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Original sponsors: Kerttula and Kelly

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 136 (HESS)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Alaska education trust fund  
and authorizing advance tuition payment contracts;  
and providing for an effective date."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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\* Section 1. AS 14.42 is amended by adding new sections to read:

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ARTICLE 3. ALASKA EDUCATION TRUST FUND.

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Sec. 14.42.400. ALASKA EDUCATION TRUST FUND ESTABLISHED. (a)

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The Alaska education trust fund is established as an endowment trust  
fund separate from the general fund. The fund may be divided into  
separate accounts for accounting purposes.

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(b) The fund consists of

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(1) permanent fund dividend and cash contributions made

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under AS 14.42.420 under the terms of an advance tuition payment  
contract;

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(2) gifts, bequests, and contributions of cash or other

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assets from a person; and

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(3) income and earnings of the fund.

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(c) Assets of the fund shall be expended in the following order

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of priority:

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(1) to make payments to the University of Alaska on behalf

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of qualified beneficiaries;

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(2) to make refunds upon termination of an advance tuition

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payment contract;

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(3) to pay the costs of administration of the fund.

1           Sec. 14.42.410. POWERS AND DUTIES OF THE COMMISSIONER OF REVE-  
2           NUE. The commissioner of revenue is the treasurer of the fund and has  
3           the following powers and duties under this section:

4                   (1) to act as official custodian of the cash and invest-  
5           ments belonging to the fund by securing adequate and safe custodial  
6           facilities;

7                   (2) to receive all items of cash and investments belonging  
8           to the fund;

9                   (3) to collect the principal and income from investments  
10          owned or acquired by the state treasury and deposit the amounts in  
11          separate principal and income accounts for the fund;

12                   (4) to invest and reinvest the assets of the fund as pro-  
13          vided in this section and as provided for the investment of retirement  
14          funds under AS 14.25.180(b), (c), and (e) - (h);

15                   (5) to exercise the powers of an owner with respect to the  
16          assets of the fund;

17                   (6) to do all acts, whether or not expressly authorized,  
18          that the commissioner of revenue considers necessary or proper in  
19          administering the assets of the fund;

20                   (7) to maintain accounting records of the fund in accor-  
21          dance with investment accounting principles and with distinction  
22          between the principal and income accounts of the fund;

23                   (8) to engage an independent firm of certified public  
24          accountants to annually audit the financial condition of the fund's  
25          investments and investment transactions;

26                   (9) to enter into and enforce contracts or agreements  
27          considered necessary for the investment purposes of the fund;

28                   (10) to report to the commission the condition and invest-  
29          ment performance of the fund.

1           Sec. 14.42.420. CONTRIBUTION TO THE ALASKA EDUCATION TRUST FUND.

2           (a) Contributions to the fund under the terms of an advance payment  
3 contract may be made by direct cash payments or by contributions from  
4 the permanent fund dividend. The Department of Revenue shall prepare  
5 the permanent fund dividend application to allow an applicant to  
6 contribute all or part of a dividend to the fund under the terms of an  
7 advance tuition payment contract.

8           (b) The Department of Revenue shall pay contributions directly  
9 to the fund.

10          Sec. 14.42.430. POWERS AND DUTIES OF THE COMMISSION. (a) The  
11 commission may contract with a purchaser for the advance payment of  
12 tuition by the purchaser for a qualified beneficiary to attend a  
13 branch of the university to which the qualified beneficiary is admit-  
14 ted, without further tuition cost to the qualified beneficiary.

15          (b) The commission shall

16               (1) make appropriate arrangements with the university as  
17 necessary to fulfill the commission's obligations under an advance  
18 tuition payment contract, including arrangements for the payment of  
19 current tuition rates to the university from the fund;

20               (2) establish standard payment plans to be used under  
21 advance tuition payment contracts;

22               (3) establish the circumstances under which an advance  
23 tuition payment contract may be terminated and the amount of the  
24 refund the person entitled to terminate the contract may receive.

25          Sec. 14.42.440. ADVANCE TUITION PAYMENT CONTRACTS. (a) An  
26 advance tuition payment contract shall include

27               (1) the amount of payments required from the purchaser on  
28 behalf of the qualified beneficiary;

29               (2) the terms and conditions for making the payments;

- 1           (3) provisions for late payment charges and for default;
- 2           (4) the name and age of the qualified beneficiary under the  
3 contract and a statement that the purchaser, with the approval of the  
4 commission, may substitute another person for the qualified benefi-  
5 ciary originally named in the contract;
- 6           (5) the number of credit hours to be provided to the quali-  
7 fied beneficiary under the contract;
- 8           (6) the name of the persons entitled to terminate the  
9 contract, the terms and conditions under which the contract may be  
10 terminated, and the amount of the refund to which the person terminat-  
11 ing the contract is entitled;
- 12           (7) the assumption of a contractual obligation by the  
13 commission to provide for credit hours of higher education at the  
14 university;
- 15           (8) the number of credit hours the qualified beneficiary  
16 may receive if the qualified beneficiary is not entitled to in-state  
17 tuition at the time of enrollment at the university;
- 18           (9) the period of time during which the qualified benefi-  
19 ciary may receive the benefits of the contract; and
- 20           (10) other terms and conditions the commission determines to  
21 be appropriate.
- 22           (b) An advance tuition payment contract may be terminated
- 23           (1) if the qualified beneficiary dies;
- 24           (2) if the qualified beneficiary is not admitted to a  
25 branch of the university after making a proper application;
- 26           (3) if the qualified beneficiary certifies to the commis-  
27 sion that the qualified beneficiary has been accepted by a degree  
28 granting institution of postsecondary education other than the Univer-  
29 sity of Alaska;

1 (4) if the qualified beneficiary certifies to the commis-  
2 sion, after the qualified beneficiary has received a high school  
3 diploma or reached the age of majority, that the qualified beneficiary  
4 has decided not to attend the university;

5 (5) if the commission determines that the number of pur-  
6 chasers is insufficient to maintain the fund on an actuarially sound  
7 basis; or

8 (6) under other circumstances determined by the commission  
9 and set out in the advance tuition payment contract.

10 Sec. 14.42.490. DEFINITIONS. In AS 14.42.400 - 14.42.490

11 (1) "advance tuition payment contract" means a contract  
12 entered into by the commission and a purchaser to provide for the  
13 higher education of a qualified beneficiary;

14 (2) "commission" means the Alaska Commission on Postsecond-  
15 ary Education;

16 (3) "fund" means the Alaska education trust fund (AS 14.-  
17 42.400);

18 (4) "purchaser" means a person who makes or is obligated to  
19 make advance tuition payments under an advance tuition payment con-  
20 tract;

21 (5) "qualified beneficiary" means a resident of the state  
22 who has rights under an advance tuition payment contract;

23 (6) "university" means the University of Alaska, including  
24 a community college affiliated with the university.

25 \* Sec. 2. TAX DETERMINATION. The Department of Revenue shall request  
26 that the Internal Revenue Service determine if the income earned by the  
27 Alaska education trust fund established in sec. 1 of this Act is taxable  
28 income under federal law. The Alaska Commission on Postsecondary Education  
29 may not contract with a purchaser for the advanced payment of tuition under

1 AS 14.42.430, added by sec. 1 of this Act, until the Department of Revenue  
2 has received a determination from the Internal Revenue Service regarding  
3 the applicability of federal income taxes to the Alaska education trust  
4 fund.

5 \* Sec. 3. This Act takes effect July 1, 1989.