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1 IN THE SENATE BY THE RULES COMMITTEE
2 CS FOR SENATE BILL NO. 136 (2d Rules)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND 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 6. ALASKA EDUCATION TRUST FUND.
12 Sec. 14.40.803. 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 14.40.807 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. 14.40.805. 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. 14.40.807. 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

5 (1) prepare the permanent fund dividend application to
6 allow an applicant, or a parent, legal guardian, or other authorized
7 representative of an applicant who is an unemancipated minor to con-
8 tribute 50 percent of a dividend to the fund under the terms of an
9 advance tuition payment contract; and

10 (2) include an explanation of the fund, including the right
11 of a purchaser to receive a refund upon termination of an advance
12 tuition payment contract, with each application for a permanent fund
13 dividend.

14 (b) The Department of Revenue shall pay contributions directly
15 to the fund.

16 Sec. 14.40.809. POWERS AND DUTIES OF THE UNIVERSITY OF ALASKA.

17 (a) The Board of Regents of the University of Alaska may contract
18 with a purchaser for the advance payment of tuition by the purchaser
19 for a qualified beneficiary to attend a branch of the university to
20 which the qualified beneficiary is admitted, without further tuition
21 cost to the qualified beneficiary.

22 (b) The board shall

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

25 (2) establish standard payment plans to be used under
26 advance tuition payment contracts;

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

1 Sec. 14.40.811. ADVANCE TUITION PAYMENT CONTRACTS. (a) An
2 advance tuition payment contract must include
3 (1) the amount of payments required from the purchaser on
4 behalf of the qualified beneficiary;
5 (2) the terms and conditions for making the payments;
6 (3) provisions for late payment charges and for default;
7 (4) the name and age of the qualified beneficiary under the
8 contract and a statement that the purchaser, with the approval of the
9 board, may substitute another person for the qualified beneficiary
10 originally named in the contract;
11 (5) the number of credit hours to be provided to the quali-
12 fied beneficiary under the contract;
13 (6) the name of the persons entitled to terminate the
14 contract, the terms and conditions under which the contract may be
15 terminated, and the amount of the refund to which the person terminat-
16 ing the contract is entitled;
17 (7) the assumption of a contractual obligation by the board
18 to provide for credit hours of higher education at the university;
19 (8) the number of credit hours the qualified beneficiary
20 may receive if the qualified beneficiary is not entitled to in-state
21 tuition at the time of enrollment at the university;
22 (9) the period of time during which the qualified benefi-
23 ciary may receive the benefits of the contract; and
24 (10) other terms and conditions the board determines to be
25 appropriate.
26 (b) An advance tuition payment contract may be terminated
27 (1) if the qualified beneficiary dies;
28 (2) if the qualified beneficiary is not admitted to a
29 branch of the university after making a proper application;

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

4 (4) if the qualified beneficiary certifies to the board,
5 after the qualified beneficiary has received a high school diploma or
6 reached the age of majority, that the qualified beneficiary has decid-
7 ed not to attend the university;

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

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

12 Sec. 14.40.817. DEFINITIONS. In AS 14.40.803 - 14.40.817

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

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

17 (3) "fund" means the Alaska education trust fund estab-
18 lished under AS 14.40.803;

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

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

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

26 * Sec. 2. TAX DETERMINATION. The Department of Revenue shall request
27 that the Internal Revenue Service determine if the income earned by the
28 Alaska education trust fund established in sec. 1 of this Act is taxable
29 income under federal law.

1 * Sec. 3. This Act takes effect the day after the day on which the
2 Department of Revenue receives a determination from the Internal Revenue
3 Service regarding the applicability of federal income taxes to the Alaska
4 education trust fund. The Department of Revenue shall notify the lieuten-
5 ant governor and the revisor of statutes when the department receives the
6 determination.