

**HOUSE BILL NO. 204**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/22/01

Referred: House Special Committee on Education, Health, Education and Social Services, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1    **"An Act relating to the Alaska Commission on Postsecondary Education and the Alaska**  
2    **Student Loan Corporation; relating to student financial aid programs and the financing**  
3    **of those programs; establishing the Alaska Advantage Loan Program and the Alaska**  
4    **Supplemental Education Loan Program; increasing the bonding authorization of the**  
5    **Alaska Student Loan Corporation; providing for liens resulting from a default under AS**  
6    **14.43 or AS 14.44; relating to the duties of the recorder regarding those liens; relating to**  
7    **defaults under the Western Regional Higher Education Compact; relating to the**  
8    **prohibition on discrimination regarding programs under AS 14.43; relating to fees for**  
9    **the review of certain postsecondary institutions; making conforming amendments; and**  
10   **providing for an effective date."**

11   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

12    \* **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section

1 to read:

2 FINDINGS. The legislature finds and declares that

3 (1) it is essential for the ongoing economic health and well-being of the state  
4 and its citizens and families for the state to develop coordinated programs to more efficiently  
5 and fully use federal and state financial resources in

6 (A) making postsecondary educational opportunities more accessible  
7 to its citizens; and

8 (B) supporting recruitment and retention of students to support the  
9 state's postsecondary education system;

10 (C) creating statewide comprehensive planning for postsecondary  
11 education, including postsecondary educational institutions and related agencies; and

12 (D) creating a centralized information and financial aid center to  
13 provide a "one-stop" postsecondary educational information and financial aid services  
14 center;

15 (2) it is essential that this and future generations of Alaskans be given the  
16 fullest opportunity to access and benefit from postsecondary education, and that the state as a  
17 whole be enabled to provide and reap the benefits of a well-trained and educated citizenry;

18 (3) citizens of this state and students attending postsecondary institutions in  
19 this state, and their parents and others responsible for paying those postsecondary education  
20 expenses, should be provided with financial assistance at a lower cost in order to provide for  
21 those expenses;

22 (4) institutions of postsecondary education in the state should be provided  
23 with financial aid tools to assist in the admission and retention of qualified students; and

24 (5) benefits of the postsecondary programs, including the changes made by  
25 this Act, accrue to the Alaska public as a whole.

26 \* **Sec. 2.** AS 14.42.030(a) is amended to read:

27 (a) The commission has the following functions, advisory to the governing  
28 boards of institutions of public and private higher education in **this state** [ALASKA],  
29 to the governor, the legislature, and to other appropriate state and federal officials:

30 (1) coordinate the development of comprehensive plans for the orderly,  
31 systematic growth of public and private postsecondary education, including

community colleges and occupational education, in the state and submit recommendations on the need for, and location of, new facilities and programs;

(2) [ADVISE AS TO THE FUNCTIONS AND PURPOSES OF THE COLLEGES AND UNIVERSITIES, BOTH PUBLIC AND PRIVATE, IN THE STATE AND COUNSEL AS TO THE PROGRAMS APPROPRIATE TO EACH;

(3) REVIEW THE ANNUAL BUDGETS AND CAPITAL OUTLAY REQUESTS OF THE UNIVERSITY OF ALASKA AND OF EACH OF THE PRIVATE COLLEGES AND UNIVERSITIES IN THE STATE, AND PRESENT COMMENTS ON THE GENERAL LEVEL OF SUPPORT SOUGHT;

(4)] review and advise as to the efficiency and effectiveness [WORKING] of all consortia and other cooperative agreements between the institutions of public and private higher education in the state that are parties to them[;

(5) REPEALED].

\* **Sec. 3.** AS 14.42.030(b) is repealed and reenacted to read:

(b) The commission shall

(1) administer the financial aid and interstate education compact programs under AS 14.43.091 - 14.43.920 and 14.43.990, and AS 14.44;

(2) administer the provisions of AS 14.48 concerning regulation of postsecondary educational institutions;

(3) resolve disputes under a consortium or other cooperative agreement between institutions of public and private higher education in the state; and

(4) serve as the state agency required under 20 U.S.C. 1001 - 1155.

\* **Sec. 4.** AS 14.42.030 is amended by adding a new subsection to read:

(e) The commission may

(1) adopt regulations under AS 44.62 (Administrative Procedure Act)

to

(A) carry out the purposes of

(i) AS 14.43.091 - 14.43.750, 14.43.990, AS 14.44, and AS 14.48; and

(ii) AS 14.43.910 and 14.43.920 as they relate to the

1 purposes of AS 14.43.091 - 14.43.750, 14.43.990, AS 14.44, and  
 2 AS 14.48; and

3 (B) ensure compliance with the requirements imposed by state  
 4 and federal statutes and regulations governing the guaranty, insurance,  
 5 purchase, or other dealings in eligible loans by federal agencies,  
 6 instrumentalities, or corporations;

7 (2) delegate to the executive director of the commission or a  
 8 subcommittee of the commission any duty imposed on or power granted to the  
 9 commission by AS 14.42, AS 14.43, AS 14.44, or AS 14.48, except its power to adopt  
 10 regulations and its duty to consider appeals under AS 14.43.100(b) and AS 14.48.120;

11 (3) establish task forces, committees, or subcommittees, not  
 12 necessarily consisting of commission members, to advise and assist the commission in  
 13 carrying out its functions;

14 (4) contract with or use existing institutions of postsecondary  
 15 education or other individuals or organizations to make studies, conduct surveys,  
 16 submit recommendations, or otherwise contribute to the work of the commission;

17 (5) establish fees for the review of an out-of-state institution that is

18 (A) requesting approval for participation in the programs under  
 19 AS 14.43.091 - 14.43.750 and 14.43.990, and AS 14.44; and

20 (B) not accredited by a national or regional accreditation  
 21 association recognized by the Council on Higher Education Accreditation; and

22 (6) collect all fees and costs incurred in collection of the amount owed  
 23 on a loan or repayment obligation if the loan or repayment obligation becomes  
 24 delinquent or in default; in this paragraph, fees and costs include attorney fees, court  
 25 costs, and collection fees charged by a collection agency.

26 \* **Sec. 5.** AS 14.42.055 is amended to read:

27 **Sec. 14.42.055. Consortia.** All parties that are signatory to a consortium  
 28 agreement between the University of Alaska and a private university or college must  
 29 abide by a decision rendered by the commission when disagreements arise or exist  
 30 between the parties. For purposes of this section and **AS 14.42.030**  
 31 [AS 14.42.030(b)(6)], "consortium" means a cooperative arrangement between two or

more public or private institutions of postsecondary [HIGHER] education specified in agreements or memoranda of understanding to permit sharing of facilities, instructional opportunities, and other educational services in such a way that the integrity of each institution party to the consortium is preserved while at the same time the institutions cooperatively plan the academic calendar, scheduling, use of personnel and facilities, and educational programs and offerings to the maximum advantage of the students and faculties of the institutions that are parties to a consortium.

\* **Sec. 6.** AS 14.42.110 is amended to read:

**Sec. 14.42.110. Purpose of corporation.** The purpose of the corporation is to improve postsecondary [HIGHER] educational opportunities of eligible students through the

(1) centralized administration of financial aid and loan programs;

(2) coordination of the state's administrative effort in student financial aid and loan programs with those of other government authorities; and

(3) support of the administration by the federal government, other states, and institutions of postsecondary education of the federal guaranteed student loan program [FOR RESIDENTS OF THE STATE IN ACCORDANCE WITH THIS CHAPTER].

\* **Sec. 7.** AS 14.42.200 is amended to read:

**Sec. 14.42.200. General powers.** In addition to other powers granted in this chapter, the corporation may

(1) sue and be sued in its own name;

(2) adopt an official seal;

(3) adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter;

(4) make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the corporation, including contracts with a person or governmental entity;

(5) receive, take, hold, and administer, on behalf of the corporation and for any of its purposes, any appropriation, gift, grant, bequest, devise, or donation of real property or personal property if that obligation of the

**corporation is not a debt of the state; in this paragraph, "property" includes**

**(A) money; and**

**(B) life estates, leases, or other interests in property**

[RECEIVE, ADMINISTER, AND COMPLY WITH THE CONDITIONS AND REQUIREMENTS RESPECTING ANY APPROPRIATION, GIFT, GRANT, OR DONATION OF PROPERTY OR MONEY];

(6) borrow money as provided in this chapter to carry out its corporate purposes and issue its obligations as evidence of the borrowing;

(7) include in a borrowing the amounts to pay financing charges, interest on the obligations for a period not exceeding one year after the date on which the corporation estimates funds will otherwise be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to the borrowing;

(8) invest or reinvest, subject to its contracts with noteholders and bondholders, money held by the corporation as set out in AS 37.10.071;

(9) **set and collect interest, fees, and charges in connection with education loans or repayment obligations held by the corporation and its servicing agents; in this paragraph, "charges" includes costs of financing by the corporation, service charges, insurance premiums, and other costs incurred by the corporation in carrying out its corporate purposes** [COLLECT FROM A BORROWER AMOUNTS OWED WITH RESPECT TO A STUDENT LOAN THE CORPORATION HAS PURCHASED];

(10) gather information on **postsecondary education financial resources** [STUDENT LOANS] available to residents of **this state** [ALASKA] and disseminate the information to reasonably assure that qualified residents are aware of **those** financial resources [AVAILABLE TO THOSE ATTENDING OR DESIRING TO ATTEND INSTITUTIONS FOR WHICH LOANS MAY BE MADE UNDER AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, OR 14.43.710 - 14.43.750];

(11) service **education** [STUDENT] loans **and repayment obligations** held by the corporation;

(12) purchase or participate in the purchase of **education** [STUDENT]

1 loans;

2 (13) contract in advance for the purchase or sale of **education**  
3 [STUDENT] loans;

4 (14) sell or participate in the sale, either public or private and on terms  
5 authorized by the board, of **education** [STUDENT] loans to the Student Loan  
6 Marketing Association or to other purchasers;

7 (15) collect and pay reasonable fees and charges in connection with the  
8 purchase, sale, and servicing of **education** [STUDENT] loans **and repayment**  
9 **obligations**;

10 (16) enter into agreements with the federal government, including  
11 guaranty agreements and supplemental guaranty agreements as described in **20 U.S.C.**  
12 **1001 - 1155, as amended** [THE UNITED STATES HIGHER EDUCATION ACT OF  
13 1965], as necessary to provide for the receipt by the corporation of administrative  
14 allowances and other benefits available under **20 U.S.C. 1001 - 1155, as amended**  
15 [THE UNITED STATES HIGHER EDUCATION ACT OF 1965];

16 (17) administer federal money allotted to the state involving insured  
17 **education** [STUDENT] loans and related administrative costs and other matters;

18 (18) enter into agreements with the **commission** [ALASKA  
19 COMMISSION ON POSTSECONDARY EDUCATION] relating to **education**  
20 [STUDENT] loans **and repayment obligations**, the administration of the **financial**  
21 **aid and loan programs** [STUDENT LOAN FUND CREATED] under  
22 **AS 14.43.091 - 14.43.750 and 14.43.990, and AS 14.44** [AS 14.42.210], and the  
23 payment of and security for bonds of the corporation;

24 (19) to the extent permitted under contracts with **bondholders** [BOND  
25 HOLDERS], consent to the modification of the rate of interest, time of payment of an  
26 installment of principal or interest, or other terms of **an education** [A STUDENT]  
27 loan **or repayment obligation held** [PURCHASED] by the corporation;

28 (20) procure insurance against any loss in connection with the  
29 operation of its programs;

30 (21) provide advisory services to borrowers and other participants in  
31 the corporation's programs;

(22) enter into credit facility agreements and make pledges, covenants, and agreements with respect to the repayment of borrowings under the credit facility agreements;

(23) develop and implement education financing programs; in this paragraph, "programs" includes

(A) programs listed in AS 14.42.030(b)(1);

(B) programs for the guaranteeing, servicing, originating, and financing of education loans for borrowers located both inside and outside the state; and

(C) federal financial aid programs made under federal law; and

(24) perform [DO ALL] acts that may be necessary or appropriate [, CONVENIENT, OR DESIRABLE] to carry out effectively the general objectives and purposes of the corporation under AS 14.42.100 - 14.42.990 [THE POWERS EXPRESSLY GRANTED OR NECESSARILY IMPLIED IN AS 14.42.100 - 14.42.390].

\* **Sec. 8.** AS 14.42 is amended by adding a new section to read:

**Sec. 14.42.205. Supplemental education loans: financing program.** (a)

The purpose of this section is to provide for supplemental education loan program financing to assist qualified borrowers in meeting postsecondary education costs for which federal and private financial aid may be insufficient.

(b) The corporation may develop and establish a financing program for the Alaska Supplemental Education Loan Program administered by the commission under AS 14.43.170 - 14.43.175.

(c) The financing program established under (b) of this section

(1) shall

(A) provide that loans under the Alaska Supplemental Education Loan Program are

(i) medium and long-range fixed and variable rate loans; and

(ii) structured to operate as lines of credit;



(B) require terms and conditions for those loans as the corporation determines are useful and feasible;

(C) be designed to

(i) assist postsecondary institutions in this state in attracting and retaining students;

(ii) maximize the amount of financing available by using private activity tax exempt bond capacity as may be allocated by the state; and

(2) except as limited by (1)(B) of this subsection, may provide for terms and conditions that are more attractive than prevailing terms and conditions available to students from other supplemental education lenders.

\* **Sec. 9.** AS 14.42.210 is amended to read:

**Sec. 14.42.210. Education [STUDENT] loan fund and program administration.** (a) The education [STUDENT] loan fund is established in the corporation. The education [STUDENT] loan fund is a trust fund to be used to carry out the purposes of AS 14.42.100 - 14.42.990 [AS 14.42.100 - 14.42.390], AS 14.43.091 - 14.43.160 [AS 14.43.090 - 14.43.325], 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, 14.43.990, and AS 14.44.025. The fund consists of money or assets appropriated or transferred to the corporation for the fund and money or assets deposited in it by the corporation. The corporation may establish separate accounts in the fund.

(b) Money and other assets of the education [STUDENT] loan fund may be used to

**(1) secure bonds of the corporation;**

**(2) pay the costs of administration of the fund;**

**(3) invest [, INVESTED] in education [STUDENT] loans and investments under AS 37.10.071;**

**(4) finance programs [AND USED TO PURCHASE LOANS] approved under AS 14.43.091 - 14.43.160 [AS 14.43.090 - 14.43.325], 14.43.600 - 14.43.700, [OR] 14.43.710 - 14.43.750, or AS 14.44.040; and**

**(5) pay the costs of administering and collecting the loans and**

**repayment obligations under the financial aid programs listed in (4) of this subsection.**

(c) The **financial aid programs listed in (b)(4) of this section** [STUDENT LOAN FUND] shall be administered by the **commission** [ALASKA COMMISSION ON POSTSECONDARY EDUCATION]. The corporation and the commission may enter into agreements relating to the administration of the **programs** [FUND]. The corporation may assign its rights under the agreements for the benefit and security of holders of its bonds.

\* **Sec. 10.** AS 14.42.210(a) is amended to read:

(a) The education loan fund is established in the corporation. The education loan fund is a trust fund to be used to carry out the purposes of AS 14.42.100 - 14.42.990, **AS 14.43.091 - 14.43.175** [AS 14.43.091 - 14.43.160], 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, 14.43.990, and AS 14.44.025. The fund consists of money or assets appropriated or transferred to the corporation for the fund and money or assets deposited in it by the corporation. The corporation may establish separate accounts in the fund.

\* **Sec. 11.** AS 14.42.210(b) is amended to read:

(b) Money and other assets of the education loan fund may be used to

- (1) secure bonds of the corporation;
- (2) pay the costs of administration of the fund;
- (3) invest in education loans and investments under AS 37.10.071;
- (4) finance programs approved under **AS 14.43.091 - 14.43.175** [AS 14.43.091 - 14.43.160], 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, or AS 14.44.040; and

(5) pay the costs of administering and collecting the loans and repayment obligations under the financial aid programs listed in (4) of this subsection.

\* **Sec. 12.** AS 14.42.220(b) is amended to read:

(b) Bonds may be authorized only by resolution of the board. Bonds shall be dated, bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, be subject to the terms of

redemption, and mature as provided by the resolution or a subsequent resolution.  
However, a bond may not mature more than 40 [30] years after the date it is issued.

\* **Sec. 13.** AS 14.42.220(f) is amended to read:

(f) The corporation may not issue bonds, other than refunding bonds, during any two consecutive fiscal years in an aggregate amount greater than \$200,000,000 [\$125,000,000] unless the legislature, by law, approves issuance of a greater amount.

\* **Sec. 14.** AS 14.42.230 is amended to read:

**Sec. 14.42.230. Trust indentures and trust agreements.** An issue of bonds by the corporation may be secured by a trust indenture or trust agreement between the corporation and a corporate trustee, which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the corporation may

(1) enter into agreements with the trustee or the bondholders that the board determines to be necessary or desirable, including covenants, provisions, limitations, and other agreements as to the

(A) application, investment, deposit, use, and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) fixing and collecting of [LOAN] payments and other consideration for an education [A STUDENT] loan or repayment obligation;

(C) assignment by the corporation of its rights in an education [A STUDENT] loan or repayment obligation or in a mortgage or other security interest created with respect to an education [A STUDENT] loan or repayment obligation to a trustee for the benefit of bondholders;

(D) terms and conditions upon which additional bonds of the corporation may be issued;

(E) vesting in a trustee of rights, powers, duties, funds, or property in trust for the benefit of bondholders, including the right to enforce payment, performance, and other rights of the corporation or of the

1 bondholders, under an education [A STUDENT] loan or repayment  
 2 obligation or a security interest created with respect to an education [A  
 3 STUDENT] loan or repayment obligation;

4 (2) pledge, mortgage, or assign money, agreements, property, or other  
 5 assets of the corporation either presently in hand or to be received in the future, or  
 6 both; and

7 (3) provide for other matters that in any way affect the security or  
 8 protection of the bonds.

9 \* **Sec. 15.** AS 14.42.270 is amended to read:

10 **Sec. 14.42.270. Pledge and agreement of state.** The state pledges to and  
 11 agrees with holders of bonds issued by the corporation that the state will not limit or  
 12 alter the rights and powers vested in the corporation under AS 14.42.100 - 14.42.990  
 13 [AS 14.42.100 - 14.42.390] to fulfill the terms of a contract made by the corporation  
 14 with the bondholders or in any way impair the rights and remedies of the bondholders  
 15 until the bonds, together with the interest on them with interest on unpaid installments  
 16 of interest, and all costs and expenses in connection with an action or proceeding by or  
 17 on behalf of the bondholders, are fully met and discharged. The corporation may  
 18 include this pledge and agreement of the state in a contract with bondholders.

19 \* **Sec. 16.** AS 14.42 is amended by adding a new section to read:

20 **Article 3. General Provisions.**

21 **Sec. 14.42.990. Definitions.** In this chapter, unless the context requires  
 22 otherwise,

23 (1) "board" means the board of directors of the corporation;

24 (2) "commission" means the Alaska Commission on Postsecondary  
 25 Education created in AS 14.42.015;

26 (3) "corporation" means the Alaska Student Loan Corporation created  
 27 in AS 14.42.100;

28 (4) "education loan" means a loan that is eligible for financing or is  
 29 financed from the education loan fund established in AS 14.42.210;

30 (5) "repayment obligation" means an obligation to repay financial  
 31 support that is financed from the education loan fund established in AS 14.42.210 or

1 otherwise administered by the commission;

2 (6) "eligible student" means an individual who meets the eligibility  
3 requirements established by the federal guaranteed student loan program or as  
4 otherwise set out in AS 14.43;

5 (7) "federal guaranteed student loan program" means the programs of  
6 the United States government making postsecondary educational financial aid  
7 available under 20 U.S.C. 1070 - 1099c-2, as amended.

8 \* **Sec. 17.** AS 14.43 is amended by adding a new section to read:

9 **Sec. 14.43.091. Education loan program.** (a) There is created the education  
10 loan program to provide loans to individuals who are students to assist in paying the  
11 costs of postsecondary education. The provisions of this section, AS 14.43.100 -  
12 14.43.160, 14.43.910, 14.43.920, and 14.43.990 apply to the loans.

13 (b) Upon approval by the commission of an education loan, the corporation  
14 shall finance a loan disbursement, subject to any limit that the corporation sets on the  
15 total amount of loans that the corporation will finance in a school year. A loan  
16 financed under this section becomes an asset of the corporation.

17 (c) Repayments of principal and interest on a loan are paid into the education  
18 loan fund established in AS 14.42.210. If money made available by the corporation is  
19 inadequate to fully finance eligible loan applications, additional financing from the  
20 general fund may be requested and appropriated for that year.

21 \* **Sec. 18.** AS 14.43.120(a) is amended to read:

22 (a) Proceeds from an education [A SCHOLARSHIP] loan to a full-time  
23 student may only be used for books and supplies, tuition and required fees, loan  
24 origination fees, and room and board. Proceeds from an education [A  
25 SCHOLARSHIP] loan to a half-time student may only be used for books and  
26 supplies, tuition and required fees, and loan origination fees.

27 \* **Sec. 19.** AS 14.43.120(f) is amended to read:

28 (f) Interest on a loan made under AS 14.43.091 - 14.43.160 [AS 14.43.090 -  
29 14.43.160] is equal to the interest rate

30 (1) paid in each year on bonds issued by the Alaska Student Loan  
31 Corporation under AS 14.42.220; and

(2) necessary to pay the administrative cost of the education [STUDENT] loan program that is represented by the loan.

\* **Sec. 20.** AS 14.43.120(v) is amended to read:

(v) In determining a rate of interest under (f)(2) of this section,

(1) the commission shall use a method that ensures that the rate of interest is as low as possible without precluding the ability of the commission to administer loans made under AS 14.43.091 - 14.43.160 [AS 14.43.090 - 14.43.160]; and

(2) the total amount charged for administrative costs of the education [STUDENT] loan program may not exceed three percent above the amount determined under (f)(1) of this section.

\* **Sec. 21.** AS 14.43.122(a) is amended to read:

(a) The commission may offer

(1) a borrower who has received more than one loan under AS 14.43.091 - 14.43.160 [THIS CHAPTER] the option of consolidating the multiple loans into a single loan; or

(2) to consolidate loans made under AS 14.43.091 - 14.43.160 to married borrowers if the married borrowers agree to be jointly and severally liable for repayment of the consolidated loan, regardless of the borrowers' future marital status or the death of one of the borrowers.

\* **Sec. 22.** AS 14.43.125(c) is amended to read:

(c) A person may not be awarded an education [A SCHOLARSHIP] loan under AS 14.43.091 - 14.43.160 [AS 14.43.090 - 14.43.160] if that person receives a teacher education [SCHOLARSHIP] loan under AS 14.43.600 - 14.43.700 for the same period of attendance.

\* **Sec. 23.** AS 14.43.135 is repealed and reenacted to read:

**Sec. 14.43.135. Discrimination prohibited.** The programs established under this chapter shall be carried out without regard to the applicant's or participant's race, creed, sex, color, ancestry, national origin, or membership in fraternal or political organizations.

\* **Sec. 24** AS 14.43.145(a) is amended to read:

(a) For the purposes of this chapter, a loan is in default **after** [IF] a loan payment has become 180 or more days past due. Upon default,

(1) repayment of the remaining balance is accelerated and due;

(2) the commission may take the borrower's permanent fund dividend under AS 43.23.067;

(3) the commission may issue an order to withhold and deliver under AS 14.43.147; [AND]

(4) the commission may provide notice of the default to a licensing entity for nonrenewal of the license under AS 14.43.148; **and**

**(5) the commission may record the lien created under AS 14.43.149.**

\* **Sec. 25.** AS 14.43.145(a) is amended to read:

(a) For the purposes of this chapter, a loan is in default after a loan payment has become 180 or more days past due **or, for a loan under AS 14.43.161 - 14.43.168 or 14.43.170 - 14.43.175, the default requirements established by the commission have been met.** Upon default,

(1) repayment of the remaining balance is accelerated and due;

(2) the commission may take the borrower's permanent fund dividend under AS 43.23.067;

(3) the commission may issue an order to withhold and deliver under AS 14.43.147;

(4) the commission may provide notice of the default to a licensing entity for nonrenewal of the license under AS 14.43.148; and

(5) the commission may record the lien created under AS 14.43.149.

\* **Sec. 26.** AS 14.43.145(c) is amended to read:

(c) A borrower may appeal a notice of default by filing a statement with the executive director, within 30 days after the date of the notice, requesting that the loan status be reviewed. AS 44.62 (Administrative Procedure Act) does not apply to the review of default under this section. The borrower has the burden to show that, at the time of the notice of default, **(1) no loan payment was more than 180 days past due or, for a loan under AS 14.43.161 - 14.43.168 or 14.43.170 - 14.43.175, the default**

1 **requirements established by the commission had not yet been met;** or **(2)** that the  
 2 borrower entered into, and was in compliance with, a default forbearance agreement  
 3 with the commission. **Within 40 days after receiving a written request for review,**  
 4 **the director shall inform the borrower in writing of the executive director's**  
 5 **decision.** The decision of the executive director is a final decision that may be  
 6 appealed to the superior court under the Alaska Rules of Appellate Procedure.

7 \* **Sec. 27.** AS 14.43 is amended by adding a new section to read:

8 **Sec. 14.43.149. Lien.** (a) The amount owing on a loan that is in default under  
 9 AS 14.43, including principal, interest, and collection costs, is a lien upon all property  
 10 and right to property, real or personal, belonging to the borrower. The lien arises at  
 11 the time that the commission mails or otherwise delivers a notice of default under  
 12 AS 14.43.145(b) and continues until the balance of the loan, including principal,  
 13 interest, and collection costs, is paid in full.

14 (b) A lien created under (a) of this section is

15 (1) not valid against a mortgagee or other lienholder, pledgee,  
 16 purchaser, or judgment creditor until notice of the lien is recorded in the records of the  
 17 recording district where the property subject to the lien is situated; and

18 (2) subject to AS 40.19.040(e).

19 \* **Sec. 28.** AS 14.43.160 is amended to read:

20 **Sec. 14.43.160. Definitions.** In **AS 14.43.091 - 14.43.160, unless the context**  
 21 **otherwise requires,** [AS 14.43.090 - 14.43.160]

22 (1) "career education" means a course or program in vocational-  
 23 technical training or education approved by the commission;

24 (2) "federally insured" means a loan covered by the provisions of  
 25 **20 U.S.C. 1001 - 1155** [THE GUARANTEED STUDENT LOAN PROGRAM OF  
 26 TITLE IV, PART B, OF THE HIGHER EDUCATION ACT OF 1965 (P.L. 89-329)],  
 27 as amended;

28 (3) "full-time student" means an undergraduate or career education  
 29 student who is enrolled and is in regular attendance at classes for at least 12 semester  
 30 hours of credit or the equivalent during the semester or a graduate student who is  
 31 enrolled and is in regular attendance at classes for at least nine semester hours of credit



1 or the equivalent; any combination of semester hours of credit, or the equivalent,  
 2 aggregating to the requisite number of semester hours and undertaken during a  
 3 semester at two or more public or private institutions of higher education constitutes  
 4 full-time student status;

5 (4) "half-time student" means an undergraduate, graduate, or career  
 6 education student who during the semester is enrolled and is in regular attendance at  
 7 classes at one or more public or private institutions of higher education for at least a  
 8 total of six semester credit hours or an equivalent of six semester credit hours, and  
 9 includes a career education student enrolled and in regular attendance in classes for at  
 10 least 15 hours a week;

11 (5) "school year" means an academic period that is a minimum of 30  
 12 weeks of instructional time that begins between September 1 of one year and August  
 13 31 of the following year;

14 (6) "summer term" means the period from June 1 - August 31.

15 \* **Sec. 29.** AS 14.43 is amended by adding new sections to read:

16 **Article 4A. Alaska Advantage Loan Program.**

17 **Sec. 14.43.161. Purpose; creation.** There is established the Alaska  
 18 Advantage Loan Program to provide postsecondary educational financial assistance  
 19 through the federal guaranteed student loan program. The Alaska Advantage Loan  
 20 Program is the primary source for financial aid to eligible borrowers under AS 14.43.

21 **Sec. 14.43.162. Eligibility.** For a borrower to be eligible for a loan under  
 22 AS 14.43.161 - 14.43.168, the borrower must meet the eligibility requirements  
 23 established by the federal guaranteed student loan program and

24 (1) must be a resident of the state as determined under (b) of this  
 25 section; or

26 (2) must be physically present in this state and attending an institution  
 27 that is physically located in this state.

28 (b) To meet the residency requirement of (a) of this section, the borrower

29 (1) must physically reside in this state and maintain a domicile in this  
 30 state during the 12 consecutive months before the date of application for the program,  
 31 except that the borrower may be absent from this state for no more than a total of 60

1 days during that 12-month period; and

2 (2) may not have

3 (A) declared or established residency in another state; or

4 (B) received residency or a benefit based on residency, from

5 another state.

6 (c) To continue to meet the residency requirement of (a) of this section for  
7 each year that a loan is received or subsequently applied for, the borrower must meet  
8 the requirements of (b) of this section, except for

9 (1) full-time attendance at an educational or training institution;

10 (2) military service; or

11 (3) demonstrated good cause as determined by the commission.

12 **Sec. 14.43.163. Restrictions on award.** Under the Alaska Advantage Loan  
13 Program, the commission may make loans subject to the following restrictions:

14 (1) a loan amount awarded may not exceed the maximum amount for  
15 the school year as established by the federal guaranteed student loan program;

16 (2) a borrower may not be awarded a loan amount that would, when  
17 aggregated with other loans awarded to the student under the federal guaranteed  
18 student loan program, exceed the maximum total amount allowable per borrower that  
19 is established by the federal guaranteed student loan program;

20 (3) the loan award may not exceed the total cost of attendance at the  
21 postsecondary institution less other forms of financial aid awarded to the borrower to  
22 pay for those costs.

23 **Sec. 14.43.164. Use of loan.** A borrower may use a loan under this program  
24 only for postsecondary education and reasonably related purposes as authorized by the  
25 federal guaranteed student loan program.

26 **Sec. 14.43.165. Interest.** (a) The corporation shall set the rate of interest on a  
27 loan made under AS 14.43.161 - 14.43.168 in accordance with federal and state law.  
28 Interest on a loan made under AS 14.43.161 - 14.43.168 may not exceed the rate  
29 specified by the applicable provisions of the federal guaranteed student loan program.  
30 Interest on a loan made under AS 14.43.161 - 14.43.168 accrues from the time that the  
31 loan is disbursed.

(b) A borrower may elect to make payments of interest that is payable during the borrower's term of attendance at the postsecondary institution or during certain deferment periods authorized by the commission; however, the commission shall capitalize any unpaid interest as part of the principal to be repaid as agreed, or upon graduation, withdrawal, or completion of the deferment period.

(c) Notwithstanding the provisions of (b) of this section, if a borrower qualifies for a subsidized loan under the federal guaranteed student loan program, the interest on the loan is paid by the federal government during the borrower's term of attendance and any qualifying deferment and grace periods authorized under the loan.

**Sec. 14.43.166. Repayment of loans.** A borrower's obligation to commence repayment of the principal and interest on a loan under AS 14.43.161 - 14.43.168 begins six months after the borrower's completion or other termination of the postsecondary education program. The commission may accelerate the repayment of any loan made in error or in reliance upon a false statement made by the borrower. The commission shall determine the period over which loans are repaid; however, the maximum period of repayment of loans may not exceed the maximum period permitted under applicable provisions of the federal guaranteed student loan program.

**Sec. 14.43.167. Consolidation of loans.** The commission may offer

(1) an eligible borrower who has received more than one loan under the federal guaranteed student loan program the option of consolidating the multiple loans into a single loan; or

(2) to consolidate loans made to married borrowers if the married borrowers agree to be jointly and severally liable for repayment of the consolidated loan, regardless of the borrowers' future marital status or the death of one of the borrowers.

**Sec. 14.43.168. Default.** (a) The commission shall establish the default requirements for loans made under AS 14.43.161 - 14.43.168; however, the requirements may not be less restrictive than those established by the federal guaranteed student loan program.

(b) The provisions of AS 14.43.145 - 14.43.150 apply to loans under AS 14.43.161 - 14.43.168 that are in default.

**Article 4B. Alaska Supplemental Education Loan Program.**

**Sec. 14.43.170. Creation; purpose.** There is created the Alaska Supplemental Education Loan Program to provide postsecondary educational supplemental financial assistance. Supplemental financial assistance is available only if the financial aid available through the Alaska Advantage Loan Program is insufficient to cover the costs of attendance at a postsecondary institution or if the borrower does not qualify for financial aid under the federal guaranteed student loan program. The commission shall make the public aware of the Alaska Supplemental Education Loan Program to facilitate providing loans to as many eligible borrowers as possible.

**Sec. 14.43.171. Applicability of other laws.** The provisions of AS 14.43.120(d)(4), 14.43.135, 14.43.140, 14.43.145 - 14.43.160, 14.43.164, and 14.43.166 - 14.43.168 apply to the loans made under AS 14.43.170 - 14.43.175 as if the loans were made under those applicable provisions.

**Sec. 14.43.172. Eligibility.** (a) For a borrower to be eligible for a loan under AS 14.43.170 - 14.43.175, the borrower must be, or be about to be, enrolled in a postsecondary institution on at least a half-time basis and

(1) must be a resident of this state

(A) attending or about to attend a postsecondary institution that has been approved by and has executed a program participation agreement with the commission; or

(B) attending or about to attend an approved FFEL institution;  
or

(2) must be physically present in this state and attending or about to attend an approved FFEL institution located in this state.

(b) To meet the residency requirement of (a) of this section, the borrower must meet the standards set out in AS 14.43.162(b).

(c) In addition to the provisions of (a) of this section, a borrower is eligible for a loan under AS 14.43.170 - 14.43.175 if the borrower

(1) is not delinquent and has never been in default on a loan previously awarded by the commission;

(2) at the time of application or loan disbursement does not have a past due child support obligation established by court order or by the child support enforcement agency under AS 25.27.160 - 25.27.220;

(3) has not, within the previous five years, had a loan discharged or written off by the commission for any reason;

(4) does not have a status, at the time of application for a loan or disbursement of loan money, that would prevent the borrower from repaying the loan as it becomes due;

(5) has not within the previous five years defaulted on another loan made to the borrower by a lending entity unless the borrower can show good faith efforts to repay the loan and extraordinary circumstances that led to the default; and

(6) does not have a credit history, at the time of application for a loan, that demonstrates chronic inability or unwillingness to pay an extension of credit or loan as it becomes due.

(d) The commission may make a loan to a borrower who has been in default on a loan previously awarded by the commission if

(1) the previously awarded loan has been paid in full; and

(2) another individual who satisfies the requirements of (c) of this section cosigns the loan.

(e) Notwithstanding (c)(4) - (6) of this section, the commission may make a loan to a borrower if another individual who satisfies the requirements of (c) of this section cosigns the loan.

(f) The commission may withhold disbursement of a loan if the borrower no longer meets the eligibility standards set out in this section.

(g) A borrower who is attending a postsecondary institution in this state that has been approved by the commission but is not an approved FFEL institution must also comply with and meet any other requirements established by the commission.

**Sec. 14.43.173. Loan award maximums; use of loan award.** (a) In a school year, the commission may make a loan to an eligible borrower under AS 14.43.170 - 14.43.175 attending an eligible postsecondary institution not to exceed

(1) \$8,500 to an eligible undergraduate student attending a college or

1 university;

2 (2) \$9,500 to an eligible graduate student attending a college or  
3 university;

4 (3) \$6,500 to an eligible student attending a career education program.

5 (b) The commission may not award loans made under AS 14.43.170 -  
6 14.43.175 to a borrower for more than

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

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

9 (3) a combined total of \$60,000 for undergraduate and graduate study.

10 (c) To maintain a loan award under AS 14.43.170 - 14.43.175, the borrower  
11 must continue to be in good standing as determined by the institution and approved by  
12 the commission.

13 **Sec. 14.43.174. Interest.** (a) The interest rate on a loan made under  
14 AS 14.43.170 - 14.43.175 shall be set by the corporation, but the annual rate may not  
15 exceed 8.25 percent. Interest on a loan made under AS 14.43.170 - 14.43.175 accrues  
16 from the time the loan is disbursed.

17 (b) A borrower may elect to make payments of interest that is payable during  
18 the borrower's term of attendance at the postsecondary institution or during certain  
19 deferment periods authorized by the commission; however, the commission shall  
20 capitalize any unpaid interest as part of the principal to be repaid as agreed, or upon  
21 graduation, withdrawal, or completion of the deferment period.

22 **Sec. 14.43.175. Repayment of loans.** A borrower's obligation to commence  
23 repayment of the principal and interest on a loan under AS 14.43.170 - 14.43.175  
24 begins six months following the borrower's completion or other termination of the  
25 postsecondary program or the date that the borrower ceases to be enrolled on at least a  
26 half-time basis. The commission shall set the repayment terms of a loan under  
27 AS 14.43.170 - 14.43.175.

28 \* **Sec. 30.** AS 14.43.255(a) is amended to read:

29 (a) There is created a memorial education [SCHOLARSHIP] revolving loan  
30 fund. The fund shall be used to provide education [EDUCATIONAL  
31 SCHOLARSHIP] loans to students selected under AS 14.43.250 - 14.43.325.

**Repayments** [UNLESS THE INSTRUMENT EVIDENCING THE MEMORIAL SCHOLARSHIP LOAN HAS BEEN SOLD OR ASSIGNED TO THE ALASKA STUDENT LOAN CORPORATION, REPAYMENTS] of a loan shall be deposited into the memorial **education** [SCHOLARSHIP] revolving loan fund and shall be used to make new loans.

\* **Sec. 31.** AS 14.43.305(i) is amended to read:

(i) To the extent they are not in conflict with terms and conditions under AS 14.43.250 - 14.43.325, the terms and conditions of a memorial **education** [SCHOLARSHIP] loan made under AS 14.43.250(b)(5) are the same as the terms and conditions for **an education** [A SCHOLARSHIP] loan under **AS 14.43.091 - 14.43.160** [AS 14.43.090 - 14.43.160], except that the interest on the loan is equal to five percent.

\* **Sec. 32.** AS 14.43.320(b) is amended to read:

(b) To the extent that they are not in conflict with the provisions of AS 14.43.250 - 14.43.325, the provisions of **AS 14.43.091 - 14.43.160** [AS 14.43.090 - 14.43.160] relating to **education** [SCHOLARSHIP] loans are applicable to loans made under AS 14.43.250 - 14.43.325.

\* **Sec. 33.** AS 14.43.405(b) is amended to read:

(b) To the extent that they are not in conflict with the provisions of AS 14.43.400 - 14.43.405, the provisions of **AS 14.43.091 - 14.43.160** [AS 14.43.090 - 14.43.160] relating to student financial aid are applicable to the grants made under AS 14.43.400 - 14.43.500.

\* **Sec. 34.** AS 14.43.650(c) is amended to read:

(c) A student may not be awarded a teacher **education** [SCHOLARSHIP] loan under AS 14.43.600 - 14.43.700 if the student receives **an education** [A SCHOLARSHIP] loan under **AS 14.43.091 - 14.43.160** [AS 14.43.090 - 14.43.160] for the same period of attendance.

\* **Sec. 35.** AS 14.43.650(c) is amended to read:

(c) A student may not be awarded a teacher education loan under AS 14.43.600 - 14.43.700 if the student receives **a** [AN EDUCATION] loan under **AS 14.43.170 - 14.43.175** [AS 14.43.091 - 14.43.160] for the same period of

attendance.

\* **Sec. 36.** AS 14.43.720(a) is amended to read:

(a) The family education loan account is created within the **education loan fund (AS 14.42.210)** [SCHOLARSHIP REVOLVING LOAN FUND (AS 14.43.090)]. The account shall be used to make family education loans to families selected under AS 14.43.710 - 14.43.750, to pay the costs of collecting family education loans that are in default if those costs are not recovered from the family, and to pay the costs of administering the account. Unless the instrument evidencing the family education loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on family education loans shall be paid into the family education loan account. If estimated funds available from family education loan repayments are inadequate to fully fund estimated family education loans in a fiscal year, additional funding from the general fund may be requested and appropriated for that year.

\* **Sec. 37.** AS 14.43.990 is amended by adding a new paragraph to read:

(2) "corporation" means the Alaska Student Loan Corporation created in AS 14.42.100.

\* **Sec. 38.** AS 14.43.990 is amended by adding new paragraphs to read:

(3) "federal guaranteed student loan program" means the programs of the United States government making postsecondary educational financial aid available under 20 U.S.C. 1070 - 1099c-2, as amended;

(4) "approved FFEL institution" means a postsecondary education institution in this state or outside of this state that is approved for participation in the federal guaranteed student loan program.

\* **Sec. 39.** AS 14.44.040(b) is amended to read:

(b) A repayment under this section shall be paid into the **education** [STUDENT] loan fund created under AS 14.42.210.

\* **Sec. 40.** AS 14.44.040 is amended by adding a new subsection to read:

(c) If a program participant defaults on the repayment obligation, the provisions of AS 14.43.145 - 14.43.150 apply to collect on the obligation as if it were a defaulted loan under AS 14.43.



1     \* **Sec. 41.** AS 40.19.040 is amended by adding a new subsection to read:

2             (e) The provisions of this section apply to a notice of a lien created under  
3             AS 14.43.149(a) and to documents relating to that lien.

4     \* **Sec. 42.** AS 14.42.010(a), 14.42.030(c), 14.42.390; AS 14.43.090, 14.43.255(c),  
5     14.43.315, 14.43.730; and AS 14.48.050(10) are repealed.

6     \* **Sec. 43.** The uncoded law of the State of Alaska is amended by adding a new section to  
7     read:

8             TRANSITION: IMPLEMENTATION. Notwithstanding sec. 47 of this Act, in order  
9     to timely disburse loans for the school year beginning on or after July 1, 2002, the Alaska  
10    Commission on Postsecondary Education and the Alaska Student Loan Corporation may  
11    immediately implement secs. 8, 10, 11, 25, 26, 29, 35, and 38 of this Act as if they were in  
12    effect at the time of implementation, so long as loan money is not disbursed under those  
13    sections before July 1, 2002.

14    \* **Sec. 44.** The uncoded law of the State of Alaska is amended by adding a new section to  
15    read:

16            TRANSITION: REGULATIONS. Notwithstanding sec. 47 of this Act, the state  
17    agencies affected by this Act may immediately proceed to adopt regulations necessary to  
18    implement the respective changes made by secs. 8, 10, 11, 25, 26, 29, 35, and 38 of this Act.  
19    The regulations take effect under AS 44.62 (Administrative Procedure Act) but not before the  
20    effective date of the statutory change.

21    \* **Sec. 45.** The uncoded law of the State of Alaska is amended by adding a new section to  
22    read:

23            REVISOR OF STATUTES INSTRUCTIONS. (a) The revisor of statutes is  
24    instructed to change

25            (1) the heading of AS 14.43 from "Scholarship, Loan, and Grant Programs for  
26    Postsecondary Students" to "Financial Aid Programs for Postsecondary Students";

27            (2) the heading of art. 4 of AS 14.43 from "Article 4. Scholarship Loan  
28    Program" to "Article 4. Education Loan Program";

29            (3) the heading of art. 5 of AS 14.43 from "Article 5. Memorial Scholarship  
30    Revolving Loan Fund" to "Article 5. Memorial Education Revolving Loan Fund"; and

31            (4) the heading of art. 7 of AS 14.43 from "Article 7. Teacher Scholarship

Loan Program" to "Article 7. Teacher Education Loan Program."

(b) The revisor of statutes is instructed to change the references to "scholarship loan" or "scholarship loans" to "education loan" or "education loans," respectively, in the Alaska Statutes, including in the following:

(1) AS 14.43.120(b), (d), (e), (r), and (u);

(2) AS 14.43.300(a), (b), (c), and (g), 14.43.305(a), (e), (g), and (j), 14.43.310(b), (c), and (d), and 14.43.320(a); and

(3) AS 14.43.600(b), 14.43.610, 14.43.620(a) and (b), 14.43.630(a) and (b), 14.43.640(d), (e), and (f), and 14.43.650(a) and (b).

(c) The revisor of statutes is instructed to change the reference to "student loans" to "education loans" in the heading of AS 14.43.110.

(d) The revisor of statutes is instructed to change the references to "student loan fund" to "education loan fund" in the Alaska Statutes, including in the following:

(1) AS 14.42.295(b)(3); and

(2) AS 14.43.120(u), 14.43.620(b), and 14.43.720(b).

(e) The revisor of statutes is instructed to change the references to "scholarship revolving loan fund" to "education revolving loan fund" in the Alaska Statutes, including in the following:

(1) AS 14.43.250(a) and (b), 14.43.255(b), 14.43.300(e) and (g), 14.43.310(c), and 14.43.325(a), (b), and (c);

(2) the heading of AS 14.43.620 and 14.43.620(a) and (b); and

(3) AS 39.20.245(a).

(f) The revisor of statutes is instructed to change the references to "memorial scholarship" or "memorial scholarships" to "memorial education loan" or "memorial education loans," respectively, in the Alaska Statutes, including in AS 14.43.250(a) and (b), 14.43.255(b), 14.43.300(d), and 14.43.310(b)(1), (2), (3), and (4).

(g) The revisor of statutes is instructed to change the references to "scholarship" to "loan" in the following:

(1) AS 14.43.250(a) and 14.43.300(e);

(2) AS 43.75.032(a); and

(3) AS 43.77.035(a).

1 (h) The revisor of statutes is instructed to change the references to "scholarship  
2 accounts" to "education loan accounts" in the following:

3 (1) AS 14.43.250(b), 14.43.300(g), and 14.43.325(a) and (c);

4 (2) AS 39.20.245(a);

5 (3) AS 43.75.032(a); and

6 (4) AS 43.77.035(a).

7 (i) The regulations attorney, under AS 44.62.125(b)(6), shall make changes in the  
8 Alaska Administrative Code to replace the terms "student loan" and "scholarship loan" with  
9 the term "education loan," consistent with the changes made by this Act.

10 \* **Sec. 46.** Sections 1 - 7, 9, 12 - 24, 27, 28, 30 - 34, 36, 37, and 39 - 45 of this Act take  
11 effect immediately under AS 01.10.070(c).

12 \* **Sec. 47.** Except as provided in sec. 46 of this Act, this Act takes effect July 1, 2002.