

SENATE BILL NO. 96

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE EDUCATION COMMITTEE

Introduced: 3/20/17

Referred: Education, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to education; relating to school districts; relating to course credit for**
2 **students; relating to group insurance, self-insurance, and other cooperative**
3 **arrangements between school districts and businesses, nonprofit organizations, and**
4 **government agencies; relating to funding for school districts; relating to school**
5 **operating funds; relating to competency examinations for teacher certificates; relating**
6 **to the Professional Teaching Practices Commission; relating to the duties and powers of**
7 **the Department of Education and Early Development and the commissioner of**
8 **education and early development; relating to a virtual education consortium; relating to**
9 **the minimum wage for bus drivers; relating to the investment, appropriation, and**
10 **administration of the public school trust fund; and providing for an effective date."**

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

12 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section

1 to read:

2 LEGISLATIVE FINDINGS. The legislature finds that

3 (1) virtual education allows students to access courses that are not otherwise
4 available in their local schools or school districts, including courses that are relevant to the
5 interests and career paths of students;

6 (2) virtual education provides students with access to teachers who are experts
7 in their fields, allowing for better instruction and better academic results;

8 (3) overall state spending on education does not correlate with improved
9 academic results; however, spending on quality classroom instruction does correlate with
10 improved academic results;

11 (4) access to quality classroom instruction, whether through virtual education
12 or traditional delivery modes, is important for the success of every student in the state;

13 (5) despite the benefits of virtual education, virtual education has limitations
14 and cannot replace high quality teachers and teaching aides in the classroom who inspire high
15 quality student learning.

16 * **Sec. 2.** AS 14.03.073(a) is amended to read:

17 (a) A school district shall provide the opportunity for students enrolled in
18 grades nine through 12 in the district to challenge one or more courses provided by the
19 district by demonstrating mastery in mathematics, language arts, science, social
20 studies, and world languages at the level of the course challenged. A school district
21 shall give full credit for a course to a student who successfully challenges that course
22 as provided under **(b) of** this section.

23 * **Sec. 3.** AS 14.03.073(b) is amended to read:

24 (b) A school district shall establish, within a reasonable time, an assessment
25 tool and a standard for demonstrating mastery in courses provided for students in
26 grades nine through 12 by the district under **(a) of** this section. This section does not
27 require a school district to establish an assessment tool for every course in
28 mathematics, language arts, science, social studies, and world languages that is offered
29 to students in grades nine through 12 by the district.

30 * **Sec. 4.** AS 14.03.073 is amended by adding a new subsection to read:

31 (e) In addition to providing the opportunity for a student to challenge a course

under (a) - (c) of this section, a school district shall allow a student enrolled in grades nine through 12 to receive course credit for a physical education, music, or art class, if the student participates in an activity, including a cultural activity, outside of school hours that the school district determines meets the educational or physical activity requirements of the course. A school district may adopt standards for awarding course credit for common activities.

* **Sec. 5.** AS 14.03.120(a) is amended to read:

(a) A district shall annually file with the department, and make available to the public, a report that

(1) establishes district goals and priorities for improving education in the district;

(2) includes a plan for achieving district goals and priorities; [AND]

(3) includes a means of measuring the achievement of district goals and priorities; **and**

(4) summarizes the categories of administrative employees employed by the district and states the ratio of each category of administrative employee compared to the number of students in the district.

* **Sec. 6.** AS 14.09.030(b) is amended to read:

(b) The department shall

(1) establish equipment requirements for each type of school bus that is used to transport school children to or from a public school;

(2) at least **once** [TWICE] each calendar year, inspect each school bus for compliance with requirements adopted under this subsection; and

(3) maintain a record of each accident involving a school bus or other vehicle transporting school children that is owned by, leased by, or provided under contract to a municipal school district or regional educational attendance area; the record must include the date of the accident, a list of persons injured, whether the person's injury occurred within the school bus, and each type of injury.

* **Sec. 7.** AS 14.14.110(a) is amended to read:

(a) When necessary to provide more efficient or more economical educational services, a district may cooperate or the department may require a district to cooperate

1 or share facilities with other districts, businesses, nonprofit organizations, state-
 2 operated schools, other state or local government agencies, or the Bureau of Indian
 3 Affairs in providing educational or administrative services. However, if a cooperative
 4 arrangement, including an arrangement to share facilities, requires pupils to live
 5 away from their usual homes, the school board shall provide classes within the
 6 attendance area when there are at least eight children eligible to attend elementary and
 7 secondary school in the attendance area. In this subsection,

8 (1) "administrative services" includes supervisory, maintenance,
 9 purchasing, student nutrition, student transportation, or other services that are
 10 required for unified administration, or participation in a policy of group health
 11 insurance under AS 39.30.090 or a policy of self-insurance provided by the
 12 Department of Administration under AS 39.30.091;

13 (2) "educational services" includes boarding and tuition arrangements,
 14 pupil or teacher exchanges, special education services, [OR] curriculum development,
 15 professional teacher development, or the use of technology to deliver classroom
 16 instruction.

17 * **Sec. 8.** AS 14.14.115(a) is amended to read:

18 (a) To encourage cooperative arrangements between school districts and
 19 between school districts and businesses, nonprofit organizations, and state or
 20 local government agencies to provide more efficient or economical administrative or
 21 educational services, a school district may receive a one-time cooperative arrangement
 22 grant from the department of up to \$200,000 if the school district demonstrates that
 23 the arrangement will result in a cost savings to the district [\$100,000].

24 * **Sec. 9.** AS 14.14.115 is amended by adding new subsections to read:

25 (d) To be eligible for a cooperative arrangement grant between school districts
 26 under this section, other than a cooperative arrangement grant for assistance with the
 27 costs of transferring a health insurance policy under (e) of this section, a district must
 28 either be a rural school district or enter into a cooperative arrangement with a rural
 29 school district.

30 (e) The department may award a one-time cooperative arrangement grant
 31 under this section to a school district to assist the school district in paying for the costs

of transferring school district employees from a health insurance policy provided by the school district to a policy of group health insurance under AS 39.30.090 or a policy of self-insurance provided by the Department of Administration under AS 39.30.091. The department may not award a cooperative arrangement grant to a school district to pay the school district's contributions to the costs of the health insurance policy.

(f) During the first three fiscal years after a cooperative arrangement is awarded under this section, a district awarded a grant may accumulate in its school operating fund, in addition to the unreserved portion allowed under AS 14.17.505(a), an amount equal to the savings resulting from the cooperative arrangement.

(g) In this section, "rural school district" means a regional educational attendance area or a small municipal school district as that term is defined in AS 14.11.025(c).

* **Sec. 10.** AS 14.17.450(a) is amended to read:

(a) Except as provided in (g) of this section, for [FOR] purposes of calculating a school's ADM to determine state aid, the ADM of each school in a district shall be computed by applying the following formula:

If the student count				The adjusted student count is				
in a school is				The number of				
				students in				
At least	But less than	Base	Multiplier	excess of				
10	- 20	39.6						
20	- 30	39.6	+ (1.62	x	20)			
30	- 75	55.8	+ (1.49	x	30)			
75	- 150	122.85	+ (1.27	x	75)			
150	- 250	218.1	+ (1.08	x	150)			
250	- 400	326.1	+ (0.97	x	250)			
400	- 750	471.6	+ (0.92	x	400)			
750 or over		793.6	+ (0.84	x	750).			

* **Sec. 11.** AS 14.17.450 is amended by adding a new subsection to read:

(g) The adjustment under (a) of this section does not apply to a school that is

below 80 percent capacity and is within 25 miles by road of another school in the same district that is also below 80 percent capacity. In this subsection, the district in which a school is located shall determine the capacity of the school.

* **Sec. 12.** AS 14.17.505(a) is amended to read:

(a) A district may not accumulate in a fiscal year an unreserved portion of its year-end fund balance in its school operating fund, as defined by department regulations, that is greater than 25 [10] percent of its expenditures for that fiscal year, **except that, during the first three fiscal years after a cooperative arrangement grant is awarded under AS 14.14.115, a district may accumulate an additional unreserved portion that is equal to the amount of savings resulting from the grant.**

* **Sec. 13.** AS 14.20.020(i) is amended to read:

(i) Beginning on July 1, 1998, a person is not eligible for an initial regular teacher certificate unless the person has taken and successfully completed a competency examination or examinations designated, at the time the person took the test, by the board. The board shall review nationally recognized examinations that are designed to test the competency of new teachers and shall designate those examinations that it finds adequately test the skills and abilities of new teachers. For each examination designated under this subsection, the board shall establish the minimum acceptable level of performance. **If the board designates a Praxis test as a competency examination under this subsection, the board shall periodically adjust the minimum acceptable level of performance established for the Praxis test so that the level is equal to or higher than the most stringent minimum acceptable level of performance for teacher certification established by another state.**

* **Sec. 14.** AS 14.20.380 is amended by adding a new subsection to read:

(b) The department shall provide administrative support services to the commission.

* **Sec. 15.** AS 14.20.460 is amended to read:

Sec. 14.20.460. Duties of commission. The commission shall

(1) establish procedures, and adopt regulations to implement the

1 purposes of AS 14.20.370 - 14.20.510;

2 (2) conduct investigations and hearings on alleged violations of ethical
3 or professional teaching performance, contractual obligations, and professional
4 teaching misconduct;

5 (3) review the regulations of the department as they relate to teacher
6 certification and recommend necessary changes;

7 (4) review the decisions of the department regarding the issuance or
8 denial of certificates and in its discretion recommend reversal of decisions;

9 **(5) reduce the commission's administrative costs by using**
10 **administrative support services provided by the department.**

11 * **Sec. 16.** AS 14.30 is amended by adding a new section to read:

12 **Article 15. Virtual Education.**

13 **Sec. 14.30.760. Virtual education consortium.** (a) The department, in
14 cooperation with school districts, shall establish a virtual education consortium for the
15 purpose of making virtual education and professional development resources available
16 to students and teachers in the state. The consortium shall create and maintain a
17 database of virtual education courses for students in grades six through 12, training in
18 virtual instruction for teachers of students in grades six through 12, and professional
19 development courses for teachers of students in any grade. A school district or a third-
20 party vendor may provide a course for students or teachers that is included in the
21 database. A virtual education course for students may only be included in the database
22 if the course is approved by the department under (b) of this section.

23 (b) The department shall review the curriculum of a virtual education course
24 for students before including the course in the database. The department may approve
25 the course if the course is appropriate for students in grades six through 12 and aligned
26 with state standards established by the department. The database must be accessible to
27 all school districts and include the following information for each course:

- 28 (1) title, subject, and description;
29 (2) the name of the school district that provides the course;
30 (3) a description of the method of instruction; the description must
31 indicate whether the instruction is synchronous, asynchronous, or blended; and

1 (4) samples of the curriculum and instruction provided in the course,
2 including an introductory video of the instructor, and, for a synchronous course, a
3 video of the instructor teaching.

4 (c) The consortium shall provide training for teachers of students in grades six
5 through 12 on virtual instruction methods and the differences between virtual
6 instruction and instruction offered in a classroom. A teacher may not provide
7 instruction through a course for students that is in the database unless

8 (1) the teacher has completed the training provided by the consortium;
9 or

10 (2) the consortium determines that the teacher's previous experience
11 has prepared the teacher to provide virtual instruction and the teacher demonstrates the
12 skills necessary to provide virtual instruction.

13 (d) In addition to providing training for teachers under (c) of this section, the
14 consortium shall offer professional development courses for teachers of students in
15 any grade through the database. A school district with adequate broadband Internet
16 access to participate in virtual professional development courses shall require teachers
17 in that school district to complete professional development training through the
18 consortium. The consortium may require, as a condition of participation, that school
19 districts participating in virtual professional development courses for teachers adopt
20 the same in-service days.

21 (e) The school district in which a student taking a course included in the
22 database under (b) of this section is enrolled shall pay a fee to the host district of the
23 course. The school district in which the student is enrolled shall calculate the fee by
24 multiplying the base student allocation by a fraction, the numerator of which is the
25 number of classes the student is taking during the school year that are provided by the
26 host district, and the denominator of which is the total number of classes in which the
27 student is enrolled for the school year in any school district.

28 (f) A school district that provides a course included in the database under (b)
29 of this section shall pay a fee to the consortium. The department shall establish the fee
30 in regulations based on a recommendation of the consortium and may adjust the fee
31 annually as necessary. By June 30, 2020, the fees must approximately equal the

consortium's administrative costs related to reviewing and approving courses and maintaining the database.

(g) The consortium may require, as a condition of participation, that school districts that provide courses or have students participating in courses included in the database under (b) of this section adopt the same school term and class schedule for all or part of a school day. The school term must meet the requirements of AS 14.03.030.

(h) In this section,

(1) "asynchronous" means instruction that does not require the simultaneous participation of a student and instructor;

(2) "base student allocation" means the amount set out in AS 14.17.470;

(3) "blended" means instruction that uses a combination of asynchronous and synchronous delivery;

(4) "host district" means the school district that provides a course included in the database;

(5) "synchronous" means instruction that requires the simultaneous participation of a student and instructor; synchronous instruction is delivered in real time through videoconferencing or other live means;

(6) "virtual education" or "virtual instruction" means instruction delivered through telecommunications or other digital or electronic methods.

* **Sec. 17.** AS 23.10.055(a) is amended to read:

(a) The provisions of AS 23.10.050 - 23.10.150 do not apply to

(1) an individual employed in agriculture, which includes farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices, including forestry and lumbering operations, performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, or delivery to storage or to market or to carriers for transportation to market;

(2) an individual employed in the catching, trapping, cultivating or

1 farming, netting, or taking of any kind of fish, shellfish, or other aquatic forms of
2 animal and vegetable life;

3 (3) an individual employed in the hand picking of shrimp;

4 (4) an individual employed in domestic service, including a baby-
5 sitter, in or about a private home;

6 (5) an individual employed by the United States or by the state or a
7 political subdivision of the state, [EXCEPT AS PROVIDED IN AS 23.10.065(b),]
8 including prisoners not on furlough detained or confined in prison facilities;

9 (6) an individual engaged in the nonprofit activities of a nonprofit
10 religious, charitable, cemetery, or educational organization or other nonprofit
11 organization where the employer-employee relationship does not, in fact, exist, and
12 where services rendered to the organization are on a voluntary basis and are related
13 only to the organization's nonprofit activities; for purposes of this paragraph,
14 "nonprofit activities" means activities for which the nonprofit organization does not
15 incur a liability for unrelated business income tax under 26 U.S.C. 513, as amended;

16 (7) an employee engaged in the delivery of newspapers to the
17 consumer;

18 (8) an individual employed solely as a watchman or caretaker of a
19 plant or property that is not in productive use for a period of four months or more;

20 (9) an individual employed

21 (A) in a bona fide executive, administrative, or professional
22 capacity;

23 (B) in the capacity of an outside salesman or a salesman who is
24 employed on a straight commission basis; or

25 (C) as a computer systems analyst, computer programmer,
26 software engineer, or other similarly skilled worker;

27 (10) an individual employed in the search for placer or hard rock
28 minerals;

29 (11) an individual under 18 years of age employed on a part-time basis
30 not more than 30 hours in a week;

31 (12) employment by a nonprofit educational or child care facility to

1 serve as a parent of children while the children are in residence at the facility if the
 2 employment requires residence at the facility and is compensated on a cash basis
 3 exclusive of room and board at an annual rate of not less than

4 (A) \$10,000 for an unmarried person; or

5 (B) \$15,000 for a married couple;

6 (13) an individual who drives a taxicab, is compensated for taxicab
 7 services exclusively by customers of the service, whose written contractual
 8 arrangements with owners of taxicab vehicles, taxicab permits, or radio dispatch
 9 services are based upon flat contractual rates and not based on a percentage share of
 10 the individual's receipts from customers, and whose written contract with owners of
 11 taxicab vehicles, taxicab permits, or radio dispatch services specifically provides that
 12 the contract places no restrictions on hours worked by the individual or on areas in
 13 which the individual may work except to comply with local ordinances;

14 (14) a person who holds a license under AS 08.54 and who is
 15 employed by a registered guide-outfitter or master guide-outfitter licensed under
 16 AS 08.54, for the first 60 workdays in which the person is employed by the registered
 17 guide-outfitter or master guide-outfitter during a calendar year;

18 (15) an individual engaged in activities for a nonprofit religious,
 19 charitable, civic, cemetery, recreational, or educational organization where the
 20 employer-employee relationship does not, in fact, exist, and where services are
 21 rendered to the organization under a work activity requirement of AS 47.27 (Alaska
 22 temporary assistance program);

23 (16) an individual who

24 (A) provides emergency medical services only on a voluntary
 25 basis;

26 (B) serves with a full-time fire department only on a voluntary
 27 basis; or

28 (C) provides ski patrol services on a voluntary basis;

29 (17) a student participating in a University of Alaska practicum
 30 described under AS 14.40.065;

31 (18) an individual who is employed by a motor vehicle dealer and

whose primary duty is to

(A) receive, analyze, or reference requests for service, repair, or analysis of motor vehicles;

(B) arrange financing for the sale of motor vehicles and related products and services that are added or included as part of the sale; or

(C) solicit, sell, lease, or exchange motor vehicles.

* **Sec. 18.** AS 37.10.071(d) is amended to read:

(d) In exercising investment, custodial, or depository powers or duties under this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty that is assigned or delegated under this section, or under AS 14.40.255, 14.40.280(c), 14.40.400(b), AS 37.10.070, AS 37.14.160 [AS 37.14.110(c), 37.14.160], or 37.14.170. However, the fiduciary or the designee is not liable for a breach of a duty that has been delegated to another person if the delegation is prudent under the applicable standard of prudence set out in statute or if the duty is assigned by law to another person, except to the extent that the fiduciary or designee

(1) knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person knowing that the act or omission is a breach of that person's duties under this chapter;

(2) by failure to comply with this section in the administration of specific responsibilities, enables another person to commit a breach of duty; or

(3) has knowledge of a breach of duty by another person, unless the fiduciary or designee makes reasonable efforts under the circumstances to remedy the breach.

* **Sec. 19.** AS 37.14.130 is amended to read:

Sec. 37.14.130. Powers and duties of board. The board created in AS 37.14.120 has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary; and

(2) to have prepared an annual accounting of the [PRINCIPAL AND INCOME OF THE] fund established in AS 37.14.110.

* **Sec. 20.** AS 37.14.160 is amended to read:

1 **Sec. 37.14.160. Duties of the commissioner of revenue.** The commissioner of
 2 revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

3 (1) in carrying out investment duties under this section, exercise the
 4 same powers and duties established for the Alaska Retirement Management Board in
 5 AS 37.10.220;

6 (2) deposit the principal and income from investments **into** [IN
 7 SEPARATE PRINCIPAL AND INCOME ACCOUNTS FOR] the fund;

8 (3) invest and maintain accounting records [THAT DISTINGUISH
 9 BETWEEN THE PRINCIPAL AND INCOME] of the fund;

10 (4) provide reports to the board established under AS 37.14.120 on the
 11 condition and investment performance of the fund;

12 **(5) determine, on July 1 of each year, the monthly average market**
 13 **value of the fund for the previous three fiscal years.**

14 * **Sec. 21.** AS 37.14 is amended by adding a new section to read:

15 **Sec. 37.14.165. Use of the public school trust fund.** Each year, the legislature
 16 may appropriate 4.75 percent of the amount determined by the commissioner of
 17 revenue under AS 37.14.160(5) for the following purposes:

18 (1) funding support of the state public school program; and

19 (2) reimbursement of the costs of administration of the fund.

20 * **Sec. 22.** AS 37.14.170 is amended to read:

21 **Sec. 37.14.170. Investments.** The commissioner of revenue is the fiduciary of
 22 the trust fund and shall invest the fund to provide increasing **returns from capital**
 23 **appreciation and** net income over long-term periods to the fund's **current**
 24 [INCOME] beneficiaries. The commissioner may invest the money in the fund on the
 25 basis of probable total rate of return to promote the long-term generation of **capital**
 26 **appreciation and** income. In managing the trust fund, the commissioner shall

27 (1) consider the status of the fund's capital and the income generated
 28 on both a current and a probable future basis;

29 (2) determine the appropriate investment objectives;

30 (3) establish investment policies to achieve the objectives; and

31 (4) act only in regard to the financial interests of the fund's

beneficiaries.

* **Sec. 23.** AS 14.20.470(a)(7); AS 23.10.065(b), and 23.10.065(c) are repealed.

* **Sec. 24.** AS 37.14.110(c) and 37.14.140 are repealed.

* **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. The repeals of AS 23.10.065(b) and (c) by sec. 23 of this Act apply to a contract entered into on or after the effective date of sec. 23 of this Act.

* **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Sections 18 - 22 and 24 of this Act take effect only if a court of competent jurisdiction enters a final judgment on the merits that is no longer subject to appeal that provides instruction to the state under AS 13.36.035 or other trust common law that the combining of the income and principal in the public school trust fund and the authorization to appropriate funds from the principal of the public school trust fund under secs. 18 - 22 and 24 of this Act do not violate trust duties of the state regarding the grants of land for the benefit of public schools made in Section 6(k) of the Alaska Statehood Act. As soon as practicable after a final judgment described under this section is entered and is no longer subject to appeal, the commissioner of education and early development shall certify to the lieutenant governor and the revisor of statutes that the final judgment has been entered.

* **Sec. 27.** If secs. 18 - 22 and 24 of this Act take effect under sec. 26 of this Act, they take effect on the day after the commissioner of education and early development makes a certification to the revisor of statutes under sec. 26 of this Act.

* **Sec. 28.** Sections 1 - 17, 23, and 25 of this Act and take effect June 30, 2017.