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New College Savings Plans Gaining Popularity

By Joseph F. Hurley, CPA

The process of saving for college is being revolutionized by the new tax-advantaged programs being established these days by many of the states under Section 529 of the Internal Revenue Code. These programs, technically known as qualified state tuition programs, have been attracting a lot of attention in recent months with articles in *TIME*, *Newsweek*, *The Wall Street Journal*, *Kiplinger's Personal Finance Magazine* and other national publications. Some of the newest programs, such as those in New York and New Hampshire, have been swamped with new account applications. It is imperative that we as financial planners become familiar with qualified state tuition programs because our clients are going to be coming to us with a lot of questions about them.

For families saving for college, Section 529 allows qualified state tuition programs to offer a host of tax advantages that, in many cases, make them superior to the Education IRA, taxable funds and other investment alternatives. In addition to the income tax advantages, there are some distinct estate and gift tax advantages. For middle- to high-income families who face many obstacles in the tax law, the qualified state tuition program can be a clear winner.

The income tax benefits include deferral of earnings until distributions are made from the plan and taxation of the earnings to the student at (usually) the lowest tax bracket. The estate and gift tax benefits include treatment of a contribution into the plan as a completed gift eligible for the \$10,000 annual exclusion, despite the fact that the donor maintains full control and can later switch beneficiaries or have the account refunded. A donor can contribute \$50,000 at once without gift tax consequences because an election is available to treat the gift as made over a five-year period.

There are two basic kinds of qualified state tuition programs – prepaid tuition plans and savings-type plans. Some of the prepaid tuition plans, such as Florida's, have actually been around for several years and do not have a great reputation as a savings vehicle (deservedly so). They are designed to provide a return that merely keeps up with tuition increases and will often provide a lower return if the child attends a private college or out-of-state institution. Most prepaid tuition plans are restricted to

residents of the state, can only be used for tuition and not the other costs of attending college, and are treated as a financial "resource," which reduces federal financial aid on a dollar-for-dollar basis.



The newer savings-type qualified state tuition programs are a whole different ballgame. Most of the states offering these programs make them available to residents and non-residents alike, and the choice of college makes no difference. In the typical program, over \$100,000 can be contributed for a single beneficiary and is invested on a tax-deferred basis in an age-banded portfolio of mutual funds, which provides a more aggressive asset allocation for younger beneficiaries and then becomes more conservatively invested as the beneficiary nears college age. The state will contract with an investment manager

(such as Fidelity, TIAA or Vanguard) to structure the portfolios and administer the program. Many states offer tax deductions, income exemption or scholarships for residents making contributions to their programs. For federal financial aid purposes, the account is generally considered to be an asset of the parent despite being taxed to the child.

Why should the financial planner be excited about these programs, particularly since none of them (with the exception of Montana) offer commissions to investment advisers? It is because they can be great for your clients, and your clients will definitely need help in sifting through all the special programs now available for higher education (Education IRA, withdrawals from regular and Roth IRA, Series EE bonds). They also need help in developing a strategy for using qualified state tuition programs. There are many different state programs to choose from and each program is different. And because the investment of contributions is directed by the state, not the account owner, your client will need help in properly balancing the asset allocation imposed by the state with his or her other investments.

Note: Joseph F. Hurley CPA, is a tax partner at Bonadio & Co. LLP in Rochester, N.Y. He has appeared before the IRS and Treasury in hearings on the regulations being developed under IRC Sec. 529 and has written a book, The Best Way To Save For College – A Comprehensive Guide to State-Sponsored College Savings Plans and Prepaid Tuition Contracts. For more information, send e-mail to jhurley@bonadio.com or go to www.savingforcollege.com.



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Eight Great Ways to Save for College

► The newest state savings plans go to the head of the class. By Kristin Davis

States have been busy since we last reviewed state-sponsored college-savings plans. Six states will offer new plans by September, and two more have improved their investment options. The best news: All the new plans earn *As* on the scale we used to grade 32 plans in the February 1999 issue ("How to Ace Saving for College").

These states earned top marks by adopting features we applauded in our February survey, such as providing investment options suited to long-term investors and allowing proceeds to be used without penalty at any accredited college in the U.S.

Investments in the plans shift from an aggressive blend of stocks and bonds when children are young to a conservative mix as they mature. Money grows tax-deferred until it's used for college; earnings are then taxed in the student's bracket. Some states add tax benefits for residents.

All plans levy a penalty on withdrawals not used for college expenses.

Unless noted otherwise, any U.S. resident can open an account.

► Arizona's Family College Savings Program is our favorite among the new plans because it gives you some choices about how your money is invested. No plan gives you total control of your investments, but Arizona



lets you predesignate up to two switches—say, from SM&R Growth fund (three-year annualized return, 17.5%) to SM&R Balanced fund (12.9%) on your child's 13th birthday, and from that fund to a bond or money-market fund at 16.

Arizona also offers the College Savings Bank's CollegeSure CD, which pays a rate pegged to college-cost inflation with a minimum guarantee of 4%. Whichever you choose, earnings are exempt from Arizona state tax. For more information, call the College Savings Bank (800-888-2723) or Securities Management and Research (888-667-3239).

► California's Golden State Scholarshare Trust (877-728-4338; www.scholarshare.com)

invests in three TIAA-CREF funds, including the Growth Equity (12-month return, 26.5%), Bond Plus and money-market funds. For children up to age 2, the mix is 75% stocks and 25% bonds.

► Kentucky has offered only a fixed-rate return in its Educational Savings Plan Trust (800-338-0318), with a minimum guarantee of 4%. Starting this fall, accounts will be invested in the TIAA-CREF funds named above, and only earlier contributions will retain the 4% guarantee. Earnings are free from Kentucky state income tax. Participants must have ties to Kentucky, such as living or working in the state or having a family member who lives there.

► Maine's NextGen College Investing Plan (877-463-9843) invests in nine Merrill Lynch funds, starting with 90% stocks and 10% bonds for children up to age 3. Earnings are free from Maine income tax.

► Massachusetts's U. Fund (800-544-2776) supplements the state's prepaid-tuition plan. Your money is invested in eight Fidelity portfolios.

► Minnesota's College Savings Program (800-657-3866) is a TIAA-CREF plan similar to California's and Kentucky's. Minnesota residents who meet certain income criteria can get a matching grant.

► Missouri's Saving for Tuition (Most) program (888-414-6678) is yet another TIAA-CREF plan that will eventually include a fixed-rate option with a guaranteed minimum return. The big boost for Missouri residents: a state-tax deduction of up to \$8,000 per contributor per year. Earnings are free from Missouri tax.

► Vermont's Higher Education Savings Plan (800-637-5860; www.vsac.org) will mirror Missouri's plan, with TIAA-CREF funds plus a guaranteed-return option. Withdrawals will be free from Vermont tax. The contributor or beneficiary must have a "Vermont connection."

For reviews of plans in other states, see www.kiplinger.com/kids. •

States' College-Savings Plans Go National

Big Firms Provide Marketing Muscle

YOUR
MONEY
MATTERS

By LYNN ASINOF
Staff Reporter of THE WALL STREET JOURNAL
Merrill Lynch & Co. and other financial heavyweights are staking out turf in the college-savings-plan business, transforming the once-stodgy state plans into investment products with a national market.

Merrill Lynch last month started using its vast brokerage network to market Maine's brand-new NextGen program. Its 16-page brochure shows bright-eyed children, documents the rising cost of college and outlines various tax advantages. But it mentions Maine's sponsorship only a handful of times, even in the fine print.

Citigroup is taking a similar approach with Colorado's Scholars Choice program, which was announced yesterday and will be marketed starting Oct. 19 through Solomon Smith Barney brokers. New Hampshire's year-old Unique program is touted by Fidelity Investments in national newspaper and magazine ads. And TIAA-CREF, which operates New York's plan, has six more state programs in the works.

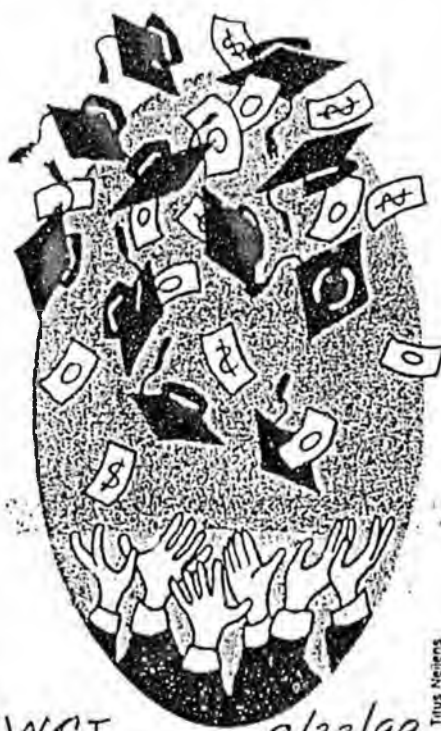
"There is a tremendous momentum building for these programs," Joseph F. Hurley, author of "The Best Way to Save for College," says. "As more investment companies wake up to the possibilities, it widens the whole playing field."

Age-Based Portfolios

Typically, money contributed by parents and grandparents is invested in special age-based portfolios of mutual funds. No federal income tax is owed on earnings until the funds are withdrawn to pay for college. Even then, earnings are taxed as ordinary income at the student's rate, which is typically lower than that of the person funding the plan.

A parent or grandparent can put as much as \$50,000 into an account in a single year and owe no gift tax as long as no additional gifts are made during the next four years.

Early versions of the plans have been



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around since the late 1980s, but they had their drawbacks. Most were prepaid tuition plans designed to protect against tuition inflation. Participation was restricted to state residents, and investors typically got full value only when used for colleges within their state's borders.

Then tax legislation in 1996 and 1997 cleared up lingering tax questions, and the number of plans mushroomed. Bernie Kent, a tax partner for PricewaterhouseCoopers in Detroit, says. They also started to change form. Prepaid plans still hold the most money, but it is now the savings plans that are growing fastest in number.

Unlike the original prepaid programs, the new savings plans generally aren't restricted to state residents. That means someone from, say, Illinois, could pick from among plans in states such as New York, New Hampshire, Maine and Massachusetts - or even put money into all of them - and use the funds to pay higher education expenses at virtually any school in the country.

The new savings plans also lend themselves to a "turn-key" approach, which shifts both operating cost and responsibility to outside companies. That is opening the door to competition between providers,

who must affiliate with a state plan to enter the market.

"Each firm is going to want to tell its customers 'We have one of these,'" Abram Claude, vice president of business development at Fidelity Investments, says.

For consumers, this competition is great news, Mr. Hurley says. People can shop among several state plans, comparing the performance, benefits, expense and restrictions.

Nationalization Concerns

But some providers worry about the trend toward nationalization. "We believe the intent of the law was for the states to set up a program for state residents," not to use a state to create a national platform. Timothy E. Lane, vice president of tuition financing with TIAA-CREF, says.

Concerned that Congress could revoke the tax advantages, TIAA-CREF is avoiding glitzy national marketing, targeting instead in-state employers who could offer the plan through payroll deduction.

National interest is high. Just a year old, New Hampshire's plan has attracted nearly \$120 million from investors from all 50 states, Puerto Rico, Guam and the U.S. Virgin Islands. Residents of California - not New Hampshire - account for the largest number of plan accounts.

Out-of-state savers do forgo some important tax advantages. Residents typically aren't taxed by the state on earnings in their own state plan, although they will likely owe state tax on earnings from out-of-state plans. Likewise, some states give tax deductions for annual contributions to their own savings plans. At least one state - New Jersey - is taking a broader view, extending its income tax exemption to earnings in other states' plans.

But these plans aren't for everyone. Once you put money into a plan, you lose all control over how it is invested. Each state has its own formula, and returns vary widely depending on the mix of equity to fixed income built into the age-based portfolios.

"The models are tremendously different," Kalman Chany, author of "Paying for College Without Going Broke," says. So are the fees. While savers in Maine's NextGen can expect to pay about 1.5% of assets in annual management fees, savers in New York's plan pay only 0.65% and New Hampshire plan savers pay about 1%.

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College savings plans take off

Tax-deferred state programs can cover tuition cost

By Thomas A. Fogarty, USA TODAY

College savings plans run by the states are exploding.

- ▶ [Prepaid most popular](#)
- ▶ [Table of plans](#)

Forty state plans now manage \$7.1 billion in college savings, up 40% since June, according to Kentucky-based College Saving Plan Network. Nearly 1.2 million people use the plans to save for college.

"These plans are a tremendous breakthrough," says Marshall Bennett, Mississippi's state treasurer and chairman of the national network.

The plans offer professional money management, and state and federal taxes on earnings are deferred until withdrawn. Many plans offer additional state tax incentives.

State tuition plans are either prepaid or savings plans.

Prepaid plans let an investor -- typically a parent or grandparent -- lock in public university tuition rates by paying now for a future education.

Savings plans are state-sponsored, tax-deferred investments. If the money isn't spent for education, the investor loses the tax benefits and incurs a penalty.

Most recent growth has been in savings plans. Among the reasons for their popularity:

▶ **More plans.** Arizona, California, Colorado, Maine, Missouri and Virginia -- have launched savings plans just since August. Fourteen more are set to launch soon.

"States have embraced these plans mainly because they're so cheap to run when they contract (with an investment company), and because they're great vehicles for the parents, the state treasurer and

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States' College-Savings Plans Go National

Big Firms Provide Marketing Muscle

YOUR MONEY MATTERS

By LYNN ASINOF
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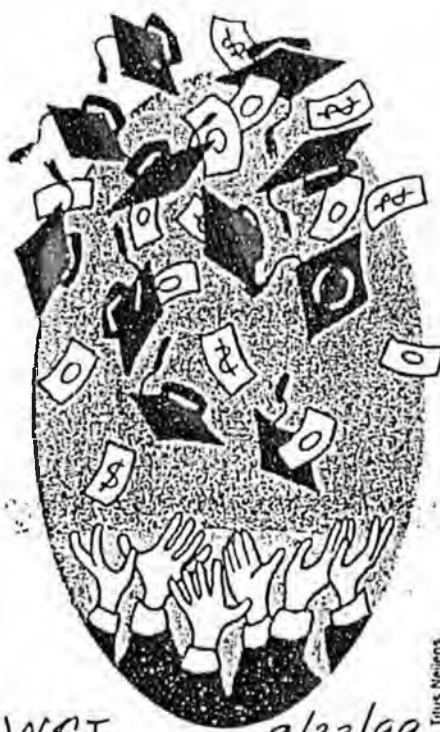
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they're great publicity for the governor, the state treasurer and everybody else," says Joseph Hurley, author of *The Best Way to Save for College*.

▶ **Competition.** Many states accept investments nationwide, and some offer enhancements beyond tax concessions. North Carolina makes education loans to parents who have depleted their account.

▶ **Aggressive marketing.** State officials pitch the programs to residents in TV ads. And investment companies who manage state funds put their marketing muscle behind the plans. Merrill Lynch, for example, markets Maine's program to investors nationally.

Michigan was first with a tuition plan in 1988. It was the subject of a five-year court fight with the Internal Revenue Service, which argued it didn't serve a state government purpose. A federal court ruled for Michigan in 1994, and the state stampede began after Congress, in 1996 and 1997, adopted favorable tax rules.



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Personal wealth

Here's how state tuition plans rate

College savers are not limited to their own state in selecting a state tuition plan, so they face an array of choices. Here is a listing of the plans that are now operating. More are on the way. The chart includes the rating given each plan by Joseph Hurley, a certified public accountant who has written a guide to funds called *The Best Way to Save for College*. A rating of 5 is best; a 1 is worst. More information can be found on Hurley's Web site, www.savingforcollege.com, and on the Web site of the College Savings Plan Network, www.collegesavings.org.

State	Name (phone)	Web site	Hurley's rating	Type of program	Available to non-residents? (Hurley rating)	Enrollment period	Investments/ comments
Ala.	Prepaid Affordable College Tuition (PACT) Program (800-252-7228)	agencies.state.al.us/treasurer	2	Prepaid	No	Sept.	Tracks Ala. tuition and fee increases; no interest if canceled
Alaska	Advance College Tuition (ACT) (in Alaska, 800-478-0003; outside Alaska, 907-474-5671)	www.alaska.edu/swact	1	Combined	No	Open	Money market interest rates
Ariz.	Arizona Family College Savings Plan (602-229-2591)	www.acpe.asu.edu	3	Savings	Yes (3)	Open	CD rates, 4% minimum or four SM&R mutual funds
Ark.	Arkansas Tax-deferred Tuition Savings Program (877-442-6553)	www.thegiftplan.com	5	Savings	Yes (4)	Open	Nine age-based portfolios
Calif.	Golden State Scholarshare Trust College Savings Program (877-728-4338)	www.scholarshare.com	4	Savings	Yes (3)	Open	Age-based portfolios managed by TIAA-CREF
Colo.	Scholars Choice College Savings Program (888-572-4652) Colorado Prepaid Tuition Fund (800-478-5651)	www.scholars-choice.com www.prepaidtuition.org	Savings: 5 Prepaid: 2	Both	Savings: Yes (4) Prepaid: Yes (1)	Open Fall	Savings: age-based portfolios using Salomon Smith Barney mutual funds
Conn.	Connecticut Higher Education Trust (CHET)	www.aboutchet.com	3	Savings	Yes (3)	Open	Age-based portfolios; various money

	(888-799-2438)						managers
Del.	Delaware College Investment Plan (800-544-1655)	www.fidelity.com/delaware	4	Savings	Yes (4)	Open	Age-based portfolios using Fidelity funds
Fla.	Florida Prepaid Tuition Program (800-552-4723)	www.fsba.state.fl.us/prepaid	2	Prepaid	No	Oct.-Jan.	Tracks Fla. tuition increases; no interest if canceled
Ill.	College Illinois (877-877-3724)	www.collegeillinois.com	2	Prepaid	No	Oct. 18-Feb. 18	Tracks Ill. tuition and fee increases; heavy cancellation penalties
Ind.	Indiana Family College Savings Plan (888-814-6800)	www.che.state.in.us/ifcsp	4	Savings	Yes (4)	Open	Many One Group mutual fund options; Vanguard bond fund
Iowa	College Savings Iowa (888-446-6696)	www.collegesavingsiowa.com	4	Savings	Yes (3)	Open	One of four Vanguard portfolios
Ky.	Kentucky Education Savings Plan Trust (877-598-7878)	www.kentuckytrust.org	4	Savings	No	Open	Age-based portfolios managed by TIAA-CREF
La.	Louisiana Student Tuition Assistance and Revenue Trust Program (START) (800-259-5626)	www.osfa.state.la.us/start.htm	4	Savings	No	Open; Nov. 1 deadline for matching grant	Government bonds and other fixed-income investments
Maine	NextGen College Investing Plan (877-463-9843)	www.nextgenplan.com	5	Savings	Yes (4)	Open	Age-based portfolios using Merrill Lynch mutual funds
Md.	Maryland Prepaid College Trust (888-463-4723)	www.prepaid.usmd.edu	2	Prepaid	No	Feb. 10-June 10	Tracks Md. avg. tuition and fees; cannot cancel first three years
Mass.	U. Fund (800-544-2776) U. Plan (800-449-6332)	www.mcfa.org	Savings: 4 Prepaid: 2	Both	Savings: Yes (4) Prepaid: Yes (1)	Savings: Open Prepaid: May 2000	Savings: age-based portfolios using Fidelity mutual funds
Mich.	Michigan Education Trust (800-638-4543)	www.treas.state.mi.us/college/mct/mctindex.htm	1	Prepaid	No	Fall/winter	Tracks Mich. tuition and fees; no cancellations
Miss.	Mississippi Prepaid Affordable College Tuition Program (MPACT) (800-987-4450)	www.treasury.state.ms.us	3	Prepaid	No	Sept. 1-Nov. 30	Tracks Miss. tuition and fees
Mo.	Missouri Saving for Tuition Program (MOST) (888-414-6678)	www.missourimost.org	5	Savings	Yes (4)	Open	Age-based portfolios or fixed-income, both TIAA-CREF

Mont.	Montana Family Education Savings Program (800-888-2723)	montana.college.savings.com	4	Savings	Yes (3)	Open	CDs based on avg. college costs, 4% minimum
Nev.	Nevada Prepaid Tuition Program (888-477-2667)	prepaid-tuition.state.nv.us	3	Prepaid	No	Aug. 30-Nov. 16	Tracks Nevada tuition increases
N.H.	UNIQUE College Investing Plan (800-544-1722)	personal400.fidelity.com/planning/college	5	Savings	Yes (4)	Open	Age-based portfolios using Fidelity mutual funds
N.J.	New Jersey Better Education Savings Trust (NJBEST) (877-465-2368)	www.state.nj.us/treasury/osa	3	Savings	No	Open	Invested by state; minimum 60% in bonds
N.Y.	New York's College Savings Program (877-697-2837)	www.nysaves.com	4	Savings	Yes (4)	Open	Age-based portfolios managed by TIAA-CREF
N.C.	College Vision Fund (800-600-3453)	www.collegevisionfund.org	2	Savings	No	Open	Fixed-income securities
Ohio	Ohio Prepaid Tuition Program (800-233-6734)	www.ohiocollegesavings.org	2	Both	No	Open	Tracks Ohio tuition increases
Pa.	Pennsylvania Tuition Account Program (TAP) (800-440-4000)	www.patap.org	2	Prepaid	No	Open	Tracks Pa. tuition increases; no interest if canceled
R.I.	Rhode Island Education Savings Trust (RIHEST) (877-474-4378)	www.rihest.com	3	Savings	Yes (3)	Open	Age-based portfolios with various money managers
S.C.	Prepaid Affordable College Education (PACE) (888-772-4723)	www.state.sc.us/tpp	2	Prepaid	No	Oct. 1-Jan. 21	Tracks S.C. tuition and fee increases; no interest if canceled
Tenn.	Tennessee Baccalaureate Education System Trust (BEST) (888-486-2378)	www.treasury.state.tn.us/best.htm	1	Prepaid	No	Open	Tracks Tenn. tuition and fee increases
Texas	Texas Tomorrow Fund (800-445-4723)	www.texastomorrowfund.com	2	Prepaid	No	Nov. 1-March 28	Tracks Texas tuition and fee increases
Utah	Utah Educational Savings Plan Trust (UESP) (800-418-2551)	www.uesp.org	4	Savings	Yes (4)	Open	Four options, with state-run fixed-income fund and Vanguard stock and bond index funds
Va.	Virginia Education Savings Trust	www.vpep.state.va.us	Savings: 5	Both	Savings: Yes (4)	Savings: Open	Prepaid; tracks Va. tuition and

	(VEST) Virginia Prepaid Education Program (VPEP) (888-567-0540)		Prepaid: 3		Prepaid: No	Prepaid: Dec. 1-Feb. 29	fee increases; savings: seven age-based portfolios
Wash.	Guaranteed Education Tuition of Washington (GET) (877-438-8848)	www.get.wa.gov	2	Prepaid	No	Sept. 1-Jan. 15	Tracks Wash. tuition increases
W.Va.	West Virginia Prepaid College Plan (800-307-4701)	www.wvtreasury.com	2	Prepaid	No	Oct.-Jan.	Tracks W.Va. tuition and fee increases; no interest if canceled
Wis.	Edvest Wisconsin (888-338-3789)	edvest.state.wi.us	1	Savings	No	Open	Tuition units similar to U.S. Savings Bonds, now 6% interest

Source: Saving for College, www.savingforcollege.com

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Saving for College with Section 529 Plans

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SPECIFIC EXAMPLES :

<i>New Hampshire</i>	
Type of Program:	Savings
Name of program:	UNIQUE College Investing Plan
Initial Year of Operation:	1998
Telephone:	1-800-544-1722
Internet:	www.fidelity.com/unique
Residency requirements:	None
Age/time requirements:	None
Basic program description:	Accounts can be used to pay for all higher education expenses allowed under Section 529.
Maximum contribution:	\$109,825 to increase on January 1, 2000
Minimum contribution:	\$1,000 lump sum or \$50/month automatic deposit.
Investment information:	Age-based portfolios using a blend of Fidelity mutual funds
Enrollment period:	Open
Program fee:	\$30 annual maintenance fee (waived for account with automatic deposit or exceeding \$25,000 in value). Program investment fee of 0.3% charged against net assets of the portfolio. Portfolio expenses range from .65% to .75%. Earnings are exempt from New Hampshire interest and dividends tax.
What we like most:	Strong and experience program manager Fidelity Investments.

What we dislike most:	Account owner and beneficiary may not be the same person.
New Developments:	Click here for new developments.



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Saving for College with Section 529 Plans

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<i>Maine</i>	
Type of Program:	Savings
Name of program:	NextGen College Investing Plan
Initial Year of Operation:	1999
Telephone:	1-877-463-9843
Internet:	www.nextgenplan.com
Residency requirements:	None
Age/time requirements:	None
Basic program description:	Accounts may be used to pay for all higher education expenses allowed under Section 529. Earnings are exempt from Maine income tax if used for college.
Maximum contribution:	\$145,000
Minimum contribution:	\$250 lump sum or \$50 month with automatic deposit
Investment information:	Age-based portfolios using a blend of existing Merrill Lynch Asset Management mutual funds. Options exist to invest 100% in equity funds, 75/25 in equity/fixed income funds, and 100% in fixed income.
Enrollment period:	Open
Program fee:	\$50 annual maintenance fee, waived for Maine residents and for accounts with at least \$2,500 in contributions for the year and for accounts that reach \$20,000 in value. Annual program management fees totaling 0.6% of net asset value and expense ratios in the portfolios ranging from 0.76% to 0.98%.
What we like most:	Strong program manager with Merrill Lynch.

What we dislike most:	The program will be sold through sales reps from Merrill Lynch, other investment companies in Maine, and Maine banking institutions who may not have full knowledge of the intricacies of 529 Plans (although specialists will be available by telephone).
New developments:	Click here for new developments!



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1-LS1235H
Ford
1/24/00

CS FOR HOUSE BILL NO. 268()

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

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MURKOWSKI, Therriault

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a University of Alaska postsecondary education savings
2 program, to the Alaska Higher Education Savings Trust, and to the Alaska
3 advance college tuition savings fund; and providing for an effective date."

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

5 * Section 1. AS 09.25.120(a)(7) is amended to read:

6 (7) names, addresses, and other information identifying a person as a
7 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or
8 the advance college tuition savings [PAYMENT] program under AS 14.40.803 -
9 14.40.817;

10 * Sec. 2. AS 09.38.015(a)(9) is amended to read:

11 (9) tuition credit or savings accounts [CREDITS] under a higher
12 education savings account established under AS 14.40.802 or an advance college
13 tuition savings [PAYMENT] contract authorized under AS 14.40.809(a);

14 * Sec. 3. AS 14.40.170(a) is amended by adding a new paragraph to read:

1 (10) administer, manage, market, and promote a postsecondary
2 education savings program; the program must include the Alaska Higher Education
3 Savings Trust under AS 14.40.802 and the Alaska advance college tuition savings fund
4 under AS 14.40.803 - 14.40.817.

5 * Sec. 4. AS 14.40 is amended by adding a new section to article 6 to read:

6 **Sec. 14.40.802. Alaska Higher Education Savings Trust.** (a) The Alaska
7 Higher Education Savings Trust is established in the University of Alaska. The
8 purpose of this trust is to secure obligations to participants and beneficiaries under a
9 postsecondary education savings program operated by the University of Alaska and to
10 provide participants a convenient method of saving for college or other postsecondary
11 education. The Board of Regents of the University of Alaska shall

12 (1) adopt policies that provide for the administration, management,
13 promotion, and marketing of the trust;

14 (2) maintain the trust in compliance with requirements of 26 U.S.C.
15 (Internal Revenue Code) for a qualified state tuition program as defined in
16 26 U.S.C. 529;

17 (3) coordinate savings options established under the trust and the
18 administration of the trust with the Alaska advance college tuition savings fund (AS
19 14.40.803), including the creation of common administrative and record-keeping
20 systems, marketing programs, and operating reserves;

21 (4) establish participation agreements, including application, savings
22 options, and withdrawal procedures;

23 (5) enter into participation agreements with participants for the

24 (A) accumulation, investment, and distribution of funds;

25 (B) payment or reimbursement of qualified higher education
26 expenses; and

27 (C) benefit of a beneficiary;

28 (6) enter into contracts with one or more contractors, including
29 investment managers; in determining the persons to act as investment managers,
30 consideration must be given to the qualifications of the contractor, including the
31 contractor's ability to

1 (A) administer financial programs with individual account
2 maintenance and reporting;

3 (B) develop, market, and administer investment options
4 appropriate for the trust; and

5 (C) augment the savings program with other beneficial products
6 and services;

7 (7) allow both residents and nonresidents to participate in the trust;

8 (8) allow the transfer or rollover of funds from the Alaska advance
9 college tuition savings fund and other qualified state tuition programs under 26 U.S.C.
10 529 and the participation agreement;

11 (9) allow withdrawals from the trust to be used for qualified higher
12 education expenses, including room and board as allowed by 26 U.S.C. 529;

13 (10) establish penalties for withdrawals from the trust for nonqualified
14 expenses and other distributions as required under 26 U.S.C. 529 or as provided in the
15 participation agreement;

16 (11) engage an independent firm of certified public accountants to audit
17 the financial position of the trust.

18 (b) The board may

19 (1) divide the trust into multiple investment portfolios;

20 (2) commingle amounts credited to some or all accounts for investment
21 purposes;

22 (3) establish trusts and accounts as the board considers appropriate
23 under 26 U.S.C. 529;

24 (4) require trust participants to pay administrative fees;

25 (5) establish earnings reserves as provided in the participation
26 agreement, including reserves for the payment of administrative costs.

27 (c) The University of Alaska, the board, the state, or an agency of the state is
28 not liable for a loss of funds that are invested under a participation agreement or for
29 the denial of a perceived tax or other benefit. The board shall provide written notice
30 to each applicant that there is no guarantee of any rate of return or benefit and that any
31 risk of loss in account value or other benefit rests exclusively with the participant and

1 the beneficiary.

2 (d) Notwithstanding any other provision of law, earnings on funds deposited
3 with the trust are not subject to taxation by the state or a municipality.

4 (e) Funds on deposit with the trust may not be considered by the University
5 of Alaska or an agency of the state to limit eligibility for a state-funded scholarship.

6 (f) A participant has the right, as provided in the participation agreement, to
7 (1) change the beneficiary of an account to another individual who is
8 a member of the family of the former beneficiary; or

9 (2) direct that all or a portion of an account be transferred to an
10 account with a new beneficiary if the new beneficiary is a member of the family of
11 the former beneficiary.

12 (g) The right to change the beneficiary or to transfer between accounts
13 described in (f) of this section may be denied or limited as provided in the
14 participation agreement, including transfers that would result in contributions or
15 account balances in excess of allowable limits under the participation agreement.

16 (h) An account established under this section

17 (1) is exempt from a claim by the creditors of a participant or of a
18 beneficiary;

19 (2) is conclusively presumed to be a spendthrift trust;

20 (3) is not an asset or property of either the participant or the
21 beneficiary;

22 (4) may not be assigned, pledged, or otherwise used to secure a loan
23 or other advancement;

24 (5) is not subject to involuntary transfer or alienation.

25 (i) Except as permitted in 26 U.S.C. 529, a participant or beneficiary may not
26 directly or indirectly direct the investment of an account or earnings on the account.

27 (j) A participant may, as provided in the participation agreement, designate a
28 person other than the participant as a successor participant. The designation of a
29 successor participant does not take effect until the participant dies or is declared legally
30 incompetent. If a participant dies or is declared legally incompetent without having
31 effectively designated a successor participant, the beneficiary may designate a

1 successor participant in the manner prescribed above if the beneficiary is not the same
2 person as the successor participant.

3 (k) The trust, a participation agreement, and this section are intended to
4 comply with the requirements of 26 U.S.C. 529 and shall be interpreted in that manner
5 to the extent permitted by law.

6 (l) The trust and participation agreements may be modified or amended on a
7 retroactive basis in order to maintain compliance with 26 U.S.C. (Internal Revenue
8 Code) and to maintain efficient operation of the trust as determined by the board.

9 (m) A name, address, or other information identifying a person as a participant
10 or beneficiary in the trust is confidential.

11 (n) In this section,

12 (1) "account" means an individual trust account established under this
13 section;

14 (2) "beneficiary" means any person designated by a participation
15 agreement, or by another method of designation authorized in this section, to benefit
16 from payments for qualified higher education expenses at an eligible educational
17 institution;

18 (3) "board" means the Board of Regents of the University of Alaska;

19 (4) "member of the family" has the meaning given in 26 U.S.C. 529(e);

20 (5) "participant" means a person who has entered into a participation
21 agreement or has been appointed as a participant as provided in this section and in the
22 participation agreement;

23 (6) "participation agreement" means an agreement between a participant
24 and the board providing for the establishment by the participant of one or more
25 accounts under this section and for the administration of those accounts for the benefit
26 of the participant and the beneficiary;

27 (7) "qualified higher education expenses" has the meaning given in
28 26 U.S.C. 529(e);

29 (8) "trust" means the Alaska Higher Education Savings Trust.

30 * Sec. 5. AS 14.40.803 is amended to read:

31 **Sec. 14.40.803. Alaska advance college tuition savings [PAYMENT] fund**

1 [ESTABLISHED]. (a) The Alaska advance college tuition savings [PAYMENT]
2 fund is established as a nonlapsing fund of the University of Alaska. The [FUND IS
3 ESTABLISHED FOR THE] purpose of the fund is to secure obligations to
4 participants under a postsecondary education savings program operated by the
5 University of Alaska and to enhance [ENHANCING] the ability of the university to
6 provide (1) higher education for the people of the state; (2) wide and affordable access
7 to higher education for residents and their children; (3) an incentive for residents to
8 achieve higher academic standards in grades 7 - 12; and (4) an incentive for residents
9 to continue and complete secondary and postsecondary education. The fund may be
10 divided into separate accounts for accounting purposes.

11 (b) The fund consists of

12 (1) permanent fund dividend and cash contributions made under
13 AS 14.40.807 under the terms of an advance college tuition savings [PAYMENT]
14 contract;

15 (2) appropriations, gifts, bequests, and contributions; and

16 (3) income and earnings of the fund.

17 (c) Assets of the fund shall be expended to make payments to the university
18 and other eligible educational institutions, including payments for refunds, redemptions,
19 and awards under a savings [AN ADVANCE TUITION PAYMENT] contract or
20 scholarships, [A PREPAID TUITION SCHOLARSHIP, AND] costs of administration,
21 and other obligations of the fund.

22 * Sec. 6. AS 14.40.807(a) is amended to read:

23 (a) Contributions to the fund under the terms of an advance college tuition
24 savings [PAYMENT] contract may be made by direct cash payments or by
25 contributions from the permanent fund dividend. The Department of Revenue shall

26 (1) prepare the permanent fund dividend application to allow an
27 applicant or a parent, legal guardian, or other authorized representative of an applicant
28 who is an unemancipated minor to contribute 50 percent of a dividend to the fund
29 [UNDER THE TERMS OF AN ADVANCE TUITION PAYMENT CONTRACT]; and

30 (2) include with each application for a permanent fund dividend an
31 explanation of the advance college [ADVANCED] tuition savings [PAYMENT]

1 program, including the right to receive a refund, a disclosure of the potential tax
2 liability of the fund, and disclosure of the possible general effect of the tax liability on
3 the advance college tuition savings [PAYMENT] program.

4 * Sec. 7. AS 14.40.809 is amended to read:

5 **Sec. 14.40.809. Powers and duties of the University of Alaska.** (a) The
6 Board of Regents of the University of Alaska may contract with a purchaser for the
7 purchase of advance college tuition credits for the payment of tuition and other
8 qualified higher education expenses [BY THE PURCHASER] for a beneficiary of any
9 age to attend a branch of the university or other eligible educational institution to
10 which the beneficiary is admitted. A purchaser and a beneficiary may be the same
11 person.

12 (b) The board shall

13 (1) make appropriate arrangements as necessary to fulfill the board's
14 obligations under an advance college tuition savings [PAYMENT] contract;

15 (2) establish and adopt a formal plan for administration of the advance
16 college tuition savings [PAYMENT PROGRAM AND PREPAID TUITION
17 SCHOLARSHIP] program; the terms and conditions of the plan shall be considered
18 a part of an advance college tuition savings [PAYMENT] contract;

19 (3) establish investment objectives, criteria, and asset allocation
20 guidelines for the fund based on prudent institutional investor guidelines and actuarial
21 analysis of the earnings requirements for the advance college tuition savings
22 [PAYMENT] plan; and

23 (4) enter into contracts or agreements considered necessary for the
24 investment of the fund, including contracts or agreements with investment
25 managers, consultants, and other custodians of the fund;

26 (5) engage a financial advisor to annually report on the investment
27 performance of the fund;

28 (6) engage an independent firm of certified public accountants to
29 audit the financial position of the fund;

30 (7) do all acts, whether or not expressly authorized, that the board
31 considers necessary or proper in administering the assets of the fund;

1 (8) enter into reciprocal agreements with Sheldon Jackson College,
2 Alaska Pacific University, and other eligible educational institutions or state tuition
3 programs that the board determines to be beneficial to the advance college tuition
4 savings [PAYMENT] program;

5 (9) coordinate savings options established under the Alaska advance
6 college tuition savings program and the administration of the fund with the
7 Alaska Higher Education Savings Trust (AS 14.40.802) including the creation of
8 common administrative and record-keeping systems, marketing programs, and
9 operating reserves.

10 * Sec. 8. AS 14.40.811 is amended to read:

11 Sec. 14.40.811. Advance college tuition savings [PAYMENT] contracts. (a)

12 An advance college tuition savings [PAYMENT] contract must set out or include by
13 reference to the plan

14 (1) the name and date of birth of the purchaser and the beneficiary
15 under the contract;

16 (2) the number of advance college [PREPAID] tuition credits
17 purchased under the contract;

18 (3) the terms and conditions under which the contract may be
19 terminated and refunds made;

20 (4) the assumption of a contractual obligation by the board to provide
21 funding for specified education benefits for [TO] the beneficiary in accordance with
22 the terms of the plan;

23 (5) the period of time during which the beneficiary may receive the
24 benefits of the contract; and

25 (6) other terms and conditions the board determines to be appropriate
26 or that are required under 26 U.S.C. [BY THE UNITED STATES] (Internal Revenue
27 Code).

28 (b) An advance college tuition savings [PAYMENT] contract may be
29 terminated

30 (1) if the board determines that the number of purchasers is insufficient
31 to maintain the fund on an actuarially sound basis; or

1 (2) under other circumstances determined by the board and set out in
2 the advance tuition savings [PAYMENT] contract or in the plan.

3 * Sec. 9. AS 14.40.817(1) is amended to read:

4 (1) "advance college tuition savings [PAYMENT] contract" or
5 "contract" means a contract entered into by the board and a purchaser to provide for
6 the qualified higher education expenses of a beneficiary;

7 * Sec. 10. AS 14.40.817(5) is amended to read:

8 (5) "fund" means the Alaska advance college tuition savings
9 [PAYMENT] fund established under AS 14.40.803;

10 * Sec. 11. AS 14.40.817(6) is amended to read:

11 (6) "plan" means the formal plan for administration of an advance
12 college tuition savings [PAYMENT] program [AND PREPAID TUITION
13 SCHOLARSHIP PROGRAM] adopted by the board under AS 14.40.809(b);

14 * Sec. 12. AS 14.40.817(7) is amended to read:

15 (7) "purchaser" means the person who is named in the contract and has the
16 rights conferred upon a purchaser under an advance college tuition savings
17 [PAYMENT] contract;

18 * Sec. 13. AS 45.55.990(32) is amended to read:

19 (32) "security" means a note; stock; treasury stock; bond; debenture;
20 evidence of indebtedness; certificate of interest or participation in any profit-sharing
21 agreement; limited liability company interest under AS 10.50, notwithstanding the
22 limitations of AS 45.08.103(c); collateral-trust certificate; preorganization certificate
23 or subscription; transferable share; investment contract; voting-trust certificate;
24 certificate of deposit for a security; certificate of interest or participation in an oil, gas,
25 or mining title or lease or in payments out of production under the title or lease or in
26 any sale of or indenture or bond or contract for the conveyance of land or any interest
27 in land; an option on a contract for the future delivery of agricultural or mineral
28 commodities or any other commodity offered or sold to the public and not regulated
29 by the Commodity Futures Trading Commission; however, the contract or option is not
30 subject to the provisions of AS 45.55.070 if it is sold or purchased on the floor of a
31 bona fide exchange or board of trade and offered or sold to the public by a broker-

1 dealer or agent registered under this chapter; investment of money or money's worth
2 including goods furnished or services performed in the risk capital of a venture with
3 the expectation of some benefit to the investor where the investor has no direct control
4 over the investment or policy decision of the venture; or, in general, any interest or
5 instrument commonly known as a "security," or any certificate of interest or
6 participation in, temporary or interim certificate for, receipt for, guarantee of, or
7 warrant or right to subscribe to or purchase, any of the foregoing; "security" does not
8 include a participation agreement entered into under AS 14.40.802 or an insurance
9 or endowment policy or annuity contract under which an insurance company promises
10 to pay a fixed or variable sum of money either in a lump sum or periodically for life
11 or for some other specified period;

12 * Sec. 14. AS 14.40.805 is repealed.

13 * Sec. 15. This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Chair:
MILITARY AND VETERANS AFFAIRS

Member:
JUDICIARY
COMMUNITY AND REGIONAL AFFAIRS
LABOR AND COMMERCE



Session:
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REPRESENTATIVE LISA MURKOWSKI

Government Hill • Elmendorf • East Anchorage

House Bill 268 – Higher Education Savings Trust Sponsor's Statement

Alaska, through its student loan program and the Advance College Tuition program has traditionally offered its residents seeking a higher education, solid financial options. HB 268 continues this trend and will allow residents and non-residents alike the ability to put money into a trust fund that may be used for higher education expenses. HB 268 will ensure that Alaskans will continue to have flexible and powerful financial options to utilize for their higher education.

Under IRS code 26 USC 529 commonly known as "Section 529," states are allowed to create "qualified State tuition programs." Section 529 defines "qualified State tuition program" as a program established and maintained by a State or an agency under which a person may either purchase tuition credits or certificates on behalf of a designated beneficiary which entitle the beneficiary to the waiver or payment of qualified higher education expense of the beneficiary; or, may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary.

Under Section 529, individuals are permitted to front load large sums of money, in some states in excess of \$100,000, gift-tax free either in one lump sum or over a 5 - year period. Quite a contrast to the \$500 annual limit on the Education IRA. Furthermore, the participant may change the beneficiary at any time and may even choose him or herself to be the beneficiary. Section 529 provides unprecedented flexibility and savings power.

As approximately forty other states have done, House Bill 268 establishes a qualified State tuition program. The program will be administered by the University of Alaska and will be known as the "Alaska Higher Education Savings Trust." The bill also changes the structure of the current Advance College Tuition program by updating its structure to conform to new IRS codes and changing the name of the program to the Advance College Tuition Savings Fund. In order to keep the overhead, record keeping and marketing costs to a minimum, HB 268 places both programs under one administrative head.

It is vital that this education savings program be flexible and designed to maximize returns for the investor with minimal tax consequences. Not only is this important so that Alaskans are able to have meaningful savings options for their higher education, but, with a strong program, it should entice non-residents as well to invest their savings dollars in Alaska.

I urge your support of HB 268. Thank you for your consideration.

SPONSOR STATEMENT

program if it allows any interest in the program or any portion thereof to be used as security for a loan.

(7) Prohibition on excess contributions

A program shall not be treated as a qualified State tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(c) Tax treatment of designated beneficiaries and contributors

(1) In general

Except as otherwise provided in this subsection, no amount shall be includible in gross income of -

(A) a designated beneficiary under a qualified State tuition program, or

(B) a contributor to such program on behalf of a designated beneficiary,

with respect to any distribution or earnings under such program.

(2) Gift tax treatment of contributions

For purposes of chapters 12 and 13 -

(A) In general

Any contribution to a qualified tuition program on behalf of any designated beneficiary -

(i) shall be treated as a completed gift to such beneficiary which is not a future interest in property, and

(ii) shall not be treated as a qualified transfer under section 2503(e).

(B) Treatment of excess contributions

If the aggregate amount of contributions described in subparagraph (A) during the calendar year by a donor exceeds the limitation for such year under section 2503(b), such aggregate amount shall, at the election of the donor, be taken into account for purposes of such section ratably over the 5-year period beginning with such calendar year.

(3) Distributions

(A) In general

Any distribution under a qualified State tuition program shall be includible in the gross income of the distributee in the manner as provided under section 72(b) to the extent not excluded from gross income under any other provision of this chapter.

(B) In-kind distributions

Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary.

(C) Change in beneficiaries

(i) Rollovers

Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to the credit of another designated beneficiary under a qualified State tuition program who is a member of the family of the designated beneficiary with respect to which the distribution was made.

(ii) Change in designated beneficiaries

Any change in the designated beneficiary of an interest in a qualified State tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the family of the old beneficiary.

(D) Operating rules

For purposes of applying section 72 -

(i) to the extent provided by the Secretary, all qualified State tuition programs of which an individual is a designated beneficiary shall be treated as one program,

(ii) all distributions during a taxable year shall be treated as one distribution, and

(iii) the value of the contract, income on the contract,

and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

(4) Estate tax treatment

(A) In general

No amount shall be includible in the gross estate of any individual for purposes of chapter 11 by reason of an interest in a qualified tuition program.

(B) Amounts includible in estate of designated beneficiary in certain cases

Subparagraph (A) shall not apply to amounts distributed on account of the death of a beneficiary.

(C) Amounts includible in estate of donor making excess contributions

In the case of a donor who makes the election described in paragraph (2)(B) and who dies before the close of the 5-year period referred to in such paragraph, notwithstanding subparagraph (A), the gross estate of the donor shall include the portion of such contributions properly allocable to periods after the date of death of the donor.

(5) Other gift tax rules

For purposes of chapters 12 and 13 -

(A) Treatment of distributions

Except as provided in subparagraph (B), in no event shall a distribution from a qualified tuition program be treated as a taxable gift.

(B) Treatment of designation of new beneficiary

The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a rollover to the account of a new beneficiary) only if the new beneficiary is a generation below the generation of the old beneficiary (determined in accordance with section 2651).

(d) Reports

which such report relates.'

Subsec. (e)(1)(B). Pub. L. 105-34, Sec. 1601(h)(1)(A), substituted 'subsection (c)(3)(C)' for 'subsection (c)(2)(C)'.

Subsec. (e)(1)(C). Pub. L. 105-34, Sec. 1601(h)(1)(B), inserted '(or agency or instrumentality thereof)' after 'local government'.

Subsec. (e)(2). Pub. L. 105-34, Sec. 211(b)(1), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: 'The term 'member of the family' has the same meaning given such term as section 2032A(e)(2).'

Subsec. (e)(3). Pub. L. 105-34, Sec. 211(a), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: 'The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).'

Subsec. (e)(5). Pub. L. 105-34, Sec. 211(b)(2), added par. (5).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 211(f) of Pub. L. 105-34 provided that:

'(1) In general. - Except as otherwise provided in this subsection, the amendments made by this section (amending this section and sections 135 and 6693 of this title) shall take effect on January 1, 1998.

'(2) Expenses to include room and board. - The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1806 of the Small Business Job Protection Act of 1996 (Pub. L. 104-188).

'(3) Eligible educational institution. - The amendment made by subsection (b)(2) (amending this section) shall apply to distributions after December 31, 1997, with respect to expenses paid after such date (in taxable years ending after such date), for education furnished in academic periods beginning after such date.

''(A) a State or agency or instrumentality thereof maintains, on the date of the enactment of this Act, a program under which persons may purchase tuition credits or certificates on behalf of, or make contributions for education expenses of, a designated beneficiary, and

''(B) such program meets the requirements of a qualified State tuition program before the later of -

''(i) the date which is 1 year after such date of enactment, or

''(ii) the first day of the first calendar quarter after the close of the first regular session of the State legislature that begins after such date of enactment,

then such program (as in effect on August 20, 1996) shall be treated as a qualified State tuition program with respect to contributions (and earnings allocable thereto) pursuant to contracts entered into under such program before the first date on which such program meets such requirements (determined without regard to this paragraph) and the provisions of such program (as so in effect) shall apply in lieu of section 529(b) of the Internal Revenue Code of 1986 with respect to such contributions and earnings.

For purposes of subparagraph (B)(ii), if a State has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.''

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 72, 135, 530, 6693 of this title.



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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 186

2000 LEGISLATIVE SESSION

Revision Date (Note if correction)	Dept. Affected	University of Alaska
Title	BRU	Statewide
Savings Trust and the Alaska Advance College Tuition Savings Fund	Component	
Sponsor	Senator Tim Kelly	
Requester	Component Serial No.	

Expenditures/Revenues

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	50.0	50.0	50.0	50.0	50.0
Travel	10.0	5.0	5.0	5.0	5.0
Contractual	90.0	20.0	20.0	20.0	20.0
Supplies	30.0	25.0	25.0	25.0	25.0
Equipment	20.0				
Land & Structures					
Grants & Claims					
Miscellaneous					
TOTAL OPERATING	200.0	100.0	100.0	100.0	100.0

CAPITAL EXPENDITURES					
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CHANGE IN REVENUES ()	()	60.0	70.0	80.0	90.0	100.0
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FUND SOURCE

1002 Federal Receipts					
1003 GF Match					
1004 GF					
1005 GF/Program Receipts					
1037 GF/Mental Health					
1048 University Receipts	200.0	100.0	100.0	100.0	100.0
TOTAL	200.0	100.0	100.0	100.0	100.0

Estimate of any current year (FY00) cost: none

POSITIONS

Full-time	1	1	1	1	1
Part-time					
Temporary					

ANALYSIS: *(Attach a separate page if necessary)*

At this time there are many uncertainties about how the program can be best implemented. However, many of these cost will otherwise have to be incurred by the Advance College Tuition Program without regard to creation of the Alaska Higher Education Trust in order to meet participants needs for higher earning options. The Advance College Tuition program continues to have an important role in financing education, but changes in the federal tax and other laws currently favor more aggressive savings programs.

Prepared by	<u>Jim Lynch, Interim Vice President for Finance</u>	Phone
Division	<u>Statewide Finance</u>	Date <u>11/20/00</u>
Approved by Commission	<u>Jim Lynch, Interim Vice President for Finance</u>	Date
Agency	<u>Statewide Finance</u>	

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FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 268

2000 LEGISLATIVE SESSION

Revision Date (Note if correction)		Dept. Affected	University of Alaska
Title	<u>An Act relating to the Alaska Higher Education Savings Trust; and providing for an effective date.</u>	BRU	<u>Statewide</u>
Sponsor	<u>Representative Lisa Murkowski</u>	Component	
Requester		Component Serial No.	

Expenditures/Revenues

OPERATING EXPENDITURES	FY 01	FY 02	FY 03	FY 04	FY 05
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Travel	10.0	5.0	5.0	5.0	5.0
Contractual	90.0	20.0	20.0	20.0	20.0
Supplies	30.0	25.0	25.0	25.0	25.0
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Land & Structures					
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TOTAL OPERATING	200.0	100.0	100.0	100.0	100.0

CAPITAL EXPENDITURES					
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Prepared by	<u>Jim Lynch, Interim Vice President for Finance</u>	Phone <u>907-474-7445</u>
Division	<u>Statewide Finance</u>	Date
Approved by	<u>Jim Lynch, Interim Vice President for Finance</u>	Date <u>7/26/00</u>
Agency	<u>Statewide Finance</u>	

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Ford

1/31/00

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE MURKOWSKI

TO: CSHB 268(), Draft Version "H"

- 1 Page 4, line 16:
- 2 Delete "An"
- 3 Insert "Except as provided under AS 34.40.110, an"

Sec. 34.40.110. Restricting transfers of trust interests.

(a) A person who in writing transfers property in trust may provide that the interest of a beneficiary of the trust may not be either voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee. In this subsection,

(1) "property" includes real property, personal property, and interests in real or personal property;

(2) "transfer" means any form of transfer, including deed, conveyance, or assignment.

(b) If a trust contains a transfer restriction allowed under (a) of this section, the transfer restriction prevents a creditor existing when the trust is created, a person who subsequently becomes a creditor, or another person from satisfying a claim out of the beneficiary's interest in the trust, unless the

(1) transfer was intended in whole or in part to hinder, delay, or defraud creditors or other persons under AS 34.40.010 ;

(2) trust provides that the settlor may revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the power held by the settlor to revoke or terminate all or part of the trust; in this paragraph, "revoke or terminate" does not include a power to veto a distribution from the trust, a testamentary special power of appointment or similar power, or the right to receive a distribution of income, corpus, or both in the discretion of a person, including a trustee, other than the settlor;

(3) trust requires that all or a part of the trust's income or principal, or both, must be distributed to the settlor; or

(4) at the time of the transfer, the settlor is in default by 30 or more days of making a payment due under a child support judgment or order.

(c) The satisfaction of a claim under (b)(1) - (4) of this section is limited to that part of the trust to which (b)(1) - (4) of this section applies.

(d) A cause of action or claim for relief with respect to a fraudulent transfer under (b)(1) of this section, or under other law, is extinguished unless the action is brought as to a person who

(1) is a creditor when the trust is created, within the later of

(A) four years after the transfer is made; or

(B) one year after the transfer is or reasonably could have been discovered by the person; or

(2) becomes a creditor subsequent to the transfer into trust, within four years after the transfer is made.

(e) If a trust contains a transfer restriction allowed under (a) of this section, the transfer restriction prevents a creditor existing when the trust is created, a person who subsequently becomes a creditor, or another person from asserting any cause of action or claim for relief against a trustee of

the trust or against others involved in the preparation or funding of the trust for conspiracy to commit fraudulent conveyance, aiding and abetting a fraudulent conveyance, or participation in the trust transaction. The creditor and other person prevented from asserting a cause of action or claim for relief is limited to recourse against the trust assets and the settlor to the extent allowed under AS 34.40.010 .

(f) In this section, "settlor" means a person who transfers real property, personal property, or an interest in real or personal property, in trust.

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB268 (HES)

2000 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected _____	University of Alaska _____
Title <u>An Act relating to the Alaska Higher Education Savings Trust; and providing for an effective date.</u>	BRU _____	<u>Statewide</u>
_____	Component _____	_____
_____	_____	_____
Sponsor _____	_____	_____
Requester <u>Representative Lisa Murkowski</u>	Component Serial No. _____	_____

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CAPITAL EXPENDITURES					
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Prepared by Jim Lynch, Interim Vice President for Finance
 Division Statewide Finance
 Approved by Commissioner Jim Lynch, Interim Vice President for Finance
 Agency Statewide Finance

Phone 474-7448
 Date 2/1/00
 Date 2/1/00

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