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Referred: Finance

5-0214B

Original sponsors: Kelly, Halford,
Kerttula, et al.

1 IN THE SENATE BY THE HEALTH, EDUCATION AND
2 CS FOR SENATE BILL NO. 66 (HESS) SOCIAL SERVICES COMMITTEE
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST 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 for resi-
22 dents of the state in accordance with 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 members of the Alaska Commission on Post-
26 secondary Education, each of whom is selected for the commission under
27 AS 14.42.015(a)(1) - (2), (4) - (6), (8) or (9) and one member of the
28 commission selected under AS 14.42.015(a)(3). Members of the board
29 serve without compensation but are entitled to per diem and travel

1 expenses authorized by law for boards and commissions.

2 (b) The board shall elect a chairman from among its membership
3 at its annual meeting each year. A majority of the members constitute
4 a quorum for organizing the board, conducting its business, and exer-
5 cising the powers of the corporation.

6 Sec. 14.42.130. MEETINGS OF THE BOARD. (a) The board shall
7 meet at the call of its chairman and at other times as the board may
8 determine in accordance with its regulations.

9 (b) Public notice of a meeting of the board at which the issu-
10 ance of corporation bonds is authorized shall be provided at least 24
11 hours before the meeting.

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

15 Sec. 14.42.150. ADMINISTRATION OF AFFAIRS. The board shall
16 manage the assets and business of the corporation and may adopt bylaws
17 and regulations, in accordance with the Administrative Procedure Act
18 (AS 44.62), governing the manner in which the business of the corpo-
19 ration is conducted and the manner in which its powers are exercised.
20 The board shall delegate supervision of the administration of the
21 corporation to the executive officer of the corporation.

22 Sec. 14.42.160. EXECUTIVE OFFICER. The executive officer of the
23 Commission on Postsecondary Education appointed under AS 14.42.040(a)
24 shall serve as executive officer of the corporation.

25 Sec. 14.42.170. EMPLOYMENT OF PERSONNEL. The executive officer
26 may hire employees of the corporation and, subject to the approval of
27 the board, engage professional and technical advisors under contract
28 with the corporation. The board may appoint other officers and engage
29 professional and technical advisors as independent contractors. The

1 board shall prescribe the duties and compensation of corporation
2 personnel, including the executive officer.

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

5 Sec. 14.42.200. GENERAL POWERS. In addition to other powers
6 granted in this chapter, the corporation may

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

8 (2) adopt an official seal;

9 (3) adopt regulations under AS 44.62 (Administrative Proce-
10 dure Act) to carry out the purposes of this chapter;

11 (4) make and execute agreements, contracts, and other in-
12 struments necessary or convenient in the exercise of the powers and
13 functions of the corporation, including contracts with a person or
14 governmental entity;

15 (5) receive, administer, and comply with the conditions and
16 requirements respecting any appropriation, gift, grant, or donation of
17 property or money;

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

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

26 (8) invest or reinvest, subject to its contracts with
27 noteholders and bondholders, money held by the corporation in obliga-
28 tions or other securities authorized for investments of the commis-
29 sioner of revenue under AS 37.10.070(a);

- 1 (9) collect from a borrower amounts owed with respect to a
2 student loan the corporation has purchased;
- 3 (10) gather information on student loans available to resi-
4 dents of Alaska and disseminate the information to reasonably assure
5 that qualified residents are aware of financial resources available to
6 those attending or desiring to attend institutions for which loans may
7 be made under AS 14.43.090 - 14.43.325 or 14.43.600 - 14.43.700;
- 8 (11) service student loans held by the corporation;
- 9 (12) purchase or participate in the purchase of student
10 loans;
- 11 (13) contract in advance for the purchase or sale of student
12 loans;
- 13 (14) sell or participate in the sale, either public or
14 private and on terms authorized by the board, of student loans to the
15 Student Loan Marketing Association or to other purchasers;
- 16 (15) collect and pay reasonable fees and charges in connec-
17 tion with the purchase, sale, and servicing of student loans;
- 18 (16) enter into agreements with the federal government,
19 including guaranty agreements and supplemental guaranty agreements as
20 described in the United States Higher Education Act of 1965, as neces-
21 sary to provide for the receipt by the corporation of administrative
22 allowances and other benefits available under the United States Higher
23 Education Act of 1965;
- 24 (17) administer federal money allotted to the state involv-
25 ing insured student loans and related administrative costs and other
26 matters;
- 27 (18) enter into agreements with the Alaska Commission on
28 Postsecondary Education relating to student loans, the administration
29 of the student loan fund created under AS 14.42.210, and the payment

1 of and security for bonds of the corporation;

2 (19) to the extent permitted under contracts with bond
3 holders, consent to the modification of the rate of interest, time of
4 payment of an installment of principal or interest, or other terms of
5 a student loan purchased by the corporation;

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

8 (21) provide advisory services to borrowers and other parti-
9 cipants in the corporation's programs;

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

13 (23) do all acts necessary, convenient, or desirable to
14 carry out the powers expressly granted or necessarily implied in
15 AS 14.42.100 - 14.42.500.

16 Sec. 14.42.210. STUDENT LOAN FUND. (a) The student loan fund
17 is established in the corporation. The student loan fund is a trust
18 fund to be used to carry out the purposes of AS 14.42.100 - 14.42.500,
19 AS 14.43.090 - 14.43.325, and 14.43.600 - 14.43.700. The fund con-
20 sists of money or assets appropriated or transferred to the corpo-
21 ration for the fund and money or assets deposited in it by the corpo-
22 ration. The corporation may establish separate accounts in the fund.

23 (b) Money and other assets of the student loan fund may be used
24 to secure bonds of the corporation, invested in student loans and in-
25 vestments described in AS 37.10.070(a) and used to purchase loans
26 approved under AS 14.43.090 - 14.43.325 or 14.43.600 - 14.43.700.

27 (c) The student loan fund shall be administered by the Alaska
28 Commission on Postsecondary Education. The corporation and the com-
29 mission may enter into agreements relating to the administration of

1 the fund. The corporation may assign its rights under the agreements
2 for the benefit and security of holders of its bonds.

3 Sec. 14.42.220. BONDS OF THE CORPORATION. (a) Subject to (f)
4 of this section, the corporation may borrow money and may issue bonds,
5 on which the principal and interest are payable from its income and
6 receipts or other assets or a designated part or parts of them.

7 (b) Bonds may be authorized only by resolution of the board.
8 Bonds shall be dated, bear interest at the rate or rates, be in the
9 denominations, be in the form, either coupon or registered, carry the
10 registration privileges, be executed in the manner, be payable in the
11 medium of payment, at the place or places, be subject to the terms of
12 redemption, and mature as provided by the resolution or a subsequent
13 resolution. However, a bond may not mature more than 30 years after
14 the date it is issued.

15 (c) Bonds of the corporation, regardless of form or character,
16 are negotiable instruments for all the purposes of the Uniform Commer-
17 cial Code (AS 45.01 - AS 45.09).

18 (d) Bonds of the corporation may be sold at public or private
19 sale in the manner, for the price or prices, and at the time or times
20 that the board determines.

21 (e) The superior court has jurisdiction to hear and determine
22 proceedings relating to the corporation, including proceedings brought
23 by or for the benefit of a bondholder or by a trustee for or other
24 representative of a bondholder.

25 (f) The corporation may not issue bonds, other than refunding
26 bonds, during any two consecutive fiscal years in an aggregate amount
27 greater than \$150,000,000 unless the legislature, by law, approves
28 issuance of a greater amount.

29 Sec. 14.42.230. TRUST INDENTURES AND TRUST AGREEMENTS. An

1 issue of bonds by the corporation may be secured by a trust indenture
2 or trust agreement between the corporation and a corporate trustee,
3 which may be a trust company, bank, or national banking association,
4 with corporate trust powers, located inside or outside the state, or
5 by a secured loan agreement or other instrument or under a resolution
6 giving powers to a corporate trustee by means of which the corporation
7 may:

8 (1) enter into agreements with the trustee or the bond-
9 holders that the board determines to be necessary or desirable, in-
10 cluding covenants, provisions, limitations, and other agreements as to
11 the

12 (A) application, investment, deposit, use, and dispo-
13 sition of the proceeds of bonds of the corporation or of money or
14 other property of the corporation or in which it has an interest;

15 (B) fixing and collecting loan payments and other
16 consideration for a student loan;

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

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

23 (E) vesting in a trustee of rights, powers, duties,
24 funds, or property in trust for the benefit of bondholders, in-
25 cluding the right to enforce payment, performance, and other
26 rights of the corporation or of the bondholders, under a student
27 loan or a security interest created with respect to a student
28 loan;

29 (2) pledge, mortgage or assign money, agreements, property,

1 or other assets of the corporation either presently in hand or to be
2 received in the future, or both; and

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

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

29 (b) If the board decides to issue bonds secured by a capital

1 reserve fund, the bonds may not be issued if the amount in the capital
2 reserve fund is less than the capital reserve fund requirement, unless
3 the corporation, at the time of issuance of the bonds, pledges to
4 deposit in the capital reserve fund from the proceeds of the bonds to
5 be issued or from other sources, an amount that, together with the
6 amount then in the fund, is not less than the capital reserve fund
7 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 and credit facilities deposited in or credited to a
11 capital reserve fund under (f) of this section shall be valued by a
12 reasonable method established by the board by resolution. Valuation
13 shall include the amount of interest earned or accrued as of the date
14 of valuation.

15 (d) By January 2 of each year, the chairman of the board shall
16 certify in writing to the governor and the legislature the amount, if
17 any, required to restore a capital reserve fund to the capital reserve
18 fund requirement. The legislature may appropriate to the corporation
19 the amount certified by the chairman. The corporation shall deposit
20 the amounts appropriated under this subsection during a fiscal year in
21 the proper capital reserve fund. This subsection does not create a
22 debt or liability of the state.

23 (e) The board may establish reserve funds, other than capital
24 reserve funds, to secure one or more issues of bonds of the corpo-
25 ration. The corporation may deposit in a reserve fund established
26 under this subsection the proceeds of sale of its bonds and other
27 money available from any other source. The corporation may allow a
28 reserve fund established under this subsection to be depleted without
29 complying with (d) of this section.

1 (f) The corporation may hold in a capital reserve fund, in lieu
2 of money and in satisfaction of all or part of a capital reserve fund
3 requirement, irrevocable letters of credit issued by a commercial
4 bank, surety bonds, insurance policies, and similar credit facilities.

5 (g) In this section, "capital reserve fund requirement" means
6 the amount required to be on deposit in the capital reserve fund as of
7 the date of computation as determined by resolution of the board.

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

20 Sec. 14.42.260. NONLIABILITY ON BONDS. (a) The members of the
21 board and individuals executing the bonds of the corporation are not
22 liable personally on the bonds or subject to personal liability or
23 accountability by reason of the issuance of the bonds.

24 (b) The bonds issued by the corporation do not constitute an
25 indebtedness or other liability of the state or of a political sub-
26 division of the state, except the corporation, but shall be payable
27 solely from the income and receipts or other funds or property of the
28 corporation. The corporation may not pledge the faith or credit of
29 the state, or of a political subdivision of the state, except the

1 corporation, to the payment of a bond. Issuance of a bond by the
2 corporation does not directly, indirectly, or contingently obligate
3 the state or a political subdivision of the state to apply money from,
4 or levy or pledge any form of taxation whatever to the payment of the
5 bond.

6 Sec. 14.42.265. UNDERWRITERS. The board may select an under-
7 writer for its bonds in accordance with procedures the board considers
8 appropriate.

9 Sec. 14.42.270. PLEDGE AND AGREEMENT OF STATE. The state
10 pledges to and agrees with holders of bonds issued by the corporation
11 that the state will not limit or alter the rights and powers vested in
12 the corporation under AS 14.42.100 - 14.42.330 to fulfill the terms of
13 a contract made by the corporation with the bondholders or in any way
14 impair the rights and remedies of the bondholders until the bonds,
15 together with the interest on them with interest on unpaid install-
16 ments of interest, and all costs and expenses in connection with an
17 action or proceeding by or on behalf of the bondholders, are fully met
18 and discharged. The corporation may include this pledge and agreement
19 of the state in a contract with bondholders.

20 Sec. 14.42.280. EXEMPTION FROM TAXATION. The real and personal
21 property of the corporation and its assets, income, and receipts are
22 declared to be the property of a political subdivision of the state
23 and devoted to an essential public and governmental function and
24 purpose, and the property, assets, income, receipts, and other in-
25 terests of the corporation are exempt from all taxes and special
26 assessments of the state or a political subdivision of the state,
27 including municipalities, school districts, public utility districts,
28 and other governmental units. Bonds of the corporation are declared
29 to be issued by a political subdivision of the state and for an

1 essential public and governmental purpose, and the bonds, interest on
2 them, income from them, and transfer of them, and all assets, income,
3 and receipts pledged to pay or secure the payment of the bonds, or
4 interest on them, are exempt from taxation by or under the authority
5 of the state, except for inheritance and estate taxes and taxes on
6 transfers by or in contemplation of death.

7 Sec. 14.42.290. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The
8 bonds of the corporation are securities in which public officers and
9 bodies of the state, municipalities, insurance companies, insurance
10 associations, other persons carrying on an insurance business, banks,
11 bankers, trust companies, savings banks, savings associations, build-
12 ing and loan associations, investment companies, other persons carry-
13 ing on a banking business, administrators, guardians, executors,
14 trustees, other fiduciaries, and other persons who are authorized to
15 invest in bonds or other obligations of the state, may properly and
16 legally invest funds including capital in their control or belonging
17 to them. Notwithstanding any other provisions of law, the bonds of
18 the corporation are also securities that may be deposited with and may
19 be received by public officers and bodies of the state and municipal-
20 ities for any purpose for which the deposit of bonds or other obliga-
21 tions of the state is now or may be authorized.

22 Sec. 14.42.300. OPERATION OF CERTAIN STATUTES EXCEPTED. (a)
23 The corporation is not a municipality as the term is defined in
24 AS 01.10.060. Except as provided in AS 14.42.190, the corporation is
25 not subject to AS 37. For all other purposes the corporation is a
26 political subdivision and an instrumentality of the state.

27 (b) The funds, income, and receipts of the corporation are not
28 money of the state, nor may real property in which the corporation has
29 an interest be considered land owned in fee by the state or to which

1 the state may become entitled or in any way land belonging to the
2 state, or state land referred to in art. VIII of the Alaska Constitu-
3 tion.

4 Sec. 14.42.310. ANNUAL AUDIT. The financial records of the
5 corporation shall be audited annually by the legislative auditor or by
6 a certified public accountant approved by the legislative auditor.
7 The legislative auditor may prescribe the form and content of the
8 financial records of the corporation and shall have access to these
9 records at any time.

10 Sec. 14.42.500. DEFINITIONS. In AS 14.42.100 - 14.42.500,

11 (1) "board" means the board of directors of the corpo-
12 ration;

13 (2) "corporation" means the Alaska Student Loan Corpora-
14 tion.

15 * Sec. 2. AS 14.42.265 is amended to read:

16 Sec. 14.42.265. UNDERWRITERS. The board may select an under-
17 writer for its bonds in accordance with procedures the board considers
18 appropriate. However, the procedures must include a competitive
19 method for selecting the underwriter that is established by regulation
20 of the board.

21 * Sec. 3. AS 14.43.090(a) is amended to read:

22 (a) There is created a scholarship revolving loan fund. The
23 fund shall be used to make scholarship loans to students selected
24 under AS 14.43.090 - 14.43.160, [AND] to pay the costs of collecting
25 student loans that are in default if those costs are not recovered
26 from the student, and to pay the costs of administering the fund.
27 Unless the instrument evidencing the scholarship loan has been sold or
28 assigned to the Alaska Student Loan Corporation, [. ALL] repayments
29 of principal and interest on a scholarship loan [LOANS] shall be paid

1 into the scholarship revolving loan fund. If money estimated to be
2 available [FROM SCHOLARSHIP LOAN REPAYMENTS] is inadequate to fully
3 fund estimated scholarship loans for any fiscal year, additional
4 funding from the general fund may be requested and appropriated for
5 that year.

6 * Sec. 4. AS 14.43.090 is amended by adding a new subsection to read:

7 (d) The student financial aid committee created under AS 14.43.-
8 095 may sell or assign notes and other instruments evidencing scholar-
9 ship loans to the Alaska Student Loan Corporation and enter into
10 agreements with the corporation relating to loans, the administration
11 of the student loan fund created under AS 14.42.210, and the payment
12 of and security for bonds of the corporation. Proceeds from the sale
13 or assignment of notes and other instruments shall be deposited in the
14 scholarship revolving loan fund.

15 * Sec. 5. AS 14.43.120 is amended by adding a new subsection to read:

16 (r) The rate of interest, time of payment of an installment of
17 principal or interest, or other terms of a scholarship loan may be
18 modified if required to establish or maintain tax-exempt status under
19 26 U.S.C. 103 (Internal Revenue Code of 1986), as amended, for the
20 interest on bonds issued by the Alaska Student Loan Corporation.

21 * Sec. 6. AS 14.43.255(a) is amended to read:

22 (a) There is created a memorial scholarship revolving loan fund.
23 The fund shall be used to provide educational scholarship loans to
24 students selected under AS 14.43.250 - 14.43.325. Unless the instru-
25 ment evidencing the memorial scholarship loan has been sold or as-
26 signed to the Alaska Student Loan Corporation, repayments [REPAYMENTS]
27 of a loan [LOANS MADE UNDER AS 14.43.250(b)(1) - (4)] shall be de-
28 posited into the memorial scholarship revolving loan fund and [REPAY-
29 MENTS OF LOANS MADE UNDER AS 14.43.250(b)(5) SHALL BE DEPOSITED INTO

1 THE SCHOLARSHIP REVOLVING LOAN FUND CREATED UNDER AS 14.43.090.
2 REPAYMENTS] shall be used to make new loans.

3 * Sec. 7. AS 14.43.255 is amended by adding a new subsection to read:

4 (c) The student financial aid committee created under AS 14.43.-
5 095 may sell or assign notes and other instruments evidencing memorial
6 scholarship loans to the Alaska Student Loan Corporation and enter
7 into agreements with the corporation relating to loans, the adminis-
8 tration of the student loan fund created under AS 14.42.210, and the
9 payment of and security for bonds of the corporation. Proceeds from
10 the sale or assignment of a note or other instrument shall be de-
11 posited in the appropriate memorial scholarship loan fund account.

12 * Sec. 8. AS 14.43.620 is amended to read:

13 Sec. 14.43.620. TEACHER SCHOLARSHIP REVOLVING LOAN FUND. There
14 is created a teacher scholarship revolving loan fund. The fund shall
15 be used to make scholarship loans to students selected under AS 14.-
16 43.600 - 14.43.700. Unless the instrument evidencing the teacher
17 scholarship loan has been sold or assigned to the Alaska Student Loan
18 Corporation, [ALL] repayments of principal and interest on a teacher
19 scholarship loan [LOANS] shall be paid into the teacher scholarship
20 revolving loan fund and shall be used to make new teacher scholarship
21 loans. If estimated funds available [FROM TEACHER SCHOLARSHIP LOAN
22 REPAYMENTS] are inadequate to fully fund estimated teacher scholarship
23 loans for any fiscal year, additional funding from the general fund
24 may be requested and appropriated for that year.

25 * Sec. 9. AS 14.43.620 is amended by adding a new subsection to read:

26 (b) The student financial aid committee created under AS 14.43.-
27 095 may sell or assign notes and other instruments evidencing teacher
28 scholarship loans to the Alaska Student Loan Corporation and enter
29 into agreements with the corporation relating to loans, the

1 administration of the student loan fund created under AS 14.42.210 and
2 the payment of and security for bonds of the corporation. Proceeds
3 from the sale or assignment of the notes or other instruments shall be
4 deposited in the teacher scholarship revolving loan fund.

5 * Sec. 10. Except for sec. 2, this Act takes effect immediately under
6 AS 01.10.070(c).

7 * Sec. 11. Section 2 of this Act takes effect July 1, 1988.