

Original sponsor: Ferguson

1 IN THE SENATE BY THE RULES COMMITTEE
2 CS FOR SENATE BILL NO. 13 (Rules)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to student loans; creating the
7 Alaska Student Loan Corporation; and providing for an
8 effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 14.42 is amended by adding new sections to read:
11 ARTICLE 2. ALASKA STUDENT LOAN CORPORATION.
12 Sec. 14.42.100. CREATION OF ALASKA STUDENT LOAN CORPORATION.
13 There is created the Alaska Student Loan Corporation. The corporation
14 is a public corporation and government instrumentality within the
15 Department of Education but having a legal existence independent of
16 and separate from the state. The corporation may not be terminated as
17 long as it has bonds, notes or other obligations outstanding. Upon
18 termination of the corporation, its rights and property pass to the
19 state.
20 Sec. 14.42.110. PURPOSE OF CORPORATION. The purpose of the
21 corporation is to improve higher educational opportunities of resi-
22 dents of Alaska in accordance with the provisions of this chapter.
23 Sec. 14.42.120. CORPORATION GOVERNING BODY. (a) The corpor-
24 ation shall be governed by a board of directors appointed by the
25 governor consisting of four individuals serving on the Commission on
26 Postsecondary Education pursuant to AS 14.42.015(a)(1) - (2), (4) -
27 (6) and (8), and one member appointed under AS 14.42.015(a)(3).
28 Members of the board serve without compensation but are entitled to
29 per diem and travel expenses as may be authorized by law for boards

1 and commissions.

2 Sec. 14.42.130. MEETING OF THE BOARD. (a) The Board shall
3 elect a chairman from among the membership at its annual meeting each
4 year. A majority of the members constitute a quorum for organizing
5 the board, conducting its business and exercising the powers of the
6 corporation. The board shall meet at the call of its chairman and at
7 such other times as the board may determine in accordance with its
8 regulations.

9 (b) The board may meet and transact business by electronic media
10 if

11 (1) public notice of the time and locations where the
12 meeting will be held by electronic media has been given in the same
13 manner as if the meeting were held in a single location;

14 (2) participants and members of the public in attendance
15 can hear and have the same right to participate in the meeting as if
16 the meeting were conducted in person; and

17 (3) copies of pertinent reference materials, statutes,
18 regulations, and audiovisual materials are reasonably available to
19 participants and the public.

20 (c) A meeting by electronic media as provided in this section
21 has the same legal effect as a meeting in person.

22 (d) For purposes of AS 14.42.100 - 14.42.320 public notice of 24
23 hours or more is adequate notice of a meeting of the board at which
24 the issuance of corporation bonds is authorized.

25 Sec. 14.42.140. MINUTES OF MEETINGS. The board shall keep
26 minutes of each meeting and send a certified copy to the governor and
27 to the Legislative Budget and Audit Committee.

28 Sec. 14.42.150. ADMINISTRATION OF AFFAIRS. The board shall
29 manage the assets and business of the corporation and may prescribe,

1 amend and repeal bylaws and regulations governing the manner in which
2 the business of the corporation is conducted and the manner in which
3 its powers are exercised in accordance with the Administrative Pro-
4 cedure Act (AS 44.62). The board shall delegate supervision of the
5 administration of the corporation to the executive director of the
6 corporation.

7 Sec. 14.42.160. EXECUTIVE DIRECTOR. The corporation shall
8 employ an executive officer, who may not be a member of the board.
9 The executive director shall be the executive officer of the Commis-
10 sion on Postsecondary Education appointed under AS 14.42.040(a).

11 Sec. 14.42.170. EMPLOYMENT OF PERSONNEL. The board may appoint
12 other officers and engage professional and technical advisors as
13 independent contractors. The executive director may hire employees of
14 the corporation and, subject to the approval of the board, engage
15 professional and technical advisors under contract with the corpor-
16 ation. The board shall prescribe the duties and compensation of
17 corporation personnel, including the executive director.

18 Sec. 14.42.190. BUDGET. The operating budget of the corporation
19 is subject to the Executive Budget Act (AS 37.07).

20 Sec. 14.42.200. GENERAL POWERS. In addition to other powers
21 granted in this chapter, the corporation may:

- 22 (1) sue and be sued in its own name;
- 23 (2) adopt an official seal;
- 24 (3) adopt bylaws for the regulation of its affairs and the
25 conduct of its business;
- 26 (4) employ fiscal consultants, attorneys, and such other
27 consultants and employees as may be required in the judgement of the
28 corporation, and fix and pay their compensation from money available
29 to the corporation;

1 (5) make and execute agreements, contracts and other in-
2 struments necessary or convenient in the exercise of the powers and
3 functions of the corporation under this chapter, including contracts
4 with any person, firm, corporation, governmental agency or other
5 entity;

6 (6) receive, administer and comply with the conditions and
7 requirements respecting any appropriation or gift, grant or donation
8 of property or money;

9 (7) acquire real property, or any interest in real prop-
10 erty, in its own name, by purchase, transfer or foreclosure, when the
11 acquisition is necessary or appropriate to protect any loan in which
12 the corporation has an interest; sell, transfer and convey any such
13 property to a buyer; and, if the sale, transfer or conveyance cannot
14 be effected with reasonable promptness or at a reasonable price, rent
15 or lease the property to a tenant pending the sale, transfer or con-
16 veyance;

17 (8) borrow money as provided in this chapter to carry out
18 and effectuate its corporate purposes and issue its obligations as
19 evidence of any such borrowing;

20 (9) include in any borrowing the amounts to pay financing
21 charges, interest on the obligations for a period not exceeding one
22 year after the date on which the corporation estimates funds will
23 otherwise be available to pay the interest, consultant, advisory and
24 legal fees and such other expenses as are necessary or incident to
25 this borrowing;

26 (10) invest or reinvest, subject to its contracts with
27 noteholders and bondholders, any money or funds held by the corpor-
28 ation in any obligations or other securities authorized under AS 37.-
29 10.070(a);

- 1 (11) collect from a borrower amounts owed with respect to a
2 student loan the corporation has purchased or made;
- 3 (12) gather information on loans available to residents of
4 Alaska attending or planning to attend an eligible institution and
5 disseminate the information to reasonably assure that qualified stu-
6 dents are aware of financial resources available to those attending or
7 desiring to attend an eligible institution;
- 8 (13) require an eligible institution or eligible lender to
9 file reports with the corporation as the corporation considers neces-
10 sary for the effective performance of its duties and publish the
11 information from the reports or other sources as the corporation
12 considers necessary;
- 13 (14) service student loans held by the corporation;
- 14 (15) except as specifically prohibited by law, obtain infor-
15 mation from a state agency or instrumentality or other source to
16 verify information submitted by or on behalf of a student applying for
17 or receiving assistance from the corporation;
- 18 (16) make or participate in the making of and purchase or
19 participate in the purchase of student loans;
- 20 (17) contract in advance for the purchase or sale of student
21 loans;
- 22 (18) sell or participate in the sale, either public or
23 private and on terms authorized by the board, of student loans to the
24 Student Loan Marketing Association or to other purchasers;
- 25 (19) collect and pay reasonable fees and charges in connec-
26 tion with the purchase, sale, and servicing of student loans;
- 27 (20) enter into agreements with the federal government
28 (including guaranty agreements and supplemental guaranty agreements as
29 described in the United States Higher Education Act of 1965) as

1 necessary to provide for the receipt by the corporation of administra-
2 tive allowances and other benefits available under the United States
3 Higher Education Act of 1965;

4 (21) enter into contracts with lenders upon terms and con-
5 ditions agreed upon between the corporation and the lenders, which
6 terms and conditions may reflect the requirements of the United States
7 Higher Education Act of 1965;

8 (22) enter into contracts with institutions upon the terms
9 and conditions agreed upon between the corporation and the institu-
10 tions, which terms and conditions may reflect the requirements of the
11 United States Higher Education Act of 1965;

12 (23) administer federal money allotted to the state with
13 respect to insured student loans and related administrative costs and
14 other matters;

15 (24) consent to the modification of the rate of interest,
16 time of payment of an installment of principal or interest, or other
17 terms of a student loan made or purchased by the corporation;

18 (25) procure insurance against any loss in connection with
19 the operation of its programs under this chapter;

20 (26) provide advisory services to borrowers and other parti-
21 cipants in the corporation's programs under this chapter;

22 (27) do all acts and things necessary, convenient or desir-
23 able to carry out the powers expressly granted or necessarily implied
24 in this chapter.

25 Sec. 14.42.210. STUDENT LOAN FUND. (a) The student loan fund
26 is established in the corporation. The student loan fund is a trust
27 fund for the uses and purposes of AS 14.42.100 - 14.42.320. The
28 student loan fund consists of money or assets appropriated or trans-
29 ferred to the corporation and other money or assets deposited in it by

1 the corporation.

2 (b) Money and other assets of the student loan fund may be used
3 to secure bonds of the corporation, or invested in the types of in-
4 vestments under AS 37.10.070(a) or shall be used to make or purchase
5 loans approved under AS 14.43.090 - 14.43.160.

6 Sec. 14.42.220. BONDS OF THE CORPORATION. (a) Subject to (g)
7 of this section, the corporation may borrow money and may issue bonds,
8 including but not limited to bonds on which the principal and interest
9 are payable,

10 (1) exclusively from the income and receipts or other money
11 derived from the loans financed with proceeds of the bonds;

12 (2) exclusively from the income and receipts or other money
13 derived from designated loans whether or not they are financed in
14 whole or in part with the proceeds of the bonds; or

15 (3) from its income and receipts or other assets generally,
16 or a designated part or parts of them.

17 (b) Bonds shall be authorized by resolution of the corporation,
18 and be dated and may not mature more than 20 years from the date of
19 its issue. Bonds shall bear interest at the rate or rates, be in the
20 denominations, be in the form, either coupon or registered, carry the
21 registration privileges, be executed in the manner, be payable in the
22 medium of payment, at the place or places, and be subject to the terms
23 of redemption which the resolution or a subsequent resolution may
24 provide.

25 (c) All bonds, regardless of form or character, shall be nego-
26 tiable instruments for all the purposes of the Uniform Commercial Code
27 (AS 45.01 - AS 45.09).

28 (d) All bonds may be sold at public or private sale in the
29 manner, for the price or prices, and at the time or times which the

1 corporation may determine.

2 (e) Before issuance of any bonds, the corporation shall make
3 provision by agreement or otherwise at least sufficient in the judg-
4 ment of the corporation to pay the principal of and interest on the
5 bonds as they become due and to create and maintain the reserves
6 therefor as the corporation considers necessary or desirable and to
7 meet all obligations in connection with the agreement and all costs
8 necessary to service the bonds unless the agreement provides that the
9 obligations are to be met or costs are to be paid by a party other
10 than the corporation.

11 (f) The superior court shall have jurisdiction to hear and
12 determine suits, actions or proceedings relating to the corporation,
13 including suits, actions or proceedings brought to foreclose or other-
14 wise enforce a mortgage or other security interest or brought by or
15 for the benefit of a holder of its bonds or by a trustee for or other
16 representative of the holders.

17 (g) The corporation may not issue bonds during any fiscal year
18 in an amount greater than \$45,000,000 unless the legislature, by law,
19 approves issuance of a greater amount.

20 (h) The corporation may not issue loans in excess of the total
21 amount of funds expended the previous fiscal year for student loans or
22 the amount appropriated in a fiscal year for student loans, whichever
23 is less.

24 Sec. 14.42.230. TRUST INDENTURES AND TRUST AGREEMENTS. In the
25 discretion of the corporation, an issue of bonds may be secured by a
26 trust indenture or trust agreement between the corporation and a
27 corporate trustee (which may be a trust company, bank, or national
28 banking association, with corporate trust powers, located inside or
29 outside the state) or by a secured loan agreement or other instrument
27

1 or under a resolution giving powers to a corporate trustee (herein-
2 after in this section referred to as "trust agreement") by means of
3 which the corporation may:

4 (1) make and enter into any and all the covenants and
5 agreements with the trustee or the holders or the bonds which the
6 corporation may determine to be necessary or desirable, including,
7 without limitation, covenants, provisions, limitations and agreements
8 as to:

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

13 (B) the fixing and collection of loan payments and
14 other consideration for, and the other terms to be incorporated
15 in, a student loan;

16 (C) the assignment by the corporation of its rights in
17 a student loan or in a mortgage or other security interest creat-
18 ed with respect to a student loan to a trustee for the benefit of
19 bondholders;

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

22 (E) the vesting in a trustee of rights, powers,
23 duties, funds or property in trust for the benefit of bond-
24 holders, including, without limitation, the right to enforce
25 payment, performance and all other rights of the corporation or
26 of the bondholders, under a student loan or a security interest
27 created with respect to a student loan;

28 (2) pledge, mortgage or assign money, agreements, property,
29 or other assets of the corporation either presently in hand or to be

1 received in the future, or both; and

2 (3) provide for any other matters of like or different
3 character which in any way affect the security or protection of the
4 bonds.

5 Sec. 14.42.240. CAPITAL RESERVE FUNDS AND CAPITAL RESERVE FUND
6 REQUIREMENTS. (a) For the purpose of securing one or more issues of
7 its bonds, the corporation may establish one or more special funds,
8 called "capital reserve funds", and shall pay into those capital
9 reserve funds the proceeds of the sale of its bonds and other moneys
10 which may be made available to the corporation from other sources for
11 the purposes of the capital reserve funds. A capital reserve fund may
12 be established only if the corporation determines that the establish-
13 ment of the fund would enhance the marketability of the bonds. Money
14 in a capital reserve fund, except as provided in this section, may be
15 used as required only for (1) the payment of the principal of, and
16 interest on, bonds or of the sinking fund payments with respect to
17 those bonds; (2) the purchase or redemption of the bonds, or (3) the
18 payment or a redemption premium required to be paid when the bonds are
19 redeemed before maturity. However, money in a capital reserve fund
20 may not be withdrawn if the withdrawal would reduce the amount in the
21 capital reserve fund to less than the capital reserve fund require-
22 ment, except for the purpose of making payment, when due, of princi-
23 pal, interest redemption premiums on the bonds, and sinking fund
24 payments when other money of the corporation is not available for the
25 payments. Income or interest earned by, or increment to, a capital
26 reserve fund, from the investment of all or part of the fund, may be
27 transferred by the corporation to other funds or accounts of the
28 corporation if the transfer does not reduce the amount of the capital
29 reserve fund below the capital reserve fund requirement.

1 (b) If the corporation decides to issue bonds secured by a
2 capital reserve fund, the bonds may not be issued if the amount in
3 requirement, unless the corporation, at the time of issuance of the
4 bonds, deposits in the capital reserve fund from the proceeds of the
5 bonds to be issued or from other sources, an amount of which, together
6 with the amount then in the fund, is not less than the capital reserve
7 fund requirement.

8 (c) In computing the amount of a capital reserve fund for the
9 purpose of this section, securities in which all or a portion of the
10 fund is invested shall be valued by a reasonable method established by
11 the corporation by resolution. Valuation shall include the amount of
12 interest earned or accrued as of the date of valuation.

13 (d) The chairman of the corporation shall annually, no later
14 than January 2, certify in writing to the governor and the legislature
15 the amount, of any, required to restore a capital reserve fund to the
16 capital reserve fund requirement. The legislature may appropriate to
17 the corporation the amount certified by the chairman of the corpora-
18 tion. The corporation shall deposit the amounts appropriated under
19 this subsection during a fiscal year in the proper capital reserve
20 fund. Nothing in this section creates a debt or liability of the
21 state.

22 (e) In this section, "capital reserve fund requirement" means
23 the amount required to be on deposit in the capital reserve fund as of
24 the date of computation as determined by resolution of the corpora-
25 tion.

26 (f) The corporation may establish reserve funds, other than
27 capital reserve funds, to secure one or more issues of its bonds. The
28 corporation may deposit in a reserve fund established under this
29 subsection the proceeds of sale of its bonds and other money which may

1 be made available from any other source. A reserve fund established
2 under this subsection must comply with (a) - (c) of this section. The
3 corporation may allow a reserve fund established under this subsection
4 to be depleted without complying with (d) of this section.

5 Sec. 14.42.250. VALIDITY OF PLEDGE. It is the intention of the
6 legislature that a pledge made in respect of bonds shall be valid and
7 binding from the time the pledge is made; that the money or property
8 so pledged and thereafter received by the corporation shall immediate-
9 ly be subject to the lien of the pledge without physical delivery or
10 further act; and that the lien of the pledge shall be valid and bind-
11 ing as against all parties having claims of any kind in tort, contract
12 or otherwise against the corporation irrespective of whether the
13 parties have notice. Neither the resolution, trust agreement nor any
14 other instrument by which a pledge is created need be recorded or
15 filed under the provisions of the Uniform Commercial Code (AS 45.01 -
16 AS 45.09) to be valid, binding or effective against parties.

17 Sec. 14.42.260. NONLIABILITY ON BONDS. (a) Neither the mem-
18 bers of the corporation nor a person executing the bonds are liable
19 personally on the bonds or are subject to personnel liability or
20 accountability by reason of the issuance of the bonds.

21 (b) The bonds issued by the corporation do not constitute an
22 indebtedness or other liability of the state or of a political sub-
23 division of the state, except the corporation, but shall be payable
24 solely from the income and receipts or other funds or property of the
25 corporation. The corporation may not pledge the faith or credit of
26 the state or of a political subdivision of the state (except the
27 corporation) to the payment of a bond and the issuance of a bond by
28 the corporation does not directly or indirectly contingently obligate
29 the state or a political subdivision of the state to apply money from,

1 or levy or pledge any form of taxation whatever to the payment of the
2 bond.

3 Sec. 14.42.270. PLEDGE OF STATE. The state pledges to and
4 agrees with holders of bonds issued under this chapter that the state
5 will not limit or alter the rights and powers vested in the corpor-
6 ation by this chapter to fulfill the terms of a contract made by the
7 corporation with the holders or in any way impair the rights and
8 remedies of the holders until the bonds, together with the interest on
9 them with interest on unpaid installments of interest, and all costs
10 and expenses in connection with an action or proceeding by or on
11 behalf of the holders, are fully met and discharged. The corporation
12 is authorized to include this pledge and agreement of the state in
13 contract with the holders.

14 Sec. 14.42.280. EXEMPTION FROM TAXATION. The real and personal
15 property of this corporation and its assets, income and receipts are
16 declared to be the property of a political subdivision of the state
17 and devoted to an essential public and governmental function and
18 purpose, and the property, assets income, receipts, and other in-
19 terests of the corporation shall be exempt from all taxes and special
20 assessments of the state of a political subdivision of the state,
21 including, without limitation, all borough, cities, municipalities,
22 school districts, public utility districts and other taxing units.
23 All bonds of the corporation are declared to be issued by a political
24 subdivision of the state and for an essential public and governmental
25 purpose and to be public instrumentality, and the bonds, and the
26 interest on them, the income from them and the transfer of the bonds,
27 and all assets, income and receipts pledged to pay or secure the
28 payment of the bonds, or interest on them, shall at all times be
29 exempt from taxation by or under the authority of the state, except

1 for inheritance and estate taxes and taxes on transfers by or in
2 contemplation of death. Nothing in this section affects or limits an
3 exemption from license fees, property taxes, or excise, income or any
4 other taxes provided under any other law, nor does it create a tax
5 exemption with respect to the interest of any business, enterprise or
6 the person, other than the corporation, in any property, assets,
7 income, receipts, or other interest.

8 Sec. 14.42.290. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
9 bonds of the corporation are securities in which all public officers
10 and bodies of the state and all municipalities and municipal sub-
11 divisions, all insurance companies and associations and other persons
12 carrying on a insurance business, all banks, bankers, trust companies,
13 savings banks, savings associations, including savings associations
14 and building and loan associations, investment companies and other
15 persons carrying on a banking business, all administrators, guardians,
16 executors, trustees and other fiduciaries, and all other persons
17 whatsoever who are now or may hereafter be authorized to invest in
18 bonds or other obligations of the state, may properly and legally
19 invest funds including any other provisions of law, the bonds of the
20 corporation are also securities which may be deposited with and may be
21 received by all public officers and bodies of this state and all
22 municipalities and municipal subdivisions for any purpose for which
23 the deposit of bonds or other obligations of the state is now or may
24 hereafter be authorized.

25 Sec. 14.42.310. OPERATION OF CERTAIN STATUTES EXCEPTED. (a)
26 The corporation shall not be considered or constitute (1) a political
27 subdivision of the state as the term is used in AS 37.10.085, (2) a
28 municipal corporation or political subdivision of the state as the
29 terms are used in AS 29, or (3) except as provided in AS 14.42.320, a

1 state agency as the term is used in AS 37, but for all other purposes
2 the corporation constitutes a political subdivision and an instrumen-
3 tality of the state provided in this chapter.

4 (b) The funds, income or receipts of the corporation shall not
5 be considered or constitute money of the state, nor shall real pro-
6 perty in which the corporation has an interest be considered land
7 owned in fee by the state or to which the state may become entitled or
8 in any way lands belonging to the state, or state lands referred to in
9 art. VIII of the Alaska Constitution.

10 Sec. 14.42.320. ANNUAL AUDIT. The corporation shall have its
11 financial records audited annually by the legislative auditor or by a
12 certified public accountant approved by the legislative auditor. The
13 legislative auditor may prescribe the form and content of the finan-
14 cial records of the corporation and shall have access to these records
15 at any time.

16 * Sec. 2. AS 14.43.120(d) is amended to read:

17 (d) scholarship loans may not be made to a student
18 (1) for more than five years of undergraduate study;
19 (2) for more than five years of graduate study;
20 (3) for more than a total of eight years of undergraduate
21 and graduate study;
22 (4) to attend an institution for which the default rate on
23 loans made to students to attend the institution exceeds the program
24 default rate by more than 150 percent.

25 * Sec. 3. Notwithstanding the provisions of AS 14.42.160 enacted by
26 section 1 of this Act, if the executive officer of the Commission on Post-
27 secondary Education does not consent to appointment as executive director
28 of the Alaska Student Loan Corporation in writing filed with the Alaska
29 Student Loan Corporation within 60 days after the effective date of this

1 Act, the Alaska Student Loan Corporation shall take such steps as it con-
2 siderers necessary or appropriate to employ an executive director who is not
3 the executive officer of the Commission on Postsecondary Education. If the
4 Alaska Student Loan Corporation employs an executive director under this
5 section who is not the executive officer of the Commission on Postsecondary
6 Education, each time a vacancy occurs in the position of executive direc-
7 tor, the Alaska Student Loan Corporation shall allow the executive officer
8 of the Commission on Postsecondary Education three business days to file a
9 written consent to the provisions of AS 14.42.160. If the executive officer
10 fails to file the written consent within the three business days allowed,
11 the Alaska Student Loan Corporation shall seek an executive director other
12 than the executive officer of the Commission on Postsecondary Education. If
13 the executive officer of the Commission on Postsecondary Education files a
14 written consent described in this section during any of the times described
15 in this section, the provisions of AS 14.42.160 shall thereafter control
16 with respect to the appointment of the executive director of the Alaska
17 Student Loan Corporation.

18 * Sec. 4. This Act takes effect immediately in accordance with AS 01.-
19 10.070(c).