

"An Act relating to the regulation of postsecondary educational institutions; effective date."

COMMITTEE REPORT

5/2/75

HOUSE

Mr. Speaker:

Date 5/2/75

The Committee on FINANCE has had HB 143

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

HOUSE FINANCE COMMITTEE
LETTER OF INTENT FOR
HOUSE BILL 143

The House Finance Committee has had HOUSE BILL 143 (An Act relating to the regulation of postsecondary educational institutions) under consideration and recommends that it be replaced with HESS Committee Substitute for HB 143 and that CSHB 143 (HESS) do pass.

It is the intent of the Finance Committee that the Alaska Commission on Postsecondary Education shall be funded in the amount of \$158,000, their original agency budget request. The Fiscal Note has been revised to reflect the difference between this original budget request and the \$86,000 funding the Governor has provided in SSHB 70.

Hugh Malone, Chairman

Original sponsor: Rules Committee by
request of the Interim Committee on
Higher Education

Offered: 5/2/75
Referred: Finance

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 143

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of postsecondary
7 educational institutions; and providing for an
8 effective date."

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

10 * Section 1. AS 14 is amended by adding a new chapter to read:

11 CHAPTER 48. REGULATION OF POSTSECONDARY

12 EDUCATIONAL INSTITUTIONS.

13 Sec. 14.48.010. PURPOSES. (a) It is the purpose of this chapter
14 to provide for the protection, education, and welfare of the citizens of
15 the state, its postsecondary educational institutions, and its students,
16 by

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

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

23 (3) regulating the use of academic terminology in designating
24 educational institutions;

25 (4) prohibiting misleading literature, advertising, solici-
26 tation, or representation by educational institutions or their 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 commission necessary to carry out the purposes of this chapter.

2 (b) This chapter may not be construed to preclude the development
3 of innovative, alternative postsecondary educational delivery systems or
4 programs if their purposes and their administration, operation or
5 management are in the public interest and do not conflict with those
6 purposes set out in (a) of this section.

7 Sec. 14.48.020. AUTHORIZATION AND PERMITS REQUIRED. No person may

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

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

17 (3) accept contracts or enrollment applications of prospective
18 students from an agent who does not have a current permit as required
19 by this chapter; however, the commission may promulgate regulations to
20 permit the rendering of legitimate public information services without
21 the permit;

22 (4) instruct or educate, or offer to instruct or educate,
23 enroll or offer to enroll, contract or offer to contract or award an
24 educational credential, or contract with an institution or person to
25 do so, in or outside the state, unless that person is in compliance
26 with the minimum standards set out in sec. 60 of this chapter, the
27 criteria established by the commission under sec. 50(1) of this chapter,
28 and the regulations promulgated by the commission under sec. 50(7) of
29 this chapter;

1 (5) use the term "university" or "college" without authoriza-
2 tion to do so from the commission;

3 (6) grant, or offer to grant, educational credentials, without
4 authorization to do so from the commission.

5 Sec. 14.48.030. EXEMPTIONS. The following educational programs or
6 services and educational institutions are exempt from the provisions of
7 this chapter:

8 (1) institutions exclusively offering instruction at one,
9 some or all levels from pre-school through grade 12;

10 (2) education sponsored by a bona fide trade, business,
11 labor, professional, or fraternal association or organization, recog-
12 nized by the commission and conducted solely for that association's or
13 organization's membership, or offered on a no-fee basis;

14 (3) education solely avocational or recreational in nature,
15 as determined by the commission, and institutions offering avocational
16 or recreational education exclusively as determined by the commission;

17 (4) education offered by charitable organizations, recognized
18 by the commission, provided the education is not advertised or promoted
19 as leading toward educational credentials;

20 (5) nonprofit postsecondary educational institutions offering
21 undergraduate or graduate educational programs conducted in the state,
22 but not by correspondence, which are acceptable for credit toward an
23 associate, bachelor's or graduate degree, as determined by the commis-
24 sion;

25 (6) postsecondary educational institutions established,
26 operated, and governed by the United States, a state or its political
27 subdivisions, as determined by the commission.

28 Sec. 14.48.040. COMMISSION TO ADMINISTER CHAPTER. The Alaska
29 Commission on Postsecondary Education shall administer this chapter

1 and may hire necessary personnel. The commission may obtain from
2 departments, commissions and other state agencies information and
3 assistance needed to carry out the provisions of this chapter.

4 Sec. 14.48.050. POWERS AND DUTIES OF COMMISSION. The commission
5 shall

6 (1) establish minimum criteria consistent with sec. 60 of
7 this chapter including quality of education, ethical and business
8 practices, health and safety and fiscal responsibility which applicants
9 for authorization to operate, or for an agent's permit, must meet before
10 the authorization 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 institutions
15 and agents authorized to operate in the state under this chapter;

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

18 (5) enter into interstate reciprocity agreements with similar
19 agencies in other states, if in the judgment of the commission the
20 agreements will be helpful in carrying out the purposes of this chapter;

21 (6) receive and maintain as a permanent file, copies of
22 academic records maintained in accordance with sec. 60(b)(6) of this
23 chapter;

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

27 (8) investigate on its own initiative or in response to a
28 complaint lodged with it, persons subject to, or reasonably believed by
29 the commission to be subject to, the jurisdiction of this chapter; and

1 in connection with the investigation subpoena persons, books, records,
2 or documents related to the investigation; require answers in writing
3 under oath to questions propounded by the commission and administer
4 oaths or affirmations to persons in connection with the investigation;
5 and, for the purpose of examination at all reasonable times, shall have
6 access to, and the right to copy, documentary evidence of a corporation
7 that is under investigation or being proceeded against;

8 (9) exercise other necessary powers and duties in conformity
9 with the provisions of this chapter which, in the judgment of the
10 commission are necessary to carry out the provisions of this chapter.

11 Sec. 14.48.060. MINIMUM STANDARDS. (a) In establishing the
12 criteria required by sec. 50(1) of this chapter, the commission shall
13 require compliance with the minimum standards set out in (b) of this
14 section.

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

18 (1) the quality and content of each course or program of
19 instruction, training, or study are such as may reasonably and adequately
20 achieve the stated objective for which the course or program is offered;

21 (2) the institution has or has access to adequate space,
22 equipment, instructional materials, and personnel where applicable to
23 achieve the stated objective of the course or program of study and to
24 provide education of good quality;

25 (3) the education or experience qualifications of directors,
26 administrators, supervisors, and instructors are such as may reasonably
27 insure that the students will receive education consistent with the
28 objectives of the course or program of study;

29 (4) the institution provides a catalog or brochure containing

1 information describing the programs offered, program objectives, length
2 of program, schedule of tuition, fees, and all other charges and expenses
3 necessary for completion of the course of study, cancellation and refund
4 policies, and other material facts concerning the institution and the
5 program or course of instruction which are reasonably likely to affect
6 the decision of the student to enroll, together with any other dis-
7 closures specified by the commission by regulation; and that this infor-
8 mation is provided to prospective students before enrollment;

9 (5) upon satisfactory completion of training, the student is
10 given appropriate educational credentials by the institution, indicating
11 that the course of instruction or study has been satisfactorily completed
12 by the student;

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

16 (7) the institution is maintained and operated in compliance
17 with all pertinent ordinances and laws relating to the safety and health
18 of persons upon the premises of the institution;

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

21 (9) neither the institution nor its agents engage in adver-
22 tising, sales, collection, credit, or other practices which are false,
23 deceptive, misleading, or unfair;

24 (10) the chief executive officer, trustees, directors, owners,
25 administrators, supervisors, staff, and instructors of the institution
26 are of good reputation and character and have not been convicted of a
27 violation of secs. 20 or 150 of this chapter or AS 45.50.471 - 45.50.551
28 or a comparable law in another state or province;

29 (11) the student housing owned, maintained, or approved by the

1 institution is appropriate, safe, and adequate; and

2 (12) the institution has a fair and equitable cancellation and
3 refund policy.

4 (c) Accreditation by national or regional accrediting agencies
5 recognized by the commission may be accepted by the commission as
6 evidence of compliance with the minimum standards established by this
7 section and the criteria established under sec. 50(1) of this chapter.
8 However, the commission may require further evidence and make further
9 investigation as may be necessary. Accreditation by a recognized,
10 specialized accrediting agency may be accepted as evidence of compliance
11 only as to the portion or program of an institution accredited by the
12 accrediting agency if the institution as a whole is not accredited.

13 Sec. 14.48.070. AUTHORIZATION TO OPERATE. (a) Each postsecondary
14 educational institution desiring to operate in this state shall apply to
15 the commission, upon forms provided by the commission. The application
16 shall be accompanied by a catalog or brochure published, or proposed to
17 be published by the institution, containing the information specified in
18 sec. 60(b)(4) of this chapter. The application shall also be accompanied
19 by evidence of a surety bond as required by sec. 100 of this chapter, and
20 by the required fees.

21 (b) Following review of the application and after necessary invest-
22 gation of the applicant the commission shall either grant or deny
23 authorization to operate to the applicant. A grant of authorization to
24 operate may be on those terms and conditions the commission may pre-
25 scribe.

26 (c) The authorization to operate shall be in a form approved by
27 the commission and shall include

28 (1) the date of issuance, effective date, and term of
29 approval;

1 (2) the name and address of the institution;
2 (3) the authority for approval;
3 (4) any condition or limitation of the authorization, as
4 considered necessary by the commission.

5 (d) The term for which an initial authorization is given may not
6 exceed two years, and may be issued for a lesser period of time. A
7 subsequent authorization may be issued for a period up to five years.

8 (e) The authorization to operate shall be issued to the owner,
9 or governing body, of the applicant institution, and shall be nontrans-
10 ferable. In the event of a change in ownership or management of the
11 institution, a new owner or manager, or governing body, must, within
12 30 days after the change in ownership is effective, apply for a new
13 authorization to operate, and if the new application is not made the
14 institution's authorization to operate shall terminate. Application
15 for a new authorization to operate by reason of change in ownership of
16 the institution is considered an application for renewal under (f) of
17 this section.

18 (f) At least 60 days before the expiration of an authorization to
19 operate, the institution shall complete and file with the commission an
20 application form for renewal of its authorization to operate. The re-
21 newal application shall be reviewed and acted upon as provided for an
22 original application.

23 (g) An institution not yet in operation when its application for
24 authorization to operate is filed may not begin operation until receipt
25 of authorization. An institution in operation when its application for
26 authorization to operate is filed may continue operation until its
27 application is acted upon by the commission. The commission may issue
28 provisional authorization to operate, containing limitations as to
29 time, procedures, functions, or other conditions as the commission

1 considers necessary.

2 Sec. 14.48.080. AGENT'S PERMIT. (a) A person desiring to solicit
3 or perform the services of an agent, in this state, shall apply to the
4 commission upon forms provided by the commission. The application shall
5 be accompanied by evidence of the good reputation and character of the
6 applicant and shall state the institution which the applicant intends to
7 represent. An agent representing more than one institution must obtain
8 a separate agent's permit for each institution represented. However,
9 when an agent represents institutions having a common ownership, only
10 one agent's permit is required. If an institution which the applicant
11 intends to represent does not have authorization to operate in this
12 state, the application shall be accompanied by the information required
13 of institutions making application for authorization. The application
14 for an agent's permit shall also be accompanied by evidence of a surety
15 bond as required by sec. 100 of this chapter, and by payment of the
16 required fees.

17 (b) An applicant for an agent's permit shall be an individual of
18 good reputation and character and shall represent only a postsecondary
19 educational institution or institutions which meet the minimum standards
20 established in this section and the criteria established under sec. 50(1)
21 of this chapter.

22 (c) Following review of the application and any further information
23 submitted by the applicant, and investigation of the applicant as the
24 commission considers necessary, the commission shall either grant or deny
25 an agent's permit to the applicant.

26 (d) The agent's permit shall be in a form approved by the com-
27 mission and shall include

- 28 (1) the date of issuance, effective date, and term;
29 (2) the correct name and address of the agent;

1 (3) the institution or institutions which the agent is
2 authorized to represent.

3 (e) The term for which an agent's permit is issued may not extend
4 for more than two years, and may be issued for a lesser period of time.

5 (f) At least 60 days before the expiration of an agent's permit,
6 the agent shall complete and file with the commission an application form
7 for renewal. The renewal application shall be reviewed and acted upon
8 as provided for an original application.

9 Sec. 14.48.090. FEES. (a) The following fees shall accompany an
10 application for an authorization to operate or an application for an
11 agent's permit and shall be collected by the commission:

- | | |
|---|-------|
| 12 (1) authorization to operate | \$100 |
| 13 (2) renewal for authorization to operate | \$100 |
| 14 (3) an agent's permit | \$ 50 |
| 15 (4) renewal for an agent's permit | \$ 50 |

16 (b) Fees collected under this chapter shall be deposited in the
17 general fund.

18 Sec. 14.48.100. BONDS. (a) At the time application is made for
19 authorization to operate, or for renewal of an authorization to operate
20 the commission may require the postsecondary educational institution to
21 file a surety bond in the amount determined by the commission. The
22 amount shall be determined by the number of students the institution
23 seeks to enroll. The amount of the surety bond shall be re-examined
24 by the commission upon each renewal of the authorization to operate to
25 determine if a larger or smaller bond would be appropriate to ensure
26 adequate protection for the students or enrollees, or their parents or
27 guardians, or classes thereof. The bond shall be executed by the
28 applicant as principal and by a surety company qualified and authorized
29 to do business in this state and shall be conditioned to provide

1 indemnification to any student or enrollee, or his parent or guardian,
2 or class thereof, determined to have suffered loss or damage as a
3 result of an act or practice which is a violation of this chapter by
4 the postsecondary educational institution and that the bonding company
5 shall pay a final nonappealable order of the commission or judgment of
6 a court of this state having jurisdiction, upon receipt of written
7 notification of the order or judgment. The aggregate liability of the
8 surety for the bond of the institution or agent involved in the order
9 or judgment may not, in any event, exceed the amount of the bond.

10 (b) An application for an agent's permit shall be accompanied by
11 a surety bond in the minimum amount of \$10,000, or a larger amount if
12 the commission determines that a larger amount is necessary for the
13 protection of the students or enrollees, or their parents or guardians,
14 or classes thereof, or because the bond should be increased to better
15 reflect an institution's volume of business in the state. The bond
16 shall be executed by the applicant as principal and by a surety company
17 qualified and authorized to do business in this state. The bond shall
18 be conditioned to provide indemnification to any student, enrollee, or
19 his or her parents or guardian, or class thereof, determined to have
20 suffered loss or damage as a result of an act or practice which is a
21 violation of this chapter by the agent.

22 (c) The surety bond to be filed under this section shall cover
23 the period of the authorization to operate or the agent's permit, as
24 appropriate, except when a surety is released as provided in this sub-
25 section. A surety on a bond filed under this section may be released
26 from that bond after the surety serves written notice of the release
27 to the commission and to the bonded agent or institution 45 days before
28 the release. However, the release does not discharge or otherwise
29 affect a claim filed by a student or enrollee, or his parent or

1 guardian, or class thereof, before or after the release for loss or
2 damage resulting from an act or practice which is a violation of this
3 chapter alleged to have occurred while the bond was in effect or for
4 an institution's ceasing operations during the term for which tuition
5 has been paid while the bond was in force.

6 (d) Authorization for an institution to operate and an agent's
7 permit shall be suspended by operation of law when the institution or
8 agent is no longer covered by a surety bond as required by this section.
9 However, the commission shall give the institution or agent, or both,
10 at least 30 days written notice before the release of the surety, to the
11 effect that the authorization or permit shall be suspended by operation
12 of law until another surety bond is filed in the same manner as, and
13 in a like amount to, the bond being terminated.

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

20 Sec. 14.48.120. REVOCATION. An authorization to operate or an
21 agent's permit may be revoked or conditioned if the commission has
22 reasonable cause to believe that the holder of the authorization or
23 permit is violating or has violated this chapter or AS 45.50.471 or
24 regulations promulgated under this chapter or AS 45.50.491. The
25 Administrative Procedure Act (AS 44.62) governs the procedure for a
26 revocation, review of a revocation, or other action under this section.

27 Sec. 14.48.130. COMPLAINTS. (a) A person claiming damage or loss
28 as a result of an act or practice by a postsecondary educational insti-
29 tution or its agent, or both, which is a violation of this chapter or of

1 the regulations promulgated under this chapter may file with the
2 commission a complaint against the institution or against its agent or
3 both. The complaint shall set out the alleged violation and shall
4 contain other information as may be required by the commission. A
5 complaint may also be filed by the commission on its own motion or the
6 attorney general. A complainant may file with the commission as a
7 representative of a class of complainants.

8 (b) The commission shall investigate the complaint and may attempt
9 to effect a settlement by persuasion and conciliation. The commission
10 may consider a complaint after 30 days written notice by registered mail
11 to the institution or agent, or both, giving notice of a time and place
12 for hearing on the complaint. The hearing shall be conducted in ac-
13 cordance with the Administrative Procedure Act (AS 44.62).

14 (c) If, upon the evidence at a hearing, the commission finds that
15 a postsecondary educational institution or its agent, or both, has
16 engaged in or is engaging in, an act or practice which violates this
17 chapter or the regulations promulgated under this chapter the commission
18 shall serve upon the institution or agent or both, an order requiring
19 the institution or agent or both to cease and desist from the act or
20 practice. If the commission finds that the complainant, or class of
21 complainants, has suffered loss or damage as a result of the act or
22 practice, the commission may also award the complainant, or class of
23 complainants, full or partial restitution for the damage or loss and
24 may impose the penalties provided for in sec. 180 of this chapter. The
25 commission may also, based on its own investigation and the evidence
26 adduced at the hearing, begin an action to revoke an institution's
27 authorization to operate or an agent's permit.

28 Sec. 14.48.140. JUDICIAL REVIEW. A final administrative order
29 issued by the commission is subject to judicial review under the

1 Administrative Procedure Act (AS 44.62.560 - 44.62.570).

2 Sec. 14.48.150. PRESERVATION OF RECORDS. (a) If a postsecondary
3 educational institution proposes to discontinue its operation, the
4 chief administrative officer of the institution shall file with the
5 commission the original or legible true copies of academic records of
6 the institution as specified by the commission. The records shall
7 include that academic information customarily required by colleges when
8 considering students for transfer or advanced study and the academic
9 record of each former student.

10 (b) If it appears to the commission that records of an institu-
11 tion discontinuing its operations are in danger of being destroyed or
12 otherwise made unavailable to the commission, the commission may seize
13 the records, under an order of the superior court. The commission
14 shall maintain a permanent file of records coming into its possession
15 under this section.

16 Sec. 14.48.160. ENFORCEABILITY OF NOTES AND CONTRACTS. (a) If
17 a person to whom educational services are to be furnished by a post-
18 secondary educational institution is a resident of this state at the
19 time a contract relating to payment for the services, or a note,
20 instrument, or other evidence of indebtedness relating to the services,
21 is entered into, the provisions of this section govern the rights of
22 the parties to the contract or evidence of indebtedness. The following
23 agreements or provisions of an agreement entered into in connection with
24 the contract or the giving of evidence of indebtedness are invalid:

25 (1) that the law of another state shall apply;

26 (2) that the maker or person liable on the contract or
27 evidence of indebtedness consents to the jurisdiction of another state;

28 (3) that another person is authorized to confess judgment on
29 the contract or evidence of indebtedness;

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(4) that venue is fixed in a particular place.

(b) No note, instrument or other evidence of indebtedness, or contract relating to payment for education or educational services is enforceable in the courts of this state by (1) a postsecondary educational institution operating in this state unless the institution has authorization to operate under this chapter, or (2) a postsecondary educational institution having an agent in this state unless the agent had an agent's permit issued under this chapter authorizing the enrolling of or the seeking to enroll a person for educational services.

(c) A lending agency extending credit or loaning money to a person for tuition, fees, or other charges of a postsecondary educational institution for educational or other services or facilities to be rendered by the institution, shall conspicuously mark "student loan" on the face of a note, instrument, or other evidence of indebtedness taken in connection with the loan or extension of credit. If the lending agency fails to do so, it is liable for loss or damage suffered by a subsequent assignee, transferee, or holder of the evidence of indebtedness because of the absence of the notation. Notwithstanding the presence or absence of the notation, and notwithstanding an agreement to the contrary, the lending agency making the loan or extending the credit and a transferee, assignee, or holder of the evidence of indebtedness is subject to all defenses and claims which could be asserted against the postsecondary educational institution which was to render the services or facilities, by any party to the evidence of indebtedness or by the person to whom the services or facilities were to be rendered, up to the amount remaining to be paid. For purposes of this section, "lending agency" means postsecondary educational institution, or a person controlling, controlled by, or held in common ownership with, a postsecondary educational institution, or regularly loaning money to, or to

1 students of, a postsecondary educational institution.

2 Sec. 14.48.170. JURISDICTION. A postsecondary educational
3 institution that is not exempt from the provisions of this chapter,
4 whether or not a resident of, or having a place of business in, this
5 state, which instructs or educates, or offers to instruct or educate,
6 enrolls or offers to enroll, contracts or offers to contract, to provide
7 instructional or educational services in this state, whether the
8 instruction or services are provided in person or by correspondence,
9 to a resident of this state, or which offers to award or awards educa-
10 tional credentials to a person in or resident of this state, submits
11 the institution, and, if a natural person his personal representative,
12 to the jurisdiction of the courts of this state concerning a cause of
13 action arising from these activities and for the purpose of enforce-
14 ment of this chapter by injunction under sec. 180 of this chapter.

15 Sec. 14.48.180. ENFORCEMENT: INJUNCTION. (a) The attorney
16 general at the request of the commission or on his own motion, may bring
17 an action or proceeding in a court of competent jurisdiction for the
18 enforcement of the provisions of this chapter.

19 (b) When it appears to the commission that a person is, is about
20 to, or has violated a provision of this chapter or a regulation promul-
21 gated under this chapter, the commission may, on its own motion or on
22 the written complaint of any person, file a petition for injunction in
23 the name of the commission in a court of competent jurisdiction against
24 the person for the purpose of enjoining the violation or for an order
25 directing compliance with the provisions of this chapter. It is not
26 necessary that the commission allege or prove that it has no adequate
27 remedy at law. The right of injunction provided in this section is in
28 addition to other legal remedies available to the commission and is in
29 addition to the right of criminal prosecution. However, the commission

1 may not obtain a temporary restraining order without notice to the
2 person affected.

3 Sec. 14.48.190. VIOLATIONS: CIVIL PENALTY. A person who violates
4 the provisions of sec. 20 of this chapter, or who fails or refuses to
5 deposit with the commissioner the records required by sec. 150 of this
6 chapter is subject to a civil penalty of not more than \$1,000 for each
7 violation. Each day's failure to comply with the provisions of secs.
8 20 and 150 of this chapter constitutes a separate violation. The
9 fine may be imposed by the commission in an administrative proceeding
10 or by a court of competent jurisdiction.

11 Sec. 14.48.200. CRIMINAL VIOLATION. A person who wilfully violates
12 the provisions of sec. 20 of this chapter or who wilfully fails or
13 refuses to deposit with the commission the records required by sec. 150
14 of this chapter is guilty of a misdemeanor and, upon conviction, is
15 punishable by a fine of not more than \$1,000 or by imprisonment for not
16 more than six months, or by both. Each day's failure to comply is a
17 separate violation.

18 Sec. 14.48.210. DEFINITIONS. In this chapter

19 (1) "agent" means a person owning an interest in, employed by,
20 or representing for remuneration, a postsecondary educational institution
21 in or outside the state who, by solicitation made in the state,
22 enrolls or seeks to enroll a resident of the state for education offered
23 by the institution, or offers to award educational credentials, for re-
24 muneration, on behalf of the institution, or who holds himself out to
25 residents of the state as representing a postsecondary educational
26 institution for any purpose;

27 (2) "agent's permit" means a nontransferable written autho-
28 rization issued to a natural person by the commission which allows that
29 person to solicit or enroll a resident of the state for education in a

1 postsecondary educational institution.

2 (3) "authorization to operate" means approval of the commis-
3 sion to operate or to contract to operate a postsecondary educational
4 institution in the state;

5 (4) "commission" means the Alaska Commission on Postsecondary
6 Education;

7 (5) "education" or "educational program or services" or like
8 term includes any class, course, or program of training, instruction,
9 or study;

10 (6) "educational credentials" means degrees, diplomas, cer-
11 tificates, transcripts, reports, documents, or letters of designation,
12 marks, appellations, series of letters, numbers, or words which signify,
13 purport, or are generally taken to signify enrollment, attendance,
14 progress, or satisfactory completion of the requirements or prerequisites
15 for education at a postsecondary educational institution;

16 (7) "owner" means

17 (A) a person having at least a 10 per cent interest
18 in the stock of a postsecondary educational institution that is
19 a corporation;

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

22 (C) a person having a direct financial interest in,
23 or title to, at least 10 per cent of the assets of a postsecondary
24 educational institution which is neither a partnership nor a
25 corporation; however,

26 (D) "owner" does not include a financial institution
27 holding a mortgage on some or all of the real property or a
28 security interest in some or all of the personal property of a
29 postsecondary educational institution;

1 (8) "postsecondary educational institution" includes an
2 academic, vocational, technical, home study, business, professional, or
3 other school, college, or university, or other organization or person,
4 offering educational credentials, or offering instruction or educational
5 services primarily to persons who have completed or terminated their
6 secondary education or who are beyond the age of compulsory high school
7 attendance for attainment of educational, professional, or vocational
8 objectives;

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

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

14 (11) "to operate a postsecondary institution" means to estab-
15 lish, or maintain a facility or location in the state where education is
16 offered or given, or educational credentials are offered or granted, and
17 includes contracting with any person, group, or entity to operate an
18 educational institution.

19 * Sec. 2. AS 14.40 is amended by adding a new section to read:

20 Sec. 14.40.917. LEGAL COUNSEL. (a) The attorney general is legal
21 counsel for the commission. He shall advise the commission in legal
22 matters arising in the discharge of its duties and represent the commis-
23 sion in actions to which it is a party. If, in the opinion of the com-
24 mission, the public interest is not adequately represented by counsel
25 in a proceeding, the attorney general, upon request of the commission,
26 shall represent the public interest.

27 (b) The commission may employ temporary legal counsel from time
28 to time in matters in which the commission is involved.

29 * Sec. 3. AS 44.62.330(a) is amended by adding a new paragraph to read:

1 (38) Alaska Commission on Postsecondary Education under
2 AS 14.48 as to denial of applications and revocation of authorizations
3 and permits.

4 * Sec. 4. AS 14.47 is repealed.

5 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10-
6 070(c).

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. HB 143 (Revised - 5/16/75)

Title: Reg. Postsecondary Institutions

Requested by: House Finance Date: 5/16/75

Return Date Requested: ASAP

Agency: Postsecondary Commission Program:

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Postsecondary Commission

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100 PERSONAL SERVICES		44.4				
200 TRAVEL		1.3				
300 CONTRACTUAL		24.7				
400 COMMODITIES						
500 EQUIPMENT		1.6				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		72.0	77.8	84.0	90.7	98.0

B. FUNDING: (Thousands of dollars)

	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
GENERAL FUND		72.0	77.8	84.0	90.7	98.0
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
MAN MONTHS (P./T.)	/	36/	36/	36/	36/	36/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The House Finance Committee has reduced this fiscal note to a level that provides the Postsecondary Education Commission with total FY 76 funding of \$158,000. This amount represents the Commission's "Request" budget. Detail is as follows:

Code	CSSSHB70	HB 143	TOTAL ("Request" Budget)
100	\$ 49.4	\$ 44.4	\$ 93.8
200	14.3	1.3	15.6
300	20.0	24.7	44.7
400	1.5	-0-	1.5
500	.8	1.6	2.4
TOTAL	\$ 86.0	\$ 72.0	\$158.0

cc: J. H. Hogan

V. DATE: 5/16/75

PREPARED BY: Rich Guthrie

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

The Legislature of the State of Alaska
FISCAL NOTE

First Session - Ninth Legislature

I. REQUEST

Bill No. HB 143

Title: Reg. Postsecondary Institutions

Requested by: House Finance Date: 5/12/75

Return Date Requested: ASAP

Agency: Postsecondary Commission Program: _____

II. FISCAL DETAIL

Budget Request Unit(s) Affected: Postsecondary Commission

A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 75	FY 76	FY 77	FY 78	FY 79	FY 80
100 PERSONAL SERVICES		52.8	57.0	61.5	66.4	71.7
200 TRAVEL		8.0	8.6	9.2	9.9	10.6
300 CONTRACTUAL		36.4	39.3	42.4	45.7	49.3
400 COMMODITIES		3.0	3.2	3.4	3.6	3.8
500 EQUIPMENT		1.5	1.6	1.7	1.8	1.9
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		101.7	109.7	118.2	127.4	137.3

B. FUNDING: (Thousands of dollars)

GENERAL FUND		101.7	109.7	118.2	127.4	137.3
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	3 /	3 /	3 /	3 /	3 /
MAN MONTHS (P./T.)	/	36 /	36 /	36 /	36 /	36 /

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 76: 100: 52.8 (Research Analyst III R 18A, Adm. Asst. I R 12A, CT III R 8A + benefits)

FY 77 - FY 80: Based on 8% inflation

IV. ATTACHMENTS

V. DATE: May 13, 1975

PREPARED BY: Marian W. Bonfante

Chairperson Postsecondary Commission

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)