

HOUSE BILL NO. 259
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES KOPONEN, Sharp, Boyer, Moyer

Introduced: 4/3/91

Referred: Health, Education & Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska advance college tuition payment fund; and providing for
2 an effective date."

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

4 * Section 1. AS 09.38.015(a) is amended to read:

5 (a) An individual is entitled to exemption of the following property:

6 (1) a burial plot for the individual and the individual's family;

7 (2) health aids reasonably necessary to enable the individual or a dependent to
8 work or to sustain health;

9 (3) benefits paid or payable for medical, surgical, or hospital care to the extent
10 they are or will be used to pay for the care;

11 (4) an award under AS 18.67 (Violent Crimes Compensation Board) or a crime
12 victim's reparations act of another jurisdiction;

13 (5) benefits paid or payable as a longevity bonus under AS 47.45;

14 (6) compensation or benefits paid or payable and exempt under federal law;

1 (7) liquor licenses granted under AS 04;
2 (8) limited entry permits granted under AS 16.43, except as provided in that
3 chapter;

4 (9) tuition credits under an advance college tuition payment contract
5 authorized under AS 14.40.809(a).

6 * Sec. 2. AS 14.40.803 is amended to read:

7 Sec. 14.40.803. ALASKA ADVANCE COLLEGE TUITION PAYMENT
8 [EDUCATION TRUST] FUND ESTABLISHED. (a) The Alaska advance college tuition
9 payment [EDUCATION TRUST] fund is established as a nonlapsing [AN ENDOWMENT
10 TRUST] fund of the University of Alaska. The fund is established for the purpose of
11 enhancing the ability of the university to provide (1) higher education for the people of the
12 state; (2) wide and affordable access to higher education for residents and their children;
13 (3) an incentive for residents to achieve higher academic standards in grades 7 - 12; and
14 (4) an incentive for residents to continue and complete secondary and post secondary
15 education [SEPARATE FROM THE GENERAL FUND]. The fund may be divided into
16 separate accounts for accounting purposes.

17 (b) The fund consists of

18 (1) permanent fund dividend and cash contributions made under AS 14.40.807
19 under the terms of an advance tuition payment contract;

20 (2) appropriations, gifts, bequests, and contributions of cash or other assets
21 [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 OF
24 PRIORITY:

25 (1)] to make payments to the university, including payments for [ON BEHALF
26 OF QUALIFIED BENEFICIARIES;

27 (2) TO MAKE] refunds, redemptions, and awards under [UPON
28 TERMINATION OF] an advance tuition payment contract or a prepaid tuition scholarship, and
29 [;

30 (3) TO PAY THE] costs of administration of the fund.

31 * Sec. 3. AS 14.40.805 is amended to read:

- 1 Sec. 14.40.805. POWERS AND DUTIES OF THE COMMISSIONER OF REVENUE.
- 2 The commissioner of revenue is the custodian [TRUSTEE] of the fund and has the powers and
- 3 duties under this section to
- 4 (1) act as official custodian [TRUSTEE] of the cash and investments belonging
- 5 to the fund and to secure adequate and safe custodial facilities;
- 6 (2) receive all items of cash and investments belonging to the fund;
- 7 (3) collect and deposit the principal and income from investments of
- 8 [ACQUIRED BY THE TRUSTEE AND DEPOSIT THE AMOUNTS IN SEPARATE
- 9 PRINCIPAL AND INCOME ACCOUNTS FOR] the fund;
- 10 (4) invest and reinvest the assets of the fund as provided in this section and in
- 11 accordance with investment objectives, criteria, and asset allocation guidelines established
- 12 by the board [AS PROVIDED FOR THE INVESTMENT OF RETIREMENT FUNDS UNDER
- 13 AS 14.25.180];
- 14 (5) exercise the powers of a custodian [TRUSTEE] with respect to the assets of
- 15 the fund;
- 16 (6) do all acts, whether or not expressly authorized, that the commissioner of
- 17 revenue considers necessary or proper in administering, as a custodian [TRUSTEE], the assets
- 18 of the fund;
- 19 (7) maintain accounting records of the fund in accordance with investment
- 20 accounting principles [AND WITH DISTINCTION BETWEEN THE PRINCIPAL AND
- 21 INCOME ACCOUNTS OF THE FUND];
- 22 (8) engage an independent firm of certified public accountants to [ANNUALLY]
- 23 audit the financial condition of the fund's investments and investment transactions;
- 24 (9) enter into and enforce contracts or agreements considered necessary for the
- 25 investment purposes of the fund, including the use of investment managers, consultants, and
- 26 other custodians of the fund;
- 27 (10) report to the university the condition and investment performance of the
- 28 fund;
- 29 (11) make payments to the university as requested by the board, including
- 30 payments for [ON BEHALF OF QUALIFIED BENEFICIARIES;
- 31 (12) MAKE] refunds and redemptions under [UPON TERMINATION OF] an

1 advance tuition payment contract or a prepaid tuition scholarship. [;] and
2 [(13) PAY THE] costs of administration of the fund.

3 * Sec. 4. AS 14.40.807(a) is amended to read

4 (a) Contributions to the fund under the terms of an advance tuition payment contract
5 may be made by direct cash payments or by contributions from the permanent fund dividend.
6 The Department of Revenue shall

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

11 (2) include with each application for a permanent fund dividend an explanation
12 of the advanced tuition payment program [TRUST FUND], including the right [OF A
13 PURCHASER] to receive a refund, a disclosure of the potential [UPON TERMINATION OF
14 AN ADVANCE TUITION PAYMENT CONTRACT, AND A STATEMENT THAT THE] tax
15 liability of the fund, and disclosure of the possible general effect of the tax liability on the
16 advance college tuition payment program [HAS NOT YET BEEN DETERMINED; AFTER
17 THE INTERNAL REVENUE SERVICE DETERMINES THE TAX LIABILITY OF THE
18 FUND, A STATEMENT SUMMARIZING THE TAX DETERMINATION SHALL BE
19 INCLUDED WITH EACH APPLICATION FOR A PERMANENT FUND DIVIDEND].

20 * Sec. 5. AS 14.40.807 is amended by adding a new subsection to read:

21 (c) In order to assure the actuarial soundness of the fund, the legislature may appropriate
22 annually to the fund the sum, certified by the board to the governor and the legislature, that is
23 necessary to restore the fund to an amount that is actuarily sound. The board annually, before
24 January 30, shall make and deliver to the governor and to the legislature a certificate stating the
25 sum required to restore the fund to an amount that is actuarily sound, and that sum may be
26 appropriated and paid to the fund during that fiscal year. This subsection does not create a debt
27 or liability of the state.

28 * Sec. 6. AS 14.40.809 is amended to read

29 Sec. 14.40.809. **POWERS AND DUTIES OF THE UNIVERSITY OF ALASKA.** (a)
30 The Board of Regents of the University of Alaska may contract with a purchaser for the advance
31 payment of tuition by the purchaser for a [QUALIFIED] beneficiary of any age to attend a

1 branch of the university to which the [QUALIFIED] beneficiary is admitted [, WITHOUT
2 FURTHER TUITION COST TO THE QUALIFIED BENEFICIARY]. A purchaser and a
3 [QUALIFIED] beneficiary may be the same person.

4 (b) The board shall

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

7 (2) establish and adopt a formal plan for administration of the advance
8 college tuition payment program and prepaid tuition scholarship program [STANDARD
9 PAYMENT PLANS TO BE USED UNDER ADVANCE TUITION PAYMENT CONTRACTS];

10 (3) establish investment objectives, criteria and asset allocation guidelines for
11 the fund based on prudent institutional investor guidelines and actuarial analysis of the
12 earnings requirements for the advance college tuition payment plan;

13 (4) enter into a reciprocal agreement with another institution or state agency
14 that maintains an advance college tuition payment program if the agreement furthers the
15 purpose of the fund; and

16 (5) make the obligation under an advance college tuition payment program
17 a general obligation of the university [THE CIRCUMSTANCES UNDER WHICH AN
18 ADVANCE TUITION PAYMENT CONTRACT MAY BE TERMINATED AND THE
19 AMOUNT OF THE REFUND THE PERSON ENTITLED TO TERMINATE THE CONTRACT
20 MAY RECEIVE].

21 * Sec. 7. AS 14.40.811 is amended to read:

22 Sec. 14.40.811. ADVANCE COLLEGE TUITION PAYMENT CONTRACTS. (a) An
23 advance college tuition payment contract must set out or include by reference to the plan

24 (1) if an installment purchase program is established by the board, the amount
25 of payments required from the purchaser, [ON BEHALF OF THE QUALIFIED BENEFICIARY;

26 (2)] the terms and conditions for making the payments, and [;

27 (3)] provisions for late payment charges [AND FOR DEFAULT];

28 (2) [(4)] the name and age of the primary and alternate beneficiaries
29 [QUALIFIED BENEFICIARY] under the contract [AND A STATEMENT THAT THE
30 PURCHASER, WITH THE APPROVAL OF THE BOARD, MAY SUBSTITUTE ANOTHER
31 PERSON FOR THE QUALIFIED BENEFICIARY ORIGINALLY NAMED IN THE

1 CONTRACT];

2 (3) [(5)] the number of tuition credits [CREDIT HOURS] to be provided to the
3 primary and alternate beneficiaries [QUALIFIED BENEFICIARY] under the contract;

4 (4) [(6)] THE NAME OF THE PERSONS ENTITLED TO TERMINATE THE
5 CONTRACT,] the terms and conditions under which the contract may be terminated and refunds
6 made [, AND THE AMOUNT OF THE REFUND TO WHICH THE PERSON TERMINATING
7 THE CONTRACT IS ENTITLED];

8 (5) [(7)] the assumption of a contractual obligation by the board to provide tuition
9 credits for [CREDIT HOURS OF] higher education to the beneficiary [AT THE
10 UNIVERSITY];

11 (6) [(8)] THE NUMBER OF CREDIT HOURS THE QUALIFIED BENEFICIARY
12 MAY RECEIVE IF THE QUALIFIED BENEFICIARY IS NOT ENTITLED TO IN-STATE
13 TUITION AT THE TIME OF ENROLLMENT AT THE UNIVERSITY;

14 (9) the period of time during which the [QUALIFIED] beneficiary may receive
15 the benefits of the contract; and

16 (7) [(10)] other terms and conditions the board determines to be appropriate.

17 (b) An advance college tuition payment contract may be terminated

18 (1) [IF THE QUALIFIED BENEFICIARY DIES OR BECOMES SO DISABLED
19 THAT THE BENEFICIARY CANNOT COMPLETE AN EDUCATION;

20 (2) IF THE QUALIFIED BENEFICIARY IS NOT ADMITTED TO A BRANCH
21 OF THE UNIVERSITY AFTER MAKING A PROPER APPLICATION;

22 (3) IF THE QUALIFIED BENEFICIARY CERTIFIES TO THE BOARD, AFTER
23 THE CONTRACTED DATE OF ENTRANCE TO THE UNIVERSITY OR AFTER THE
24 QUALIFIED BENEFICIARY HAS RECEIVED A HIGH SCHOOL DIPLOMA OR REACHED
25 THE AGE OF MAJORITY, THAT THE QUALIFIED BENEFICIARY HAS DECIDED NOT
26 TO ATTEND THE UNIVERSITY;

27 (4) if the board determines that the number of purchasers is insufficient to
28 maintain the fund on an actuarially sound basis; or

29 (2) [(5)] under other circumstances determined by the board and set out in the
30 advance tuition payment contract or in the plan.

31 * Sec. 8. AS 14.40.817 is amended to read:

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

(1) "advance college tuition payment contract" means a contract entered into by the board and a purchaser to provide for the higher education of a [QUALIFIED] beneficiary;

(2) "beneficiary" means a person who has rights under an advance college tuition payment contract and who is

(A) a resident or who will be a resident before receiving benefits under an advance college tuition payment contract; or

(B) a child or legal ward of a resident or of an alumnus of the university;

(3) "board" means the Board of Regents of the university;

(4) [(3)] "fund" means the Alaska advance college tuition payment [EDUCATION TRUST] fund established under AS 14.40.803;

(5) "plan" means the formal plan for administration of an advance college tuition payment program and prepaid tuition scholarship program adopted by the board under AS 14.40.809(b);

(6) [(4)] "purchaser" means a person who makes or is obligated to make advance tuition payments under an advance college tuition payment contract;

(7) [(5)] "QUALIFIED BENEFICIARY" MEANS A RESIDENT WHO HAS RIGHTS UNDER AN ADVANCE TUITION PAYMENT CONTRACT;

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

* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).