

HOUSE BILL NO. 256 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE DAVIS

Amended: 5/5/97

Introduced: 4/21/97

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to calculation of the default rate for purposes of the student
2 loan program and to regulation of postsecondary educational institutions; and
3 providing for an effective date."

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

5 * Section 1. AS 14.43.120(d) is amended to read:

6 (d) Scholarship loans may not be made to a student

7 (1) for more than a total of \$42,500 for undergraduate study;

8 (2) for more than a total of \$47,500 for graduate study;

9 (3) for more than a combined total of \$60,000 for undergraduate and
10 graduate study;

11 (4) to attend an institution [,] if the total amount of scholarship loans
12 made to students to attend that institution exceeds \$100,000 and the default rate on
13 those loans is (A) greater than 20 percent but less than 25 percent, and the institution
14 is unable to reduce its default rate within 24 months after the rate determination; or

(B) equal to or greater than 25 percent for two consecutive calendar years; for purposes of this paragraph, the default rate shall [ANNUALLY] be determined by the commission **for each annual group of** [FROM] loans required to be repaid under (g) of this section on or after July 1, 1996; if a scholarship loan is refused based on the provisions of this paragraph and, under a subsequent default rate determination, an institution's default rate does not exceed the limits established under this paragraph, the commission may not refuse to issue a scholarship loan to attend that institution based on the provisions of this paragraph.

* **Sec. 2.** AS 14.48.030 is repealed and reenacted to read:

Sec. 14.48.030. Exemptions. (a) The following educational programs, and institutions providing only the following educational programs, are exempt from the provisions of this chapter:

(1) instruction provided at a level from preschool through grade 12, including preparation for general equivalency diploma examinations;

(2) a program operated by the United States;

(3) a program that does not offer educational credentials and is provided only to prepare individuals to take graduate examinations; and

(4) a program that does not offer educational credentials and is only avocational or recreational in nature.

(b) The commission may exempt the following educational programs, and educational institutions only providing programs exempt under (a) of this section and this subsection, from some or all of the provisions of this chapter:

(1) a program operated by a state or a political subdivision of a state;

(2) instruction sponsored by a bona fide trade, business, labor, professional, or fraternal association or organization, recognized by the commission, and conducted only for that association's or organization's membership;

(3) nonprofit postsecondary educational institutions offering undergraduate or graduate educational programs, from a facility in this state, that are acceptable for credit toward an associate, bachelor's, or graduate degree;

(4) a program that is provided without a fee, other than the actual cost of materials, to students;

- 1 (5) a program that does not offer education credentials;
 2 (6) a short course of study that is no more than 10 days or 80 hours in
 3 duration;
 4 (7) a program offered within the state by an out-of-state institution that
 5 is authorized to operate by the state in which it is located and is nationally or
 6 regionally accredited;
 7 (8) a program or institution that is regulated by another agency or
 8 political subdivision of the state regarding the quality of course contents, facilities, and
 9 operation.

10 (c) In this section, "nonprofit" means an organization that is exempt under 26
 11 U.S.C. 501(c)(3).

12 * **Sec. 3.** AS 14.48.090 is repealed and reenacted to read:

13 **Sec. 14.48.090. Fees.** The commission shall adopt regulations that establish
 14 the amount and manner of payment of fees for applications, authorizations, permits,
 15 and renewals under this chapter.

16 * **Sec. 4.** AS 14.48.120 is repealed and reenacted to read:

17 **Sec. 14.48.120. Sanctions; cessation of operation.** (a) An authorization to
 18 operate or an agent's permit may be revoked, suspended, or conditioned if the
 19 commission has reasonable cause to believe that the holder of the authorization or
 20 permit has violated this chapter, AS 45.50.471, or regulations adopted under this
 21 chapter or under AS 45.50.491. Except as provided in (c) and (d) of this section,
 22 AS 44.62 (Administrative Procedure Act) governs the procedure for a revocation,
 23 suspension, or other sanction under this section.

24 (b) In addition to the sanctions imposed under (a) of this section, the
 25 commission may assess a civil fine, not to exceed \$5,000, for costs of investigating
 26 and adjudicating a matter under this section if the commission finds that a violation
 27 has occurred.

28 (c) Authorization for an institution to operate and a permit for an agent
 29 representing that institution are canceled 30 days after the institution ceases to operate
 30 as a postsecondary educational institution. The commission shall give the institution
 31 and the agent 15 days' written notice, by certified mail, sent return receipt requested,

1 to the last known address of the institution and agent.

2 (d) The institution or the agent may appeal a cancellation under (c) of this
3 section by filing an appeal in writing with the commission within 30 days after the
4 cancellation showing that the institution has not ceased operating as a postsecondary
5 educational institution.

6 * **Sec. 5.** AS 14.48.130(c) is repealed and reenacted to read:

7 (c) If, based on the evidence at a hearing, the commission finds that a
8 postsecondary educational institution or its agent, or both, has engaged in an act or
9 practice that violates this chapter or regulations adopted under this chapter, the
10 commission

11 (1) shall serve on the institution or agent, or both, an order requiring
12 the institution or agent, or both, to cease and desist from the act or practice;

13 (2) may award the individual or class of individuals named in the
14 complaint full or partial restitution for damage or loss if the commission finds that the
15 individual or class of individuals has suffered loss or damage as a result of the act or
16 practice;

17 (3) may impose the penalties provided for in AS 14.48.190;

18 (4) may assess a civil fine, not to exceed \$5,000, for costs of
19 investigating and adjudicating a matter under this section; and

20 (5) may, based on its own investigation and the evidence presented at
21 the hearing, begin an action to revoke an institution's authorization to operate or an
22 agent's permit.

23 * **Sec. 6.** AS 14.48.130 is amended by adding a new subsection to read:

24 (d) If the commission makes an award under (c)(2) of this section to an
25 individual who owes principal or interest to a lender for a loan received for the
26 purpose of financing education provided by the institution, the institution, or surety,
27 if applicable, shall pay the amount of the award that does not exceed the outstanding
28 loan balance to the lender to be credited against the loan. Notwithstanding this
29 subsection, the commission may, for good cause shown, order that all of the award be
30 paid to an individual who receives an award from the commission.

31 * **Sec. 7.** AS 14.48.210(3) is amended to read:

1 (3) "authorization to operate" means approval of the commission to
 2 operate or to contract to operate a postsecondary educational institution **that provides**
 3 **education or grants educational credentials** in the state;

4 * **Sec. 8.** AS 14.48.210(5) is amended to read:

5 (5) "education," [OR] "educational program or services," **"instruction,"**
 6 **or "instructional program"** [OR LIKE TERM] includes any class, course, or
 7 program of training, instruction, or study;

8 * **Sec. 9.** AS 14.48.210(8) is amended to read:

9 (8) "postsecondary educational institution" **means** [INCLUDES AN]
 10 academic, vocational, technical, home study, business, professional, or other school,
 11 college, or university **offering education** [, OR OTHER ORGANIZATION OR
 12 PERSON, OFFERING EDUCATIONAL CREDENTIALS, OR OFFERING
 13 INSTRUCTION OR EDUCATIONAL SERVICES] primarily to persons who have
 14 completed or terminated their secondary education, or who are beyond the age of
 15 compulsory high school attendance, for attainment of educational, professional, or
 16 vocational objectives;

17 * **Sec. 10.** AS 14.48.210(11) is amended to read:

18 (11) "to operate a postsecondary institution" means to establish [,] or
 19 maintain a facility or location [IN THE STATE] where education is **provided**
 20 [OFFERED OR GIVEN,] or **postsecondary** educational credentials are [OFFERED
 21 OR] granted **to persons in the state** [,] and includes contracting with any person,
 22 group, or entity to operate **such** an educational institution.

23 * **Sec. 11.** TRANSITIONAL PROVISIONS. (a) Until a new fee schedule is adopted by
 24 regulation under AS 14.48.030, as amended by sec. 3 of this Act, the commission may charge
 25 the fees set out in the following schedule for an authorization to operate an institution in this
 26 state and for an agent's permit related to activities for postsecondary educational institutions:

27	(1) authorization to operate	\$100;
28	(2) renewal of authorization to operate	\$100;
29	(3) an agent's permit	\$ 50;
30	(4) renewal of an agent's permit	\$ 50.

31 * **Sec. 12.** The commission may immediately proceed to adopt regulations necessary to

- 1 implement the changes made by this Act. The regulations take effect under AS 44.62
- 2 (Administrative Procedure Act), but not before the effective date set out in sec. 14 of this Act.
- 3 * **Sec. 13.** Section 12 of this Act takes effect immediately under AS 01.10.070(c).
- 4 * **Sec. 14.** Except as provided in sec. 13 of this Act, this Act takes effect July 1, 1997.