

Introduced: 5/2/85
Referred: Health, Education &
Social Services and Finance

1 IN THE HOUSE

BY RINGSTAD

2 HOUSE BILL NO. 419

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to postsecondary education."

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

8 * Section 1. FINDINGS AND PURPOSE. (a) The purpose of this Act is to

9 (1) make available to the people of the state a system of public
10 postsecondary education that will pursue the goals of quality, access,
11 diversity, efficiency, and accountability;

12 (2) provide a strong state-wide policy leadership in postsecond-
13 ary education;

14 (3) terminate the Alaska Commission on Postsecondary Education;

15 (4) transfer the commission's power to administer the student
16 loan programs to the Department of Revenue; and

17 (5) transfer the commission's power to regulate private postsec-
18 ondary education in the state to the Board of Education.

19 (b) It is the intent of the legislature that operational review of
20 the University of Alaska be performed by the legislature, the Board of
21 Regents of the University, and the governor.

22 * Sec. 2. AS 14.43.095(a) is repealed and reenacted to read:

23 (a) The commissioner of the Department of Revenue shall appoint
24 a student financial aid committee to administer the loan and scholar-
25 ship programs established under this chapter.

26 * Sec. 3. AS 14.43.120(b) is amended to read:

27 (b) The loans may only be used to attend a career education
28 program or a college or university approved by the state board of
29 education [COMMISSION], and, if the loans are federally insured, by

1 the United States Commissioner of Education.

2 * Sec. 4. AS 14.43.120(c) is amended to read:

3 (c) To maintain a loan the student must continue to be enrolled
4 as a full-time student in good standing in a career education program,
5 college or university designated under (b) of this section. The
6 commissioner [COMMISSION] shall adopt regulations defining "good
7 standing" for purposes of this subsection.

8 * Sec. 5. AS 14.43.120(i) is amended to read:

9 (i) If a loan is in default, the commissioner [COMMISSION] shall
10 notify the borrower that repayment of the remaining balance is accel-
11 erated and due by sending the borrower a notice by registered or
12 certified mail.

13 * Sec. 6. AS 14.43.160 is repealed and reenacted to read:

14 Sec. 14.43.160. DEFINITIONS. In AS 14.43.090 - 14.43.160

15 (1) "career education" means a course or program in voca-
16 tional-technical training or education approved by the state board of
17 education;

18 (2) "commissioner" means the commissioner of the Department
19 of Revenue;

20 (3) "committee" means the student financial aid committee;

21 (4) "federally insured" means a loan covered by the provi-
22 sions of the Guaranteed Student Loan Program of Title IV, Part B, of
23 the Higher Education Act of 1965 (P.L. 89-329), as amended;

24 (5) "full-time student" means an undergraduate or career
25 education student who is enrolled and is in regular attendance at
26 classes for at least 12 semester hours of credit or the equivalent
27 during the semester or a graduate student who is enrolled and is in
28 regular attendance at classes for at least nine semester hours of
29 credit, or the equivalent; any combination of semester hours of

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

5 (6) "school year" means the period from September 1 of one
6 year through August 31 of the following year.

7 * Sec. 7. AS 14.44.035 is amended to read:

8 Sec. 14.44.035. ADMINISTRATION. The state board of education
9 [ALASKA COMMISSION ON POSTSECONDARY EDUCATION] shall administer the
10 state's participation in the Western Regional Higher Education Com-
11 pact.

12 * Sec. 8. AS 14.48.010(a) is amended to read:

13 (a) It is the purpose of this chapter to provide for the pro-
14 tection, education, and welfare of the citizens of the state, its
15 postsecondary educational institutions, and its students, by

16 (1) establishing minimum standards concerning quality of
17 education, ethical and business practices, health and safety, and
18 fiscal responsibility, to protect against substandard, transient,
19 unethical, deceptive, or fraudulent institutions and practices;

20 (2) prohibiting the granting of false or misleading educa-
21 tional credentials;

22 (3) regulating the use of academic terminology in designat-
23 ing educational institutions;

24 (4) prohibiting misleading literature, advertising, solici-
25 tation, or representation by educational institutions or their
26 agents;

27 (5) providing for the preservation of essential academic
28 records; and

29 (6) providing certain rights and remedies to the public and

1 the board [COMMISSION] necessary to carry out the purposes of this
2 chapter.

3 * Sec. 9. AS 14.48.020 is amended to read:

4 Sec. 14.48.020. AUTHORIZATION AND PERMITS REQUIRED. No person
5 may

6 (1) operate a postsecondary educational institution in the
7 state unless the institution has a valid authorization to operate
8 issued under this chapter or is exempt from the provisions of this
9 chapter;

10 (2) offer itself or through an agent enrollment or instruc-
11 tion in, or the granting of educational credentials from, a postsec-
12 ondary educational institution, whether the institution is in or
13 outside the state, unless the agent is a natural person and has a
14 currently valid agent's permit issued under this chapter or is exempt
15 from the provisions of this chapter;

16 (3) accept contracts or enrollment applications of prospec-
17 tive students from an agent who does not have a current permit as
18 required by this chapter; however, the board [COMMISSION] may promul-
19 gate regulations to permit the rendering of legitimate public informa-
20 tion services without the permit;

21 (4) instruct or educate, or offer to instruct or educate,
22 enroll or offer to enroll, contract or offer to contract or award an
23 educational credential, or contract with an institution or person to
24 do so, in or outside the state, unless that person is in compliance
25 with the minimum standards set out in AS 14.48.060, the criteria
26 established by the board [COMMISSION] under AS 14.48.050(1), and the
27 regulations adopted [PROMULGATED] by the commissioner under AS 14.48.-
28 050(7);

29 (5) use the term "university" or "college" without

1 authorization to do so from the board [COMMISSION];

2 (6) grant, or offer to grant, educational credentials,
3 without authorization to do so from the board [COMMISSION].

4 * Sec. 10. AS 14.48.030(b) is amended to read:

5 (b) The following educational programs or services and educa-
6 tional institutions are exempt from the provisions of this chapter or
7 portions of them, as determined by the board [COMMISSION]:

8 (1) education sponsored by a bona fide trade, business,
9 labor, professional, or fraternal association or organization, recog-
10 nized by the board [COMMISSION] and conducted solely for that asso-
11 ciation's or organization's membership, or offered on a no-fee basis;

12 (2) education solely avocational or recreational in nature
13 and institutions offering avocational or recreational education exclu-
14 sively;

15 (3) education offered by charitable organizations, recog-
16 nized by the board [COMMISSION], if the education is not advertised or
17 promoted as leading toward educational credentials;

18 (4) nonprofit postsecondary educational institutions offer-
19 ing undergraduate or graduate educational programs conducted in the
20 state, but not by correspondence, which are acceptable for credit
21 toward an associate, bachelor's or graduate degree;

22 (5) postsecondary educational institutions established,
23 operated, and governed by the United States, a state or its political
24 subdivisions.

25 * Sec. 11. AS 14.48.040 is amended to read:

26 Sec. 14.48.040. BOARD [COMMISSION] TO ADMINISTER CHAPTER. The
27 state board of education [ALASKA COMMISSION ON POSTSECONDARY EDUCA-
28 TION] shall administer this chapter and may hire necessary personnel.
29 The board [COMMISSION] may obtain from departments, commissions and

1 other state agencies information and assistance needed to carry out
2 the provisions of this chapter.

3 * Sec. 12. AS 14.48.050 is amended to read:

4 Sec. 14.48.050. POWERS AND DUTIES OF BOARD [COMMISSION]. The
5 board [COMMISSION] shall

6 (1) establish minimum criteria consistent with AS 14.48.060
7 including quality of education, ethical and business practices, health
8 and safety and fiscal responsibility which applicants for authoriza-
9 tion to operate, or for an agent's permit, must meet before the au-
10 thorization or permit is issued;

11 (2) receive, investigate and act upon applications for
12 authorization to operate postsecondary educational institutions and
13 applications for agent's permits;

14 (3) maintain a list of postsecondary educational insti-
15 tutions and agents authorized to operate in the state under this
16 chapter;

17 (4) keep current and make available as public information
18 the list of institutions and agents;

19 (5) enter into interstate reciprocity agreements with
20 similar agencies in other states, if in the judgment of the board
21 [COMMISSION] the agreements will be helpful in carrying out the pur-
22 poses of this chapter;

23 (6) receive and maintain as a permanent file, copies of
24 academic records maintained in accordance with AS 14.48.060(b)(6);

25 (7) promulgate regulations and procedures necessary or
26 appropriate for the conduct of its work and the implementation of this
27 chapter under the Administrative Procedure Act (AS 44.62);

28 (8) investigate on its own initiative or in response to a
29 complaint lodged with it, persons subject to, or reasonably believed

1 by the board [COMMISSION] to be subject to, the jurisdiction of this
2 chapter; and in connection with the investigation subpoena persons,
3 books, records, or documents related to the investigation; require
4 answers in writing under oath to questions propounded by the board
5 [COMMISSION] and administer oaths or affirmations to persons in con-
6 nection with the investigation; and, for the purpose of examination at
7 all reasonable times, shall have access to, and the right to copy,
8 documentary evidence of a corporation that is under investigation or
9 being proceeded against;

10 (9) exercise other necessary powers and duties in conform-
11 ity with the provisions of this chapter which, in the judgment of the
12 board [COMMISSION], are necessary to carry out the provisions of this
13 chapter.

14 * Sec. 13. AS 14.48.060 is amended to read:

15 Sec. 14.48.060. MINIMUM STANDARDS. (a) In establishing the
16 criteria required by AS 14.48.050(1), the board [COMMISSION] shall
17 require compliance with the minimum standards set out in (b) of this
18 section.

19 (b) A postsecondary educational institution must be maintained
20 and operated, or, in the case of a new institution must demonstrate
21 that it can be maintained and operated so that

22 (1) the quality and content of each course or program of
23 instruction, training, or study are such as may reasonably and ade-
24 quately achieve the stated objective for which the course or program
25 is offered;

26 (2) the institution has or has access to adequate space,
27 equipment, instructional materials, and personnel where applicable to
28 achieve the stated objective of the course or program of study and to
29 provide education of good quality;

1 (3) the education or experience qualifications of direc-
2 tors, administrators, supervisors, and instructors are such as may
3 reasonably ensure [INSURE] that the students will receive education
4 consistent with the objectives of the course or program of study;

5 (4) the institution provides a catalog or brochure contain-
6 ing information describing the programs offered, program objectives,
7 length of program, schedule of tuition, fees, and all other charges
8 and expenses necessary for completion of the course of study, cancel-
9 lation and refund policies, and other material facts concerning the
10 institution and the program or course of instruction which are rea-
11 sonably likely to affect the decision of the student to enroll, to-
12 gether with any other disclosures specified by the board [COMMISSION]
13 by regulation; and that this information is provided to prospective
14 students before enrollment;

15 (5) upon satisfactory completion of training, the student
16 is given appropriate educational credentials by the institution,
17 indicating that the course of instruction or study has been satisfac-
18 torily completed by the student;

19 (6) adequate records are maintained by the institution to
20 show attendance, progress, or grades, and that satisfactory standards
21 are enforced relating to attendance, progress and performance;

22 (7) the institution is maintained and operated in compli-
23 ance with all pertinent ordinances and laws relating to the safety and
24 health of persons upon the premises of the institution;

25 (8) the institution is financially sound and capable of
26 fulfilling its commitments to students;

27 (9) neither the institution nor its agents engage in ad-
28 vertising, sales, collection, credit, or other practices which are
29 false, deceptive, misleading, or unfair;

1 (10) the chief executive officer, trustees, directors,
2 owners, administrators, supervisors, staff, and instructors of the
3 institution are of good reputation and character and have not been
4 convicted of a violation of AS 14.48.020 or [AS] 14.48.150 or AS 45.-
5 50.471 - 45.50.551 or a comparable law in another state or province;

6 (11) the student housing owned, maintained, or approved by
7 the institution is appropriate, safe, and adequate; and

8 (12) the institution has a fair and equitable cancellation
9 and refund policy.

10 (c) Accreditation by national or regional accrediting agencies
11 recognized by the board [COMMISSION] may be accepted by the board
12 [COMMISSION] as evidence of compliance with the minimum standards
13 established by this section and the criteria established under AS 14.-
14 48.050(1). However, the board [COMMISSION] may require further evi-
15 dence and make further investigation as may be necessary. Accredita-
16 tion by a recognized, specialized accrediting agency may be accepted
17 as evidence of compliance only as to the portion or program of an
18 institution accredited by the accrediting agency if the institution as
19 a whole is not accredited.

20 * Sec. 14. AS 14.48.070(a) is amended to read:

21 (a) Each postsecondary educational institution desiring to
22 operate in this state shall apply to the board [COMMISSION], upon
23 forms provided by the board [COMMISSION]. The application shall be
24 accompanied by a catalog or brochure published, or proposed to be
25 published by the institution, containing the information specified in
26 AS 14.48.060(b)(4). The application shall also be accompanied by
27 evidence of a surety bond or other deposit as required by AS 14.48.-
28 100, and by the required fees.

29 * Sec. 15. AS 14.48.070(b) is amended to read:

1 (b) Following review of the application and after necessary
2 investigation of the applicant the board [COMMISSION] shall either
3 grant or deny authorization to operate to the applicant. A grant of
4 authorization to operate may be on those terms and conditions the
5 board [COMMISSION] may prescribe.

6 * Sec. 16. AS 14.48.070(c) is amended to read:

7 (c) The authorization to operate shall be in a form approved by
8 the board [COMMISSION] and shall include

9 (1) the date of issuance, effective date, and term of
10 approval;

11 (2) the name and address of the institution;

12 (3) the authority for approval;

13 (4) any condition or limitation of the authorization, as
14 considered necessary by the board [COMMISSION].

15 * Sec. 17. AS 14.48.070(f) is amended to read:

16 (f) At least 60 days before the expiration of an authorization
17 to operate, the institution shall complete and file with the board
18 [COMMISSION] an application form for renewal of its authorization to
19 operate. The renewal application shall be reviewed and acted upon as
20 provided for an original application.

21 * Sec. 18. AS 14.48.070(g) is amended to read:

22 (g) An institution not yet in operation when its application for
23 authorization to operate is filed may not begin operation until re-
24 ceipt of authorization. An institution in operation when its applica-
25 tion for authorization to operate is filed may continue operation
26 until its application is acted upon by the board [COMMISSION]. The
27 board [COMMISSION] may issue provisional authorization to operate,
28 containing limitations as to time, procedures, functions, or other
29 conditions as the board [COMMISSION] considers necessary.

1 * Sec. 19. AS 14.48.080(a) is amended to read:

2 (a) A person desiring to solicit or perform the services of an
3 agent, in this state, shall apply to the board [COMMISSION] upon forms
4 provided by the board [COMMISSION]. The application shall be accom-
5 panied by evidence of the good reputation and character of the appli-
6 cant and shall state the institution which the applicant intends to
7 represent. An agent representing more than one institution must
8 obtain a separate agent's permit for each institution represented.
9 However, when an agent represents institutions having a common owner-
10 ship, only one agent's permit is required. If an institution which the
11 applicant intends to represent does not have authorization to operate
12 in this state, the application shall be accompanied by the information
13 required of institutions making application for authorization. The
14 application for an agent's permit shall also be accompanied by evi-
15 dence of a surety bond or other deposit as required by AS 14.48.100,
16 and by payment of the required fees.

17 * Sec. 20. AS 14.48.080(c) is amended to read:

18 (c) Following review of the application and any further informa-
19 tion submitted by the applicant, and investigation of the applicant as
20 the board [COMMISSION] considers necessary, the board [COMMISSION]
21 shall either grant or deny an agent's permit to the applicant.

22 * Sec. 21. AS 14.48.080(d) is amended to read:

23 (d) The agent's permit shall be in a form approved by the board
24 [COMMISSION] and shall include

- 25 (1) the date of issuance, effective date, and term;
- 26 (2) the correct name and address of the agent;
- 27 (3) the institution or institutions which the agent is
28 authorized to represent.

29 * Sec. 22. AS 14.48.080(f) is amended to read:

1 (f) At least 60 days before the expiration of an agent's permit,
2 the agent shall complete and file with the board [COMMISSION] an
3 application form for renewal. The renewal application shall be re-
4 viewed and acted upon as provided for an original application.

5 * Sec. 23. AS 14.48.090(a) is amended to read:

6 (a) The following fees shall accompany an application for an
7 authorization to operate or an application for an agent's permit and
8 shall be collected by the board [COMMISSION]:

9 (1) authorization to operate	\$100
10 (2) renewal for authorization to operate	\$100
11 (3) an agent's permit	\$ 50
12 (4) renewal for an agent's permit	\$ 50

13 * Sec. 24. AS 14.48.100 is amended to read:

14 Sec. 14.48.100. BONDS. (a) At the time application is made for
15 authorization to operate, or for renewal of an authorization to oper-
16 ate the board [COMMISSION] may require the postsecondary educational
17 institution to file a surety bond in the amount determined by the
18 board [COMMISSION]. The amount shall be determined by the number of
19 students the institution seeks to enroll. The amount of the surety
20 bond shall be reexamined by the board [COMMISSION] upon each renewal
21 of the authorization to operate to determine if a larger or smaller
22 bond would be appropriate to ensure adequate protection for the stu-
23 dents or enrollees, or their parents or guardians, or classes thereof.
24 The bond shall be executed by the applicant as principal and by a
25 surety company qualified and authorized to do business in this state
26 and shall be conditioned to provide indemnification to any student or
27 enrollee, or the student's or enrollee's parent or guardian, or class
28 thereof, determined to have suffered loss or damage as a result of an
29 act or practice which is a violation of this chapter by the

1 postsecondary educational institution and that the bonding company
2 shall pay a final nonappealable order of the board [COMMISSION] or
3 judgment of a court of this state having jurisdiction, upon receipt of
4 written notification of the order or judgment. The aggregate liabil-
5 ity of the surety for the bond of the institution or agent involved in
6 the order or judgment may not, in any event, exceed the amount of the
7 bond.

8 (b) An application for an agent's permit shall be accompanied by
9 a surety bond in the amount determined by the board [COMMISSION] to be
10 necessary for the protection of the students or enrollees, or their
11 parents or guardians, or classes of these, or to reflect an institu-
12 tion's volume of business in the state. The bond shall be executed by
13 the applicant as principal and by a surety company qualified and
14 authorized to do business in this state. The bond shall be condi-
15 tioned to provide indemnification to any student or enrollee or the
16 student's or enrollee's parents or guardian, or class of these, de-
17 termined to have suffered loss or damage as a result of an act or
18 practice which is a violation of this chapter by the agent.

19 (c) The surety bond to be filed under this section shall cover
20 the period of the authorization to operate or the agent's permit, as
21 appropriate, except when a surety is released as provided in this
22 subsection. A surety on a bond filed under this section may be re-
23 leased from that bond after the surety serves written notice of the
24 release to the board [COMMISSION] and to the bonded agent or institu-
25 tion 45 days before the release. However, the release does not dis-
26 charge or otherwise affect a claim filed by a student or enrollee, or
27 a parent or guardian, or class thereof, before or after the release
28 for loss or damage resulting from an act or practice which is a vio-
29 lation of this chapter alleged to have occurred while the bond was in

1 effect or for an institution's ceasing operations during the term for
2 which tuition has been paid while the bond was in force.

3 (d) Authorization for an institution to operate and an agent's
4 permit shall be suspended by operation of law when the institution or
5 agent is no longer covered by a surety bond as required by this sec-
6 tion. However, the board [COMMISSION] shall give the institution or
7 agent, or both, at least 30 days written notice before the release of
8 the surety, to the effect that the authorization or permit shall be
9 suspended by operation of law until another surety bond is filed in
10 the same manner as, and in a like amount to, the bond being term-
11 inated.

12 (e) In lieu of the surety bond required in (a) and (b) of this
13 section, the applicant may file with the board [COMMISSION] a cash
14 deposit or other negotiable security, acceptable to the board [COMMIS-
15 SION], in the amount specified for bonds.

16 * Sec. 25. AS 14.48.110 is amended to read:

17 Sec. 14.48.110. DENIAL. If the board [COMMISSION], upon review
18 of an application for authorization to operate, or an application for
19 an agent's permit determines that the application should be denied,
20 the board [COMMISSION] shall notify the applicant, setting out the
21 reasons in writing. The Administrative Procedure Act (AS 44.62)
22 governs the review of a denial under this section.

23 * Sec. 26. AS 14.48.120 is amended to read:

24 Sec. 14.48.120. REVOCATION. An authorization to operate or an
25 agent's permit may be revoked or conditioned if the board [COMMISSION]
26 has reasonable cause to believe that the holder of the authorization
27 or permit is violating or has violated this chapter or AS 45.50.471 or
28 regulations adopted [PROMULGATED] under this chapter or AS 45.50.491.
29 The Administrative Procedure Act (AS 44.62) governs the procedure for

1 a revocation, review of a revocation, or other action under this sec-
2 tion.

3 * Sec. 27. AS 14.48.130 is amended to read:

4 Sec. 14.48.130. COMPLAINTS. (a) A person claiming damage or
5 loss as a result of an act or practice by a postsecondary educational
6 institution or its agent, or both, which is a violation of this chap-
7 ter or of the regulations adopted [PROMULGATED] under this chapter may
8 file with the board [COMMISSION] a complaint against the institution
9 or against its agent or both. The complaint shall set out the alleged
10 violation and shall contain other information as may be required by
11 the board [COMMISSION]. A complaint may also be filed by the board
12 [COMMISSION] on its own motion or the attorney general. A complainant
13 may file with the board [COMMISSION] as a representative of a class of
14 complainants.

15 (b) The board [COMMISSION] shall investigate the complaint and
16 may attempt to effect a settlement by persuasion and conciliation.
17 The board [COMMISSION] may consider a complaint after 30 days written
18 notice by registered mail to the institution or agent, or both, giving
19 notice of a time and place for hearing on the complaint. The hearing
20 shall be conducted in accordance with the Administrative Procedure Act
21 (AS 44.62).

22 (c) If, upon the evidence at a hearing, the board [COMMISSION]
23 finds that a postsecondary educational institution or its agent, or
24 both, has engaged in or is engaging in, an act or practice which
25 violates this chapter or the regulations promulgated under this chap-
26 ter the board [COMMISSION] shall serve upon the institution or agent
27 or both, an order requiring the institution or agent or both to cease
28 and desist from the act or practice. If the board [COMMISSION] finds
29 that the complainant, or class of complainants, has suffered loss or

1 damage as a result of the act or practice, the board [COMMISSION] may
2 also award the complainant, or class of complainants, full or partial
3 restitution for the damage or loss and may impose the penalties pro-
4 vided for in AS 14.48.180. The board [COMMISSION] may also, based on
5 its own investigation and the evidence adduced at the hearing, begin
6 an action to revoke an institution's authorization to operate or an
7 agent's permit.

8 * Sec. 28. AS 14.48.140 is amended to read:

9 Sec. 14.48.140. JUDICIAL REVIEW. A final administrative order
10 issued by the board [COMMISSION] is subject to judicial review under
11 the Administrative Procedure Act (AS 44.62).

12 * Sec. 29. AS 14.48.150 is amended to read:

13 Sec. 14.48.150. PRESERVATION OF RECORDS. (a) If a postsecond-
14 ary educational institution proposes to discontinue its operation, the
15 chief administrative officer of the institution shall file with the
16 board [COMMISSION] the original or legible true copies of academic
17 records of the institution as specified by the board [COMMISSION].
18 The records shall include that academic information customarily re-
19 quired by colleges when considering students for transfer or advanced
20 study and the academic record of each former student.

21 (b) If it appears to the board [COMMISSION] that records of an
22 institution discontinuing its operations are in danger of being de-
23 stroyed or otherwise made unavailable to the board [COMMISSION], the
24 board [COMMISSION] may seize the records, under an order of the su-
25 perior court. The board [COMMISSION] shall maintain a permanent file
26 of records coming into its possession under this section.

27 * Sec. 30. AS 14.48.180 is amended to read:

28 Sec. 14.48.180. ENFORCEMENT: INJUNCTION. (a) The attorney
29 general at the request of the board [COMMISSION] or on motion of the

1 attorney general, may bring an action or proceeding in a court of
2 competent jurisdiction for the enforcement of the provisions of this
3 chapter.

4 (b) When it appears to the board [COMMISSION] that a person is,
5 is about to, or has violated a provision of this chapter or a regu-
6 lation promulgated under this chapter, the board [COMMISSION] may, on
7 its own motion or on the written complaint of any person, file a
8 petition for injunction in the name of the board [COMMISSION] in a
9 court of competent jurisdiction against the person for the purpose of
10 enjoining the violation or for an order directing compliance with the
11 provisions of this chapter. It is not necessary that the board [COM-
12 MISSION] allege or prove that it has no adequate remedy at law. The
13 right of injunction provided in this section is in addition to other
14 legal remedies available to the board [COMMISSION] and is in addition
15 to the right of criminal prosecution. However, the board [COMMISSION]
16 may not obtain a temporary restraining order without notice to the
17 person affected.

18 * Sec. 31. AS 14.48.190 is amended to read:

19 Sec. 14.48.190. VIOLATIONS: CIVIL PENALTY. A person who vio-
20 lates the provisions of AS 14.48.020, or who fails or refuses to
21 deposit with the commissioner the records required by AS 14.48.150 is
22 subject to a civil penalty of not more than \$1,000 for each violation.
23 Each day's failure to comply with the provisions of AS 14.48.020 and
24 [AS] 14.48.150 constitutes a separate violation. The fine may be
25 imposed by the board [COMMISSION] in an administrative proceeding or
26 by a court of competent jurisdiction.

27 * Sec. 32. AS 14.48.200 is amended to read:

28 Sec. 14.48.200. CRIMINAL VIOLATION. A person who wilfully
29 violates the provisions of AS 14.48.020 or who wilfully fails or

1 refuses to deposit with the board [COMMISSION] the records required by
2 AS 14.48.150 is guilty of a misdemeanor and, upon conviction, is
3 punishable by a fine of not more than \$1,000 or by imprisonment for
4 not more than six months, or by both. Each day's failure to comply is
5 a separate violation.

6 * Sec. 33. AS 14.48.210 is amended to read:

7 Sec. 14.48.210. DEFINITIONS. In this chapter

8 (1) "agent" or "agents" mean persons owning an interest in,
9 employed by, or representing for remuneration, a postsecondary educa-
10 tional institution in or outside the state who, by solicitation made
11 in the state, enroll or seek to enroll residents of the state for
12 education offered by the institution, or offer to award educational
13 credentials for remuneration, on behalf of the institution, or who
14 hold themselves out to residents of the state as representing a post-
15 secondary educational institution for any purpose;

16 (2) "agent's permit" means a nontransferable written au-
17 thorization issued to a natural person by the board [COMMISSION] which
18 allows that person to solicit or enroll a resident of the state for
19 education in a postsecondary educational institution;

20 (3) "authorization to operate" means approval of the board
21 [COMMISSION] to operate or to contract to operate a postsecondary
22 educational institution in the state;

23 (4) "board" means the state board of education ["COMMIS-
24 SION" MEANS THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION];

25 (5) "education" or "educational program or services" or
26 like term includes any class, course, or program of training, instruc-
27 tion, or study;

28 (6) "educational credentials" means degrees, diplomas,
29 certificates, transcripts, reports, documents, or letters of

1 designation, marks, appellations, series of letters, numbers, or words
2 which signify, purport, or are generally taken to signify enrollment,
3 attendance, progress, or satisfactory completion of the requirements
4 or prerequisites for education at a postsecondary educational institu-
5 tion;

6 (7) "owner" means

7 (A) a person having at least a 10 percent interest in
8 the stock of a postsecondary educational institution that is a
9 corporation;

10 (B) a partner of a postsecondary educational institu-
11 tion that is a partnership; or

12 (C) a person having a direct financial interest in, or
13 title to, at least 10 percent of the assets of a postsecondary
14 educational institution which is neither a partnership nor a
15 corporation; however,

16 (D) "owner" does not include a financial institution
17 holding a mortgage on some or all of the real property or a
18 security interest in some or all of the personal property of a
19 postsecondary educational institution;

20 (8) "postsecondary educational institution" includes an
21 academic, vocational, technical, home study, business, professional,
22 or other school, college, or university, or other organization or
23 person, offering educational credentials, or offering instruction or
24 educational services primarily to persons who have completed or ter-
25 minated their secondary education or who are beyond the age of compul-
26 sory high school attendance for attainment of educational, profes-
27 sional, or vocational objectives;

28 (9) "to grant" includes awarding, selling, conferring, or
29 giving;

1 (10) "to offer" includes, in addition to its usual meanings,
2 advertising, publicizing, soliciting, or encouraging persons directly
3 or indirectly to perform the act described;

4 (11) "to operate a postsecondary institution" means to
5 establish, or maintain a facility or location in the state where
6 education is offered or given, or educational credentials are offered
7 or granted, and includes contracting with any person, group, or entity
8 to operate an educational institution.

9 * Sec. 34. AS 16.43.340(a) is amended to read:

10 (a) In addition to entry permits and interim-use permits, the
11 commission may issue educational entry permits to public, private or
12 denominational educational institutions accredited by the Department
13 of Education or accredited institutions, career or vocational programs
14 approved by the state board of education [ALASKA COMMISSION ON POST-
15 SECONDARY EDUCATION], or full-time nonprofit residential child care
16 facilities licensed by the Department of Health and Social Services,
17 division of social services, if

18 (1) the program is offered to students at the junior high
19 school level or above;

20 (2) the issuance of an educational entry permit is rea-
21 sonably necessary to the instruction of students under courses offered
22 by the applicant for the educational entry permit;

23 (3) the program is offered by an institution which is
24 located in the state and has been in operation for at least two years;
25 and

26 (4) the institution offering the program is not a corre-
27 spondence institution.

28 * Sec. 35. AS 44.27 is amended by adding a new section to read:

29 Sec. 44.27.030. FUNCTIONS OF THE BOARD OF EDUCATION. (a) The

1 state board of education has the following functions, advisory to the
2 governing boards of institutions of public and private higher educa-
3 tion in Alaska, to the governor, the legislature and to other appro-
4 priate state and federal officials:

5 (1) coordinating the development of comprehensive plans for
6 the orderly, systematic growth of public and private postsecondary
7 education in the state, including community colleges and occupational
8 education, and submitting recommendations on the need for, and loca-
9 tion of, new facilities and programs;

10 (2) advising as to the functions and purposes of the col-
11 leges and universities in the state, both public and private, and
12 counseling as to the programs appropriate to each;

13 (3) reviewing the annual budgets and capital outlay re-
14 quests of the University of Alaska and of each of the private colleges
15 and universities in the state, and presenting comments on the general
16 level of support sought;

17 (4) reviewing and advising as to the working of all con-
18 sortia and other cooperative agreements between the institutions of
19 higher education in the state that are parties to them;

20 (5) submitting to the governor and to the legislature
21 within 10 days after the beginning of each regular session of the
22 legislature a report that recommends necessary or desirable changes,
23 if any, in the functions and programs of the several segments of the
24 total complex of both public and private postsecondary education in
25 the state.

26 (b) The board shall

27 (1) develop a comprehensive statewide plan for coordinated
28 postsecondary education in the state;

29 (2) establish a state advisory council on community

1 colleges and develop a comprehensive statewide plan for the expansion
2 and improvement of the community colleges;

3 (3) administer the provisions of AS 14.48 (regulation of
4 postsecondary educational institutions);

5 (4) resolve any disputes that exist or arise under a con-
6 sortium or other cooperative agreement between institutions of public
7 and private higher education in the state.

8 (c) The board may establish task forces, committees or subcom-
9 mittees, not necessarily consisting of board members, to advise and
10 assist the board in carrying out its functions assigned by state or
11 federal statute. The board may contract with, or use, existing insti-
12 tutions of higher education or other individuals or organizations to
13 make studies, conduct surveys, submit recommendations or otherwise
14 contribute to the work of the board.

15 * Sec. 36. TRANSITION. All litigation, hearings, investigations, and
16 other proceedings pending under a law repealed by this Act, or in connec-
17 tion with functions transferred by this Act, continue in effect and may be
18 continued and completed notwithstanding a transfer or repeal provided for
19 in this Act. Certificates, orders, and regulations issued or adopted under
20 authority of a law repealed by this Act remain in effect for the term
21 issued, or until revoked, vacated, or otherwise modified under the pro-
22 visions of this Act. All contracts, rights, liabilities, and obligations
23 created by or under a law repealed by this Act, and in effect on the effec-
24 tive date of this Act, remain in effect notwithstanding this Act's taking
25 effect. Records, equipment, and other property of the office whose func-
26 tions are transferred under this Act shall be transferred commensurate with
27 the provisions of this Act.

28 * Sec. 37. AS 14.42, AS 39.25.110(11)(F), AS 39.50.200(b)(32), and
29 AS 44.62.330(a)(43) are repealed.