

SB

89

<TARGET><BILL>SB 89</BILL><SUBJECT>SB
89</SUBJECT><COMM>SEDC28</COMM></TARGET>

ALASKA STATE LEGISLATURE

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Mike Dunleavy
Senator

SPONSOR STATEMENT

CS for Senate Bill 89 () Tax Credits for Educational Contributions

The Alaska Education Tax Credit Program provides a tax credit to businesses that make contributions to Alaska postsecondary education entities, secondary vocational programs as well as a state-operated vocational training school and other educational programs. Senate Bill 89 expands the list of eligible recipients to include public or private nonprofit elementary or secondary schools, including religious schools.

Businesses paying the following Alaska taxes benefit from the Alaska Education Tax Credit Program:

| | |
|-------------------------------------|--|
| <i>Alaska Corporate Income Tax</i> | <i>Fisheries Business Tax</i> |
| <i>Fishery Resource Landing Tax</i> | <i>Mining License Tax</i> |
| <i>Insurance Premium Tax</i> | <i>Title Insurance Premium Tax</i> |
| <i>Oil & Gas Property Tax</i> | <i>Oil & Gas Production/Transportation Tax</i> |

Business has a definite interest in promoting and investing in a multitude of educational initiatives, approaches, and entities both public and private. With the expansion of the Education Tax Credit Program to include public and private K-12 schools, business can target its contributions to a broad array of educational entities or can focus on a particular approach.

Corporate giving is encouraged under Senate Bill 89 as 70 percent of an industry's contribution can be claimed for a tax credit until a limit of \$25 million is reached. Working together in a partnership with Alaska's leading businesses, our local educational entities, both public and private, will prosper and provide the quality education that our Alaska students deserve.

28-LS0677AN
Mischel/Bullock
4/1/13

CS FOR SENATE BILL NO. 89()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DUNLEAVY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to education tax credits and a tax credit for gifts to the Alaska Fire**
2 **Standards Council; providing for an effective date by repealing the effective dates in sec.**
3 **57, ch. 92, SLA 2010, as amended by sec. 15, ch. 7, FSSLA 2011, and in sec 32, ch. 74,**
4 **SLA 2012; and providing for an effective date."**

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

6 *** Section 1. AS 21.96.070(a) is amended to read:**

7 (a) A taxpayer is allowed a credit against the tax due under AS 21.09.210 or
8 AS 21.66.110 for cash contributions accepted

9 (1) for direct instruction, research, and educational support purposes,
10 including library and museum acquisitions, and contributions to endowment, by an
11 Alaska university foundation or by a nonprofit, public or private, Alaska two-year or
12 four-year college accredited by a regional accreditation association;

13 (2) for secondary school level vocational education courses, programs,
14 and facilities by a school district in the state;

1 (3) for vocational education courses, programs, and facilities by a
2 state-operated vocational technical education and training school;

3 (4) for a facility or an annual intercollegiate sports tournament by a
4 nonprofit, public or private, Alaska two-year or four-year college accredited by a
5 regional accreditation association;

6 (5) for Alaska Native cultural or heritage programs and educational
7 support, including mentoring and tutoring, provided by a nonprofit agency for public
8 school staff and for students who are in grades kindergarten through 12 in the state;

9 [AND]

10 (6) for education, research, rehabilitation, and facilities by an
11 institution that is located in the state and that qualifies as a coastal ecosystem learning
12 center under the Coastal America Partnership established by the federal government;

13 and

14 (7) for direct instruction or educational support purposes by a
15 public or private nonprofit elementary or secondary school, including a religious
16 school, in the state.

17 * Sec. 2. AS 21.96.070(a), as amended by sec. 1 of this Act, is amended to read:

18 (a) A taxpayer is allowed a credit against the tax due under AS 21.09.210 or
19 AS 21.66.110 for cash contributions accepted

20 (1) for direct instruction, research, and educational support purposes,
21 including library and museum acquisitions, and contributions to endowment, by an
22 Alaska university foundation or by a nonprofit, public or private, Alaska two-year or
23 four-year college accredited by a regional accreditation association;

24 (2) for secondary school level vocational education courses and [,]
25 programs [, AND FACILITIES] by a school district in the state; and

26 (3) [FOR VOCATIONAL EDUCATION COURSES, PROGRAMS,
27 AND FACILITIES] by a state-operated vocational technical education and training
28 school [;

29 (4) FOR A FACILITY OR AN ANNUAL INTERCOLLEGIATE
30 SPORTS TOURNAMENT BY A NONPROFIT, PUBLIC OR PRIVATE, ALASKA
31 TWO-YEAR OR FOUR-YEAR COLLEGE ACCREDITED BY A REGIONAL

1 ACCREDITATION ASSOCIATION;

2 (5) FOR ALASKA NATIVE CULTURAL OR HERITAGE
3 PROGRAMS AND EDUCATIONAL SUPPORT, INCLUDING MENTORING AND
4 TUTORING, PROVIDED BY A NONPROFIT AGENCY FOR PUBLIC SCHOOL
5 STAFF AND FOR STUDENTS WHO ARE IN GRADES KINDERGARTEN
6 THROUGH 12 IN THE STATE;

7 (6) FOR EDUCATION, RESEARCH, REHABILITATION, AND
8 FACILITIES BY AN INSTITUTION THAT IS LOCATED IN THE STATE AND
9 THAT QUALIFIES AS A COASTAL ECOSYSTEM LEARNING CENTER
10 UNDER THE COASTAL AMERICA PARTNERSHIP ESTABLISHED BY THE
11 FEDERAL GOVERNMENT; AND

12 (7) FOR DIRECT INSTRUCTION OR EDUCATIONAL SUPPORT
13 PURPOSES BY A PUBLIC OR PRIVATE NONPROFIT ELEMENTARY OR
14 SECONDARY SCHOOL, INCLUDING A RELIGIOUS SCHOOL, IN THE
15 STATE].

16 * Sec. 3. AS 21.96.070(b) is repealed and reenacted to read:

17 (b) The amount of the credit is an amount equal to 70 percent of the
18 contributions made under this section.

19 * Sec. 4. AS 21.96.070(d) is amended to read:

20 (d) A contribution claimed as a credit under this section may not

21 (1) be the basis for a credit claimed under more than one provision of
22 this title; and

23 (2) when combined with contributions that are the basis for credits
24 taken during the taxpayer's tax year under AS 21.96.075 or AS 43.98.040 [,
25 AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, OR
26 AS 43.77.045], result in the total amount of credits exceeding \$25,000,000
27 [\$5,000,000]; if the taxpayer is a member of an affiliated group, then the total amount
28 of credits may not exceed \$25,000,000 [\$5,000,000] for the affiliated group; in this
29 paragraph, "affiliated group" has the meaning given in AS 43.20.145.

30 * Sec. 5. AS 21.96.070(d), as amended by sec. 4 of this Act, is amended to read:

31 (d) A contribution claimed as a credit under this section may not

1 (1) be the basis for a credit claimed under more than one provision of
2 this title; and

3 (2) when combined with contributions that are the basis for credits
4 taken during the taxpayer's tax year under AS 21.96.075 or AS 43.98.040, result in the
5 total amount of credits exceeding \$150,000 [\$25,000,000; IF THE TAXPAYER IS A
6 MEMBER OF AN AFFILIATED GROUP, THEN THE TOTAL AMOUNT OF
7 CREDITS MAY NOT EXCEED \$25,000,000 FOR THE AFFILIATED GROUP; IN
8 THIS PARAGRAPH, "AFFILIATED GROUP" HAS THE MEANING GIVEN IN
9 AS 43.20.145].

10 * Sec. 6. AS 21.96.070(f)(2) is amended to read:

11 (2) "vocational education" has the meaning given in AS 43.98.040
12 [AS 43.20.014].

13 * Sec. 7. AS 21.96.075(c) is amended to read:

14 (c) A contribution claimed by a taxpayer as a credit under this section may not
15 (1) be the basis for a credit claimed under more than one provision of
16 this title;

17 (2) when combined with contributions that are the basis for credits
18 taken during the taxpayer's tax year under AS 21.96.070 and AS 43.98.040 [,
19 AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, AS 43.75.018, OR
20 AS 43.77.045], result in the total amount of credits exceeding \$25,000,000
21 [\$5,000,000]; if the taxpayer is a member of an affiliated group, then the total amount
22 of credits may not exceed \$25,000,000 [\$5,000,000] for the affiliated group; in this
23 paragraph, "affiliated group" has the meaning given in AS 43.20.145; or

24 (3) be claimed as a credit unless the contribution qualifies for the credit
25 under (d) of this section.

26 * Sec. 8. AS 21.96.075(c), as amended by sec. 7 of this Act, is amended to read:

27 (c) A contribution claimed by a taxpayer as a credit under this section may not
28 (1) be the basis for a credit claimed under more than one provision of
29 this title;

30 (2) when combined with contributions that are the basis for credits
31 taken during the taxpayer's tax year under AS 21.96.070 and AS 43.98.040, result in

1 the total amount of credits exceeding \$150,000 [\$25,000,000; IF THE TAXPAYER IS
2 A MEMBER OF AN AFFILIATED GROUP, THEN THE TOTAL AMOUNT OF
3 CREDITS MAY NOT EXCEED \$25,000,000 FOR THE AFFILIATED GROUP; IN
4 THIS PARAGRAPH, "AFFILIATED GROUP" HAS THE MEANING GIVEN IN
5 AS 43.20.145]; or

6 (3) be claimed as a credit unless the contribution qualifies for the credit
7 under (d) of this section.

8 * **Sec. 9.** AS 43.05.010 is amended to read:

9 **Sec. 43.05.010. Duties of commissioner.** The commissioner of revenue shall

10 (1) exercise general supervision and direct the activities of the
11 Department of Revenue;

12 (2) supervise the fiscal affairs and responsibilities of the department;

13 (3) prescribe uniform rules for investigations and hearings;

14 (4) keep a record of all departmental proceedings, record and file all
15 bonds, and assume custody of returns, reports, papers, and documents of the
16 department;

17 (5) adopt a seal and affix it to each order, process, or certificate issued
18 by the commissioner;

19 (6) keep a record of each order, process, and certificate issued by the
20 commissioner, and keep the record open to public inspection at all reasonable times;

21 (7) hold hearings and investigations necessary for the administration of
22 state tax and revenue laws;

23 (8) except as provided in AS 43.05.405 - 43.05.499 and in
24 AS 44.64.030, hear and determine appeals of a matter within the jurisdiction of the
25 Department of Revenue and enter orders on the appeals that are final unless reversed
26 or modified by the courts;

27 (9) issue subpoenas to require the attendance of witnesses and the
28 production of necessary books, papers, documents, correspondence, and other things;

29 (10) order the taking of depositions before a person competent to
30 administer oaths;

31 (11) administer oaths and take acknowledgments;

1 (12) request the attorney general for rulings on the interpretation of the
2 tax and revenue laws administered by the department;

3 (13) call upon the attorney general to institute actions for recovery of
4 unpaid taxes, fees, excises, additions to tax, penalties, and interest;

5 (14) issue warrants for the collection of unpaid tax penalties and
6 interest and take all steps necessary and proper to enforce full and complete
7 compliance with the tax, license, excise, and other revenue laws of the state;

8 (15) report to the legislature before February 15 of each year the total
9 amount of contributions reported and the total amount of credit claimed during the
10 previous calendar year under AS 43.98.040 [AS 43.20.014, AS 43.55.019,
11 AS 43.56.018, AS 43.65.018, AS 43.75.018, AND AS 43.77.045].

12 * **Sec. 10.** AS 43.75.130(g) is amended to read:

13 (g) In this section, "tax revenue collected" includes the amount credited under
14 AS 43.98.040 against taxes under this chapter [AS 43.75.018].

15 * **Sec. 11.** AS 43.77.060(e), as amended by sec. 21, ch. 51, SLA 2012, is amended to read:

16 (e) For purposes of this section, tax revenue collected under AS 43.77.010
17 from a person entitled to a credit under AS 43.77.035, [43.77.045, OR] AS 43.98.030,
18 or 43.98.040 shall be calculated as if the person's tax had been collected without
19 applying the credits.

20 * **Sec. 12.** AS 43.98 is amended by adding a new section to read:

21 **Sec. 43.98.040. Education tax credit.** (a) A taxpayer is allowed a credit
22 against the tax due under AS 43.20, AS 43.55, AS 43.56, AS 43.65, AS 43.75, and
23 AS 43.77 for cash contributions accepted for

24 (1) direct instruction, research, and educational support purposes,
25 including library and museum acquisitions, and contributions to endowment, by an
26 Alaska university foundation or by a nonprofit, public or private, Alaska two-year or
27 four-year college accredited by a regional accreditation association;

28 (2) secondary school level vocational education courses, programs, and
29 facilities by a school district in the state;

30 (3) vocational education courses, programs, and facilities by a state-
31 operated vocational technical education and training school;

1 (4) a facility or an annual intercollegiate sports tournament by a
2 nonprofit, public or private, Alaska two-year or four-year college accredited by a
3 regional accreditation association;

4 (5) Alaska Native cultural or heritage programs and educational
5 support, including mentoring and tutoring, provided by a nonprofit agency for public
6 school staff and for students who are in grades kindergarten through 12 in the state;

7 (6) education, research, rehabilitation, and facilities by an institution
8 that is located in the state and that qualifies as a coastal ecosystem learning center
9 under the Coastal America Partnership established by the federal government;

10 (7) the Alaska higher education investment fund under AS 37.14.750;
11 or

12 (8) direct instruction or educational support purposes by a public or
13 private nonprofit elementary or secondary school, including a religious school, in the
14 state.

15 (b) The amount of the credit is an amount equal to 70 percent of contributions
16 under this section.

17 (c) Each public college and university shall include in its annual operating
18 budget request contributions received and how the contributions were used.

19 (d) A contribution claimed as a credit under this section may not

20 (1) be the basis for a credit claimed under more than one provision of
21 this title; and

22 (2) when combined with contributions that are the basis for credits
23 taken during the taxpayer's tax year under AS 21.96.070 and 21.96.075, result in the
24 total amount of credits exceeding \$25,000,000; if the taxpayer is a member of an
25 affiliated group, then the total amount of credits may not exceed \$25,000,000 for the
26 affiliated group; in this paragraph, "affiliated group" has the meaning given in
27 AS 43.20.145.

28 (e) The credit under this section may not reduce a person's tax liability under
29 this title, AS 21.96.070, and 21.96.075 to below zero for any tax year. An unused
30 credit or portion of a credit not used under this section for a tax year may not be sold,
31 traded, transferred, or applied in a subsequent tax year.

(f) In this section,

(1) "school district" means a borough school district, a city school district, a regional educational attendance area, or a state boarding school;

(2) "vocational education" means organized educational activities that offer a sequence of courses that provides individuals with the academic and technical knowledge and skills the individuals need to prepare for further education and for careers other than careers requiring a baccalaureate, master's, or doctoral degree.

* Sec. 13. AS 43.98.040(a), added by sec. 12 of this Act, is amended to read:

(a) A taxpayer is allowed a credit against the tax due under AS 43.20, AS 43.55, AS 43.56, AS 43.65, AS 43.75, and AS 43.77 for cash contributions accepted for

(1) direct instruction, research, and educational support purposes, including library and museum acquisitions, and contributions to endowment, by an Alaska university foundation or by a nonprofit, public or private, Alaska two-year or four-year college accredited by a regional accreditation association;

(2) secondary school level vocational education courses and [,] programs [, AND FACILITIES] by a school district in the state;

(3) [VOCATIONAL EDUCATION COURSES, PROGRAMS, AND FACILITIES BY] a state-operated vocational technical education and training school;

(4) [A FACILITY OR AN ANNUAL INTERCOLLEGIATE SPORTS TOURNAMENT BY A NONPROFIT, PUBLIC OR PRIVATE, ALASKA TWO-YEAR OR FOUR-YEAR COLLEGE ACCREDITED BY A REGIONAL ACCREDITATION ASSOCIATION];

(5) ALASKA NATIVE CULTURAL OR HERITAGE PROGRAMS AND EDUCATIONAL SUPPORT, INCLUDING MENTORING AND TUTORING, PROVIDED BY A NONPROFIT AGENCY FOR PUBLIC SCHOOL STAFF AND FOR STUDENTS WHO ARE IN GRADES KINDERGARTEN THROUGH 12 IN THE STATE;

(6) EDUCATION, RESEARCH, REHABILITATION, AND FACILITIES BY AN INSTITUTION THAT IS LOCATED IN THE STATE AND THAT QUALIFIES AS A COASTAL ECOSYSTEM LEARNING CENTER

1 UNDER THE COASTAL AMERICA PARTNERSHIP ESTABLISHED BY THE
2 FEDERAL GOVERNMENT;

3 (7)] the Alaska higher education investment fund under AS 37.14.750
4 [; OR

5 (8) DIRECT INSTRUCTION OR EDUCATIONAL SUPPORT
6 PURPOSES BY A PUBLIC OR PRIVATE NONPROFIT ELEMENTARY OR
7 SECONDARY SCHOOL, INCLUDING A RELIGIOUS SCHOOL, IN THE
8 STATE].

9 * **Sec. 14.** AS 43.98.040(b) is repealed and reenacted to read:

10 (b) The amount of the credit is

11 (1) 50 percent of contributions of not more than \$100,000; and

12 (2) 100 percent of the next \$100,000 of contributions.

13 * **Sec. 15.** AS 43.98.040(d) is repealed and reenacted to read:

14 (d) A contribution claimed as a credit under this section may not

15 (1) be the basis for a credit claimed under more than one provision of
16 this title;

17 (2) also be allowed as a deduction under 26 U.S.C. 170 against the
18 taxes imposed by AS 43.20; and

19 (3) when combined with contributions that are the basis for credits
20 taken during the taxpayer's tax year under AS 21.96.070 and 21.96.075 and this
21 section, result in the total amount of credits exceeding \$150,000.

22 * **Sec. 16.** AS 43.20.014; AS 43.55.019; AS 43.56.018; AS 43.65.018; AS 43.75.018; and
23 AS 43.77.045 are repealed.

24 * **Sec. 17.** AS 21.06.110(9); AS 21.96.070(e), 21.96.075(f); AS 43.05.010(15); and
25 AS 43.98.040(e) are repealed.

26 * **Sec. 18.** Sections 3, 5, 7, 10, 14, 16, 18, 21, 23, 25, 28, 30, 32, 35, 37, 39, 42, 44, 46, 49,
27 51, 53, 55, and 57, ch. 92, SLA 2010; secs. 14 and 15, ch. 7, FSSLA 2011; and secs. 15 - 23
28 and 32, ch. 74 SLA 2012, are repealed.

29 * **Sec. 19.** Sections 2, 3, 5, 8, 13, 14, 15, and 17 of this Act take effect January 1, 2021.

30 * **Sec. 20.** Except as provided in sec. 19 of this Act, this Act takes effect July 1, 2013.

LEGAL SERVICES

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MEMORANDUM

April 2, 2013

SUBJECT: Sectional summary (CSSB 89()); Work Order No. 28-LS0677/N)

TO: Senator Mike Dunleavy
Attn: Sheila Peterson

FROM: Jean M. Mischel
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Provides for an additional education tax credit for cash contributions made by an authorized insurer to public or private nonprofit elementary or secondary schools, including religious schools, for direct instruction or educational support.

Section 2. Amends the education tax credit for authorized insurers to remove contributions to several recipients, including those provided for in sec. 1, effective January 1, 2021.

Section 3. Repeals existing tiered limits on the education tax credit for authorized insurers and reenacts the limit in an amount equal to 70 percent of the cash contributions.

Section 4. Changes the current \$5,000,000 limit to \$25,000,000 on combined contributions applied to education tax credits made by various taxpayers, including authorized insurers, for gifts to the Alaska Fire Standards Council. Also conforms a cross reference in the same section to secs. 12 and 16 of the bill.

Section 5. Repeals the higher limit on combined contributions provided for in sec. 4 and reverts it to \$150,000, effective January 1, 2021.

Section 6. Conforms a cross reference to sec. 12 of the bill.

Section 7. Changes the current \$5,000,000 limit to \$25,000,000 on combined contributions for gifts to the Alaska Fire Standards Council, insurance education tax credits under AS 21.96.070, and by various tax payers under sec. 12 of the bill. Also conforms a cross reference in the same section to secs. 12 and 16 of the bill.

Section 8. Repeals the higher limit on combined contributions provided for in sec. 7 and reverts it to \$150,000, effective January 1, 2021.

Section 9. Amends the duties of the commissioner of revenue to conform a cross reference to secs. 12 and 16 of the bill.

Section 10. Conforms a definition for purposes of refunds to local governments to the changes made in sec. 12 of the bill.

Section 11. Conforms a revenue sharing provision under the fishery resource landing tax provisions to changes made in sec. 12 of the bill.

Section 12. Consolidates education tax credits for contributions made by specified taxpayers provided in separate existing law sections repealed by sec. 16 of the bill and adds a tax credit for cash contributions made to public or private nonprofit elementary or secondary schools, including religious schools, for direct instruction or educational support. Establishes a \$25,000,000 limit for combined contributions made under the section and by insurers under secs. 1 and 4 of the bill.

Section 13. Repeals some of the available recipients, including public or private nonprofit elementary or secondary schools, of a cash contribution for purposes of applying an education tax credit, effective January 1, 2021.

Section 14. Repeals and reenacts the limits for cash contributions for purposes of applying an education tax credit under sec. 12 of the bill.

Section 15. Repeals and reenacts restrictions on cash contributions to specified recipients for purposes of an education tax credit, including revival of a \$150,000 combined education tax credit limit, effective January 1, 2021.

Section 16. Repeals various statutory provisions for education tax credits available to specified taxpayers that are consolidated into sec. 12.

Section 17. Repeals statutes that were temporarily amended for purposes of expanding education tax credits, effective January 1, 2021.

Section 18. Repeals several sections in the session laws of 2010 - 2012 that amended various provisions that are being repealed in sec. 16 and consolidated in one section at sec. 12 of the bill for education tax credits for specified taxpayers. Includes repeal of effective dates in the session laws.

Section 19. Provides a delayed effective date of January 1, 2021, for reversion of temporary expansions made to the education tax credits to pre-2010 - 2013 restrictions and combined limits under specified sections of the bill.

Section 20. Provides a July 1, 2013, effective date for the remaining sections of the bill.

Alaska Department of Revenue
Tax Division

| |
|---|
| Summary of Alaska Education Credits Claimed in Calendar Year 2012 by Tax Program |
|---|

| Tax Program | <i>Beneficiaries</i> | | | Total Amount of Contributions | Tax Credits Claimed |
|---|-----------------------------------|---------------------------------|-------------------------|--|--------------------------------|
| | Universities/ Colleges | Secondary Vocational | Other | | |
| Corporation Net Income (AS 43.20.014) | \$6,530,494 | \$1,125,000 | \$101,000 | \$7,756,494 | \$4,956,646 |
| Fishery Resource Landing (AS 43.77.045) | 1,089,723 | 76,110 | - | \$1,165,833 | 932,917 |
| Mining License (AS 43.65.018) | 440,950 | - | - | \$440,950 | 320,470 |
| Fisheries Business (AS 43.75.018) | 776,140 | 23,890 | - | \$800,030 | 650,015 |
| Oil and Gas Production (AS 43.55.019) | - | - | - | - | - |
| Oil and Gas Property (AS 43.56.018) | 10,000 | - | - | \$10,000 | 5,000 |
| Total - All Tax Types | <u>\$8,847,307</u> | <u>\$1,225,000</u> | <u>\$101,000</u> | <u>\$10,173,307</u> | <u>\$6,865,048</u> |