

HOUSE BILL NO. 404

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

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/28/04

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; relating to the**
2 **Alaska Student Loan Corporation; relating to bonds of the corporation; relating to loan**
3 **and grant programs of the commission; relating to an exemption from the State**
4 **Procurement Code regarding certain contracts of the commission or corporation;**
5 **making conforming changes; and providing for an effective date."**

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

7 *** Section 1.** AS 14.42.030(e) is amended to read:

8 (e) The commission may

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

10 to

11 (A) carry out the purposes of

12 (i) AS 14.43.091 - 14.43.750, 14.43.990, AS 14.44, and

13 AS 14.48; and

1 (ii) AS 14.43.910 and 14.43.920 as they relate to the
 2 purposes of AS 14.43.091 - 14.43.750, 14.43.990, AS 14.44, and
 3 AS 14.48; [AND]

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

8 **(C) establish standards for the**

9 **(i) administration of hearings conducted under**
 10 **AS 14.43.153; and**

11 **(ii) administrative enforcement of collection orders**
 12 **under AS 14.43.151 - 14.43.155;**

13 (2) delegate to the executive director of the commission or a
 14 subcommittee of the commission any duty imposed on or power granted to the
 15 commission by this chapter, AS 14.43, AS 14.44, or AS 14.48, except its power to
 16 adopt regulations and its duty to consider appeals under AS 14.43.100(b) and
 17 AS 14.48.120;

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

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

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

25 (A) requests approval for participation in the programs under
 26 AS 14.43.091 - 14.43.750, 14.43.990, and AS 14.44; and

27 (B) is not accredited by a national or regional accreditation
 28 association recognized by the Council for Higher Education Accreditation; and

29 (6) collect all fees and costs incurred in collection of the amount owed
 30 on a loan or repayment obligation if the loan or repayment obligation becomes
 31 delinquent or in default; in this paragraph, fees and costs include attorney fees, court

1 costs, and collection fees charged by a collection agency.

2 * **Sec. 2.** AS 14.42.210(a) is amended to read:

3 (a) The education loan fund is established in the corporation. The education
4 loan fund is a trust fund to be used to carry out the purposes of AS 14.42.100 -
5 14.42.990, AS 14.43.091 - 14.43.175, 14.43.400 – 14.43.500, 14.43.600 - 14.43.700,
6 14.43.710 - 14.43.750, 14.43.990, and AS 14.44.025. The fund consists of money or
7 assets appropriated or transferred to the corporation for the fund and money or assets
8 deposited in it by the corporation. The corporation may establish separate accounts in
9 the fund.

10 * **Sec. 3.** AS 14.42.210(b) is amended to read:

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

12 (1) secure bonds of the corporation;

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

14 (3) invest in education loans and investments under AS 37.10.071;

15 (4) finance programs approved under AS 14.43.091 - 14.43.175,
16 14.43.400 - 14.43.500, 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, or
17 AS 14.44.040; and

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

20 * **Sec. 4.** AS 14.42.220(a) is amended to read:

21 (a) **The** [SUBJECT TO (f) OF THIS SECTION, THE] corporation may
22 borrow money and may issue bonds, on which the principal and interest are payable
23 from its income and receipts or other assets or a designated part or parts of them. **The**
24 **corporation may use the proceeds of its bonds for any purposes that the**
25 **corporation considers appropriate, including providing money to**

26 **(1) make or purchase education loans;**

27 **(2) finance programs identified in AS 14.42.210;**

28 **(3) finance projects of the state as those projects may be identified**
29 **by law; and**

30 **(4) pay for any other purpose or program of the corporation that**
31 **is authorized in AS 14.42.100 - 14.42.310.**

1 * **Sec. 5.** AS 14.43.120(u) is amended to read:

2 (u) The **Alaska Student Loan Corporation** [COMMISSION] by regulation
 3 shall set a loan origination fee, not to exceed five percent of the total education loan
 4 amount, to be assessed upon an education loan that is funded from the education loan
 5 fund of the **corporation** [ALASKA STUDENT LOAN CORPORATION]. The loan
 6 origination fee shall be deducted **by the commission** at the time the loan is disbursed.
 7 **The** [SUBJECT TO APPROPRIATION, THE] loan origination fees shall be
 8 deposited into an origination fee account within the education loan fund of the
 9 **corporation** [ALASKA STUDENT LOAN CORPORATION], and subsequently used
 10 by the corporation to offset losses incurred as a result of death, disability, default, or
 11 bankruptcy of the borrower.

12 * **Sec. 6.** AS 14.43.122(a) is amended to read:

13 (a) The commission may offer

14 (1) a borrower who has received more than one **education** loan
 15 [UNDER AS 14.43.091 - 14.43.160] the option of consolidating the multiple loans
 16 into a single loan; or

17 (2) to consolidate **education** loans made [UNDER AS 14.43.091 -
 18 14.43.160] to married borrowers if the married borrowers agree to be jointly and
 19 severally liable for repayment of the consolidated loan, regardless of the borrowers'
 20 future marital status or the death of one of the borrowers.

21 * **Sec. 7.** AS 14.43.145(a) is amended to read:

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

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

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

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

31 (4) the commission may provide notice of the default to a licensing

1 entity for nonrenewal of the license under AS 14.43.148; [AND]

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

3 **and**

4 **(6) the commission may establish an administrative collection**
 5 **order under AS 14.43.151 - 14.43.155.**

6 * **Sec. 8.** AS 14.43 is amended by adding new sections to read:

7 **Sec. 14.43.151. Authority and procedure to administratively establish and**
 8 **enforce a collection order.** If a judgment in favor of the commission has not been
 9 entered by the court regarding a defaulted loan awarded under this chapter, the
 10 commission may establish a duty to repay the defaulted loan through a collection order
 11 using the procedures prescribed in AS 14.43.152 - 14.43.155 and may enforce the
 12 collection order using the procedure prescribed in AS 14.43.149. Action under this
 13 section may be undertaken at the commission's discretion if the borrower is in default
 14 under AS 14.43.145.

15 **Sec. 14.43.152. Initiation of administrative action to establish a collection**
 16 **order; required notice.** (a) An action to establish a collection order authorized under
 17 AS 14.43.151 is initiated by the commission serving on the borrower a notice of
 18 establishment of collection order. The notice shall be served by mailing to the
 19 borrower at

20 (1) the borrower's most recent address provided to the commission by
 21 the borrower; or

22 (2) another address known to the commission.

23 (b) The notice served under (a) of this section must state

24 (1) the amount of the liability for default under AS 14.43.145 for
 25 which the borrower is found to be responsible; the amount stated under this paragraph
 26 shall include all principal, interest, and collection fees;

27 (2) that a lien may be recorded against the borrower's property as
 28 authorized under AS 14.43.145(a)(5);

29 (3) that the borrower may appear at a hearing held by the commission
 30 and show cause that a collection order should not be entered because at the time of the
 31 notice

1 (A) no loan payment was more than 180 days past due or, for a
 2 loan under AS 14.43.161 - 14.43.168 or 14.43.170 - 14.43.175, the default
 3 requirements established by the commission had not yet been met; or

4 (B) the borrower had entered into, or was in compliance with,
 5 an agreement to forbear default with the commission; and

6 (4) that, if the borrower served with the notice does not request a
 7 hearing within 30 days after the date of mailing of the notice, a collection order will be
 8 entered and the property of the borrower will be subject to a lien under AS 14.43.149
 9 in the amount stated in the collection order without further notice or hearing.

10 **Sec. 14.43.153. Hearings in administrative action to establish a collection**
 11 **order; burden of proof.** (a) A borrower served with a notice of establishment of
 12 collection order under AS 14.43.152 is entitled to a hearing before the commission if
 13 the request for a hearing is served on the commission by registered mail, return receipt
 14 requested, within 30 days after the date of mailing of the notice to the borrower.

15 (b) If a request for a hearing in accordance with (a) of this section is made, the
 16 issuance of a collection order is automatically stayed pending the decision of the
 17 hearing officer for the commission. If no request for a hearing is made, the collection
 18 order is final at the expiration of the 30-day period specified in (a) of this section.

19 (c) A borrower claiming that the notice is incorrect has the burden at hearing
 20 to document the existence of one of the conditions described in AS 14.43.152(b)(3)(A)
 21 and (B).

22 (d) Within 60 days after the date of the hearing, the hearing officer shall enter
 23 a decision determining whether default has occurred and, if default has occurred,
 24 specifying the amount of the collection order and declaring that the property of the
 25 borrower is subject to a lien under AS 14.43.149 in the amount of the collection order.

26 (e) If the borrower who requested the hearing fails to appear at the hearing, the
 27 hearing officer shall enter a decision

28 (1) confirming that a default has occurred;

29 (2) confirming the amount of the collection order;

30 (3) declaring that the property of the borrower is subject to a lien under
 31 AS 14.43.149 in the amount stated under (2) of this subsection.

1 (f) The decision of the hearing officer is a final decision that may be appealed
2 to the superior court under the Alaska Rules of Appellate Procedure.

3 **Sec. 14.43.154. Collection orders as judgments.** A collection order is
4 equivalent to a judgment for purposes of AS 14.43.149 and becomes vested at the
5 expiration of the 30-day period described in AS 14.43.153(b) if no hearing is
6 requested, or on the date the hearing officer enters a decision in favor of the
7 commission if a hearing was requested by the borrower.

8 **Sec. 14.43.155. Nature of remedies.** AS 14.43.154 provides a remedy in
9 addition to and not as a substitute for any other remedies available to the commission.

10 * **Sec. 9.** AS 14.43.161 is amended to read:

11 **Sec. 14.43.161. Purpose; creation.** There is established the AlaskAdvantage
12 [ALASKA ADVANTAGE] loan program to provide postsecondary educational
13 financial assistance through the federal guaranteed student loan program. The
14 AlaskAdvantage [ALASKA ADVANTAGE] loan program is the primary source for
15 financial aid to eligible borrowers under this chapter.

16 * **Sec. 10.** AS 14.43.166 is amended to read:

17 **Sec. 14.43.166. Repayment of loans.** A borrower's obligation to commence
18 repayment of the principal and interest on a loan under AS 14.43.161 - 14.43.166 and
19 14.43.168 [AS 14.43.161 - 14.43.168] begins six months after the borrower's
20 completion or other termination of the postsecondary education program. The
21 commission may accelerate the repayment of any loan made in error or in reliance
22 upon a false statement made by the borrower. The commission shall determine the
23 period over which loans are repaid; however, the maximum period of repayment of
24 loans may not exceed the maximum period permitted under applicable provisions of
25 the federal guaranteed student loan program.

26 * **Sec. 11.** AS 14.43.168(b) is amended to read:

27 (b) The provisions of AS 14.43.145 - 14.43.155 [AS 14.43.145 - 14.43.150]
28 apply to loans under AS 14.43.161 - 14.43.168 that are in default.

29 * **Sec. 12.** AS 14.43.170 is amended to read:

30 **Sec. 14.43.170. Creation; purpose.** There is created the Alaska supplemental
31 education loan program to provide postsecondary educational supplemental financial

1 assistance. Supplemental financial assistance is available only if the financial aid
 2 available through the AlaskAdvantage [ALASKA ADVANTAGE] loan program is
 3 insufficient to cover the costs of attendance at a postsecondary institution or if the
 4 borrower does not qualify for financial aid under the federal guaranteed student loan
 5 program. The commission shall make the public aware of the Alaska supplemental
 6 education loan program to facilitate providing loans to as many eligible borrowers as
 7 possible.

8 * **Sec. 13.** AS 14.43.171 is amended to read:

9 **Sec. 14.43.171. Applicability of other laws.** The provisions of
 10 AS 14.43.120(d)(4), 14.43.122, 14.43.135, 14.43.140, 14.43.145 - 14.43.160,
 11 14.43.164, 14.43.166, and 14.43.168 [AND 14.43.166 - 14.43.168] apply to the loans
 12 made under AS 14.43.170 - 14.43.175 as if the loans were made under those
 13 applicable provisions.

14 * **Sec. 14.** AS 14.43.172(c) is amended to read:

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

17 (1) is not delinquent in payment [ON AND HAS NEVER BEEN IN
 18 DEFAULT] on a loan previously awarded by the commission;

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

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

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

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

31 (6) does not have a credit history, at the time of application for a loan,

1 that demonstrates chronic inability or unwillingness to pay an extension of credit or
2 loan as it becomes due; **and** [.]

3 (7) **has** [AS] complied with the military selective service registration
4 requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if
5 those requirements were applicable to the person.

6 * **Sec. 15.** AS 14.43.172(d) is amended to read:

7 (d) The commission may **not** make a loan to a borrower who has been in
8 default on a loan previously awarded by the commission **unless** [IF

9 (1)] the previously awarded loan has been paid in full [; AND

10 (2) ANOTHER INDIVIDUAL WHO SATISFIES THE
11 REQUIREMENTS OF (c) OF THIS SECTION COSIGNS THE LOAN].

12 * **Sec. 16.** AS 14.43.400 is amended to read:

13 **Sec. 14.43.400. Purpose; creation.** There is **created** [ESTABLISHED] the
14 **AlaskAdvantage education** [ALASKA STATE EDUCATIONAL INCENTIVE]
15 grant program to provide financial assistance to eligible students to enable them to
16 attend, or continue their attendance at, postsecondary educational institutions. Funds
17 **designated by the corporation or** appropriated for this program **may** [SHALL] be
18 used as matching funds for the state's participation in the federal [STATE STUDENT
19 INCENTIVE] grant program **under 20 U.S.C. 1070c - 1070c-4** [(P.L. 92-318; 20
20 U.S.C. 1070c - 1070c-3)].

21 * **Sec. 17.** AS 14.43.405(a) is repealed and reenacted to read:

22 (a) The AlaskAdvantage education grant program created under
23 AS 14.43.400 - 14.43.500 shall be administered by the executive director of the
24 commission.

25 * **Sec. 18.** AS 14.43 is amended by adding a new section to read:

26 **Sec. 14.43.406. Applicability of other laws.** (a) To the extent they are not in
27 conflict with the provisions of AS 14.43.400 - 14.43.500, the provisions of
28 AS 14.43.162(b), 14.43.910, and 14.43.920 apply to a grant made under
29 AS 14.43.400 - 14.43.500.

30 (b) In determining a student's eligibility for a grant under AS 14.43.400 -
31 14.43.500, the executive director of the commission shall apply the standards

1 contained in the definitions of "full-time student," "part-time student," and "school
2 year" in AS 14.43.160 as if those provisions applied to application for the grant.

3 * **Sec. 19.** AS 14.43.410 is amended to read:

4 **Sec. 14.43.410. Distribution of funds.** The funds [APPROPRIATED] for the
5 AlaskAdvantage education [EDUCATIONAL INCENTIVE] grant program may
6 [SHALL] be allocated to eligible students in accordance with the provisions of the
7 federal [STATE STUDENT INCENTIVE] grant program under 20 U.S.C. 1070c -
8 1070c-4 and regulations adopted under AS 14.43.105 and 14.43.405.

9 * **Sec. 20.** AS 14.43.410 is amended by adding a new subsection to read:

10 (b) The commission may set aside a portion of grant awards for otherwise
11 eligible applicants whose employment prevents them from attending school on a full-
12 time basis. The commission shall adopt regulations to carry out the purposes of this
13 subsection.

14 * **Sec. 21.** AS 14.43.415 is repealed and reenacted to read:

15 **Sec. 14.43.415. Eligibility; priority.** (a) For an applicant to be eligible for a
16 grant under AS 14.43.400 - 14.43.500, the applicant must be

17 (1) a resident of this state;

18 (2) enrolled or about to be enrolled

19 (A) at an institution approved to participate in federal financial
20 aid programs under 20 U.S.C. 1070 - 1099c-2, as amended, located in this
21 state; and

22 (B) on at least a half-time basis; and

23 (3) able to demonstrate financial need in accordance with standards for
24 determining financial need established by the commission under 20 U.S.C. 1070c-2, as
25 amended.

26 (b) The commission shall give an applicant eligible under (a) of this section
27 priority for a grant award if that applicant is, or is about to be, enrolled in a program of
28 study that is preparatory for employment in a health, human services, education, or
29 public safety occupation or profession for which the Department of Labor and
30 Workforce Development, or another workforce data source selected as reliable by the
31 commission, indicates there is a severe shortage of trained individuals in this state.

1 Additionally, the commission may give an applicant priority for a grant award if that
 2 applicant has participated in a secondary education program of study that can be
 3 demonstrated to the commission to be a predictor for success at the postsecondary
 4 education level for a program of study described in this subsection.

5 (c) The commission shall adopt regulations to establish a prioritization process
 6 for awarding grants under AS 14.43.400 - 14.43.500.

7 * **Sec. 22.** AS 14.43.420(a) is amended to read:

8 (a) A grant made under AS 14.43.400 - 14. 43.500 may not be in an amount
 9 less than **\$500** [\$100] nor more than **\$2,000** [\$1,500] for each **school** [ACADEMIC]
 10 year.

11 * **Sec. 23.** AS 14.43.420 is amended by adding a new subsection to read:

12 (c) A student may receive no more than a total of \$8,000 in grants awarded
 13 under AS 14.43.400 - 14.43.500.

14 * **Sec. 24.** AS 14.43.500 is amended by adding new paragraphs to read:

15 (3) "health, human services, education, or public safety occupation or
 16 profession" means an occupational or professional field represented in the Alaska
 17 occupational table published by the Department of Labor and Workforce Development
 18 under one or more of the following classifications:

19 (A) community and social service;

20 (B) education, training, and library;

21 (C) healthcare;

22 (D) protective service;

23 (4) "occupational or professional field" means a job for which specific
 24 postsecondary certification is a prerequisite for entry level placement;

25 (5) "severe shortage" means a current or recurring job vacancy rate of
 26 10 percent or greater, as determined by the Department of Labor and Workforce
 27 Development or by another workforce data source determined reliable by the
 28 commission.

29 * **Sec. 25.** AS 14.43.740(a) is amended to read:

30 (a) The provisions of AS 14.43.100, **14.43.120(a) - (c), (m), and (r) - (u),**
 31 **14.43.122** [14.43.110, 14.43.120(a) - (d), (m), AND (r) - (u)], 14.43.135, **14.43.145 -**

1 **14.43.155** [14.43.145 - 14.43.150], and 14.43.910 - 14.43.990 apply to a loan made
2 under AS 14.43.710 - 14.43.750.

3 * **Sec. 26.** AS 14.43.740 is amended by adding a new subsection to read:

4 (g) The commission may set, by regulation, loan limits for loans made under
5 AS 14.43.710 - 14.43.750.

6 * **Sec. 27.** AS 14.43.990 is amended by adding new paragraphs to read:

7 (5) "AlaskAdvantage" means the service mark registered by the
8 commission under 15 U.S.C. 1051 (Trademark Act) that is used to describe financial
9 aid and higher education outreach programs and services provided by the commission;

10 (6) "education loan" means a loan made to finance the cost of
11 attendance in a postsecondary education program that is made by the commission or is
12 a loan received through the federal guaranteed student loan program.

13 * **Sec. 28.** AS 14.44.040(c) is amended to read:

14 (c) If a program participant defaults on the repayment obligation, the
15 provisions of **AS 14.43.145 - 14.43.155** [AS 14.43.145 - 14.43.150] apply to collect
16 on the obligation as if it were a defaulted loan under AS 14.43.

17 * **Sec. 29.** AS 36.30.850(b) is amended by adding a new paragraph to read:

18 (44) contracts of the Alaska Commission on Postsecondary Education
19 or the Alaska Student Loan Corporation for the guarantee and disbursing of financial
20 aid money to institutions of postsecondary education under the financial aid programs
21 under AS 14.43.091 - 14.43.750 and AS 14.44.025.

22 * **Sec. 30.** AS 14.42.110, 14.42.220(f); AS 14.43.122(b), 14.43.300(g), 14.43.405(b),
23 14.43.420(b), 14.43.500(1), and 14.43.500(2) are repealed.

24 * **Sec. 31.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 TRANSITION: REGULATIONS. The Alaska Student Loan Corporation may
27 proceed to adopt regulations to implement the changes made by sec. 5 of this Act. The
28 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
29 effective date of sec. 5 of this Act.

30 * **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 REVISOR OF STATUTES INSTRUCTIONS. (a) The revisor of statutes is
2 instructed to change the heading of Article 5 of AS 14.43 from "Article 5. Alaska Advantage
3 Loan Program." to "Article 5. AlaskAdvantage Loan Program."

4 (b) The revisor of statutes is instructed to change the heading of Article 8 of AS 14.43
5 from "Article 8. Educational Incentive Grant Program." to "Article 8. AlaskAdvantage
6 Education Grant Program."

7 * **Sec. 33.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 REGULATIONS ATTORNEY INSTRUCTIONS. (a) Wherever in the Alaska
10 Administrative Code the term "Alaska advantage" is used, it shall be read as
11 "AlaskAdvantage" when to do so would be consistent with the changes in this Act. Under
12 AS 44.62.125(b)(6), the regulations attorney is instructed to make changes in the Alaska
13 Administrative Code consistent with this section.

14 * **Sec. 34.** Section 5 of this Act takes effect January 1, 2005.

15 * **Sec. 35.** Except as provided in sec. 34 of this Act, this Act takes effect immediately under
16 AS 01.10.070(c).