

COMMITTEE REPORT

SENATE

6/1/75

Mr. President:

Date 2/27/76

The Committee on FINANCE has had CSHB 143
regulation of postsecondary educational institutions
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:

Bill Kay _____
John G. ... _____
... _____

Members NOT concurring in the Majority report:

_____ recommends: _____
 _____ recommends: do pass
 _____ recommends: do pass
 _____ recommends:
 _____ recommends:

Bill Kay Chairman

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: Madeleine N. Bonfield

Chairperson Postsecondary Commission

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

SENATE JOURNAL

Finance Committee Report

on

CS for House Bill No. 143

The Committee has revised the fiscal note accompanying CS House Bill No. 143 downward. The note envisioned enlargement of existing staff by establishment of three permanent full time positions, which the Committee feels are unnecessary at this time.

Bill Ray, Chairman
Senate Finance Committee

ALASKA

STATE LEGISLATURE

February 10, 1975

Representative Mike Brudner
Speaker of the House of Representatives
State Capitol
Juneau, AK 99811

Dear Mr. Speaker:

The remaining members of the Legislative Interim Committee on Higher Education established for the 1973-1974 biennium submit herewith their final report and recommendations to the Legislature.

By way of an introduction to the members of the Legislature who may not be familiar with the work of this interim committee, we want to call to the attention of the members of both the Senate and the House that this Committee has been in existence, either as a subcommittee of the Alaska Legislative Council or as a separate interim committee of the Legislature, since July, 1971. The committee has had, we think, a salutary impact upon the progress, growth and direction of higher or post-secondary education in the State of Alaska.

With the assistance of our professional staff, McLean Associates of Phoenix, Arizona, headed by the late Dr. E. Lee McLean and assisted by his associated colleagues, particularly Dr. George W. Starcher of Sarasota, Florida, the retired President of the University of North Dakota, and Dr. Armen Sarafian of Pasadena, California, the President of Pasadena City College, both of whom served as project directors for the committee's studies. We have conducted extensive surveys of the resources and problems of higher education in Alaska. This is the first time the Legislature has undertaken such an in-depth analysis of both private and public higher education in this state since Alaska entered statehood. Since the 1972 session, we have reproduced a number of Legislative proposals. These have included the unique and widely regarded program of tuition grants for students attending private institutions of higher education in Alaska. It has also included encouraging the organization of higher education consortia in both Anchorage and Sitka, which were designed to help achieve greater intercollegiate cooperation between institutions of both public and private higher education that exist in those cities, by ensuring that the facilities and services of those schools could be used jointly by their respective student bodies. This committee has in fact served as the "referee" of these consortia until that responsibility was turned over to the Alaska Commission on Post-Secondary Education, which was created by the Eighth Alaska Legislature. In addition, the committee sponsored and saw enacted the funding of a land sale and exchange arrangement between the University of Alaska and Alaska Methodist University which helped sustain the operation of the latter institution and provide an opportunity for the expansion of the former's Anchorage campus. Additionally, this committee has closely examined the operation, administration of academic as well as vocational programs of all of the institutions of higher education in the state and encouraged continued self-study by all of these schools. Not every measure which this committee has recommended has been enacted into law.

However, we have reason to believe that many of them, at least, prompted the University to engage in in-depth self-studies of its program and its future and to attempt to make changes in certain budgetary, management and personnel practices and procedures that perhaps otherwise would not have occurred. Additionally, we introduced and guided to enactment legislation making important revisions in the student financial aid program of scholarships, loans, tuition grants and saw the establishment of a memorial scholarship loan program which permits the state's employees, in the latter instance, to make contributions of annual leave for particular scholarships identified with prominent Alaskans in special fields of endeavor.

In 1974 the Legislature enacted a measure of great significance. Following the lead of the Congress in enacting the Education Amendments in 1972, this Legislature established the Alaska Commission on Post-Secondary Education. Although the Commission has not as yet been formally organized, we believe this Commission will provide an important focal point for coordinating the planning of future higher education development in this state. We think it is important to remind our colleagues that this agency, which will operate independently of, but for administrative purposes only within the Department of Education, has been assigned the administration of all of the higher education and post-secondary programs that are not part of the administration or operation of our statewide university or of any other private institutions and colleges in the state. The Commission has both important advisory responsibilities as well as administrative duties imposed upon it and we have urged the Governor to enable this Commission to get an early start in its work by appointing the five public members and the interim representative of the community colleges at the earliest possible moment.

Turning now to the legislation we recommend to you for 1975, we are submitting today five measures. First, two memorial resolutions, one in the Senate and one in the House, honoring the memory of two noble leaders in higher education in Alaska, Dr. Orin R. Stratton, the retired president of Sheldon Jackson College in Sitka and William A. (Bill) O'Neill, for 25 years a member of the University of Alaska's Board of Regents.

There is, in addition, a bill which makes technical corrective amendments to the Alaska Commission on Post-Secondary Education Act, Chapter 78 of the Session Laws of 1974. The 1974 Legislature, which established the Commission, made the Commission responsible for the administration of the State's participation in the Western Interstate Compact on Higher Education. Prior to 1974, the program was administered by the Governor's office and by one of the Commission's members who was usually a member of the faculty or administration of the University of Alaska. However, in transferring the State's participation in WICHE from the Governor's office to the Commission, we neglected to change the certifying officer for the program, a function now performed by Dr. Don Dafeo, one of the State's WICHE commissioners and Executive Vice-President of the University of Alaska. At his suggestion, we are designating the executive officer of the Alaska Commission on Post-Secondary Education as the certifying officer for the State's participation in the WICHE. Other sections of the bill merely correct omissions of language that should have been incorporated in the statute passed at the last session,

corrects other incorrect cross-references and clarifies some of the wording to conform to the language of the student financial aid program revisions made by Chapter 136 of the Session Laws of 1974.

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We turn now to the two most important measures which we are submitting to you. First, we once again recommend that the existing community College Act, which dates back to 1962, be revised. We recommended similar legislation to the Eighth Alaska State Legislature, Second Session, in the form of House Bill 541, which passed the House but which remained in the Senate Committee on Health, Education & Social Services. During the between session interim period, your Interim Committee on Higher Education re-examined this proposed revision of the Community College Act and presents to you essentially the same bill, but with some changes to which we call your attention. First, as in the 1974 measure, the bill establishes criteria for the creation of community colleges and extension centers and requires for the first time that a feasibility study of the need for a college or center be completed by the proponent of it before it is established. Although the study must be approved by the Board of Regents, the 1975 legislation now permits the feasibility study to be prepared by citizens in the community desiring the community college, by the Board of Regents itself or by the Legislature, the Alaska Commission on Post-Secondary Education, or the State Advisory Council on Community Colleges, which will be organized by the Commission once it itself is organized and in business. Extension centers are authorized as an alternative to a community college in those areas where a comprehensive community college program is not warranted in terms of educational needs, as determined by the feasibility study.

Secondly, the bill eliminates the present requirement that two sets of financial records and two sets of personnel records be maintained for degree and non-degree programs sponsored respectively by the University of Alaska and the local school district or municipality with which the University contracts for the establishment of a community college. The present situation is confusing and often results in a local community college not receiving back revenues for non-degree or community interest courses paid for by students for that purpose. The bill requires the University to prepare a complete program budget for each community college, showing all sources of revenue, a procedure which the University is not presently obliged to do. Thus, the Legislature will get a better picture of community college and extension center programs and operations.

Thirdly, the bill establishes a vice-president for community colleges as the principal administrative officer in the statewide administration who is to be responsible for the community college and extension center system within the University. He will work with the community college and regional administrators, at the same time giving the community colleges direct access to and representation in the office of the president of the university. Under the present administrative arrangement, the community colleges are merely assigned to one of the other officers of the University as an additional duty and not as a principal responsibility. We think that because the community college students represent by far the greatest proportion of the enrollment in the University of Alaska's statewide system, they are entitled to far more meaningful representation in the statewide administrative structure

than they presently are accorded. We respectfully suggest that unless this type of administrative arrangement we propose is established, a great deal of pressure may be brought upon the Legislature to establish the community colleges and extension centers as a separate and distinct institutional arrangement apart from the statewide university. We do not believe that to be sound educational administration because it would ensure that two separate educational systems would be competing before the Legislature for appropriations and other sources of support. We think that would weaken the quality of higher education in the State of Alaska. At the same time, we also believe that a separate vice-president for community colleges in the statewide university system would ensure the maintenance of the identity of the community college program within the University of Alaska without the creation of any additional unnecessary layers of administration. We believe that the community college program has been highly successful in Alaska because it has met the needs of the communities each college serves. Many of the community colleges have developed unique programs of their own, and it is interesting to note that the newest community college, Tanana Valley, located in Fairbanks, opened in the fall of 1974 with more than 1,000 students enrolled. It became instantly the second largest community college in the state without diminishing in any way the enrollment at the Fairbanks campus of the University, which at the same time was increasing by 2 percent. We suggest that this clearly demonstrates that the University of Alaska was not really meeting the post-secondary educational needs of the Fairbanks community and that the new Tanana Valley Community College was reaching out to do so. We think this type of innovative strength should be recognized in the highest councils of the University.

Fourthly, the bill establishes the community college advisory councils as statutory bodies and clarifies the tenure in office of their members as well as the duties and responsibilities of the council for each community college. Originally conceived as public relations "fronts" for the university to sell bond issues, these advisory bodies now should have input into the statewide university system, including the Board of Regents. The statutory provision will ensure that because the Regents have not devised regulations governing the advisory councils, membership on these councils will be meaningful and the contribution of time and effort made by members of these bodies throughout the state will have some significant impact on the development of educational policy for the statewide university system.

Finally, it is important to note that the bill makes no change whatsoever in the status of any existing community college or extension center. In other words, it is not possible under this legislation to downgrade a presently existing community college to an extension center.

We believe that it is important that a revision of the Community College Act be enacted at the 1975 Session of the Alaska State Legislature. This bill, in one form or another, has been under consideration since 1972. We learned during the course of our hearings, particularly in Fairbanks this last fall, that had this bill been enacted by the Legislature in 1974, it would have been most helpful in the establishment and organization of the Tanana Valley

Community College because it would have eliminated the need for extensive duplicate type of record keeping that this presently outmoded law requires and would have materially assisted in the negotiations between the University of Alaska and the North Star Borough School District. We urge the Legislature's favorable consideration of this measure at an early date.

ADMB
Finally, the Committee offers for the consideration of the Legislature another measure that was before the Eighth Alaska Legislature, Second Session, in substantially the same form in which it is presented to you today, namely House Bill 836, an act relating to the regulation of post-secondary educational institutions. The bill in its present form, as in 1974, is the result of a report of the Task Force on Model State Legislation for Approval of Post-Secondary Educational Institutions and Authorization to Grant Degrees, undertaken by the Education Commission of the States and recommended to the several state legislatures in June, 1973.

This is a consumer protection measure which significantly broadens the existing Alaska law, popularly known as the "anti-diploma mill" bill. Expert testimony by a staff attorney for the Federal Trade Commission as well as by an attorney for the Consumer Protection Division of the Attorney General's Office during the course of extensive hearings on this measure this last fall persuades this Committee that it is absolutely urgent that Alaska significantly expand the coverage of the existing regulatory statute. Formerly the responsibility of the Department of Education, the Alaska Commission on Post-Secondary Education is now charged with issuing licenses and permits to operate as a post-secondary educational institution, because the Legislature reasoned that along with the planning function imposed upon the Commission should go the responsibility for regulating the entry into the post-secondary educational field in this state. Under present law, certain post-secondary educational institutions are required to be registered and licensed by the Department of Education or the Post-Secondary Education Commission if they are diploma-granting institutions. Also, it is required that if an institution uses the term "college" or "university" in its name, it also must be authorized to do so. The purpose of this type of legislation is to eliminate consumer abuse, primarily in the area of the private vocational school industry, that is intended to provide students with training that results in jobs. Alaska has had its share of problems with private vocational schools, as testimony last fall noted. The Federal Trade Commission advised us that it was investigating, for example, a Washington-based school operating in Alaska which had been accused by one of our residents of falsely advertising job opportunities, placement assistance, credit terms and membership in a phony professional organization. Responsible state and federal agencies believe that one of the side effects of oil development in this state will be to attract the "con man" and the "bunco artist" that prey upon the desire of people to advance in their occupation or profession by taking vocational type courses. As the attorney for the Federal Trade Commission observed, this is the time to adopt strong state legislation to keep out-of-state operations from seeking to exploit Alaska's new wealth and student market before the community college system is fully developed.

In testimony before the Legislative Interim Committee on Higher Education, the Federal Trade Commission's staff attorney, Mrs. Sharon Armstrong, stressed the necessity for legislation at the state level and listed at least three reasons why State law in this area is so important. First, testimony indicated that present accreditation does not prevent consumer abuses in the industry. It was pointed out that some schools are accredited by dummy organizations and even if a school is accredited by a legitimate agency recognized by the U. S. Office of Education, the agencies themselves are supported by dues paid by member schools. Therefore, their investigations are often self-serving and subject to bias. The criteria for accreditation frequently is minimal and investigations are conducted only infrequently. In fact, of the four major vocational school cases before the Federal Trade Commission now, three involve schools that are accredited. And even though accreditation has had little impact on quality control, the Department of Health, Education & Welfare approves almost automatically any accredited school for participation in the federally insured student loan program. In 1972 alone, it was pointed out, HEW provided \$214 million to private vocational school students. While this amount accounted for only 30 to 35 percent of all FISL loans, it represents 60 to 75 percent of all the defaults. Students, it was observed, are less willing to pay back loans when they feel they have been gyped.

The second reason the Federal Trade Commission attorney urged adopting strong state legislation in this area is that the Veterans Administration is required by statute to delegate most of its supervisory duties over private vocational schools to state approval agencies. The state agencies, in turn, can either rely on accreditation as a standard for approval or they can set their own standards. Once the state agency approves a course, the VA is required by law to pay out veterans benefit funds. In 1972 it was pointed out that the VA paid out \$381 million in benefits but over a five year period the government accounting office reported that 75 percent of the veterans enrolled in correspondence schools dropped out. Clearly, it was observed, there is a great need for comprehensive legislation to enable state agencies to save taxpayer dollars.

.....

The third reason for adopting a strong state law is that the Federal Trade Commission, its staff attorney pointed out, does not have the jurisdiction or resources to reach more than a few of the problems in the vocational school industry. At the present time, the Commission is formulating a trade rule which would require factual documentation of earnings or employment claims, require disclosure of drop-out rates, require a 10 day cooling off reaffirmation period before contracts become effective, and provide for pro-rata refunds to students who do not complete courses. While helpful, this rule only touches the tip of the iceberg of abuses. It cannot prevent them. It does not in any way regulate quality and it may not be adopted for many months. Since 1970, it was pointed out, the Federal Trade Commission has issued 25 complaints against vocational schools and many cases are under investigation. However, the Commission's law enforcement authority comes into play only after Section 5 of the Federal Trade Commission Act has been violated. With over 10,000 schools in operation the Commission may not detect violations until hundreds of students have been cheated. Many violations are never detected. Enforcement may require long and complicated litigation.

The Commission has no authority to deny or suspend eligibility to participate in government programs such as FISL, veterans benefits or those sponsored by the Bureau of Indian Affairs. It has no jurisdiction over schools whose operations are wholly intrastate in character. In short, the Federal Trade Commission attorney pointed out, state agencies are in the best position to prevent unfair and deceptive acts or practices before they occur because state agencies can keep shady operators out of the State. With this in mind, the Federal Trade Commission is encouraging all 50 states to adopt the education commissions of the state's model post-secondary education authorization act. The FTC attorney observed that House Bill 836 of the 1974 session, Alaska's version of the model act, would provide a comprehensive scheme for quality control of vocational schools. It goes far beyond the FTC's trade rule, she said, and moreover would serve as an alternative to federal involvement in an industry considered by many to be a State concern.

Specifically, the legislation we offer today would:

First, establish minimum criteria for determining whether an institution may operate within the State, the most important criteria being the school's ability to enable students to achieve the school's stated objectives and to ensure that the school has the means of doing so.

Secondly, it would require truth in advertising as well as affirmative disclosures of relevant information in order to adequately inform prospective students prior to their enrollment.

Thirdly, it would clearly define procedures and conditions under which any school or sales employee may be authorized to operate in the State. It would require bonding of both schools and their agents and allow for denial or revocation of authorization to operate in the State.

Fourthly, it would provide procedures by which a student may lodge a formal complaint against a school and, if justified in the judgment of the Alaska Commission on Post-Secondary Education, obtain an award of damages.

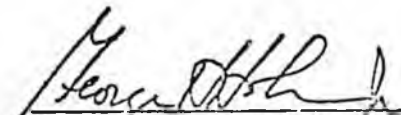
Fifthly, it would prevent use of the "holder in due course" doctrine under which an institution uses a third party to collect payments from a student for services that are not provided.

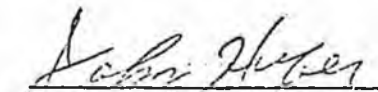
Finally, it is important to note that this bill would establish a requirement that schools going out of business would be required to deposit their academic records with the Alaska Commission on Post-Secondary Education. It would now appear from the announcements that have been made by Alaska Methodist University and the negotiations which are on-going between AMU and the University of Alaska that the former institution will close its doors with the end of the Spring, 1975 semester. Your Interim Committee on Higher Education believes it is imperative that this particular requirement be enacted so that alumni of Alaska Methodist University will be able to secure transcripts of their records here in the State of Alaska, rather than to have to appeal to a distant body, namely the National Board of Missions of the Methodist Church to obtain a transcript of their records at this school. Thus, this measure is extremely timely. It carries an immediate effective date clause and we strongly urge our colleagues to give

this measure early favorable consideration at the first session of the Ninth Alaska Legislature. We believe this bill will provide an excellent device for regulating private vocational school industry operations primarily in Alaska as well as overseeing the operations of other private post-secondary educational institutions to ensure the maintenance of high quality post-secondary educational opportunities.

This, then, completes the work of your Interim Committee on Higher Education. At the risk of engaging in self-congratulation, we think its labors and deliberations over the last three and one half years have been the most productive of any interim committee ever to serve the State Legislature. We wish to acknowledge with particular appreciation the services of the late Dr. McLean and his colleagues, particularly Dr. George Starcher and Dr. Armen Sarafian. A number of very distinguished members of the Legislature have served on this committee and we wish to salute particularly those two former members who served as Chairman of this committee, former State Senator Edward A. Merdes of Fairbanks and former State Representative Mildred H. Banfield of Juneau. Without their dedicated selfless leadership and abiding interest in higher education in Alaska, surely the efforts of this committee would not have been as successful as we believe they have been in strengthening the role of our state's institutions of post-secondary education and ensuring their progress and sound development in the future. With these thoughts in mind, then, these measures and this report are

Respectfully submitted,


Senator George Hohman


Senator John Huber


Representative Helen D. Bairne

SH:kb

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 to the 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 cessation of 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;

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

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

10 (c) A lending agency extending credit or loaning money to a person
11 for tuition, fees, or other charges of a postsecondary educational
12 institution for educational or other services or facilities to be
13 rendered by the institution, shall conspicuously mark "student loan" on
14 the face of a note, instrument, or other evidence of indebtedness taken
15 in connection with the loan or extension of credit. If the lending
16 agency fails to do so, it is liable for loss or damage suffered by a
17 subsequent assignee, transferee, or holder of the evidence of indebted-
18 ness because of the absence of the notation. Notwithstanding the
19 presence or absence of the notation, and notwithstanding an agreement to
20 the contrary, the lending agency making the loan or extending the credit
21 and a transferee, assignee, or holder of the evidence of indebtedness is
22 subject to all defenses and claims which could be asserted against the
23 postsecondary educational institution which was to render the services
24 or facilities, by any party to the evidence of indebtedness or by the
25 person to whom the services or facilities were to be rendered, up to
26 the amount remaining to be paid. For purposes of this section, "lending
27 agency" means postsecondary educational institution, or a person
28 controlling, controlled by, or held in common ownership with, a post-
29 secondary 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 person 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).

Introduced: 2/11/75
Referred: Health, Education &
Social Services and Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE INTERIM
COMMITTEE ON HIGHER EDUCATION

1 IN THE HOUSE

2 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. It is the purpose of this chapter to
14 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, sollici-
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 Sec. 14.48.020. AUTHORIZATION AND PERMITS REQUIRED. No person
3 may

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

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

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

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

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

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

1 Sec. 14.48.030. EXEMPTIONS. The following educational programs or
2 services and educational institutions are exempt from the provisions of
3 this chapter:

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

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

10 (3) education solely avocational or recreational in nature,
11 as determined by the commission, and institutions offering avocational
12 or recreational education exclusively as determined by the commission;

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

16 (5) postsecondary educational institutions established,
17 operated, and governed by the United States, the state or its political
18 subdivisions, as determined by the commission.

19 Sec. 14.48.040. COMMISSION TO ADMINISTER CHAPTER. The Alaska
20 Commission on Postsecondary Education shall administer this chapter
21 and may hire necessary personnel. The commission may obtain from
22 departments, commissions and other state agencies information needed
23 to carry out the provisions of this chapter.

24 Sec. 14.48.050. POWERS AND DUTIES OF COMMISSION. The commission
25 shall

26 (1) establish minimum criteria consistent with sec. 60 of
27 this chapter including quality of education, ethical and business
28 practices, health and safety and fiscal responsibility which applicants
29 for authorization to operate, or for an agent's permit, must meet before

1 the authorization or permit is issued;

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

5 (3) maintain a list of postsecondary educational institutions
6 and agents authorized to operate in the state under this chapter;

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

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

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

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

18 (8) investigate on its own initiative or in response to a
19 complaint lodged with it, persons subject to, or reasonably believed by
20 the commission to be subject to, the jurisdiction of this chapter; and
21 in connection with the investigation subpoena persons, books, records,
22 or documents related to the investigation; require answers in writing
23 under oath to questions propounded by the commission and administer
24 oaths or affirmations to persons in connection with the investigation;
25 and, for the purpose of examination at all reasonable times, shall have
26 access to, and the right to copy, documentary evidence of a corporation
27 that is under investigation or being proceeded against;

28 (9) exercise other necessary powers and duties in conformity
29 with the provisions of this chapter which, in the judgment of the

1 commission are necessary to carry out the provisions of this chapter.

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

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

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

12 (2) the institution has adequate space, equipment, instruc-
13 tional materials, and personnel to provide education of good quality;

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

18 (4) the institution provides a catalog or brochure containing
19 information describing the programs offered, program objectives, length
20 of program, schedule of tuition, fees, and all other charges and expenses
21 necessary for completion of the course of study, cancellation and refund
22 policies, and other material facts concerning the institution and the
23 program or course of instruction which are reasonably likely to affect
24 the decision of the student to enroll, together with any other dis-
25 closures specified by the commission by regulation; and that this infor-
26 mation is provided to prospective students before enrollment;

27 (5) upon satisfactory completion of training, the student is
28 given appropriate educational credentials by the institution, indicating
29 that the course of instruction or study has been satisfactorily completed

1 by the student;

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

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

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

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

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

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

20 (12) the institution has a fair and equitable cancellation and
21 refund policy.

22 (c) Accreditation by national or regional accrediting agencies
23 recognized by the commission may be accepted by the commission as
24 evidence of compliance with the minimum standards established by this
25 section and the criteria established under sec. 50(1) of this chapter.
26 However, the commission may require further evidence and make further
27 investigation as may be necessary. Accreditation by a recognized,
28 specialized accrediting agency may be accepted as evidence of compliance
29 only as to the portion or program of an institution accredited by the

1 accrediting agency if the institution as a whole is not accredited.

2 Sec. 14.48.070. AUTHORIZATION TO OPERATE. (a) Each postsecondary
3 educational institution desiring to operate in this state shall apply to
4 the commission, upon forms provided by the commission. The application
5 shall be accompanied by a catalog or brochure published, or proposed to
6 be published by the institution, containing the information specified in
7 sec. 60(b)(4) of this chapter. The application shall also be accompanied
8 by evidence of a surety bond as required by sec. 100 of this chapter, and
9 by the required fees.

10 (b) Following review of the application and after necessary invest-
11 gation of the applicant the commission shall either grant or deny
12 authorization to operate to the applicant. A grant of authorization to
13 operate may be on those terms and conditions the commission may pre-
14 scribe.

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

17 (1) the date of issuance, effective date, and term of
18 approval;

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

20 (3) the authority for approval;

21 (4) any condition or limitation of the authorization, as
22 considered necessary by the commission.

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

26 (e) The authorization to operate shall be issued to the owner,
27 or governing body, of the applicant institution, and shall be nontrans-
28 ferable. In the event of a change in ownership or management of the
29 institution, a new owner or manager, or governing body, must, within

1 30 days after the change in ownership is effective, apply for a new
2 authorization to operate, and if the new application is not made the
3 institution's authorization to operate shall terminate. Application
4 for a new authorization to operate by reason of change in ownership of
5 the institution is considered an application for renewal under (f) of
6 this section.

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

12 (g) An institution not yet in operation when its application for
13 authorization to operate is filed may not begin operation until receipt
14 of authorization. An institution in operation when its application for
15 authorization to operate is filed may continue operation until its
16 application is acted upon by the commission. The commission may issue
17 provisional authorization to operate, containing limitations as to
18 time, procedures, functions, or other conditions as the commission
19 considers necessary.

20 Sec. 14.48.080. AGENT'S PERMIT. (a) A person desiring to solicit
21 or perform the services of an agent, in this state, shall apply to the
22 commission upon forms provided by the commission. The application shall
23 be accompanied by evidence of the good reputation and character of the
24 applicant and shall state the institution which the applicant intends to
25 represent. An agent representing more than one institution must obtain
26 a separate agent's permit for each institution represented. However,
27 when an agent represents institutions having a common ownership, only
28 one agent's permit is required. If an institution which the applicant
29 intends to represent does not have authorization to operate in this

1 state, the application shall be accompanied by the information required
2 of institutions making application for authorization. The application
3 for an agent's permit shall also be accompanied by evidence of a surety
4 bond as required by sec. 100 of this chapter, and by payment of the
5 required fees.

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

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

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

- 17 (1) the date of issuance, effective date, and term;
- 18 (2) the correct name and address of the agent;
- 19 (3) the institution or institutions which the agent is
20 authorized to represent.

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

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

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

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

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

7 Sec. 14.48.100. BONDS. (a) At the time application is made for
8 authorization to operate, or for renewal of an authorization to operate
9 the commission may require the postsecondary educational institution to
10 file a surety bond in the amount determined by the commission. The
11 amount shall be determined by the number of students the institution
12 seeks to enroll. The amount of the surety bond shall be re-examined
13 by the commission upon each renewal of the authorization to operate to
14 determine if a larger or smaller bond would be appropriate to ensure
15 adequate protection for the students or enrollees, or their parents or
16 guardians, or classes thereof. The bond shall be executed by the
17 applicant as principal and by a surety company qualified and authorized
18 to do business in this state and shall be conditioned to provide
19 indemnification to any student or enrollee, or his parent or guardian,
20 or class thereof, determined to have suffered loss or damage as a
21 result of an act or practice which is a violation of this chapter by
22 the postsecondary educational institution and that the bonding company
23 shall pay a final nonappealable order of the commission or judgment of
24 a court of this state having jurisdiction, upon receipt of written
25 notification of the order or judgment. The aggregate liability of the
26 surety for the bond of the institution or agent involved in the order
27 or judgment may not, in any event, exceed the amount of the bond.

28 (b) An application for an agent's permit shall be accompanied by
29 a surety bond in the minimum amount of \$10,000, or a larger amount if

1 the commission determines that a larger amount is necessary for the
2 protection of the students or enrollees, or their parents or guardians,
3 or classes thereof, or because the bond should be increased to better
4 reflect an institution's volume of business in the state. The bond
5 shall be executed by the applicant as principal and by a surety company
6 qualified and authorized to do business in this state. The bond shall
7 be conditioned to provide indemnification to any student, enrollee, or
8 his or her parents or guardian, or class thereof, determined to have
9 suffered loss or damage as a result of an act or practice which is a
10 violation of this chapter by the agent.

11 (c) The surety bond to be filed under this section shall cover
12 the period of the authorization to operate or the agent's permit, as
13 appropriate, except when a surety is released as provided in this sub-
14 section. A surety on a bond filed under this section may be released
15 from that bond after the surety serves written notice of the release
16 to the commission and to the bonded agent or institution 45 days before
17 the release. However, the release does not discharge or otherwise
18 affect a claim filed by a student or enrollee, or his parent or
19 guardian, or class thereof, before or after the release for loss or
20 damage resulting from an act or practice which is a violation of this
21 chapter alleged to have occurred while the bond was in effect or for
22 an institution's ceasing operations during the term for which tuition
23 has been paid while the bond was in force.

24 (d) Authorization for an institution to operate and an agent's
25 permit shall be suspended by operation of law when the institution or
26 agent is no longer covered by a surety bond as required by this section.
27 However, the commission shall give the institution or agent, or both,
28 at least 30 days written notice before the release of the surety, to the
29 effect that the authorization or permit shall be suspended by operation

1 of law until another surety bond is filed in the same manner as, and
2 in a like amount to, the bond being terminated.

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

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

16 Sec. 14.48.130. COMPLAINTS. (a) A person claiming damage or loss
17 as a result of an act or practice by a postsecondary educational insti-
18 tution or its agent, or both, which is a violation of this chapter or of
19 the regulations promulgated under this chapter may file with the
20 commission a complaint against the institution or against its agent or
21 both. The complaint shall set out the alleged violation and shall
22 contain other information as may be required by the commission. A
23 complaint may also be filed by the commission on its own motion or the
24 attorney general. A complainant may file with the commission as a
25 representative of a class of complainants.

26 (b) The commission shall investigate the complaint and may attempt
27 to effect a settlement by persuasion and conciliation. The commission
28 may consider a complaint after 30 days written notice by registered mail
29 to the institution or agent, or both, giving notice of a time and place

1 for hearing on the complaint. The hearing shall be conducted in ac-
2 cordance with the Administrative Procedure Act (AS 44.62).

3 (c) If, upon the evidence at a hearing, the commission finds that
4 a postsecondary educational institution or its agent, or both, has
5 engaged in or is engaging in, an act or practice which violates this
6 chapter or the regulations promulgated under this chapter the commission
7 shall serve upon the institution or agent or both, an order requiring
8 the institution or agent or both to cease and desist from the act or
9 practice. If the commission finds that the complainant, or class of
10 complainants, has suffered loss or damage as a result of the act or
11 practice, the commission may also award the complainant, or class of
12 complainants, full or partial restitution for the damage or loss and
13 may impose the penalties provided for in sec. 180 of this chapter. The
14 commission may also, based on its own investigation and the evidence
15 adduced at the hearing, begin an action to revoke an institution's
16 authorization to operate or an agent's permit.

17 Sec. 14.48.140. JUDICIAL REVIEW. A final administrative order
18 issued by the commission is subject to judicial review under the
19 Administrative Procedure Act (AS 44.62.560 - 44.62.570).

20 Sec. 14.48.150. PRESERVATION OF RECORDS. (a) If a postsecondary
21 educational institution proposes to discontinue its operation, the
22 chief administrative officer of the institution shall file with the
23 commission the original or legible true copies of academic records of
24 the institution as specified by the commission. The records shall
25 include that academic information customarily required by colleges when
26 considering students for transfer or advanced study and the academic
27 record of each former student.

28 (b) If it appears to the commission that records of an institu-
29 tion discontinuing its operations are in danger of being destroyed or

1 otherwise made unavailable to the commission, the commission may seize
2 the records, under an order of the superior court. The commission
3 shall maintain a permanent file of records coming into its possession
4 under this section.

5 Sec. 14.48.160. ENFORCEABILITY OF NOTES AND CONTRACTS. (a) If
6 a person to whom educational services are to be furnished by a post-
7 secondary educational institution is a resident of this state at the
8 time a contract relating to payment for the services, or a note,
9 instrument, or other evidence of indebtedness relating to the services,
10 is entered into, the provisions of this section govern the rights of
11 the parties to the contract or evidence of indebtedness. The following
12 agreements or provisions of an agreement entered into in connection with
13 the contract or the giving of evidence of indebtedness are invalid:

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

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

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

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

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

28 (c) A lending agency extending credit or loaning money to a person
29 for tuition, fees, or other charges of a postsecondary educational

1 institution for educational or other services or facilities to be
2 rendered by the institution, shall conspicuously mark "student loan" on
3 the face of a note, instrument, or other evidence of indebtedness taken
4 in connection with the loan or extension of credit. If the lending
5 agency fails to do so, it is liable for loss or damage suffered by a
6 subsequent assignee, transferee, or holder of the evidence of indebted-
7 ness because of the absence of the notation. Notwithstanding the
8 presence or absence of the notation, and notwithstanding an agreement to
9 the contrary, the lending agency making the loan or extending the credit,
10 and a transferee, assignee, or holder of the evidence of indebtedness is
11 subject to all defenses and claims which could be asserted against the
12 postsecondary educational institution which was to render the services
13 or facilities, by any party to the evidence of indebtedness or by the
14 person to whom the services or facilities were to be rendered, up to
15 the amount remaining to be paid. For purposes of this section, "lending
16 agency" means postsecondary educational institution, or a person
17 controlling, controlled by, or held in common ownership with, a post-
18 secondary educational institution, or regularly loaning money to, or to
19 students of, a postsecondary educational institution.

20 Sec. 14.48.170. JURISDICTION. A postsecondary educational
21 institution that is not exempt from the provisions of this chapter,
22 whether or not a resident of, or having a place of business in, this
23 state, which instructs or educates, or offers to instruct or educate,
24 enrolls or offers to enroll, contracts or offers to contract, to provide
25 instructional or educational services in this state, whether the
26 instruction or services are provided in person or by correspondence,
27 to a resident of this state, or which offers to award or awards educa-
28 tional credentials to a person in or resident of this state, submits
29 the institution, and, if a natural person his personal representative,

1 to the jurisdiction of the courts of this state concerning a cause of
2 action arising from these activities and for the purpose of enforce-
3 ment of this chapter by injunction under sec. 180 of this chapter.

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

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

21 Sec. 14.48.190. VIOLATIONS: CIVIL PENALTY. A person who violates
22 the provisions of sec. 20 of this chapter, or who fails or refuses to
23 deposit with the commissioner the records required by sec. 150 of this
24 chapter is subject to a civil penalty of not more than \$1,000 for each
25 violation. Each day's failure to comply with the provisions of secs.
26 20 and 150 of this chapter constitutes a separate violation. The
27 fine may be imposed by the commission in an administrative proceeding
28 or by a court of competent jurisdiction.

29 Sec. 14.48.200. CRIMINAL VIOLATION. A person who wilfully violated

1 the provisions of sec. 20 of this chapter or who wilfully fails or
2 refuses to deposit with the commission the records required by sec. 150
3 of this chapter is guilty of a misdemeanor and, upon conviction, is
4 punishable by a fine of not more than \$1,000 or by imprisonment for not
5 more than six months, or by both. Each day's failure to comply is a
6 separate violation.

7 Sec. 14.48.210. DEFINITIONS. In this chapter

8 (1) "agent" means a person owning an interest in, employed by,
9 or representing for remuneration, a postsecondary educational institution
10 in or outside the state who, by solicitation made in the state,
11 enrolls or seeks to enroll a resident of the state for education offered
12 by the institution, or offers to award educational credentials, for re-
13 munerated, on behalf of the institution, or who holds himself out to
14 residents of the state as representing a postsecondary educational
15 institution for any purpose;

16 (2) "agent's permit" means a nontransferable written autho-
17 rization issued to a natural person by the commission which allows that
18 person to solicit or enroll a resident of the state for education in a
19 postsecondary educational institution.

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

23 (4) "commission" means the Alaska Commission on Postsecondary
24 Education;

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

28 (6) "educational credentials" means degrees, diplomas, cer-
29 tificates, transcripts, reports, documents, or letters of designation,

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

5 (7) "owner" means

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

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

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

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

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

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

29 (10) "to offer" includes, in addition to its usual meanings,

1 advertising, publicizing, soliciting, or encouraging persons directly
2 or indirectly to perform the act described;

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

8 * Sec. 2. AS 44.62.330(a) is amended by adding a new paragraph to read:

9 (38) Alaska Commission on Postsecondary Education under
10 AS 14.48 as to denial of applications and revocation of authorizations
11 and permits.

12 * Sec. 3. AS 14.47 is repealed.

13 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10-
14 070(c).

Introduced: 2/11/75
Referred: Health, Education &
Social Services and Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE INTERIM
COMMITTEE ON HIGHER EDUCATION

1 IN THE HOUSE

2 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. It is the purpose of this chapter to
14 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 Sec. 14.48.020. AUTHORIZATION AND PERMITS REQUIRED. No person
3 may

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

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

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

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

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

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

1 Sec. 14.48.030. EXEMPTIONS. The following educational programs or
2 services and educational institutions are exempt from the provisions of
3 this chapter:

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

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

10 (3) education solely avocational or recreational in nature,
11 as determined by the commission, and institutions offering avocational
12 or recreational education exclusively as determined by the commission;

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

16 (5) postsecondary educational institutions established,
17 operated, and governed by the United States, the state or its political
18 subdivisions, as determined by the commission.

19 Sec. 14.48.040. COMMISSION TO ADMINISTER CHAPTER. The Alaska
20 Commission on Postsecondary Education shall administer this chapter
21 and may hire necessary personnel. The commission may obtain from
22 departments, commissions and other state agencies information needed
23 to carry out the provisions of this chapter.

24 Sec. 14.48.050. POWERS AND DUTIES OF COMMISSION. The commission
25 shall

26 (1) establish minimum criteria consistent with sec. 60 of
27 this chapter including quality of education, ethical and business
28 practices, health and safety and fiscal responsibility which applicants
29 for authorization to operate, or for an agent's permit, must meet before

1 the authorization or permit is issued;

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

5 (3) maintain a list of postsecondary educational institutions
6 and agents authorized to operate in the state under this chapter;

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

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

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

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

18 (8) investigate on its own initiative or in response to a
19 complaint lodged with it, persons subject to, or reasonably believed by
20 the commission to be subject to, the jurisdiction of this chapter; and
21 in connection with the investigation subpoena persons, books, records,
22 or documents related to the investigation; require answers in writing
23 under oath to questions propounded by the commission and administer
24 oaths or affirmations to persons in connection with the investigation;
25 and, for the purpose of examination at all reasonable times, shall have
26 access to, and the right to copy, documentary evidence of a corporation
27 that is under investigation or being proceeded against;

28 (9) exercise other necessary powers and duties in conformity
29 with the provisions of this chapter which, in the judgment of the

1 commission are necessary to carry out the provisions of this chapter.

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

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

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

12 (2) the institution has adequate space, equipment, instruc-
13 tional materials, and personnel to provide education of good quality;

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

18 (4) the institution provides a catalog or brochure containing
19 information describing the programs offered, program objectives, length
20 of program, schedule of tuition, fees, and all other charges and expenses
21 necessary for completion of the course of study, cancellation and refund
22 policies, and other material facts concerning the institution and the
23 program or course of instruction which are reasonably likely to affect
24 the decision of the student to enroll, together with any other dis-
25 closures specified by the commission by regulation; and that this infor-
26 mation is provided to prospective students before enrollment;

27 (5) upon satisfactory completion of training, the student is
28 given appropriate educational credentials by the institution, indicating
29 that the course of instruction or study has been satisfactorily completed

1 by the student;

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

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

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

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

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

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

20 (12) the institution has a fair and equitable cancellation and
21 refund policy.

22 (c) Accreditation by national or regional accrediting agencies
23 recognized by the commission may be accepted by the commission as
24 evidence of compliance with the minimum standards established by this
25 section and the criteria established under sec. 50(1) of this chapter.
26 However, the commission may require further evidence and make further
27 investigation as may be necessary. Accreditation by a recognized,
28 specialized accrediting agency may be accepted as evidence of compliance
29 only as to the portion or program of an institution accredited by the

1 accrediting agency if the institution as a whole is not accredited.

2 Sec. 14.48.070. AUTHORIZATION TO OPERATE. (a) Each postsecondary
3 educational institution desiring to operate in this state shall apply to
4 the commission, upon forms provided by the commission. The application
5 shall be accompanied by a catalog or brochure published, or proposed to
6 be published by the institution, containing the information specified in
7 sec. 60(b)(4) of this chapter. The application shall also be accompanied
8 by evidence of a surety bond as required by sec. 100 of this chapter, and
9 by the required fees.

10 (b) Following review of the application and after necessary invest-
11 gation of the applicant the commission shall either grant or deny
12 authorization to operate to the applicant. A grant of authorization to
13 operate may be on those terms and conditions the commission may pre-
14 scribe.

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

17 (1) the date of issuance, effective date, and term of
18 approval;

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

20 (3) the authority for approval;

21 (4) any condition or limitation of the authorization, as
22 considered necessary by the commission.

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

26 (e) The authorization to operate shall be issued to the owner,
27 or governing body, of the applicant institution, and shall be nontrans-
28 ferable. In the event of a change in ownership or management of the
29 institution, a new owner or manager, or governing body, must, within

1 30 days after the change in ownership is effective, apply for a new
2 authorization to operate, and if the new application is not made the
3 institution's authorization to operate shall terminate. Application
4 for a new authorization to operate by reason of change in ownership of
5 the institution is considered an application for renewal under (f) of
6 this section.

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

12 (g) An institution not yet in operation when its application for
13 authorization to operate is filed may not begin operation until receipt
14 of authorization. An institution in operation when its application for
15 authorization to operate is filed may continue operation until its
16 application is acted upon by the commission. The commission may issue
17 provisional authorization to operate, containing limitations as to
18 time, procedures, functions, or other conditions as the commission
19 considers necessary.

20 Sec. 14.48.080. AGENT'S PERMIT. (a) A person desiring to solicit
21 or perform the services of an agent, in this state, shall apply to the
22 commission upon forms provided by the commission. The application shall
23 be accompanied by evidence of the good reputation and character of the
24 applicant and shall state the institution which the applicant intends to
25 represent. An agent representing more than one institution must obtain
26 a separate agent's permit for each institution represented. However,
27 when an agent represents institutions having a common ownership, only
28 one agent's permit is required. If an institution which the applicant
29 intends to represent does not have authorization to operate in this

1 state, the application shall be accompanied by the information required
2 of institutions making application for authorization. The application
3 for an agent's permit shall also be accompanied by evidence of a surety
4 bond as required by sec. 100 of this chapter, and by payment of the
5 required fees.

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

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

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

- 17 (1) the date of issuance, effective date, and term;
18 (2) the correct name and address of the agent;
19 (3) the institution or institutions which the agent is
20 authorized to represent.

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

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

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

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

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

7 Sec. 14.48.100. BONDS. (a) At the time application is made for
8 authorization to operate, or for renewal of an authorization to operate
9 the commission may require the postsecondary educational institution to
10 file a surety bond in the amount determined by the commission. The
11 amount shall be determined by the number of students the institution
12 seeks to enroll. The amount of the surety bond shall be re-examined
13 by the commission upon each renewal of the authorization to operate to
14 determine if a larger or smaller bond would be appropriate to ensure
15 adequate protection for the students or enrollees, or their parents or
16 guardians, or classes thereof. The bond shall be executed by the
17 applicant as principal and by a surety company qualified and authorized
18 to do business in this state and shall be conditioned to provide
19 indemnification to any student or enrollee, or his parent or guardian,
20 or class thereof, determined to have suffered loss or damage as a
21 result of an act or practice which is a violation of this chapter by
22 the postsecondary educational institution and that the bonding company
23 shall pay a final nonappealable order of the commission or judgment of
24 a court of this state having jurisdiction, upon receipt of written
25 notification of the order or judgment. The aggregate liability of the
26 surety for the bond of the institution or agent involved in the order
27 or judgment may not in any event, exceed the amount of the bond.

28 (b) An application for an agent's permit shall be accompanied by
29 a surety bond in the minimum amount of \$10,000, or a larger amount if

1 the commission determines that a larger amount is necessary for the
2 protection of the students or enrollees, or their parents or guardians,
3 or classes thereof, or because the bond should be increased to better
4 reflect an institution's volume of business in the state. The bond
5 shall be executed by the applicant as principals and by a surety company
6 qualified and authorized to do business in this state. The bond shall
7 be conditioned to provide indemnification to any student, enrollee, or
8 his or her parents or guardian, or class thereof, determined to have
9 suffered loss or damage as a result of an act or practice which is a
10 violation of this chapter by the agent.

11 (c) The surety bond to be filed under this section shall cover
12 the period of the authorization to operate or the agent's permit, as
13 appropriate, except when a surety is released as provided in this sub-
14 section. A surety on a bond filed under this section may be released
15 from that bond after the surety serves written notice of the release
16 to the commission and to the bonded agent or institution 45 days before
17 the release. However, the release does not discharge or otherwise
18 affect a claim filed by a student or enrollee, or his parent or
19 guardian, or class thereof, before or after the release for loss or
20 damage resulting from an act or practice which is a violation of this
21 chapter alleged to have occurred while the bond was in effect or for
22 an institution's ceasing operations during the term for which tuition
23 has been paid while the bond was in force.

24 (d) Authorization for an institution to operate and an agent's
25 permit shall be suspended by operation of law when the institution or
26 agent is no longer covered by a surety bond as required by this section.
27 However, the commission shall give the institution or agent, or both,
28 at least 30 days written notice before the release of the surety, to the
29 effect that the authorization or permit shall be suspended by operation

1 of law until another surety bond is filed in the same manner as, and
2 in a like amount to, the bond being terminated.

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

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

16 Sec. 14.48.130. COMPLAINTS. (a) A person claiming damage or loss
17 as a result of an act or practice by a postsecondary educational insti-
18 tution or its agent, or both, which is a violation of this chapter or of
19 the regulations promulgated under this chapter may file with the
20 commission a complaint against the institution or against its agent or
21 both. The complaint shall set out the alleged violation and shall
22 contain other information as may be required by the commission. A
23 complaint may also be filed by the commission on its own motion or the
24 attorney general. A complainant may file with the commission as a
25 representative of a class of complainants.

26 (b) The commission shall investigate the complaint and may attempt
27 to effect a settlement by persuasion and conciliation. The commission
28 may consider a complaint after 30 days written notice by registered mail
29 to the institution or agent, or both, giving notice of a time and place

1 for hearing on the complaint. The hearing shall be conducted in ac-
2 cordance with the Administrative Procedure Act (AS 44.62).

3 (c) If, upon the evidence at a hearing, the commission finds that
4 a postsecondary educational institution or its agent, or both, has
5 engaged in or is engaging in, an act or practice which violates this
6 chapter or the regulations promulgated under this chapter the commission
7 shall serve upon the institution or agent or both, an order requiring
8 the institution or agent or both to cease and desist from the act or
9 practice. If the commission finds that the complainant, or class of
10 complainants, has suffered loss or damage as a result of the act or
11 practice, the commission may also award the complainant, or class of
12 complainants, full or partial restitution for the damage or loss and
13 may impose the penalties provided for in sec. 180 of this chapter. The
14 commission may also, based on its own investigation and the evidence
15 adduced at the hearing, begin an action to revoke an institution's
16 authorization to operate or an agent's permit.

17 Sec. 14.48.140. JUDICIAL REVIEW. A final administrative order
18 issued by the commission is subject to judicial review under the
19 Administrative Procedure Act (AS 44.62.560 - 44.62.570).

20 Sec. 14.48.150. PRESERVATION OF RECORDS. (a) If a postsecondary
21 educational institution proposes to discontinue its operation, the
22 chief administrative officer of the institution shall file with the
23 commission the original or legible true copies of academic records of
24 the institution as specified by the commission. The records shall
25 include that academic information customarily required by colleges when
26 considering students for transfer or advanced study and the academic
27 record of each former student.

28 (b) If it appears to the commission that records of an institu-
29 tion discontinuing its operations are in danger of being destroyed or

1 otherwise made unavailable to the commission, the commission may seize
2 the records, under an order of the superior court. The commission
3 shall maintain a permanent file of records coming into its possession
4 under this section.

5 Sec. 14.48.160. ENFORCEABILITY OF NOTES AND CONTRACTS. (a) If
6 a person to whom educational services are to be furnished by a post-
7 secondary educational institution is a resident of this state at the
8 time a contract relating to payment for the services, or a note,
9 instrument, or other evidence of indebtedness relating to the services,
10 is entered into, the provisions of this section govern the rights of
11 the parties to the contract or evidence of indebtedness. The following
12 agreements or provisions of an agreement entered into in connection with
13 the contract or the giving of evidence of indebtedness are invalid:

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

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

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

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

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

28 (c) A lending agency extending credit or loaning money to a person
29 for tuition, fees, or other charges of a postsecondary educational

1 institution for educational or other services or facilities to be
2 rendered by the institution, shall conspicuously mark "student loan" on
3 the face of a note, instrument, or other evidence of indebtedness taken
4 in connection with the loan or extension of credit. If the lending
5 agency fails to do so, it is liable for loss or damage suffered by a
6 subsequent assignee, transferee, or holder of the evidence of indebted-
7 ness because of the absence of the notation. Notwithstanding the
8 presence or absence of the notation, and notwithstanding an agreement to
9 the contrary, the lending agency making the loan or extending the credit,
10 and a transferee, assignee, or holder of the evidence of indebtedness is
11 subject to all defenses and claims which could be asserted against the
12 postsecondary educational institution which was to render the services
13 or facilities, by any party to the evidence of indebtedness or by the
14 person to whom the services or facilities were to be rendered, up to
15 the amount remaining to be paid. For purposes of this section, "lending
16 agency" means postsecondary educational institution, or a person
17 controlling, controlled by, or held in common ownership with, a post-
18 secondary educational institution, or regularly loaning money to, or to
19 students of, a postsecondary educational institution.

20 Sec. 14.48.170. JURISDICTION. A postsecondary educational
21 institution that is not exempt from the provisions of this chapter,
22 whether or not a resident of, or having a place of business in, this
23 state, which instructs or educates, or offers to instruct or educate,
24 enrolls or offers to enroll, contracts or offers to contract, to provide
25 instructional or educational services in this state, whether the
26 instruction or services are provided in person or by correspondence,
27 to a resident of this state, or which offers to award or awards educa-
28 tional credentials to a person in or resident of this state, submits
29 the institution, and, if a natural person his personal representative,

1 to the jurisdiction of the courts of this state concerning a cause of
2 action arising from these activities and for the purpose of enforce-
3 ment of this chapter by injunction under sec. 180 of this chapter.

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

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

21 Sec. 14.48.190. VIOLATIONS: CIVIL PENALTY. A person who violates
22 the provisions of sec. 20 of this chapter, or who fails or refuses to
23 deposit with the commissioner the records required by sec. 150 of this
24 chapter is subject to a civil penalty of not more than \$1,000 for each
25 violation. Each day's failure to comply with the provisions of secs.
26 20 and 150 of this chapter constitutes a separate violation. The
27 fine may be imposed by the commission in an administrative proceeding
28 or by a court of competent jurisdiction.

29 Sec. 14.48.200. CRIMINAL VIOLATION. A person who wilfully violates

1 the provisions of sec. 20 of this chapter or who wilfully fails or
2 refuses to deposit with the commission the records required by sec. 150
3 of this chapter is guilty of a misdemeanor and, upon conviction, is
4 punishable by a fine of not more than \$1,000 or by imprisonment for not
5 more than six months, or by both. Each day's failure to comply is a
6 separate violation.

7 Sec. 14.48.210. DEFINITIONS. In this chapter

8 (1) "agent" means a person owning an interest in, employed by,
9 or representing for remuneration, a postsecondary educational institution
10 in or outside the state who, by solicitation made in the state,
11 enrolls or seeks to enroll a resident of the state for education offered
12 by the institution, or offers to award educational credentials, for re-
13 munerated, on behalf of the institution, or who holds himself out to
14 residents of the state as representing a postsecondary educational
15 institution for any purpose;

16 (2) "agent's permit" means a nontransferable written autho-
17 rization issued to a natural person by the commission which allows that
18 person to solicit or enroll a resident of the state for education in a
19 postsecondary educational institution.

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

23 (4) "commission" means the Alaska Commission on Postsecondary
24 Education;

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

28 (6) "educational credentials" means degrees, diplomas, cer-
29 tificates, transcripts, reports, documents, or letters of designation,

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

5 (7) "owner" means

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

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

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

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

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

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

29 (10) "to offer" includes, in addition to its usual meanings,

1 advertising, publicizing, soliciting, or encouraging persons directly
2 or indirectly to perform the act described;

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

8 * Sec. 2. AS 44.62.330(a) is amended by adding a new paragraph to read:

9 (38) Alaska Commission on Postsecondary Education under
10 AS 14.48 as to denial of applications and revocation of authorizations
11 and permits.

12 * Sec. 3. AS 14.47 is repealed.

13 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10-
14 070(c).

SENATE JOURNAL

Finance Committee Report

on

CS for House Bill No. 143

The Committee has revised the fiscal note accompanying CS House Bill No. 143 downward. The note envisioned enlargement of existing staff by establishment of three permanent full time positions, which the Committee feels are unnecessary at this time.

Bill Ray, Chairman
Senate Finance Committee

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: M. W. Bunker

Chairperson Postsecondary Commission

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