount" means a contribution to a
3 program account, earnings on the contribution, or a distribution for a qualified
4 expense.

5 **Sec. 06.65.310. Deposit from permanent fund dividend.** A person who is
6 eligible under AS 43.23 to receive a permanent fund dividend may make a deposit into
7 the program account of a designated beneficiary from and up to the amount of the
8 person's permanent fund dividend.

9 **Sec. 06.65.320. Program expense fund.** (a) The program expense fund is
10 established as a separate fund of the state in the general fund.

11 (b) The program expense fund consists of money appropriated to the fund to
12 pay the expenses of the program.

13 (c) The department shall pay the expenses incurred by the department to
14 implement and administer the program from the program expense fund.

15 (d) The department shall manage the fund.

16 (e) Except as provided otherwise by the appropriation for the money, the
17 money remaining in the program expense fund at the end of a fiscal year does not
18 lapse and remains available for expenditure under this section in successive fiscal
19 years.

20 **Sec. 06.65.330. Medicaid claims.** This state or another state may file a claim
21 against the amount remaining in the program account of a deceased designated
22 beneficiary to recover medical assistance payments if the payments were made for the
23 designated beneficiary, were made under that state's Medicaid program authorized by
24 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act), and were made after the
25 program account of the designated beneficiary was established. The application of this
26 section is subject to the requirements of 26 U.S.C. 529A(f) (Internal Revenue Code).

27 **Sec. 06.65.340. Governing law.** If a provision of this chapter conflicts with
28 the requirements of the federal authorizing law for the program, the federal
29 authorizing law governs to the extent of the conflict.

30 **Sec. 06.65.350. Regulations.** The department may adopt regulations under
31 AS 44.62 (Administrative Procedure Act) to implement this chapter.

1 **Sec. 06.65.360. Annual report.** The department shall evaluate the program
 2 each year. The department shall submit an annual report containing the evaluation to
 3 the senate secretary and chief clerk of the house of representatives on or before the
 4 first day of each regular session of the legislature and shall notify the legislature that
 5 the report is available.

6 **Sec. 06.65.390. Definitions.** In this chapter,

- 7 (1) "department" means the Department of Revenue;
- 8 (2) "designated beneficiary" means the eligible individual for whom a
 9 program account for qualified expenses is established under this chapter;
- 10 (3) "eligible individual" means an individual who is eligible under
 11 AS 06.65.100;
- 12 (4) "federal authorizing law" means 26 U.S.C. 529A (Internal Revenue
 13 Code) and the regulations issued under that statute;
- 14 (5) "financial contractor" means a person that enters into a contract
 15 with the department under this chapter to provide program accounts;
- 16 (6) "member of the family" has the meaning given in the federal
 17 authorizing statute;
- 18 (7) "program" means the Alaska savings program for eligible
 19 individuals established under AS 06.65.010;
- 20 (8) "program account" means a savings account used by the program
 21 to meet the qualified disability expenses of the designated beneficiary of the account;
- 22 (9) "program account owner" means the designated beneficiary of a
 23 program account;
- 24 (10) "qualified expense" means a qualified disability expense as
 25 defined by the federal authorizing law;
- 26 (11) "representative" means a person who is a representative of an
 27 eligible individual under AS 06.65.110(a);
- 28 (12) "savings account" means a financial account;
- 29 (13) "secretary" means the United States Secretary of the Treasury.

30 * **Sec. 3.** AS 09.38.015(a) is amended to read:

- 31 (a) An individual is entitled to exemption of the following property:

- 1 (1) a burial plot for the individual and the individual's family;
- 2 (2) health aids reasonably necessary to enable the individual or a
- 3 dependent to work or to sustain health;
- 4 (3) benefits paid or payable for medical, surgical, or hospital care to
- 5 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
- 7 a crime victim's reparations act of another jurisdiction;
- 8 (5) benefits paid or payable as a longevity bonus under AS 47.45;
- 9 (6) compensation or benefits paid or payable and exempt under federal
- 10 law;
- 11 (7) liquor licenses granted under AS 04;
- 12 (8) tuition credit or savings accounts under a higher education savings
- 13 account established under AS 14.40.802 or an advance college tuition savings contract
- 14 authorized under AS 14.40.809(a);
- 15 (9) a permanent fund dividend to the extent allowed under
- 16 AS 43.23.065;
- 17 (10) [REPEALED
- 18 (11)] benefits paid or payable under AS 47.45.301 - 47.45.309;
- 19 **(11) the money in or paid from a program account established**
- 20 **under AS 06.65, including earnings on the money.**

21 * **Sec. 4.** AS 36.30.850(b) is amended by adding a new paragraph to read:

- 22 (47) a contract under AS 06.65.

23 * **Sec. 5.** AS 40.25.120(a) is amended to read:

- 24 (a) Every person has a right to inspect a public record in the state, including
- 25 public records in recorders' offices, except
- 26 (1) records of vital statistics and adoption proceedings, which shall be
- 27 treated in the manner required by AS 18.50;
- 28 (2) records pertaining to juveniles unless disclosure is authorized by
- 29 law;
- 30 (3) medical and related public health records;
- 31 (4) records required to be kept confidential by a federal law or

1 regulation or by state law;

2 (5) to the extent the records are required to be kept confidential under
3 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure
4 or retain federal assistance;

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

7 (A) could reasonably be expected to interfere with enforcement
8 proceedings;

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

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

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

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

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

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

22 (7) names, addresses, and other information identifying a person as a
23 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the
24 advance college tuition savings program under AS 14.40.803 - 14.40.817;

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

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

31 (10) records or information pertaining to a plan, program, or

1 procedures for establishing, maintaining, or restoring security in the state, or to a
 2 detailed description or evaluation of systems, facilities, or infrastructure in the state,
 3 but only to the extent that the production of the records or information

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

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

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

12 (11) the written notification regarding a proposed regulation provided
 13 under AS 24.20.105 to the Department of Law and the affected state agency and
 14 communications between the Legislative Affairs Agency, the Department of Law, and
 15 the affected state agency under AS 24.20.105;

16 (12) records that are

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

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

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

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

26 **(15) names, addresses, and other information identifying a person**
 27 **as a participant in the Alaska savings program for eligible individuals under**
 28 **AS 06.65.**

29 * **Sec. 6.** AS 45.55.990(32) is amended to read:

30 (32) "security" means a note; stock; treasury stock; bond; debenture;
 31 evidence of indebtedness; certificate of interest or participation in any profit-sharing

1 agreement; limited liability company interest under AS 10.50, notwithstanding the
 2 limitations of AS 45.08.103(c); collateral-trust certificate; preorganization certificate
 3 or subscription; transferable share; investment contract; voting-trust certificate;
 4 certificate of deposit for a security; viatical settlement interest; certificate of interest or
 5 participation in an oil, gas, or mining title or lease or in payments out of production
 6 under the title or lease or in any sale of or indenture or bond or contract for the
 7 conveyance of land or any interest in land; an option on a contract for the future
 8 delivery of agricultural or mineral commodities or any other commodity offered or
 9 sold to the public and not regulated by the Commodity Futures Trading Commission;
 10 however, the contract or option is not subject to the provisions of AS 45.55.070 if it is
 11 sold or purchased on the floor of a bona fide exchange or board of trade and offered or
 12 sold to the public by a broker-dealer or agent registered under this chapter; investment
 13 of money or money's worth including goods furnished or services performed in the
 14 risk capital of a venture with the expectation of some benefit to the investor where the
 15 investor has no direct control over the investment or policy decision of the venture; or,
 16 in general, any interest or instrument commonly known as a "security," or any
 17 certificate of interest or participation in, temporary or interim certificate for, receipt
 18 for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing;
 19 "security" does not include a participation agreement entered into under AS 14.40.802,
 20 **a program account established under AS 06.65**, or an insurance or endowment
 21 policy or annuity contract under which an insurance company promises to pay a fixed
 22 or variable sum of money either in a lump sum or periodically for life or for some
 23 other specified period;

24 * **Sec. 7.** AS 47.07.055 is amended by adding a new subsection to read:

25 (h) In addition to the claims allowed under the other provisions of this section,
 26 the state may file a claim under AS 06.65.330 against the amount in an individual's
 27 program account after the individual dies. Notwithstanding the other provisions of this
 28 section, the claim is subject to the requirements of 26 U.S.C. 529A(f) (Internal
 29 Revenue Code). In this subsection, "program account" has the meaning given in
 30 AS 06.65.390.

31 * **Sec. 8.** AS 47.10.115(b) is amended to read:

1 (b) The department **shall** [MAY NOT] distribute the proceeds of a trust under
2 this section [UNLESS]

3 (1) **to** the child **when the child**

4 **(A) has reached 21 years of age; or**

5 **(B) is no longer in the custody of the department and** has
6 reached **at least** 18 years of age **or is emancipated** [AND IS NO LONGER IN
7 THE CUSTODY OF THE DEPARTMENT]; **or**

8 (2) **when** [THE CHILD HAS BEEN ADOPTED AND ONE YEAR
9 HAS ELAPSED SINCE THE ADOPTION;

10 (3) THE CHILD IS NO LONGER IN THE CUSTODY OF THE
11 DEPARTMENT AND THE CHILD HAS BEEN REUNITED WITH THE CHILD'S
12 PARENTS; OR

13 (4)] ordered to do so by the court in the best interest of the child.

14 * **Sec. 9.** AS 47.10.115(c) is repealed.

15 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 TRANSITION. The Department of Revenue shall file its first report required by
18 AS 06.65.360, added by sec. 2 of this Act, on or before the first day of the Second Regular
19 Session of the Thirtieth Alaska State Legislature.

20 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: REGULATIONS. The Department of Revenue may adopt regulations
23 authorized by AS 06.65.350, added by sec. 2 of this Act. The regulations take effect under
24 AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 2 of this
25 Act.

26 * **Sec. 12.** Section 11 of this Act takes effect immediately under AS 01.10.070(c).