

SENATE BILL NO. 224

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/19/10

Referred: Education, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the governor's performance scholarship program and relating to
2 the program; establishing the governor's performance scholarship fund and relating to
3 the fund; relating to student records; making conforming amendments; and providing
4 for an effective date."

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

6 * **Section 1.** AS 14.03 is amended by adding a new section to read:

7 **Sec. 14.03.113. District determination of scholarship eligibility.** A school
8 district shall determine whether a student who graduates from a high school in the
9 district is eligible for an award of a governor's performance scholarship under AS
10 14.43.810 - 14.43.890. If a student is eligible, the district shall include in a student's
11 permanent record the highest tier of funding for which the student is eligible. A district
12 shall provide a student with an opportunity to request that the district correct any
13 errors in the eligibility determination.

14 * **Sec. 2.** AS 14.07.020(a) is amended by adding a new paragraph to read:

1 (18) administer duties assigned to the department under the governor's
 2 performance scholarship program established in AS 14.43.810 - 14.43.890.

3 * **Sec. 3.** AS 14.42.030(e) is amended to read:

4 (e) The commission may

5 (1) adopt regulations under AS 44.62 (Administrative Procedure Act)

6 to

7 (A) carry out the purposes of

8 (i) AS 14.43.091 - 14.43.890 [AS 14.43.091 -
 9 14.43.750], 14.43.990, AS 14.44, and AS 14.48; and

10 (ii) AS 14.43.910 and 14.43.920 as they relate to the
 11 purposes of AS 14.43.091 - 14.43.890 [AS 14.43.091 - 14.43.750],
 12 14.43.990, AS 14.44, and AS 14.48;

13 (B) ensure compliance with the requirements imposed by state
 14 and federal statutes and regulations governing the guaranty, insurance,
 15 purchase, or other dealings in eligible loans by federal agencies,
 16 instrumentalities, or corporations; and

17 (C) establish standards for the

18 (i) administration of hearings conducted under AS
 19 14.43.153; and

20 (ii) administrative enforcement of collection orders
 21 under AS 14.43.151 - 14.43.155;

22 (2) delegate to the executive director of the commission or a
 23 subcommittee of the commission any duty imposed on or power granted to the
 24 commission by this chapter, AS 14.43, AS 14.44, or AS 14.48, except its power to
 25 adopt regulations and its duty to consider appeals under AS 14.43.100(b) and AS
 26 14.48.120;

27 (3) establish task forces, committees, or subcommittees, not
 28 necessarily consisting of commission members, to advise and assist the commission in
 29 carrying out its functions;

30 (4) contract with or use existing institutions of postsecondary
 31 education or other individuals or organizations to make studies, conduct surveys,

1 submit recommendations, or otherwise contribute to the work of the commission;

2 (5) establish fees for the review of an out-of-state institution that

3 (A) requests approval for participation in the programs under
4 AS 14.43.091 - 14.43.750, 14.43.990, and AS 14.44; and

5 (B) is not accredited by a national or regional accreditation
6 association recognized by the Council for Higher Education Accreditation; and

7 (6) collect all fees and costs incurred in collection of the amount owed
8 on a loan or repayment obligation if the loan or repayment obligation becomes
9 delinquent or in default; in this paragraph, fees and costs include attorney fees, court
10 costs, and collection fees charged by a collection agency.

11 * **Sec. 4.** AS 14.43 is amended by adding new sections to read:

12 **Article 11A. Governor's Performance Scholarship.**

13 **Sec. 14.43.810. Governor's performance scholarship established; Alaska**
14 **residency.** (a) The governor's performance scholarship program is established to
15 provide scholarship opportunities for Alaska resident high school graduates to attend a
16 qualified postsecondary institution in the state. The program includes a merit-based
17 academic scholarship and a merit-based career and technical school scholarship. The
18 merit-based academic scholarship consists of three levels of awards. The merit-based
19 career and technical school scholarship consists of one level of award.

20 (b) The Department of Education and Early Development shall design the
21 programmatic standards for the scholarships and appeals of adverse decisions. The
22 Alaska Commission on Postsecondary Education shall administer the daily operations
23 of the program and financing of the program, including the procedures for applying
24 for the scholarships, establishing standards for and ensuring continuing compliance
25 with programmatic standards, and requiring students to apply for other non-loan
26 financial aid, consistent with federal law. The respective agencies shall adopt
27 necessary regulations under AS 44.62 after consultation with each other. The
28 department may change the regulations under AS 44.62 for requirements for
29 programmatic standards for required academic achievement for eligibility only by
30 giving advanced public notice at least one school year before the change.

31 (c) For purposes of this program, a student is an Alaska resident if the student

1 meets the eligibility for residency as described in AS 01.10.055.

2 (d) The program shall be administered to further the following goals:

3 (1) increasing high school graduation rates in the state;

4 (2) improving academic performance of students in grades
5 kindergarten through 12 in the state;

6 (3) improving preparedness of Alaska students for postsecondary
7 education;

8 (4) improving the quality of the educational programs offered by high
9 schools in the state;

10 (5) increasing the scores of high school students in the state on college
11 entrance examinations;

12 (6) increasing job training opportunities in the state;

13 (7) improving the postsecondary academic achievement and
14 graduation rates of students in the state;

15 (8) expanding the pool of high school students in the state who pursue
16 postsecondary opportunities.

17 **Sec. 14.43.815. Qualifications of applicants.** (a) A student may submit an
18 application for a governor's performance scholarship to attend a qualified
19 postsecondary institution in the state if the student

20 (1) has applied or intends to apply for admission to the institution;

21 (2) is an Alaska resident who has

22 (A) graduated, or will graduate no later than six months after
23 the date of the application from a high school in the state, including a public
24 school, private school, and home school;

25 (B) graduated, or will graduate no later than six months after
26 the date of the application from a high school outside of the state under
27 circumstances allowed by the department; for purposes of this subparagraph,
28 allowable circumstances include an Alaska resident high school student having
29 left the state because of the military service of the student's Alaska resident
30 custodial parent;

31 (3) will receive and utilize the scholarship at a qualified postsecondary

1 institution in the state no later than six years after the beginning of the first school year
 2 after a student's graduation from high school, unless the applicant qualifies for an
 3 extension of time allowed by the department; for purposes of this paragraph, standards
 4 for extension of time must include time while the student is in military service; and

5 (4) meets other minimum qualifications to apply or continue to be
 6 eligible for a governor's performance scholarship.

7 (b) A student is not qualified to receive a governor's performance scholarship
 8 if the person

9 (1) has not complied with the military service registration imposed
 10 under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were
 11 applicable to the student;

12 (2) is currently in default or owes a refund on a federal financial aid
 13 loan under the federal guaranteed student loan program or financial aid awarded under
 14 this chapter; or

15 (3) has been convicted of a felony in the state or another jurisdiction
 16 and has not qualified for a waiver under standards adopted by the department.

17 **Sec. 14.43.820. Eligibility for an academic scholarship.** (a) Subject to
 18 appropriation, the commission shall award a merit-based academic scholarship to an
 19 applicant who meets the eligibility criteria for the award under the program.

20 (b) The programmatic standards for eligibility for an award of a merit-based
 21 academic scholarship under the program include the following:

22 (1) the four-year core academic curriculum that the student must have
 23 completed in high school; the core academic curriculum must include

24 (A) four years of mathematics;

25 (B) four years of language arts;

26 (C) four years of science; and

27 (D) three years of social studies;

28 (2) the minimum grade-point average that the student must have
 29 achieved in high school to be eligible for each of the three tiers of academic
 30 scholarship;

31 (3) the minimum score on a college entrance examination that the

1 student must have achieved to be eligible for each of the three tiers of academic
2 scholarship;

3 (4) enrollment in a course of study at a qualified university or college
4 in this state that is intended to result in the award of a certificate or degree;

5 (5) a process through which a student who is no longer eligible can
6 regain eligibility;

7 (6) a process through which a home-schooled or private-schooled
8 student may submit evidence to the qualified university or college that establishes the
9 equivalent of the high school diploma, grade-point average, and core academic
10 curriculum for public school students.

11 **Sec. 14.43.825. Eligibility for a career and technical school scholarship.** (a)

12 Subject to appropriation, the commission shall award a merit-based career and
13 technical school scholarship to a student who meets the eligibility criteria for the
14 award under the program.

15 (b) The programmatic standards for eligibility for an award of a merit-based
16 career and technical school scholarship under the program include the following:

17 (1) the core academic curriculum that the student must have completed
18 in high school; the core academic curriculum must include

19 (A) four years of mathematics;

20 (B) four years of language arts;

21 (C) four years of science; and

22 (D) three years of social studies;

23 (2) the minimum grade-point average that the student must have
24 achieved in high school;

25 (3) the minimum score that the student must have achieved on a

26 (A) college entrance examination; or

27 (B) standardized examination designed to measure a student's
28 level of preparedness to make the transition to work, as selected by the
29 department;

30 (4) enrollment in good standing at a certified career and technical
31 school that is intended to result in the award of a certificate that indicates the student's

1 preparedness to enter the workforce;

2 (5) a process through which a student who is no longer eligible can
3 regain eligibility.

4 **Sec. 14.43.827. Maximum awards and allowable uses.** (a) Subject to (b) - (e)
5 of this section, the maximum awards for the program are as follows:

6 (1) for the merit-based academic scholarship, three tiers of scholarship
7 financing awards; the highest tier of award per semester must be equal to the cost of
8 approved tuition at the University of Alaska in school year 2010 through 2011 for a
9 student taking 15 credits, and require very high academic achievement; the second tier
10 must be 75 percent of the highest tier and require high academic achievement; the
11 third tier must be 50 percent of the highest tier and require moderate academic
12 achievement;

13 (2) for the merit-based career and technical scholarship, the award
14 must be the actual cost of the qualified career and technical school attended by the
15 student, not to exceed \$3,000 per school year;

16 (3) a student's academic achievement must be determined by the
17 student's high school grade-point average and score on an examination described in
18 AS 14.43.820(b)(3) and 14.43.825(b)(3).

19 (b) A part-time student who receives a merit-based academic scholarship and
20 is enrolled on at least a half-time basis is eligible for an award on a pro rata basis.

21 (c) A student's eligibility for a scholarship terminates six years after the date
22 the student graduated from high school unless the student qualifies for an extension of
23 time allowed by the department. The department shall recognize the student's military
24 service in making allowances under this subsection.

25 (d) Subject to AS 14.43.815(a)(3), a student receiving a merit-based academic
26 scholarship may remain eligible for up to eight semesters of enrollment at a qualified
27 university or college, which may include graduate courses. A student receiving a
28 merit-based career and technical scholarship may remain eligible for two calendar
29 years of attendance at a qualified career and technical school. A student may not
30 receive both an academic and a career and technical scholarship.

31 (e) The amount of a scholarship award may not exceed the amount of the

1 student's costs of attendance as certified by the postsecondary institution for the
 2 purposes of federal financial aid, less any other scholarships or non-loan financial aid
 3 awarded to the student.

4 **Sec. 14.43.830. Programmatic standards.** (a) Subject to (b) of this section,
 5 the department shall establish programmatic standards for the program.

6 (b) The department shall establish a make-up procedure or alternative pathway
 7 for students who are not eligible for a scholarship to make up a deficit by alternative
 8 means if the deficit was caused by circumstances that would make it unfair not to
 9 allow the student to make up the deficit. The department may not waive a requirement
 10 and shall require the student to achieve a result comparable to that required of other
 11 students. The decision of the department regarding a student's eligibility for alternative
 12 means is final. In determining circumstances in which the student may pursue
 13 alternative means, the department shall consider the fairness to students who have met
 14 the requirements and the need to promote the goals of the program. Attendance at a
 15 high school outside of the state is not a circumstance in which fairness requires that a
 16 student be allowed to pursue alternative means to qualify for a scholarship.
 17 Circumstances in which the department may allow a student to pursue alternative
 18 means to qualify for a scholarship include the following:

19 (1) the required curriculum was not reasonably available to the student
 20 because the student attended a small and remote high school in the state;

21 (2) the deficit was caused by rare and unusual circumstances outside
 22 the control of the student.

23 **Sec. 14.43.835. Qualified postsecondary institutions.** (a) The following
 24 institutions are qualified postsecondary institutions:

25 (1) a university or college physically located in the state that is

26 (A) authorized to operate in the state under AS 14.48.020, or
 27 exempt from authorization under AS 14.48.030(b)(1); and

28 (B) accredited by a regional accreditation association;

29 (2) a career and technical school program physically located in the
 30 state that has been included on a list of certified career and technical school programs
 31 received from the Department of Labor and Workforce Development; the commission

1 shall publish the list on or before September 1 of the year preceding enrollment.

2 (b) The Department of Labor and Workforce Development shall, in
3 consultation with the Department of Education and Early Development, adopt
4 regulations under AS 44.62 establishing criteria under which the Department of Labor
5 and Workforce Development shall certify career and technical school programs in the
6 state as eligible to participate in the career and technical school scholarship program.
7 The criteria to be considered under this subsection include the following:

8 (1) the quality of the job-training program offered by the career and
9 technical school;

10 (2) the employability of a graduate of the program, including whether
11 the program results in a certificate or license that is recognized by the industry for
12 which the training prepares the student;

13 (3) whether jobs in the industry for which the training prepares the
14 student are available or expected to be available in the future in the state;

15 (4) other criteria established by the Department of Labor and
16 Workforce Development in regulation.

17 (c) A postsecondary institution is physically located in the state if the campus,
18 teachers, classrooms, school administrators, and equipment used to provide the
19 education to the students are physically present in the state. Use of virtual, electronic,
20 or online materials by teachers in the state does not disqualify a postsecondary
21 institution even if the materials are generated outside the state. However, a
22 correspondence, virtual, electronic, or online program that is administered from
23 outside the state is not physically located in the state even if the program is delivered
24 by teachers or equipment in the state.

25 **Sec. 14.43.840. Application and award.** (a) The commission shall establish
26 application procedures for students to apply for a governor's performance scholarship.

27 (b) The commission shall adopt procedures for payment of scholarship awards
28 to the institution attended by the scholarship recipient. Payment of a scholarship is
29 subject to appropriation. If insufficient funds are appropriated to pay all eligible
30 scholarships, the commission shall pay existing awards on a pro rata basis.

31 (c) A student who is awarded a scholarship in error shall be required to refund

1 to the state the amount of the scholarship awarded in error.

2 **Sec. 14.43.845. Governor's performance scholarship fund income account.**

3 The governor's performance scholarship fund income account is created as an account
4 in the general fund. Money may be appropriated into the account from the expendable
5 earnings of the governor's performance scholarship fund under AS 37.14.750 -
6 37.14.790 and other sources. The commission may use money in the account to pay
7 scholarships awarded to students under AS 14.43.810 - 14.43.890.

8 **Sec. 14.43.850. Report to the legislature.** (a) To the extent permitted under
9 law, the department, commission, University of Alaska, Department of Revenue, and
10 Department of Labor and Workforce Development shall share data necessary to
11 prepare public reports regarding the governor's performance scholarship program.

12 (b) No more than 10 days after the start of each year's legislative session, the
13 department, commission, University of Alaska, Department of Revenue, and
14 Department of Labor and Workforce Development shall present an annual report to
15 the public, the governor, and the legislature containing information of public interest
16 regarding the governor's performance scholarship program, including

17 (1) the number of applicants and number and types of scholarships
18 awarded;

19 (2) dollar amount of scholarships awarded in past years and expected
20 dollar amounts for the next year; and

21 (3) data and trends in the data regarding the goals identified in AS
22 14.43.810.

23 **Sec. 14.43.890. Definitions.** In AS 14.43.810 - 14.43.890, unless the context
24 requires otherwise,

25 (1) "commission" means the Alaska Commission on Postsecondary
26 Education;

27 (2) "commissioner" means the commissioner of education and early
28 development;

29 (3) "department" means the Department of Education and Early
30 Development;

31 (4) "grade-point average" means the average of all grades on a four-

1 point scale, or five-point scale for advanced placement classes, obtained by the student
2 in high school;

3 (5) "military service" means active duty in the armed forces of the
4 United States;

5 (6) "program" means the governor's scholarship program established
6 under AS 14.43.810 - 14.43.890;

7 (7) "school district" means a borough school district, a city school
8 district, a regional educational attendance area, and a state boarding school.

9 * **Sec. 5.** AS 14.45.130(a) is amended to read:

10 (a) A religious or other private school that elects to comply with AS 14.45.100
11 - 14.45.130 shall maintain permanent student records reflecting immunizations,
12 physical examinations, standardized testing, academic achievement, [and] courses
13 taken at the school, and level of eligibility for a governor's performance
14 scholarship under AS 14.43.810 - 14.43.890.

15 * **Sec. 6.** AS 23.05.060 is amended to read:

16 **Sec. AS 23.05.060. Powers of the department.** The department may

17 (1) enforce all state labor laws;

18 (2) act as mediator and appoint deputy commissioners of conciliation
19 in labor disputes whenever it considers the interest of industrial peace requires it;

20 (3) make investigations and collect and compile statistical information
21 concerning the conditions of labor generally and upon all matters relating to the
22 enforcement of this chapter;

23 (4) institute court proceedings against an employer of labor without
24 cost to the employee when it is satisfied that the employer has failed to pay an
25 employee an amount due by contract;

26 (5) issue cease and desist orders and other orders and regulations
27 necessary for the enforcement of state labor laws;

28 (6) in accordance with AS 37.07 (the Executive Budget Act), receive
29 and spend money derived from agreements with local governments, nongovernmental
30 organizations, or other persons;

31 (7) administer duties assigned to the department under the

1 **governor's performance scholarship program established in AS 14.43.810 -**
 2 **14.43.890.**

3 * **Sec. 7.** AS 37.14 is amended by adding new sections to read:

4 **Article 8A. Governor's Performance Scholarship Fund.**

5 **Sec. 37.14.750. Governor's performance scholarship fund established. (a)**

6 The governor's performance scholarship fund is established as a fund of the state. The
 7 fund consists of

- 8 (1) appropriations to the fund;
 9 (2) donations to the fund; and
 10 (3) income earned on investments of fund assets.

11 (b) The commissioner of revenue shall manage the fund with the goal that the
 12 purchasing power of the fund will not diminish over time without regard to additional
 13 contributions that may be made to the fund. The commissioner shall invest the assets
 14 of the fund in a manner likely to yield at least a five percent real rate of return over
 15 time.

16 (c) Nothing in this section creates a dedicated fund.

17 **Sec. 37.14.755. Powers and duties of the commissioner of revenue.** In

18 carrying out the investment duties under AS 37.14.750 - 37.14.790, the commissioner
 19 of revenue has the powers and duties set out in AS 37.10.071. The commissioner shall
 20 provide reports to the Department of Education and Early Development, Department
 21 of Labor and Workforce Development, and the Alaska Commission on Postsecondary
 22 Education on the condition and investment performance of the fund.

23 **Sec. 37.14.760. Use of fund.** As soon as practicable after July 1 of each year,
 24 the commissioner of revenue shall determine the average month-end market value of
 25 the fund for the immediately preceding three fiscal years. The commissioner shall
 26 identify five percent of that amount as available for appropriation by the legislature for
 27 appropriation to the governor's performance scholarship fund income account created
 28 under AS 14.43.845 from which the Alaska Commission on Postsecondary Education
 29 may award scholarships under AS 14.43.810 - 14.43.890. The commissioner shall also
 30 report as available for appropriation a running total of amounts that had previously
 31 been identified as available for appropriation to the governor's performance

1 scholarship fund income account but that had not been appropriated.

2 **Sec. 37.14.790. Definitions.** In AS 37.14.750 - 37.14.790, unless the context
3 requires otherwise,

4 (1) "commissioner" means the commissioner of revenue;

5 (2) "fund" means the governor's performance scholarship fund
6 established in AS 37.14.750(a).

7 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: PROGRAM STANDARDS AND IMPLEMENTATION FOR
10 INITIAL SCHOOL YEARS. Notwithstanding any contrary provision of this Act, the
11 Department of Education and Early Development and the Department of Labor and
12 Workforce Development, after consultation with the Alaska Commission on Postsecondary
13 Education, may adopt regulations under AS 44.62 to implement their respective duties under
14 the governor's performance scholarship program established in AS 14.43.810, enacted by sec.
15 4 of this Act, so that students

16 (1) may be eligible for the program even though they did not fully meet the
17 required core academic curriculum for the school years beginning July 1, 2010 through June
18 30, 2013; and

19 (2) who graduated from high school in this state after June 30, 2010 and
20 before July 1, 2011 and meet eligibility requirements for the program may apply for their
21 scholarships beginning July 1, 2011.

22 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 TRANSITION: REGULATIONS. The Department of Education and Early
25 Development, the Department of Labor and Workforce Development, and the Alaska
26 Commission on Postsecondary Education may proceed to adopt regulations necessary to
27 implement changes made to their respective authorities by this Act. The regulations take
28 effect under AS 44.62 (Administrative Procedure Act), but not before September 1, 2010.

29 * **Sec. 10.** Section 9 of this Act takes effect immediately under AS 01.10.070(c).

30 * **Sec. 11.** Except as provided in sec. 10 of this Act, this Act takes effect September 1, 2010.