

Original sponsors: Kerttula and Kelly

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 136 (Finance)

3 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  
7 and authorizing advance tuition payment contracts;  
8 and providing for an effective date."

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

10 \* Section 1. AS 14.40 is amended by adding new sections to read:

11 ARTICLE 5. ALASKA EDUCATION TRUST FUND.

12 Sec. 14.40.731. ALASKA EDUCATION TRUST FUND ESTABLISHED. (a)

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

16 (b) The fund consists of

17 (1) permanent fund dividend and cash contributions made  
18 under AS 14.40.735 under the terms of an advance tuition payment  
19 contract;

20 (2) gifts, bequests, and contributions of cash or other  
21 assets from a person; and

22 (3) income and earnings of the fund.

23 (c) Assets of the fund shall be expended in the following order  
24 of priority:

25 (1) to make payments to the university on behalf of quali-  
26 fied beneficiaries;

27 (2) to make refunds upon termination of an advance tuition  
28 payment contract;

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

1           Sec. 14.40.733. 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;

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 university the condition and invest-  
29                  ment performance of the fund.

1           Sec. 14.40.735. 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. 14.40.737. POWERS AND DUTIES OF THE UNIVERSITY OF ALASKA.

11          (a) The Board of Regents of the University of Alaska may contract  
12 with a purchaser for the advance payment of tuition by the purchaser  
13 for a qualified beneficiary to attend a branch of the university to  
14 which the qualified beneficiary is admitted, without further tuition  
15 cost to the qualified beneficiary.

16          (b) The board shall

17               (1) make appropriate arrangements as necessary to fulfill  
18 the board's obligations under an advance tuition payment contract;

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

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

24          Sec. 14.40.739. ADVANCE TUITION PAYMENT CONTRACTS.   (a) An  
25 advance tuition payment contract must include

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

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

29               (3) provisions for late payment charges and for default;

1 (4) the name and age of the qualified beneficiary under the  
2 contract and a statement that the purchaser, with the approval of the  
3 board, may substitute another person for the qualified beneficiary  
4 originally named in the contract;

5 (5) the number of credit hours to be provided to the quali-  
6 fied beneficiary under the contract;

7 (6) the name of the persons entitled to terminate the  
8 contract, the terms and conditions under which the contract may be  
9 terminated, and the amount of the refund to which the person terminat-  
10 ing the contract is entitled;

11 (7) the assumption of a contractual obligation by the board  
12 to provide for credit hours of higher education at the university;

13 (8) the number of credit hours the qualified beneficiary  
14 may receive if the qualified beneficiary is not entitled to in-state  
15 tuition at the time of enrollment at the university;

16 (9) the period of time during which the qualified benefi-  
17 ciary may receive the benefits of the contract; and

18 (10) other terms and conditions the board determines to be  
19 appropriate.

20 (b) An advance tuition payment contract may be terminated

21 (1) if the qualified beneficiary dies;

22 (2) if the qualified beneficiary is not admitted to a  
23 branch of the university after making a proper application;

24 (3) if the qualified beneficiary certifies to the board  
25 that the qualified beneficiary has been accepted by a degree granting  
26 institution of postsecondary education other than the university;

27 (4) if the qualified beneficiary certifies to the board,  
28 after the qualified beneficiary has received a high school diploma or  
29 reached the age of majority, that the qualified beneficiary has

1 decided not to attend the university;

2 (5) if the board determines that the number of purchasers  
3 is insufficient to maintain the fund on an actuarially sound basis; or

4 (6) under other circumstances determined by the board and  
5 set out in the advance tuition payment contract.

6 Sec. 14.40.741. DEFINITIONS. In AS 14.40.731 - 14.40.741

7 (1) "advance tuition payment contract" means a contract  
8 entered into by the board and a purchaser to provide for the higher  
9 education of a qualified beneficiary;

10 (2) "board" means the Board of Regents of the university;

11 (3) "fund" means the Alaska education trust fund estab-  
12 lished under AS 14.40.731;

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

16 (5) "qualified beneficiary" means a resident who has rights  
17 under an advance tuition payment contract;

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

20 \* Sec. 2. TAX DETERMINATION. The Department of Revenue shall request  
21 that the Internal Revenue Service determine if the income earned by the  
22 Alaska education trust fund established in sec. 1 of this Act is taxable  
23 income under federal law. The Board of Regents of the University of Alaska  
24 may not contract with a purchaser for the advanced payment of tuition under  
25 AS 14.40.737, added by sec. 1 of this Act, until the Department of Revenue  
26 has received a determination from the Internal Revenue Service regarding  
27 the applicability of federal income taxes to the Alaska education trust  
28 fund.

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