

SB

301

HFIN

FILE

Alaska State Legislature

Sen. Lyda Green, Chairman
Sen. Loren Leman, Vice-Chairman
Sen. Mike Miller
Sen. Johnay Ellis
Sen. Judith Salo



State Capitol
Room 423
Juneau, Alaska 99801-1182
907-465-3782

Senate Committee on Health, Education and Social Services

MEMORANDUM

TO: Representative Mark Hanley, Co-Chairman
House Finance Committee

FROM: Senator Lyda Green, Chairman *Lyda Green*
Senate Committee on Health, Education and Social Services

DATE: April 24, 1996

RE: Scheduling Request for SB 301

I respectfully request that SB 301 be scheduled for a hearing by the House Finance Committee at your earliest convenience.

The main provisions included in SB 301 propose to:

- * Move the Alaska Student Loan Corporation from the Department of Education to the Department of Revenue;
- * Transfer the administrative functions of the Alaska Commission on Postsecondary Education to the Alaska Student Loan Corporation;
- * Change the membership of the Corporation Board to eliminate special interests and create a majority of public members, not commissioners;
- * Retain the legislative confirmation process of the public members, which Executive Order 97 eliminated;

These changes seek to achieve the same administrative efficiencies proposed in the Governor's Executive Order, remove the outdated provisions in state law that have been since removed from federal regulation and at the same time preserve legislative oversight.

Thank you for your consideration. If you have any questions, please contact me or Mike in my office at 3762.

Administration's Concerns with SB 301

SB 301 is the Legislature's response to the Governor's Executive Order 97 which was disapproved February 28.

The Executive Order would have downsized and streamlined government by:

1. Eliminating the Commission, leaving a loan program and fund administered by a 7-member board rather than two boards with a total of 17 members.
2. Eliminating special-interest influences on the administration of the loan program/fund.
3. Moving policy/planning function to State Board of Education.
4. Providing for a sharper focus on strengthening the financial viability of the Student Loan Programs.
5. Moving a lending agency to Dept. of Revenue for shared knowledge and resources.

SB 301 Could Benefit The Student Loan Programs by:

1. Eliminating the special interest influence over the loan program.
2. Cleaning up archaic language and modifying agency statutes so that focus is on perpetuating a healthy loan fund.
3. Moving policy/planning functions and institutional authorization function to the Department of Education to isolate loan fund from authorization-related liability.
4. Moving the lending agency to Dept. of Revenue for shared knowledge and resources.

Administration Concerns relating to Current Version of SB 301:

- **Constitutional Separation of Powers:** The bill requires that Commission members be confirmed by the Legislature and that they also be appointed to the Corporation, thereby subjecting Corporation members to indirect legislative confirmation which violates Article III, sec. 26 of the Alaska Constitution. It appears that this indirect legislative confirmation is the only reason for the continued existence of the Commission even though it would be less costly and less burdensome to transfer certain commission functions to the Department of Education.
- **Ex Officio Legislative Seats on the Corporation Board:** Bond Counsel is on record as having a "serious concern" with the potential constitutional problem of having legislators sit on the Corporation board because it calls into question the validity of the board's decision-making ability. This could impair counsel's ability to approve the corporation's issuance of bonds.
- Current bill leaves in place unnecessary commission for Dept. of Education to administer.

Administration Position:

The Loan program is on the right track and while some elements of this bill could prove helpful, in this flawed form, the larger constitutional issues raised by the Corporation Bond Counsel and the Dept. of Law are of greater importance. The health and future of the loan program is a priority of this administration but this bill, as it currently is written, is a vehicle that focuses more on diminishing Alaska's constitutional separation of powers than the well-being of a program that is already on the right track.

FISCAL NOTE ANALYSIS CSSB 301(HES)

CSSE 301 transfers the Alaska Student Loan Corporation (ASLC) to the Department of Revenue for administrative support. (Sec 5.(b)). These responsibilities include:

1) PERSONNEL. Providing payroll, Family Medical Leave Act accounting, routine leave administration, personnel actions, and record retention as directed by statute, regulation and policy for the approximate 100 staff transferred for administrative support.

2) GENERAL ADMINISTRATIVE SUPPORT/PROCUREMENT/DATA PROCESSING. Although these areas will be impacted in terms of workload, existing staff can assume the associated functions.

3) EQUIPMENT. The Division will need to obtain storage cabinets for record retention.

The staff of the Alaska Student Loan Corporation is exempt by statute, and the workload increase within the Department of Revenue ASD personnel and fiscal section is considerably less than it would be with a comparable increase of 100 classified staff. At the present time, there is an RSA between PSE and the Department of Education for approximately \$30,000. We would request that this be increased to \$45.0. The ASD, with \$45.0 from the ASLC, will be able to assume the increased workloads created by CSSB 301 with one reclassification and one new position. These actions are required to perform the additional core support functions within the Personnel and Fiscal sections to support the staff of the Alaska Student Loan Corporation and current staff within the Department.

These 100 additional personnel make it mandatory that increased support infrastructure be considered and approved with the transfer of the Alaska Student Loan Corporation to the Department of Revenue.

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MEMORANDUM

April 23, 1996

SUBJECT: Postsecondary education - (CSSB 301(HES))

TO: Senator Lyda Green
Attn: Mike Tibbles

FROM: Michael F. Ford *M. F.*
Legislative Counsel

You have asked several questions regarding the transfer of postsecondary functions under CSSB 301(HES). Each question is set out below followed by our response:

1. Does the legislature have the power to require confirmation of the public members of the Alaska Commission on Postsecondary Education?

Under CSSB 301(HES), the public members appointed by the governor to the commission are subject to legislative confirmation. See Sec. 14.42.015(c), in Sec. 44. We believe this confirmation statute is a valid exercise of the legislature's power to confirm members of a board or commission granted under Article III, sec. 26 of the Alaska Constitution. In that the commission will continue to exercise regulatory powers (see AS 14.48), the public members of the commission appointed by the governor are subject to legislative confirmation.

However, the board members of the Alaska Student Loan Corporation would not be subject to confirmation by the legislature, because the legislature does not have the power to confirm board members of a public corporation.

The power of the legislature to confirm executive branch appointments to a board or commission is contained in Article III, section 26 of the Alaska Constitution. This section provides:

When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and may be removed as provided by law. . . .

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This section clearly provides that the members of art. III, § 26 boards and commissions are subject to confirmation and may only be removed as the legislature has provided by law. The Alaska Supreme Court in Bradner v. Hammond, 553 P.2d 1, 3 (1976) recognized this and said:

Removal of Section 26 board or commission members is as provided by law and, therefore, not necessarily at the governor's pleasure.

Section 26 marks the outer limits of the legislature's authority to require confirmation and provide for the removal of board members. In Bradner v. Hammond, *supra*, the court, determining that the confirmation power of the legislature provided in art. III, §§ 25 (principal department heads) and 26, is merely a limited delegation of the executive appointment power to the legislature, said:

As to this issue, we think the provisions of Sections 25 and 26 of Article III are clear and unambiguous. Thus, we conclude that Sections 25 and 26 mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government. (Bradner v. Hammond, *supra*, at 7.)

Similarly, the legislature's authority to determine how an art. III, § 26 board or commission member may be removed appears to be a limited delegation of the executive appointment power and is limited to those boards or commissions that are "at the head of a principal department or a regulatory or quasi-judicial agency." Under this reasoning, other board or commission members serve at the pleasure of the governor and may be removed at any time despite limitations the legislature may attempt to impose by statute.

What then is a board or commission "at the head of a principal department or a regulatory or quasi-judicial agency?" A principal department is one of the less than 20 principal departments that the executive branch must be organized into under art. III, § 22 of the Alaska Constitution. Currently, there is only one board that is at the head of a principal department, the Board of Education. In Walker v. Alaska State Mortgage Authority, 416 P.2d 245 (Alaska 1966), the Alaska Supreme Court held that ASMA, a public corporation of the state, was not at the head of a principal department.

What is a "regulatory or quasi-judicial agency" may best be determined by looking to the views of the framers of our Constitution at the Constitutional Convention.

Art. III, § 26, was proposed by the Committee on the Executive Branch as Committee Proposal 10 (later amended and resubmitted as Committee Proposal 10a), at the Constitutional Convention. Alaska Constitutional Convention Proceedings (ACCP), Part 6. In the commentary submitted by the executive branch committee with the proposal the committee explained their recommendations concerning government organization. These

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recommendations are embodied in secs. 22 - 27 of art. III, of the Constitution. The committee said:

A clear distinction is made between the administrative departments, such as public works, health, education, and welfare, and the regulatory, including quasi-judicial, bodies such as a rate-setting public utility commission.

Delegate V. Rivers, chairman of the executive branch committee, summarized the committee proposal and the meaning of a "regulatory board" in this manner:

The purpose of that is that in a regulatory board, regulating the power rates, telephone rates, etc., the power of removal might be the power to make the office ineffective so that removal would be prescribed by the legislature.

ACCP, at p. 1102 - 03.

Discussion of what a "regulatory board" is and does includes these statements by delegates: "To me a utilities board would be regulatory" (ACCP, at p. 2204, Delegate V. Fischer); and Delegate McLaughlin, in response to a question of what is the difference between a "regulatory board" and a "quasi-judicial board" said:

Perhaps I can explain it in the terms best known to Alaskans. Very roughly, the Fish and Wildlife Service and the CAB, the Fish and Wildlife Service can set down regulations. Normally if there is an infraction of those regulations, they pick up the offender and deliver him to a judicial body, that is to the United States Commissioner, or to the United States District Court. They have no power of absolute confiscation on their own, no power to deprive of money or rights. In the case of the CAB, the Fish and Wildlife, in substance then, sets down regulations, but in the case of the CAB, they go further than that. In substance, they determine as between carrier and carrier, who is privileged and who can be deprived of it.

ACCP, at pp. 2204 - 05.

The delegates also acknowledged that a "regulatory board" could also be a "quasi-judicial board." ACCP, at p. 2206.

From this discussion it appears that the framers believed that a "regulatory board" was a board that issued rules or regulations to govern the public (Fish and Wildlife Service), segments of the public (public utilities commission), or the use or management of resources (Fish and Wildlife Service). A "regulatory board" would seem to control or govern at large or in an area or field as the examples cited by the convention reveal. A board or commission that merely issues rules or regulations that govern or control its own internal conduct would

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not seem to be a "regulatory board" as that term is used in our constitution as the regulations or rules issued by such a board or commission do not govern or control at large or in an area or field.

Such a construction comports with the definitions of the term "regulate." Webster's New World Dictionary defines regulate as "to control, direct, or govern according to a rule. . . ." And Black's Law Dictionary defines regulate as "to fix, establish, or control." While the definitions are broad enough to encompass internal operating rules, rules that govern a board's own conduct, when applied to the examples and statements of the delegates to the constitutional convention, regulate apparently means the act of controlling, directing, or governing the public, segments of the public, or the resources of the state.

The constitutional convention proceedings are also helpful in determining whether a public corporation could be considered a "regulatory board." The convention specifically addressed the relationship between § 26 and the University of Alaska, a public corporation, and public corporations generally. Discussion of § 26 includes this statement by Delegate Sundborg:

This whole section applies only to three classes of agencies. It applies to principal departments of the state, to regulatory bodies and quasi-judicial bodies. It is inconceivable to me that no matter what the legislature did it could ever put the University of Alaska under one of those three headings, and I am very much afraid here that if we read in here an exception saying that it shall not apply to the University of Alaska, that it would apply or that it could be construed to apply to any other state corporation because we had not excepted that from the language.

ACCP, at p. 2257.

Delegate Walsh stated that after checking with a couple of attorneys, he believed that the University of Alaska was not subject to the requirements of § 26 because it was a public corporation. ACCP, at p. 2246. Delegate Riley stated that he believed the University of Alaska was clearly beyond the reach of § 26. ACCP, at p. 2248. A similar comment was made by Delegate V. Rivers while entertaining questions about the Committee on the Executive Branch's report. ACCP, at p. 2033-34. As a result of these comments and discussions a separate provision was provided in the Constitution (art. VII, § 5) to require the confirmation of the Board of Regents of the University of Alaska, a public corporation.

From these examples it seems clear that the Alaska Commission on Postsecondary Education as restructured under CSSB 301(HES), is a § 26 board. Therefore, I conclude that the legislature may require the confirmation or provide for the removal of public members of the commission.

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2. Does the restructuring provided under the CSSB 301(HES) create any additional liability for the loan corporation?

We do not believe that the administrative structures of the two agencies, the commission and the loan corporation, result in any additional exposure to liability for the loan program. You cannot accurately predict liability in the absence of assumed facts, however, there should be no additional or increased exposure to liability from the restructuring particularly since the student loan functions of the existing commission are being completely transferred to the corporation.

3. Does the presence of two ex officio legislative members on the board of the corporation create any legal problems?

We do not believe that the presence of nonvoting ex officio legislative members on the board create any legal problems. Certainly if legislators were to serve as voting board members this would be a violation of the Alaska Constitution's separation of powers doctrine. See Bradner v. Hammond, 553 p.2d 1 (Alaska 1976). Serving in the capacity of ex officio, members should eliminate the separation of powers conflict.

If you have further questions please contact me.

MFF:klb

96-296.klb

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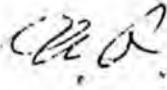
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 25, 1996

SUBJECT: Postsecondary education - (CSSB 301(FIN) am)

TO: Senator Lyda Green
Attn: Mike

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Makes various technical changes to allow the Alaska Student Loan Corporation to use the occupational licensing statutes to enforce student loan repayment provisions.

Section 2. Establishes the Alaska Student Loan Corporation in the Department of Revenue.

Section 3. Establishes the board of directors of the Alaska Student Loan Corporation. Provides that two members of the board shall be nonvoting legislative members and one member of the board shall be a nonvoting student member. Provides for compensation to board members and for election of a chair.

Section 4. Allows the corporation to appoint an executive director and allows the executive director to appoint staff. Requires employees to participate in the state retirement system.

Section 5. Provides that the attorney general is the legal counsel for the corporation, but allows the corporation to employ other legal counsel.

Section 6. Requires the corporation to administer the student loan fund under AS 14.42.210 and the student loan program (AS 14.43). Allows the corporation to adopt regulations under the Administrative Procedures Act. Allows the corporation to operate the W.A.M.I. program, to allow residents of the state to pursue a graduate medical degree.

Section 7. Technical amendment.

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Section 8. Requires the corporation to establish separate accounting for teacher scholarship and family education loans.

Section 9. Allows the student loan fund to be used to make student loans.

Section 10. Technical change.

Section 11. Changes the amount of a loan that can be made to half-time undergraduate or graduate student. Repeals a provision that a career education program be at least six weeks in length. (see sec. 28 for new definition of "career education" program) Also makes other technical changes.

Section 12. Technical changes.

Section 13. Technical changes.

Section 14. Technical changes.

Section 15. Technical changes.

Section 16. Technical changes.

Section 17. Technical changes.

Section 18. Technical changes.

Section 19. Technical changes.

Section 20. Technical changes.

Section 21. Technical changes.

Section 22. Technical changes.

Section 23. Technical changes.

Section 24. Technical changes.

Section 25. Technical changes.

Section 26. Technical changes.

Section 27. Defines "career education" as a half-time program at least 12 weeks long and a full-time program at least six weeks long.

Section 28. Allows the student loan fund to be used by the corporation to make student loans.

Section 29. Allows the corporation to use the student loan program to offset losses resulting from default by a borrower.

Section 30. Technical changes.

Section 31. Technical changes.

Section 32. Technical changes.

Section 33. Technical changes.

Section 34. Technical changes.

Section 35. Creates the teacher scholarship revolving loan account in the student loan fund.

Section 36. Requires the corporation to annually allocate available teacher scholarship loan awards to local school boards.

Section 37. Technical changes.

Section 38. Technical changes.

Section 39. Technical changes.

Section 40. Allows a recipient of a family education loan to make payments earlier than required and makes various technical changes.

Section 41. Adds a definition of "corporation".

Section 42. Requires the corporation to administer the W.I.C.H.E. program.

Section 43. Recreates the Alaska Postsecondary Education Commission in the Department of Education. The members of the commission are the voting members of the Alaska Student Loan Corporation. Provides for member compensation, election of a chair, and that the employees of the Department of Education shall serve as staff to the commission.

Section 44. Repeals the authority of the commission to hire staff to administer AS 14.48.

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Section 45. Establishes the advisory functions of the corporation and the optional powers of the commission.

Section 46. Authorizes the commission to set fees for certain functions performed under AS 14.48.

Section 47. Allows the commission to impose a civil penalty for costs of conduction investigations or adjudications.

Section 48. Technical change.

Section 49. Places the officers and employees of the Alaska Student Loan Corporation in the exempt service.

Section 50. Technical change.

Section 51. Applies the state conflict of interest provisions under AS 39.50 to the Alaska Student Loan Corporation.

Section 52. Allows the Alaska Student Loan Corporation to take a permanent fund dividend for a student loan that is in default.

Section 53. Technical change.

Section 54. Repeals various provisions relating to postsecondary education.

Section 55. Transitional provision relating to fees charged to postsecondary institutions.

Section 56. Transitional section relating to membership on the commission and the corporation, to transfer of ongoing functions of the commission, and to regulations, contracts equipment, and employees of the commission.

Section 57. Immediate effective date for sec. 56(c) and (d).

Section 58. Effective date.

MFF:glc
96-258.glc

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 23, 1996

VIA HAND - DELIVERY

Honorable Judith Salo, Senator
Alaska State Legislature
Room 504
State Capitol
Juneau, AK 99811-1182

Re: CS SB 301 (Fin)

Dear Senator Salo:

You have asked us to set out in writing concerns we have previously expressed in committee hearings about those provisions in the above bill which purport to require confirmation of the members of the board of the Alaska Commission on Post Secondary Education (ACPE), which would under sec. 3 of CSSB 301 (Fin), comprise the Alaska Student Loan Corporation (ASLC). We also bring to your attention the concerns of the corporation's bond counsel about the appointment of legislative members to the ASLC under sec. 3 of the bill.

Although current statute AS 14.42.015(c) states otherwise, the legislature has never confirmed the members of the ACPE. For almost as long, this office has indicated that confirmation would not be appropriate under Article III, Section 26 of the Alaska Constitution. See 1977 Inf. Op. Att'y Gen. at 7 (February 3). The ACPE's current functions do include the grant and revocation of permits to operate post-secondary institutions, functions which may be considered regulatory or quasi-judicial under sec. 26, but those functions are only a portion of a list of functions performed by the commission. AS 14.42.030 Cf. AS 14.25.035 (Teachers' Retirement Board; not subject to confirmation.)

The Student Loan Corporation is not now, and would not under the draft legislation, be constitutionally subject to confirmation. It is well established that such corporations are not quasi-judicial or regulatory within the meaning of Alaska Const. art. III, sec. 22 or sec. 26, nor the head of a principal department under sec. 26. See Walker v. Alaska State Mortgage Association, 416 P.2d 245, 248-51 (Alaska 1962).

The administration previously suggested that the

TONY KNOWLES, GOVERNOR

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Hon. Judith Salo, Senator
Re: CS SB 301 (Fin)

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institutional authorization function be transferred to the Department of Education (DOE), and that the ACPE be eliminated altogether. These changes accomplish its long range goal to separate the loan and institutional authorization process, and to reduce the expenses of the two agencies. (We understand that amendments which accomplish this have been submitted to you for review. See especially secs. 49-75.)

Apparently this suggestion was previously rejected because the drafters wish to obtain legislative confirmation of the members of the ASLC, which cannot, as noted above, be accomplished directly. Indeed, testimony at prior hearings and workshops on the bill suggests that this is the only purpose for maintaining the ACPE in the present bill.

We understand from a member of the senate sponsor's staff that there is an opinion written by a member of the legislative legal staff which suggests that because some obsolete functions have been removed from the ACPE, its board is now subject to confirmation under Alaska Const. art. III, sec. 26. Neither your staff nor the staff of the ACPE has been able to obtain a copy of that opinion, so none of us know if that is indeed the position of the legislative legal staff. However, we believe that the list of functions set out for the ACPE is not so different from the current statute to alter the status quo with respect to confirmation. In short, the rationale for maintaining the ACPE, to obtain by indirection confirmation of the ASLC board, is not really sound, as the ACPE may remain outside the reach of art. III, sec. 26 of the Alaska Constitution.

Further, we have long noted that limitation of the governor's power to make appointments to state boards is unconstitutional, and not consistent with the constitution's mandate for a strong executive. 1979 Inf. Op. Att'y Gen. (September 19; J-66-164-80) The legislature only shares the governor's appointment power to the extent the constitution permits it. Cf. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The appointment of two legislative members, even if nonvoting, violates these principles. In addition, it violates Alaska Const. art. II, sec. 5, which prohibits legislators from holding "any other office or position of profit under the . . . State." Cf. 1980 Op. Att'y Gen. No. 21 (September 14; J-66-212-81) (legislators may not serve on statehood commission); 1988 Inf. Op. Att'y Gen. 226 (April 12; 883-88-0022) (legislative appointments to children's trust unconstitutional); 1988 Inf. Op. Att'y Gen. 37 (July 1; 663-88-0430) (state legislator should not serve on land use advisory committee); 1989 Inf. Op. Att'y Gen. 297 (May 1; 663-89-0506) (legislators should not serve on commission to investigate Exxon

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Valdez spill); 1989 Inf. Op. Att'y Gen. 45 (July 1; 883-89-0111) (inclusion of legislators on Amateur Sports Authority renders legislation defective).

Bond counsel for ASLC has expressed concern that involvement of even nonvoting legislator members in the corporation's bond issuing activities could create problems for the board in obtaining a favorable opinion in connection with the issuance of bonds. Letter of Ken Vassar, bond counsel, to Diane Barrans, executive director ASLC, and Teresa Williams, Assistant Attorney General, April 4, 1996, attached)

With respect to the ACPE, the current bill is an improvement because it removes legislative members from the commission. However, the bill places legislative members on the ASLC's board for the first time, bringing legislators into the bonding process. Thus, continuing to overlook this constitutional defect may become more problematic. The only ameliorating factors are the attendance of the legislators is not necessary for a quorum, they do not have the authority to vote, and the corporation would not pay the per diem.

In summary, the version of the legislation presently before the Senate may not accomplish the drafter's objective of obtaining legislative confirmation of the ACPE board and thereby confirming the ASLC board, the apparent sole purpose for maintaining the ACPE rather than streamlining the process by assigning the institutional authorization function to the Department of Education and eliminating the ACPE.

We have suggested amendments which do remove the confirmation problem. Our version does not solve the legislators' dual office holding problem and the separation of powers problem, which, as bond counsel indicates, will require further study. But, along with a number of important features of the current bill, including the separation of loan and institutional authorization functions and the removal of special interest appointments to the boards, our amendments make much needed corrections to the present statute by deleting an unnecessary commission and placing these responsibilities in the Department of Education.

Hon. Judith Salo, Senator
Re: CS SB 301 (Fin)

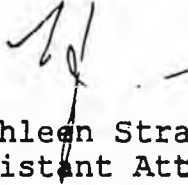
April 23, 1996
Page 4

Please let us know if you require any further information.

Sincerely,

BRUCE M. BOTELHO

By:


Kathleen Strasbaugh
Assistant Attorney General

cc: Pat Pourchot
Chrystal Smith
Barbara Ritchie
Bruce Botelho
Teresa Williams
Diane Barrans ✓
Deborah Behr

Failed (1-6)

AMENDMENT 1

OFFERED IN THE HOUSE

TO: CSSB 301(FIN) am

1 Page 2, following line 11:

2 insert new bill sections to read:

3 ** Sec. 2. AS 14.07.020(a) is amended by adding a new paragraph to read:

4 (16) administer the provisions of AS 14.48 (regulation of
5 postsecondary educational institutions).

6 * Sec. 3. AS 14.07.020 is amended by adding a new section to read:

7 (c) The department has the following functions, advisory to the governing
8 boards of institutions of public and private higher education in the state, to the
9 governor, the legislature, and to other appropriate state and federal officials:

10 (1) coordinate the development of comprehensive plans for the orderly,
11 systematic growth of public and private postsecondary education, including
12 community colleges and occupational education, in the state and submit
13 recommendations on the need for, and location of, new facilities and programs;

14 (2) advise as to the functions and purposes of the colleges and
15 universities, both public and private, in the state and counsel as to the programs
16 appropriate to each; and

17 (3) review and advise as to the working of all consortia and other
18 cooperative agreements between the institutions of higher education in the state that
19 are parties to them.

20 * Sec. 4. AS 14.07.030 is amended by adding a new paragraph to read:

21 (14) establish task forces, committees, or subcommittees, not
22 necessarily consisting of department officers or employees, to advise and assist the
23 department in carrying out its postsecondary functions assigned by AS 14.07.020(a)
24 and (c), and federal statute. The department may contract with, or use, existing
25 institutions of higher education or other individuals or organizations to make studies,

1 conduct surveys, submit recommendations, or otherwise contribute to the work of the
2 department.

3 * **Sec. 5.** AS 14.07 is amended by adding new sections to read:

4 **Sec. 14.07.032. CONSORTIA.** All parties that are signatory to a consortium
5 agreement between the University of Alaska and a private university or college must
6 abide by a decision rendered by the department when disagreements arise or exist
7 between the parties. For purposes of this section and AS 14.07.020, "consortium"
8 means a cooperative arrangement between two or more public or private institutions
9 of higher education specified in agreements or memoranda of understanding to permit
10 sharing of facilities, instructional opportunities, and other educational services in such
11 a way that the integrity of each institution party to the consortium is preserved while
12 at the same time the institutions cooperatively plan the academic calendar, scheduling,
13 use of personnel and facilities, and educational programs and offerings to the
14 maximum advantage of the students and faculties of the institutions that are parties
15 to a consortium.

16 **Sec. 14.07.033. COLLECTION OF DATA.** The department may require the
17 institutions of public and private higher education and other institutions of
18 postsecondary education in the state to submit data on costs, selection and retention
19 of students, enrollments, plant capacities and use, and other matters pertinent to
20 effective planning and coordination, and shall furnish information concerning these
21 matters to the governor, to the legislature, and to other state and federal agencies as
22 requested by them."

23 Renumber the following bill sections accordingly.

24 Page 2, lines 22 - 25:

25 Delete all material and insert:

26 "Sec. 14.42.120. CORPORATION GOVERNING BODY. (a) The
27 corporation shall be governed by a board of directors consisting of the commissioner
28 of revenue, the commissioner of administration, a person representing the Department
29 of Education appointed by the governor, and four members of the public appointed
30 by the governor. The governor's appointees shall serve at the pleasure of the

1 governor for staggered four-year terms."

2 Page 4, following line 26:

3 Insert a new bill section to read:

4 **** Sec. 11. AS 14.42.200(9) is amended to read:**

5 (9) collect from a borrower amounts owed with respect to a student
6 loan held by the corporation [HAS PURCHASED];"

7 Renumber the following bill sections accordingly.

8 Page 5, line 13, following "corporation,":

9 Insert "used to pay the costs of administration of the fund."

10 Page 5, lines 14 and 15:

11 Delete "AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, or 14.43.710 - 14.43.790."

12 Insert "AS 14.43. and used to pay the costs of administering the loans and of
13 collecting delinquent loans if those costs are not recovered from the borrower
14 [AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, or 14.43.710 - 14.43.790]."

15 Page 8, line 17:

16 Delete "commission"

17 Insert "corporation [COMMISSION]"

18 Page 12, line 7:

19 Delete "scholarship"

20 Insert "student [SCHOLARSHIP]"

21 Page 15, line 20, following "loans":

22 Insert "and for the purposes allowed under AS 14.42.210"

23 Page 16, lines 1 - 4:

24 Delete "loans; [THE FORM MUST INCLUDE A REQUIREMENT THAT] the

1 applicant **must provide** [SUPPLY] a high school academic transcript and a statement of
 2 intent to enter a teaching career at the elementary or secondary school level in the state."

3 Insert "loans [; THE FORM MUST INCLUDE A REQUIREMENT THAT THE
 4 APPLICANT SUPPLY A HIGH SCHOOL ACADEMIC TRANSCRIPT AND A
 5 STATEMENT OF INTENT TO ENTER A TEACHING CAREER AT THE ELEMENTARY
 6 OR SECONDARY SCHOOL LEVEL IN THE STATE]."

7 Page 16, lines 13 - 15:

8 Delete

9 "(4) submit to the local school board an application on a form
 10 provided by the corporation [COMMISSION] under AS 14.43.630(a)(2); an
 11 application may be submitted six months before graduation from high school; and"

12 Insert

13 "(4) submit to the local school board, at least three months before
 14 graduation from high school, an application on a form provided by the corporation
 15 [COMMISSION] under AS 14.43.630(a)(2); the applicant shall supply a high school
 16 transcript and a statement of intent to enter a teaching career at the elementary
 17 or secondary school level in the state [AN APPLICATION MAY BE SUBMITTED
 18 SIX MONTHS BEFORE GRADUATION FROM HIGH SCHOOL]; and"

19 Page 16, lines 28 - 30:

20 Delete "to pay the costs of collecting family education loans that are in default if those
 21 costs are not recovered from the family, and to pay the costs of administering the account"

22 Insert "and for the purposes allowed under AS 14.42.210 [TO PAY THE COSTS OF
 23 COLLECTING FAMILY EDUCATION LOANS THAT ARE IN DEFAULT IF THOSE
 24 COSTS ARE NOT RECOVERED FROM THE FAMILY, AND TO PAY THE COSTS OF
 25 ADMINISTERING THE ACCOUNT]"

26 Page 17, following line 6:

27 Insert a new bill section to read:

28 "* Sec. 45. AS 14.43.730 is amended to read:

29 Sec. 14.43.730. ADMINISTRATION. The family education loan program

1 shall be administered by the corporation [COMMISSION] under regulations that it
2 adopts."

3 Renumber the following bill sections accordingly.

4 Page 17, line 25, through page 19, line 13:

5 Delete all material and insert new bill sections to read:

6 *** Sec. 49.** AS 14.48.010(a) is amended to read:

7 (a) It is the purpose of this chapter to provide for the protection, education,
8 and welfare of the citizens of the state, its postsecondary educational institutions, and
9 its students, by

10 (1) establishing minimum standards concerning quality of education,
11 ethical and business practices, health and safety, and fiscal responsibility, to protect
12 against substandard, transient, unethical, deceptive, or fraudulent institutions and
13 practices;

14 (2) prohibiting the granting of false or misleading educational
15 credentials;

16 (3) regulating the use of academic terminology in designating
17 educational institutions;

18 (4) prohibiting misleading literature, advertising, solicitation, or
19 representation by educational institutions or their agents;

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

21 (6) providing certain rights and remedies to the public and the
22 department [COMMISSION] necessary to carry out the purposes of this chapter.

23 *** Sec. 50.** AS 14.48.020 is amended to read:

24 Sec. 14.48.020. AUTHORIZATION AND PERMITS REQUIRED. A person
25 may not

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

29 (2) offer itself or through an agent enrollment or instruction in, or the
30 granting of educational credentials from, a postsecondary educational institution,

1 whether the institution is in or outside the state, unless the agent is a natural person
 2 and has a currently valid agent' permit issued under this chapter or is exempt from
 3 the provisions of this chapter;

4 (3) accept contracts or enrollment applications of prospective students
 5 from an agent who does not have a current permit as required by this chapter;
 6 however, the department [COMMISSION] may adopt regulations to permit the
 7 rendering of legitimate public information services without a [THE] permit;

8 (4) instruct or educate, [OR] offer to instruct or educate, enroll or offer
 9 to enroll, contract or offer to contract or award an educational credential, or contract
 10 with an institution or person to do so, in or outside the state, unless that person is in
 11 compliance with the minimum standards set out in AS 14.48.060, the criteria
 12 established by the department [COMMISSION] under AS 14.48.050(1), and the
 13 regulations adopted by the department [COMMISSION] under AS 14.48.050(7);

14 (5) use the term "university" or "college" without authorization to do
 15 so from the department [COMMISSION];

16 (6) grant, or offer to grant, educational credentials [,] without
 17 authorization to do so from the department [COMMISSION].

18 * **Sec. 51.** AS 14.48.030(b) is amended to read:

19 (b) The following educational programs or services and educational
 20 institutions are exempt from the provisions of this chapter or portions of them, as
 21 determined by the department [COMMISSION]:

22 (1) education sponsored by a bona fide trade, business, labor,
 23 professional, or fraternal association or organization, recognized by the department,
 24 [COMMISSION] and conducted solely for that association's or organization's
 25 membership [,] or offered on a no-fee basis;

26 (2) education solely avocational or recreational in nature and
 27 institutions offering avocational or recreational education exclusively;

28 (3) education offered by charitable organizations, recognized by the
 29 department [COMMISSION], if the education is not advertised or promoted as
 30 leading toward educational credentials;

31 (4) nonprofit postsecondary educational institutions offering
 32 undergraduate or graduate educational programs conducted in the state, but not by

1 correspondence, that [WHICH] are acceptable for credit toward an associate,
2 bachelor's, or graduate degree;

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

5 * Sec. 52. AS 14.48.040 is amended to read:

6 Sec. 14.48.040. DEPARTMENT [COMMISSION] TO ADMINISTER
7 CHAPTER. The commissioner of education [ALASKA COMMISSION ON
8 POSTSECONDARY EDUCATION] shall administer this chapter and may hire
9 necessary personnel. The department [COMMISSION] may obtain from
10 departments, commissions, and other state agencies information and assistance needed
11 to carry out the provisions of this chapter.

12 * Sec. 53. AS 14.48.050 is amended to read:

13 Sec. 14.48.050. POWERS AND DUTIES OF DEPARTMENT
14 [COMMISSION]. The department [COMMISSION] shall

15 (1) establish minimum criteria consistent with AS 14.48.060 including
16 quality of education, ethical and business practices, health and safety, and fiscal
17 responsibility that applicants for authorization to operate, or for an agent's permit,
18 must meet before the authorization or permit is issued;

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

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

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

25 (5) enter into interstate reciprocity agreements with similar agencies
26 in other states [,] if in the judgment of the department [COMMISSION] the
27 agreements will be helpful in carrying out the purposes of this chapter;

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

30 (7) adopt regulations and procedures necessary or appropriate for the
31 conduct of its work and the implementation of this chapter under AS 44.62
32 (Administrative Procedure Act);

1 (8) investigate on its own initiative, or in response to a complaint
2 lodged with it, persons subject to [,] or reasonably believed by the department
3 [COMMISSION] to be subject to [,] the jurisdiction of this chapter; [AND] in
4 connection with the investigation subpoena persons, books, records, or documents
5 related to the investigation; require answers in writing under oath to questions
6 propounded by the department [COMMISSION] and administer oaths or affirmations
7 to persons in connection with the investigation; and, for the purpose of examination
8 at all reasonable times, shall have access to, and the right to copy, documentary
9 evidence of a corporation that is under investigation or being proceeded against;

10 (9) exercise other necessary powers and duties in conformity with the
11 provisions of this chapter that, in the judgment of the department [COMMISSION],
12 are necessary to carry out the provisions of this chapter.

13 * Sec. 54. AS 14.48.060 is amended to read:

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

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

20 (1) the quality and content of each course or program of instruction,
21 training, or study [ARE SUCH AS] may reasonably and adequately achieve the stated
22 objective for which the course or program is offered;

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

26 (3) the education or experience qualifications of directors,
27 administrators, supervisors, and instructors [ARE SUCH AS] may reasonably ensure
28 that the students will receive education consistent with the objectives of the course or
29 program of study;

30 (4) the institution provides a catalog or brochure containing
31 information describing the programs offered, program objectives, length of program,
32 schedule of tuition, fees, [AND] all other charges and expenses necessary for

1 completion of the course of study, cancellation and refund policies, and other material
2 facts concerning the institution and the program or course of instruction that are
3 reasonably likely to affect the decision of the student to enroll, together with any other
4 disclosures specified by the department [COMMISSION] by regulation; and that this
5 information is provided to prospective students before enrollment;

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

9 (6) adequate records are maintained by the institution to show
10 attendance, progress [,] or grades, and that satisfactory standards are enforced relating
11 to attendance, progress, and performance;

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

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

17 (9) neither the institution nor its agents engage in advertising, sales,
18 collection, credit, or other practices that [WHICH] are false, deceptive, misleading,
19 or unfair;

20 (10) the chief executive officer, trustees, directors, owners,
21 administrators, supervisors, staff, and instructors of the institution are of good
22 reputation and character and have not been convicted of a violation of AS 14.48.020,
23 [OR] 14.48.150, [OR] AS 45.50.471 - 45.50.561, or a comparable law in another state
24 or province;

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

27 (12) the institution has a fair and equitable cancellation and refund
28 policy; and

29 (13) the charges set by the institution for tuition, fees, books, and
30 supplies are fair and equitable.

31 (c) The department may accept accreditation [ACCREDITATION] by
32 national or regional accrediting agencies recognized by the department

1 [COMMISSION MAY BE ACCEPTED BY THE COMMISSION] as evidence of
 2 compliance with the minimum standards established by this section and the criteria
 3 established under AS 14.48.050(1). However, the department [COMMISSION] may
 4 require further evidence and make further investigation as [MAY BE] necessary. **If**
 5 **the institution as a whole is not accredited, accreditation** [ACCREDITATION] by
 6 a recognized, specialized accrediting agency may be accepted as evidence of
 7 compliance only as to the portion or program of an institution accredited by the
 8 accrediting agency [IF THE INSTITUTION AS A WHOLE IS NOT ACCREDITED].

9 * **Sec. 55.** AS 14.48.070(a) is amended to read:

10 (a) Each postsecondary educational institution desiring to operate in this state
 11 shall apply to the department [COMMISSION], upon forms provided by the
 12 department [COMMISSION]. The application **must** [SHALL] be accompanied by
 13 a catalog or brochure published, or proposed to be published by the institution,
 14 containing the information specified in AS 14.48.060(b)(4). The application shall also
 15 be accompanied by evidence of a surety bond or other deposit as required by
 16 AS 14.48.100, and by the required fees.

17 * **Sec. 56.** AS 14.48.070(b) is amended to read:

18 (b) Following review of the application and after necessary investigation of
 19 the applicant the department [COMMISSION] shall either grant or deny authorization
 20 to operate to the applicant. A grant of authorization to operate may be on those terms
 21 and conditions the department [COMMISSION] may prescribe.

22 * **Sec. 57.** AS 14.48.070(c) is amended to read:

23 (c) The authorization to operate must be in a form approved by the
 24 department [COMMISSION] and must include

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

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

27 (3) the authority for approval;

28 (4) any condition or limitation of the authorization, as considered
 29 necessary by the department [COMMISSION].

30 * **Sec. 58.** AS 14.48.070(f) is amended to read:

31 (f) At least 60 days before the expiration of **its** [AN] authorization to operate,
 32 the institution shall complete and file with the department [COMMISSION] an

1 application form for renewal [OF ITS AUTHORIZATION TO OPERATE]. The
2 renewal application shall be reviewed and acted upon as provided for an original
3 application.

4 * **Sec. 59.** AS 14.48.070(g) is amended to read:

5 (g) An institution not yet in operation when its application for authorization
6 to operate is filed may not begin operation until receipt of authorization. An
7 institution in operation when its application for authorization to operate is filed may
8 continue operation until its application is acted upon by the department
9 [COMMISSION]. The department [COMMISSION] may issue provisional
10 authorization to operate, containing limitations as to time, procedures, functions, or
11 other conditions as the department [COMMISSION] considers necessary.

12 * **Sec. 60.** AS 14.48.080(a) is amended to read:

13 (a) A person desiring to solicit or perform the services of an agent [,] in this
14 state [,] shall apply to the department [COMMISSION] upon forms provided by the
15 department [COMMISSION]. The application must [SHALL] be accompanied by
16 evidence of the good reputation and character of the applicant and must state the
17 institution that the applicant intends to represent. An agent representing more than
18 one institution must obtain a separate agent's permit for each institution represented.
19 However, when an agent represents institutions having a common ownership, only one
20 agent's permit is required. If an institution that the applicant intends to represent does
21 not have authorization to operate in this state, the application must [SHALL] be
22 accompanied by the information required of institutions making application for
23 authorization. The application for an agent's permit must [SHALL] also be
24 accompanied by evidence of a surety bond or other deposit as required by
25 AS 14.48.100, and by payment of the required fees.

26 * **Sec. 61.** AS 14.48.080(c) is amended to read:

27 (c) Following review of the application and any further information submitted
28 by the applicant, and investigation of the applicant as the department
29 [COMMISSION] considers necessary, the department [COMMISSION] shall either
30 grant or deny an agent's permit to the applicant.

31 * **Sec. 62.** AS 14.48.080(d) is amended to read:

32 (d) The agent's permit must be in a form approved by the department

1 [COMMISSION] and must include

2 (1) the date of issuance, effective date, and term;

3 (2) the correct name and address of the agent;

4 (3) the institution or institutions that the agent is authorized to
5 represent.

6 * Sec. 63. AS 14.48.080(f) is amended to read:

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

11 * Sec. 64. AS 14.48.090 is repealed and reenacted to read:

12 Sec. 14.48.090. FEES. The department shall adopt regulations that establish
13 the amount and manner of payment of fees for applications, authorizations, permits,
14 and renewals under this chapter.

15 * Sec. 65. AS 14.48.100 is amended to read:

16 Sec. 14.48.100. BONDS. (a) At the time application is made for
17 authorization to operate, or for renewal of an authorization to operate, the department
18 [COMMISSION] may require the postsecondary educational institution to file a surety
19 bond in the amount determined by the department [COMMISSION]. The amount
20 shall be determined by the number of students the institution seeks to enroll. The
21 amount of the surety bond shall be reexamined by the department [COMMISSION]
22 upon each renewal of the authorization to operate to determine if a larger or smaller
23 bond would be appropriate to ensure adequate protection for the students or enrollees,
24 [OR] their parents or guardians, or classes thereof. The bond shall be executed by the
25 applicant as principal and by a surety company qualified and authorized to do
26 business in this state. The bond [AND] shall be conditioned to provide
27 indemnification to any student or enrollee, [OR] the student's or enrollee's parent or
28 guardian, or class thereof [,] determined to have suffered loss or damage as a result
29 of a postsecondary educational institution's [AN] act or practice that [WHICH] is
30 a violation of this chapter [BY THE POSTSECONDARY EDUCATIONAL
31 INSTITUTION] and that the bonding company shall pay a final nonappealable order
32 of the department [COMMISSION] or judgment of a court of this state having

1 jurisdiction, upon receipt of written notification of the order or judgment. The
2 aggregate liability of the surety for the bond of the institution or agent involved in the
3 order or judgment may not, in any event, exceed the amount of the bond.

4 (b) An application for an agent's permit must [SHALL] be accompanied by
5 a surety bond in the amount determined by the department [COMMISSION] to be
6 necessary for the protection of the students or enrollees, [OR] their parents or
7 guardians, or classes of these, or to reflect an institution's volume of business in the
8 state. The bond shall be executed by the applicant as principal and by a surety
9 company qualified and authorized to do business in this state. The bond shall be
10 conditioned to provide indemnification to any student or enrollee, [OR] the student's
11 or enrollee's parents or guardian, or class of these, determined to have suffered loss
12 or damage as a result of an agent's act or practice that [WHICH] is a violation of
13 this chapter [BY THE AGENT].

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

25 (d) Authorization for an institution to operate and an agent's permit shall be
26 suspended by operation of law when the institution or agent is no longer covered by
27 a surety bond as required by this section. However, the department [COMMISSION]
28 shall give the institution or agent, or both, at least 30 days written notice before the
29 release of the surety, [TO THE EFFECT] that the authorization or permit shall be
30 suspended by operation of law until another surety bond is filed in the same manner
31 as, and in a like amount to, the bond being terminated.

32 (e) In lieu of the surety bond required in (a) and (b) of this section, the

1 applicant may file with the department [COMMISSION] a cash deposit or other
2 negotiable security, acceptable to the department [COMMISSION], in the amount
3 specified for bonds.

4 * Sec. 66. AS 14.48.110 is amended to read:

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

11 * Sec. 67. AS 14.48.120 is amended to read:

12 Sec. 14.48.120. REVOCATION. (a) An authorization to operate or an
13 agent's permit may be revoked or conditioned if the department [COMMISSION]
14 has reasonable cause to believe that the holder of the authorization or permit is
15 violating or has violated this chapter, [OR] AS 45.50.471, [OR] regulations adopted
16 under this chapter, or AS 45.50.491. Except as provided in (b) of this section,
17 AS 44.62 (Administrative Procedure Act) governs the procedure for a revocation,
18 review of a revocation, or other action under this section.

19 (b) Authorization for an institution to operate, and a permit for an agent
20 representing that institution, are revoked 30 days after the institution ceases to operate.
21 The department [COMMISSION] shall give the institution and the agent 15 days'
22 written notice, by certified mail, sent return receipt requested, to the last addresses of
23 the institution and agent.

24 (c) The institution and the agent may appeal a revocation under (b) of this
25 section by filing an appeal in writing with the department [COMMISSION] within
26 30 days after the revocation."

27 Renumber the following bill sections accordingly.

28 Page 19, following line 17:

29 Insert new bill sections to read:

30 ** Sec. 69. AS 14.48.130 is amended to read:

1 Sec. 14.48.130. COMPLAINTS. (a) A person claiming damage or loss as
2 a result of an act or practice by a postsecondary educational institution or its agent,
3 or both, that [WHICH] is a violation of this chapter or of the regulations adopted
4 under this chapter may file with the department [COMMISSION] a complaint against
5 the institution or against its agent or both. The complaint must state [SHALL SET
6 OUT] the alleged violation and must [SHALL] contain other information as may be
7 required by the department [COMMISSION]. A complaint may also be filed by the
8 department [COMMISSION] on its own motion or the attorney general. A
9 complainant may file with the department [COMMISSION] as a representative of
10 a class of complainants.

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

17 (c) If, upon the evidence at a hearing, the department [COMMISSION] finds
18 that a postsecondary educational institution or its agent, or both, has engaged in, or
19 is engaging in, an act or practice that [WHICH] violates this chapter or the
20 regulations adopted under this chapter, the department [COMMISSION] shall serve
21 upon the institution or agent or both [,] an order requiring the institution or agent or
22 both to cease and desist from the act or practice. If the department [COMMISSION]
23 finds that the complainant, or class of complainants, has suffered loss or damage as
24 a result of the act or practice, the department [COMMISSION] may also award the
25 complainant, or class of complainants, full or partial restitution for the damage or loss
26 and may impose the penalties provided for in AS 14.48.190. The department
27 [COMMISSION] may also, based on its own investigation and the evidence adduced
28 at the hearing, begin an action to revoke an institution's authorization to operate or an
29 agent's permit.

30 * Sec. 70. AS 14.48.140 is amended to read:

31 Sec. 14.48.140. JUDICIAL REVIEW. A final administrative order issued by
32 the department [COMMISSION] is subject to judicial review under AS 44.62

1 (Administrative Procedure Act).

2 * **Sec. 71.** AS 14.48.150 is amended to read:

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

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

16 * **Sec. 72.** AS 14.48.180 is amended to read:

17 Sec. 14.48.180. ENFORCEMENT: INJUNCTION. (a) The attorney general
18 at the request of the department [COMMISSION] or on motion of the attorney
19 general, may bring an action or proceeding in a court of competent jurisdiction for the
20 enforcement of the provisions of this chapter.

21 (b) When it appears to the department [COMMISSION] that a person is, is
22 about to, or has violated a provision of this chapter or a regulation adopted under this
23 chapter, the department [COMMISSION] may, on its own motion or on the written
24 complaint of any person, file a petition for injunction in the name of the department
25 [COMMISSION] in a court of competent jurisdiction against the person for the
26 purpose of enjoining the violation or for an order directing compliance with the
27 provisions of this chapter. It is not necessary that the department [COMMISSION]
28 allege or prove that it has no adequate remedy at law. The right of injunction
29 provided in this section is in addition to other legal remedies available to the
30 department [COMMISSION] and is in addition to the right of criminal prosecution.
31 However, the department [COMMISSION] may not obtain a temporary restraining
32 order without notice to the person affected.

1 * **Sec. 73.** AS 14.48.190 is amended to read:

2 Sec. 14.48.190. VIOLATIONS: CIVIL PENALTY. A person who violates
3 the provisions of AS 14.48.020, or who fails or refuses to deposit with the
4 department [~~COMMISSIONER~~] the records required by AS 14.48.150, is subject to
5 a civil penalty of not more than \$1,000 for each violation. Each day's failure to
6 comply with the provisions of AS 14.48.020 and 14.48.150 constitutes a separate
7 violation. The fine may be imposed by the department [COMMISSION] in an
8 administrative proceeding or by a court of competent jurisdiction.

9 * **Sec. 74.** AS 14.48.200 is amended to read:

10 Sec. 14.48.200. CRIMINAL VIOLATION. A person who wilfully violates
11 the provisions of AS 14.48.020 or who wilfully fails or refuses to deposit with the
12 department [COMMISSION] the records required by AS 14.48.150 is guilty of a
13 misdemeanor and, upon conviction, is punishable by a fine of not more than \$1,000
14 or by imprisonment for not more than six months, or by both. Each day's failure to
15 comply is a separate violation.

16 * **Sec. 75.** AS 14.48.210(2) is amended to read:

17 (2) "agent's permit" means a nontransferable written authorization
18 issued to a natural person by the department that [COMMISSION WHICH] allows
19 that person to solicit or enroll a resident of the state for education in a postsecondary
20 educational institution;

21 * **Sec. 76.** AS 14.48.210(3) is amended to read:

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

25 * **Sec. 77.** AS 16.43.340(a) is amended to read:

26 (a) In addition to entry permits and interim-use permits, the commission may
27 issue educational entry permits to public, private, or denominational educational
28 institutions, career, or vocational programs accredited or authorized by the
29 Department of Education [OR ACCREDITED INSTITUTIONS, CAREER, OR
30 VOCATIONAL PROGRAMS APPROVED BY THE ALASKA COMMISSION ON
31 POSTSECONDARY EDUCATION], or full-time nonprofit residential child care
32 facilities licensed by the Department of Health and Social Services, division of social

1 services, if

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

4 (2) the issuance of an educational entry permit is reasonably necessary
5 to the instruction of students under courses offered by the applicant for the
6 educational entry permit;

7 (3) the program is offered by an institution that is located in the state
8 and has been in operation for at least two years; and

9 (4) the institution offering the program is not a correspondence
10 institution."

11 Renumber the following bill sections accordingly.

12 Page 20, lines 9 and 10:

13 Delete "Commission on Postsecondary Education (AS 14.48.035) [(AS 14.42.015)]"

14 Insert "Student Loan Corporation [COMMISSION ON POSTSECONDARY
15 EDUCATION (AS 14.42.015)]"

16 Page 21, following line 10:

17 Insert a new bill section to read:

18 "** Sec. 84. AS 44.62.330(43) is amended to read:

19 (43) Department of Education [ALASKA COMMISSION ON
20 POSTSECONDARY EDUCATION] under AS 14.48 as to denial of applications and
21 revocation of authorizations and permits;"

22 Renumber the following bill sections accordingly.

23 Page 21, line 18:

24 Delete "sec. 46"

25 Insert "sec. 64"

26 Page 22, line 8:

1 Delete "sec. 58"

2 Insert "sec. 89"

3 Page 22, line 14:

4 Delete "sec. 58"

5 Insert "sec. 89"

6 Page 23, line 2:

7 Delete "Section 56(c)"

8 Insert "Section 87(c)"

9 Page 23, line 3:

10 Delete "sec. 57"

11 Insert "sec. 88"

4/26/96

9-LS1749\G.1 -
Ford
4/23/96

Replaced By K.2

A M E N D M E N T

OFFERED IN THE SENATE
TO: CSSB 301(FIN)

1 Page 2, following line 11:

2 Insert new bill sections to read:

3 ** Sec. 2. AS 14.07.020(a) is amended by adding a new paragraph to read:

4 (16) administer the provisions of AS 14.48 (regulation of
5 postsecondary educational institutions).

6 * Sec. 3. AS 14.07.020 is amended by adding a new section to read:

7 (c) The department has the following functions, advisory to the governing
8 boards of institutions of public and private higher education in the state, to the
9 governor, the legislature, and to other appropriate state and federal officials:

10 (1) coordinate the development of comprehensive plans for the orderly,
11 systematic growth of public and private postsecondary education, including
12 community colleges and occupational education, in the state and submit
13 recommendations on the need for, and location of, new facilities and programs;

14 (2) advise as to the functions and purposes of the colleges and
15 universities, both public and private, in the state and counsel as to the programs
16 appropriate to each; and

17 (3) review and advise as to the working of all consortia and other
18 cooperative agreements between the institutions of higher education in the state that
19 are parties to them.

20 * Sec. 4. AS 14.07.030 is amended by adding a new paragraph to read:

21 (14) establish task forces, committees, or subcommittees, not
22 necessarily consisting of department officers or employees, to advise and assist the
23 department in carrying out its postsecondary functions assigned by AS 14.07.020(a)
24 and (c), and federal statute. The department may contract with, or use, existing
25 institutions of higher education or other individuals or organizations to make studies,

1 conduct surveys, submit recommendations, or otherwise contribute to the work of the
2 department.

3 * Sec. 5. AS 14.07 is amended by adding new sections to read:

4 Sec. 14.07.032. CONSORTIA. All parties that are signatory to a consortium
5 agreement between the University of Alaska and a private university or college must
6 abide by a decision rendered by the department when disagreements arise or exist
7 between the parties. For purposes of this section and AS 14.07.020, "consortium"
8 means a cooperative arrangement between two or more public or private institutions
9 of higher education specified in agreements or memoranda of understanding to permit
10 sharing of facilities, instructional opportunities, and other educational services in such
11 a way that the integrity of each institution party to the consortium is preserved while
12 at the same time the institutions cooperatively plan the academic calendar, scheduling,
13 use of personnel and facilities, and educational programs and offerings to the
14 maximum advantage of the students and faculties of the institutions that are parties
15 to a consortium.

16 Sec. 14.07.033. COLLECTION OF DATA. The department may require the
17 institutions of public and private higher education and other institutions of
18 postsecondary education in the state to submit data on costs, selection and retention
19 of students, enrollments, plant capacities and use, and other matters pertinent to
20 effective planning and coordination, and shall furnish information concerning these
21 matters to the governor, to the legislature, and to other state and federal agencies as
22 requested by them."

23 Renumber the following bill sections accordingly.

24 Page 2, lines 22 - 25:

25 Delete all material and insert:

26 "Sec. 14.42.120. CORPORATION GOVERNING BODY. (a) The
27 corporation shall be governed by a board of directors consisting of the commissioner
28 of revenue, the commissioner of administration, a person representing the Department
29 of Education appointed by the governor, and four members of the public appointed
30 by the governor. The governor's appointees shall serve at the pleasure of the

1 governor for staggered four-year terms."

2 Page 4, following line 21:

3 Insert new material to read:

4 "(c) The corporation may enter into agreements with government or
5 postsecondary education officials of this state or other states to provide postsecondary
6 educational services and programs to residents of this state pursuing a medical
7 education. An agreement with another state must be limited to services and programs
8 that are unavailable in this state.

9 * Sec. 11. AS 14.42.200(9) is amended to read:

10 (9) collect from a borrower amounts owed with respect to a student
11 loan held by the corporation [HAS PURCHASED];"

12 Renumber the following bill sections accordingly.

13 Page 5, line 8, following "corporation,":

14 Insert "used to pay the costs of administration of the fund."

15 Page 5, lines 9 and 10:

16 Delete "AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, or 14.43.710 - 14.43.790."

17 Insert "AS 14.43, and used to pay the costs of administering the loans and of
18 collecting delinquent loans if those costs are not recovered from the borrower
19 [AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, or 14.43.710 - 14.43.790]."

20 Page 8, line 12:

21 Delete "commission"

22 Insert "corporation [COMMISSION]"

23 Page 12, line 2:

24 Delete "scholarship"

25 Insert "student [SCHOLARSHIP]"

1 Page 15, line 15, following "loans":

2 Insert "and for the purposes allowed under AS 14.42.210"

3 Page 15, lines 27 - 30:

4 Delete "loans; [THE FORM MUST INCLUDE A REQUIREMENT THAT] the
5 applicant must provide [SUPPLY] a high school academic transcript and a statement of
6 intent to enter a teaching career at the elementary or secondary school level in the state."

7 Insert "loans [; THE FORM MUST INCLUDE A REQUIREMENT THAT THE
8 APPLICANT SUPPLY A HIGH SCHOOL ACADEMIC TRANSCRIPT AND A
9 STATEMENT OF INTENT TO ENTER A TEACHING CAREER AT THE ELEMENTARY
10 OR SECONDARY SCHOOL LEVEL IN THE STATE]."

11 Page 16, lines 8 - 10:

12 Delete

13 "(4) submit to the local school board an application on a form
14 provided by the corporation [COMMISSION] under AS 14.43.630(a)(2); an
15 application may be submitted six months before graduation from high school; and"

16 Insert

17 "(4) submit to the local school board, at least three months before
18 graduation from high school, an application on a form provided by the corporation
19 [COMMISSION] under AS 14.43.630(a)(2); the applicant shall supply a high school
20 transcript and a statement of intent to enter a teaching career at the elementary
21 or secondary school level in the state [AN APPLICATION MAY BE SUBMITTED
22 SIX MONTHS BEFORE GRADUATION FROM HIGH SCHOOL]; and"

23 Page 16, lines 23 - 25:

24 Delete "to pay the costs of collecting family education loans that are in default if those
25 costs are not recovered from the family, and to pay the costs of administering the account"

26 Insert "and for the purposes allowed under AS 14.42.210 [TO PAY THE COSTS OF
27 COLLECTING FAMILY EDUCATION LOANS THAT ARE IN DEFAULT IF THOSE
28 COSTS ARE NOT RECOVERED FROM THE FAMILY, AND TO PAY THE COSTS OF
29 ADMINISTERING THE ACCOUNT]"

1 Page 17, following line i:

2 Insert a new bill section to read:

3 **** Sec. 45.** AS 14.43.730 is amended to read:

4 Sec. 14.43.730. ADMINISTRATION. The family education loan program
5 shall be administered by the corporation [COMMISSION] under regulations that it
6 adopts."

7 Renumber the following bill sections accordingly.

8 Page 17, line 20, through page 19, line 8:

9 Delete all material and insert new bill sections to read:

10 **** Sec. 49.** AS 14.48.010(a) is amended to read:

11 (a) It is the purpose of this chapter to provide for the protection, education,
12 and welfare of the citizens of the state, its postsecondary educational institutions, and
13 its students, by

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

18 (2) prohibiting the granting of false or misleading educational
19 credentials;

20 (3) regulating the use of academic terminology in designating
21 educational institutions;

22 (4) prohibiting misleading literature, advertising, solicitation, or
23 representation by educational institutions or their agents;

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

25 (6) providing certain rights and remedies to the public and the
26 department [COMMISSION] necessary to carry out the purposes of this chapter.

27 *** Sec. 50.** AS 14.48.020 is amended to read:

28 Sec. 14.48.020. AUTHORIZATION AND PERMITS REQUIRED. A person
29 may not

30 (1) operate a postsecondary educational institution in the state unless

1 the institution has a valid authorization to operate issued under this chapter or is
2 exempt from the provisions of this chapter;

3 (2) offer itself or through an agent enrollment or instruction in, or the
4 granting of educational credentials from, a postsecondary educational institution,
5 whether the institution is in or outside the state, unless the agent is a natural person
6 and has a currently valid agent's permit issued under this chapter or is exempt from
7 the provisions of this chapter;

8 (3) accept contracts or enrollment applications of prospective students
9 from an agent who does not have a current permit as required by this chapter;
10 however, the department [COMMISSION] may adopt regulations to permit the
11 rendering of legitimate public information services without a [THE] permit;

12 (4) instruct or educate, [OR] offer to instruct or educate, enroll or offer
13 to enroll, contract or offer to contract or award an educational credential, or contract
14 with an institution or person to do so, in or outside the state, unless that person is in
15 compliance with the minimum standards set out in AS 14.48.060, the criteria
16 established by the department [COMMISSION] under AS 14.48.050(1), and the
17 regulations adopted by the department [COMMISSION] under AS 14.48.050(7);

18 (5) use the term "university" or "college" without authorization to do
19 so from the department [COMMISSION];

20 (6) grant, or offer to grant, educational credentials [,] without
21 authorization to do so from the department [COMMISSION].

22 * Sec. 51. AS 14.48.030(b) is amended to read:

23 (b) The following educational programs or services and educational
24 institutions are exempt from the provisions of this chapter or portions of them, as
25 determined by the department [COMMISSION]:

26 (1) education sponsored by a bona fide trade, business, labor,
27 professional, or fraternal association or organization, recognized by the department,
28 [COMMISSION] and conducted solely for that association's or organization's
29 membership [,] or offered on a no-fee basis;

30 (2) education solely avocational or recreational in nature and
31 institutions offering avocational or recreational education exclusively;

32 (3) education offered by charitable organizations, recognized by the

1 department [COMMISSION], if the education is not advertised or promoted as
2 leading toward educational credentials;

3 (4) nonprofit postsecondary educational institutions offering
4 undergraduate or graduate educational programs conducted in the state, but not by
5 correspondence, that [WHICH] are acceptable for credit toward an associate,
6 bachelor's, or graduate degree;

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

9 * Sec. 52. AS 14.48.040 is amended to read:

10 Sec. 14.48.040. DEPARTMENT [COMMISSION] TO ADMINISTER
11 CHAPTER. The commissioner of education [ALASKA COMMISSION ON
12 POSTSECONDARY EDUCATION] shall administer this chapter and may hire
13 necessary personnel. The department [COMMISSION] may obtain from
14 departments, commissions, and other state agencies information and assistance needed
15 to carry out the provisions of this chapter.

16 * Sec. 53. AS 14.48.050 is amended to read:

17 Sec. 14.48.050. POWERS AND DUTIES OF DEPARTMENT
18 [COMMISSION]. The department [COMMISSION] shall

19 (1) establish minimum criteria consistent with AS 14.48.060 including
20 quality of education, ethical and business practices, health and safety, and fiscal
21 responsibility that applicants for authorization to operate, or for an agent's permit,
22 must meet before the authorization or permit is issued;

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

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

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

29 (5) enter into interstate reciprocity agreements with similar agencies
30 in other states [,] if in the judgment of the department [COMMISSION] the
31 agreements will be helpful in carrying out the purposes of this chapter;

32 (6) receive and maintain as a permanent file, copies of academic

1 records maintained in accordance with AS 14.48.060(b)(6);

2 (7) adopt regulations and procedures necessary or appropriate for the
3 conduct of its work and the implementation of this chapter under AS 44.62
4 (Administrative Procedure Act);

5 (8) investigate on its own initiative, or in response to a complaint
6 lodged with it, persons subject to [,] or reasonably believed by the department
7 [COMMISSION] to be subject to [,] the jurisdiction of this chapter; [AND] in
8 connection with the investigation subpoena persons, books, records, or documents
9 related to the investigation; require answers in writing under oath to questions
10 propounded by the department [COMMISSION] and administer oaths or affirmations
11 to persons in connection with the investigation; and, for the purpose of examination
12 at all reasonable times, shall have access to, and the right to copy, documentary
13 evidence of a corporation that is under investigation or being proceeded against;

14 (9) exercise other necessary powers and duties in conformity with the
15 provisions of this chapter that, in the judgment of the department [COMMISSION],
16 are necessary to carry out the provisions of this chapter.

17 * Sec. 54. AS 14.48.060 is amended to read:

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

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

24 (1) the quality and content of each course or program of instruction,
25 training, or study [ARE SUCH AS] may reasonably and adequately achieve the stated
26 objective for which the course or program is offered;

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

30 (3) the education or experience qualifications of directors,
31 administrators, supervisors, and instructors [ARE SUCH AS] may reasonably ensure
32 that the students will receive education consistent with the objectives of the course or

1 program of study;

2 (4) the institution provides a catalog or brochure containing
3 information describing the programs offered, program objectives, length of program,
4 schedule of tuition, fees, [AND] all other charges and expenses necessary for
5 completion of the course of study, cancellation and refund policies, and other material
6 facts concerning the institution and the program or course of instruction that are
7 reasonably likely to affect the decision of the student to enroll, together with any other
8 disclosures specified by the department [COMMISSION] by regulation; and that this
9 information is provided to prospective students before enrollment;

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

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

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

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

21 (9) neither the institution nor its agents engage in advertising, sales,
22 collection, credit, or other practices that [WHICH] are false, deceptive, misleading,
23 or unfair;

24 (10) the chief executive officer, trustees, directors, owners,
25 administrators, supervisors, staff, and instructors of the institution are of good
26 reputation and character and have not been convicted of a violation of AS 14.48.020,
27 [OR] 14.48.150, [OR] AS 45.50.471 - 45.50.561, or a comparable law in another state
28 or province;

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

31 (12) the institution has a fair and equitable cancellation and refund
32 policy; and

1 (13) the charges set by the institution for tuition, fees, books, and
2 supplies are fair and equitable.

3 (c) The department may accept accreditation [ACCREDITATION] by
4 national or regional accrediting agencies recognized by the department
5 [COMMISSION MAY BE ACCEPTED BY THE COMMISSION] as evidence of
6 compliance with the minimum standards established by this section and the criteria
7 established under AS 14.48.050(1). However, the department [COMMISSION] may
8 require further evidence and make further investigation as [MAY BE] necessary. If
9 the institution as a whole is not accredited, accreditation [ACCREDITATION] by
10 a recognized, specialized accrediting agency may be accepted as evidence of
11 compliance 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. 55. AS 14.48.070(a) is amended to read:

14 (a) Each postsecondary educational institution desiring to operate in this state
15 shall apply to the department [COMMISSION], upon forms provided by the
16 department [COMMISSION]. The application must [SHALL] be accompanied by
17 a catalog or brochure published, or proposed to be published by the institution,
18 containing the information specified in AS 14.48.060(b)(4). The application shall also
19 be accompanied by evidence of a surety bond or other deposit as required by
20 AS 14.48.100, and by the required fees.

21 * Sec. 56. AS 14.48.070(b) is amended to read:

22 (b) Following review of the application and after necessary investigation of
23 the applicant the department [COMMISSION] shall either grant or deny authorization
24 to operate to the applicant. A grant of authorization to operate may be on those terms
25 and conditions the department [COMMISSION] may prescribe.

26 * Sec. 57. AS 14.48.070(c) is amended to read:

27 (c) The authorization to operate must be in a form approved by the
28 department [COMMISSION] and must include

- 29 (1) the date of issuance, effective date, and term of approval;
30 (2) the name and address of the institution;
31 (3) the authority for approval;
32 (4) any condition or limitation of the authorization, as considered

1 necessary by the department [COMMISSION].

2 * Sec. 58. AS 14.48.070(f) is amended to read:

3 (f) At least 60 days before the expiration of its [AN] authorization to operate,
4 the institution shall complete and file with the department [COMMISSION] an
5 application form for renewal [OF ITS AUTHORIZATION TO OPERATE]. The
6 renewal application shall be reviewed and acted upon as provided for an original
7 application.

8 * Sec. 59. AS 14.48.070(g) is amended to read:

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

16 * Sec. 60. AS 14.48.080(a) is amended to read:

17 (a) A person desiring to solicit or perform the services of an agent [,] in this
18 state [,] shall apply to the department [COMMISSION] upon forms provided by the
19 department [COMMISSION]. The application must [SHALL] be accompanied by
20 evidence of the good reputation and character of the applicant and must state the
21 institution that the applicant intends to represent. An agent representing more than
22 one institution must obtain a separate agent's permit for each institution represented.
23 However, when an agent represents institutions having a common ownership, only one
24 agent's permit is required. If an institution that the applicant intends to represent does
25 not have authorization to operate in this state, the application must [SHALL] be
26 accompanied by the information required of institutions making application for
27 authorization. The application for an agent's permit must [SHALL] also be
28 accompanied by evidence of a surety bond or other deposit as required by
29 AS 14.48.100, and by payment of the required fees.

30 * Sec. 61. AS 14.48.080(c) is amended to read:

31 (c) Following review of the application and any further information submitted
32 by the applicant, and investigation of the applicant as the department

1 [COMMISSION] considers necessary, the department [COMMISSION] shall either
2 grant or deny an agent's permit to the applicant.

3 * Sec. 62. AS 14.48.080(d) is amended to read:

4 (d) The agent's permit must be in a form approved by the department
5 [COMMISSION] and must include

6 (1) the date of issuance, effective date, and term;

7 (2) the correct name and address of the agent;

8 (3) the institution or institutions that the agent is authorized to
9 represent.

10 * Sec. 63. AS 14.48.080(f) is amended to read:

11 (f) At least 60 days before the expiration of an agent's permit, the agent shall
12 complete and file with the department [COMMISSION] an application form for
13 renewal. The renewal application shall be reviewed and acted upon as provided for
14 an original application.

15 * Sec. 64. AS 14.48.090 is repealed and reenacted to read:

16 Sec. 14.48.090. FEES. The department shall adopt regulations that establish
17 the amount and manner of payment of fees for applications, authorizations, permits,
18 and renewals under this chapter.

19 * Sec. 65. AS 14.48.100 is amended to read:

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

1 of a postsecondary educational institution's [AN] act or practice that [WHICH] is
2 a violation of this chapter [BY THE POSTSECONDARY EDUCATIONAL
3 INSTITUTION] and that the bonding company shall pay a final nonappealable order
4 of the department [COMMISSION] or judgment of a court of this state having
5 jurisdiction, upon receipt of written notification of the order or judgment. The
6 aggregate liability of the surety for the bond of the institution or agent involved in the
7 order or judgment may not, in any event, exceed the amount of the bond.

8 (b) An application for an agent's permit must [SHALL] be accompanied by
9 a surety bond in the amount determined by the department [COMMISSION] to be
10 necessary for the protection of the students or enrollees, [OR] their parents or
11 guardians, or classes of these, or to reflect an institution's volume of business in the
12 state. The bond shall be executed by the applicant as principal and by a surety
13 company qualified and authorized to do business in this state. The bond shall be
14 conditioned to provide indemnification to any student or enrollee, [OR] the student's
15 or enrollee's parents or guardian, or class of these, determined to have suffered loss
16 or damage as a result of an agent's act or practice that [WHICH] is a violation of
17 this chapter [BY THE AGENT].

18 (c) The surety bond to be filed under this section must [SHALL] cover the
19 period of the authorization to operate or the agent's permit, as appropriate, except
20 when a surety is released as provided in this subsection. A surety on a bond filed
21 under this section may be released from that bond after the surety serves written
22 notice of the release to the department [COMMISSION] and to the bonded agent or
23 institution 45 days before the release. However, the release does not discharge or
24 otherwise affect a claim filed by a student or enrollee, [OR] a parent or guardian, or
25 class thereof, before or after the release for loss or damage resulting from an act or
26 practice that [WHICH] is a violation of this chapter alleged to have occurred while
27 the bond was in effect or for an institution's ceasing operations during the term for
28 which tuition has been paid while the bond was in force.

29 (d) Authorization for an institution to operate and an agent's permit shall be
30 suspended by operation of law when the institution or agent is no longer covered by
31 a surety bond as required by this section. However, the department [COMMISSION]
32 shall give the institution or agent, or both, at least 30 days written notice before the

1 release of the surety, [TO THE EFFECT] that the authorization or permit shall be
2 suspended by operation of law until another surety bond is filed in the same manner
3 as, and in a like amount to, the bond being terminated.

4 (e) In lieu of the surety bond required in (a) and (b) of this section, the
5 applicant may file with the department [COMMISSION] a cash deposit or other
6 negotiable security, acceptable to the department [COMMISSION], in the amount
7 specified for bonds.

8 * **Sec. 66.** AS 14.48.110 is amended to read:

9 Sec. 14.48.110. DENIAL. If the department [COMMISSION], upon review
10 of an application for authorization to operate [,] or an application for an agent's
11 permit, determines that the application should be denied, the department
12 [COMMISSION] shall notify the applicant, setting out the reasons in writing.
13 AS 44.62 (Administrative Procedure Act) governs the review of a denial under this
14 section.

15 * **Sec. 67.** AS 14.48.120 is amended to read:

16 Sec. 14.48.120. REVOCATION. (a) An authorization to operate or an
17 agent's permit may be revoked or conditioned if the department [COMMISSION]
18 has reasonable cause to believe that the holder of the authorization or permit is
19 violating or has violated this chapter, [OR] AS 45.50.471, [OR] regulations adopted
20 under this chapter, or AS 45.50.491. Except as provided in (b) of this section,
21 AS 44.62 (Administrative Procedure Act) governs the procedure for a revocation,
22 review of a revocation, or other action under this section.

23 (b) Authorization for an institution to operate, and a permit for an agent
24 representing that institution, are revoked 30 days after the institution ceases to operate.
25 The department [COMMISSION] shall give the institution and the agent 15 days'
26 written notice, by certified mail, sent return receipt requested, to the last addresses of
27 the institution and agent.

28 (c) The institution and the agent may appeal a revocation under (b) of this
29 section by filing an appeal in writing with the department [COMMISSION] within
30 30 days after the revocation."

31 Renumber the following bill sections accordingly.

1 Page 19, following line 12:

2 Insert new bill sections to read:

3 **"* Sec. 69.** AS 14.48.130 is amended to read:

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

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

20 (c) If, upon the evidence at a hearing, the department [COMMISSION] finds
21 that a postsecondary educational institution or its agent, or both, has engaged in, or
22 is engaging in, an act or practice that [WHICH] violates this chapter or the
23 regulations adopted under this chapter, the department [COMMISSION] shall serve
24 upon the institution or agent or both [,] an order requiring the institution or agent or
25 both to cease and desist from the act or practice. If the department [COMMISSION]
26 finds that the complainant, or class of complainants, has suffered loss or damage as
27 a result of the act or practice, the department [COMMISSION] may also award the
28 complainant, or class of complainants, full or partial restitution for the damage or loss
29 and may impose the penalties provided for in AS 14.48.190. The department
30 [COMMISSION] may also, based on its own investigation and the evidence adduced
31 at the hearing, begin an action to revoke an institution's authorization to operate or an
32 agent's permit.

1 * Sec. 70. AS 14.48.140 is amended to read:

2 Sec. 14.48.140. JUDICIAL REVIEW. A final administrative order issued by
3 the department [COMMISSION] is subject to judicial review under AS 44.62
4 (Administrative Procedure Act).

5 * Sec. 71. AS 14.48.150 is amended to read:

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

13 (b) If it appears to the department [COMMISSION] that records of an
14 institution discontinuing its operations are in danger of being destroyed or otherwise
15 made unavailable to the department [COMMISSION], the department
16 [COMMISSION] may seize the records [,] under an order of the superior court. The
17 department [COMMISSION] shall maintain a permanent file of records coming into
18 its possession under this section.

19 * Sec. 72. AS 14.48.180 is amended to read:

20 Sec. 14.48.180. ENFORCEMENT: INJUNCTION. (a) The attorney general
21 at the request of the department [COMMISSION] or on motion of the attorney
22 general, may bring an action or proceeding in a court of competent jurisdiction for the
23 enforcement of the provisions of this chapter.

24 (b) When it appears to the department [COMMISSION] that a person is, is
25 about to, or has violated a provision of this chapter or a regulation adopted under this
26 chapter, the department [COMMISSION] may, on its own motion or on the written
27 complaint of any person, file a petition for injunction in the name of the department
28 [COMMISSION] in a court of competent jurisdiction against the person for the
29 purpose of enjoining the violation or for an order directing compliance with the
30 provisions of this chapter. It is not necessary that the department [COMMISSION]
31 allege or prove that it has no adequate remedy at law. The right of injunction
32 provided in this section is in addition to other legal remedies available to the

1 department [COMMISSION] and is in addition to the right of criminal prosecution.
 2 However, the department [COMMISSION] may not obtain a temporary restraining
 3 order without notice to the person affected.

4 * Sec. 73. AS 14.48.190 is amended to read:

5 Sec. 14.48.190. VIOLATIONS: CIVIL PENALTY. A person who violates
 6 the provisions of AS 14.48.020, or who fails or refuses to deposit with the
 7 department [COMMISSIONER] the records required by AS 14.48.150, is subject to
 8 a civil penalty of not more than \$1,000 for each violation. Each day's failure to
 9 comply with the provisions of AS 14.48.020 and 14.48.150 constitutes a separate
 10 violation. The fine may be imposed by the department [COMMISSION] in an
 11 administrative proceeding or by a court of competent jurisdiction.

12 * Sec. 74. AS 14.48.200 is amended to read:

13 Sec. 14.48.200. CRIMINAL VIOLATION. A person who wilfully violates
 14 the provisions of AS 14.48.020 or who wilfully fails or refuses to deposit with the
 15 department [COMMISSION] the records required by AS 14.48.150 is guilty of a
 16 misdemeanor and, upon conviction, is punishable by a fine of not more than \$1,000
 17 or by imprisonment for not more than six months, or by both. Each day's failure to
 18 comply is a separate violation.

19 * Sec. 75. AS 14.48.210(2) is amended to read:

20 (2) "agent's permit" means a nontransferable written authorization
 21 issued to a natural person by the department that [COMMISSION WHICH] allows
 22 that person to solicit or enroll a resident of the state for education in a postsecondary
 23 educational institution;

24 * Sec. 76. AS 14.48.210(3) is amended to read:

25 (3) "authorization to operate" means approval of the department
 26 [COMMISSION] to operate or to contract to operate a postsecondary educational
 27 institution in the state;

28 * Sec. 77. AS 16.43.340(a) is amended to read:

29 (a) In addition to entry permits and interim-use permits, the commission may
 30 issue educational entry permits to public, private, or denominational educational
 31 institutions, career, or vocational programs accredited or authorized by the
 32 Department of Education [OR ACCREDITED INSTITUTIONS, CAREER, OR

1 VOCATIONAL PROGRAMS APPROVED BY THE ALASKA COMMISSION ON
 2 POSTSECONDARY EDUCATION], or full-time nonprofit residential child care
 3 facilities licensed by the Department of Health and Social Services, division of social
 4 services, if

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

7 (2) the issuance of an educational entry permit is reasonably necessary
 8 to the instruction of students under courses offered by the applicant for the
 9 educational entry permit;

10 (3) the program is offered by an institution that is located in the state
 11 and has been in operation for at least two years; and

12 (4) the institution offering the program is not a correspondence
 13 institution."

14 Renumber the following bill sections accordingly.

15 Page 20, lines 4 and 5:

16 Delete "Commission on Postsecondary Education (AS 14.48.035) [(AS 14.42.015)]"

17 Insert "Student Loan Corporation [COMMISSION ON POSTSECONDARY
 18 EDUCATION (AS 14.42.015)]"

19 Page 21, following line 5:

20 Insert a new bill section to read:

21 "** Sec. 84. AS 44.62.330(43) is amended to read:

22 (43) Department of Education [ALASKA COMMISSION ON
 23 POSTSECONDARY EDUCATION] under AS 14.48 as to denial of applications and
 24 revocation of authorizations and permits;"

25 Renumber the following bill sections accordingly.

26 Page 21, line 13:

27 Delete "sec. 46"

1 Insert "sec. 64"

2 Page 22, line 3:

3 Delete "sec. 58"

4 Insert "sec. 89"

5 Page 22, line 9:

6 Delete "sec. 58"

7 Insert "sec. 89"

8 Page 22, line 28:

9 Delete "Section 56(c)"

10 Insert "Section 87(c)"

11 Page 22, line 29:

12 Delete "sec. 57"

13 Insert "sec. 88"

Failed 2-5

AMENDMENT 2

OFFERED IN THE HOUSE (R) Bundin
TO: CSSB 301(FIN) am

1 Page 2, following line 11:

2 Insert a new bill section to read:

3 ** Sec. 2. AS 14.40.170(b) is amended to read:

4 (b) The Board of Regents may

5 (1) adopt reasonable rules, orders, and plans with reasonable penalties
6 for the good government of the university and for the regulation of the Board of
7 Regents;

8 (2) determine and regulate the course of instruction in the university
9 with the advice of the president;

10 (3) set student tuition and fees;

11 (4) receive and spend university receipts in accordance with AS 37.07

12 ([THE] Executive Budget Act);

13 (5) enter into agreements with government or postsecondary
14 education officials of this state or other states to provide postsecondary educational
15 services and programs to residents of this state pursuing a medical education: an
16 agreement with another state must be limited to services and programs that are
17 unavailable in this state [(AS 37.07)]."

18 Renumber the following bill sections accordingly.

19 Page 4, lines 22 - 26:

20 Delete all material.

21 Page 21, line 18:

22 Delete "sec. 46"

1 Insert "sec. 47"

2 Page 22, line 8:

3 Delete "sec. 58"

4 Insert "sec. 59"

5 Page 22, line 14:

6 Delete "sec. 58"

7 Insert "sec. 59"

8 Page 23, line 2:

9 Delete "Section 56(c)"

10 Insert "Section 57(c)"

11 Page 23, line 3:

12 Delete "sec. 57"

13 Insert "sec. 58"

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: April 26, 1996

FURTHER REFERRALS:

Date of Committee Action: 4/27/96

The FINANCE Committee considered:

CSSB 301(FIN) am

CS FOR SENATE BILL NO. 301(FIN) am

POSTSECONDARY EDUCATION

"An Act relating to postsecondary education; and providing for an effective date."

recommends it be replaced with the following committee substitute

CSSB 301 (FIN) am

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) Referred 4/19/96
(1) AK Post Secondary 4/19/96; 4/21/96
(2) DOE 4/19/96

zero fiscal note(s) AK Post Sec.

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Eden Reed</i> MULLER			X	
<i>Eric D. ...</i> KORRING	X			
<i>Terry ...</i> MANN			X	
<i>Mark ...</i> PARNEW			X	
<i>Jay ...</i> BROWN				X
<i>Eric ...</i> TERRIAULT			X	

CHAIR'S SIGNATURE *Eden Reed*

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CS SB 301 (FIN) am

Revision Date: 4/23/96

Department Affected: Education

Title: relating to postsecondary education

BRU: Alaska Commission on Postsecondary Education

Component: WAMI Medical Education

Sponsor: (S)HES

Requester: (S)FIN

COMPONENT SERIAL NO. 953

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
---------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ -0-

ANALYSIS: (S)Finance amendment deletes the transfer of the administration of the WAMI program to the University of Alaska Board of Regents. The administration of the program remains with the Commission. General funds for the WAMI program is currently in FY97 budget request.

Prepared by: Gillian R. Hays, Legislative Liaison

Phone: 465-6718

Division: Alaska Commission on Postsecondary Education

Date: _____

Approved by Executive Director: Diane Barrans

Date: 4/25/96

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FISCAL NOTE

Bill Version: CS SB 301 CFM No. 1

STATE OF ALASKA
1996 LEGISLATIVE SESSION

(S) Publish Date: 4/19/96

Revision Date: 4/13/96 Dept. Affected: Revenue
 Title: Postsecondary Education BRU: Administration & Support
 Component: Administrative Services
 Sponsor: HES
 Requester: (S)FIN COMPONENT SERIAL NO. 125

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 101	FY 102
PERSONAL SERVICES	42.4	43.1	43.8	44.8	45.5	48.3
TRAVEL						
CONTRACTUAL	1.8	1.8	1.8	1.8	1.8	1.8
SUPPLIES	0.8	0.8	0.8	0.8	0.8	0.8
EQUIPMENT	0.2					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	45.0	45.5	48.2	47.0	47.9	48.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other	45.0	45.5	48.2	47.0	47.9	48.7
TOTAL	45.0	45.5	48.2	47.0	47.9	48.7

Estimate of any current year (FY98) cost: \$ _____

POSITIONS

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Bob Baratta Phone: 485-2312
 Division: Administrative Services Division Date: 4/13/96
 Approved by: [Signature]
 Commissioner: Deborah Vogt Date: 4/13/96
 Agency: Revenue

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FISCAL NOTE

No. 6

Bill Version: CS SB 301 (FIN)

(S) Publish Date: 4/19/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION
 Revision Date: 4/1/96
 Title: relating to postsecondary education

Department Affected: Education
 BRU: Alaska Commission on Postsecondary Education
 Component: Student Loan Operations

Sponsor: (S)HES
 Requester: (S)FIN

COMPONENT SERIAL NO. 213

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL	6.0					
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	6.0					

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: Corporate Receipts	6.0					
TOTAL	6.0					

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact \$ -0-

ANALYSIS: The membership of the corporation would be increased from 5 to 10, creating a slight increase in travel and per diem costs for the 2 additional public members and 1 student member. The duties associated with the administration of the student loan programs would remain with the current staff and at the same staffing levels.

Prepared by: Gillian R. Hays, Legislative Liaison
 Division: Alaska Commission on Postsecondary Education
 Approved by Executive Director: Diane Barrans

Phone: 465-6718
 Date: _____
 Date: 4/1/96

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STATE OF ALASKA
1996 LEGISLATIVE SESSION

Version: CS SB 301(FIN)
(S) Publish Date: 4/19/96

Revision Date: 4/1/96
Title: An act relating to postsecondary education
Sponsor: Senate Health, Education & Social Services
Requester: Senate HESS

Dept. Affected: EDUCATION
BRU: Commissions & Boards
Component: Alaska Postsecondary Education Commission
COMPONENT SERIAL NO. new

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	34.7	34.7	34.7	34.7	34.7	34.7
TRAVEL	4.5	4.5	4.5	4.5	4.5	4.5
CONTRACTUAL	25.0	25.0	25.0	25.0	25.0	25.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	64.2	64.2	64.2	64.2	64.2	64.2

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	64.2	32.1	32.1	32.1	32.1	32.1
1005 GF/Program Receipts		32.1	32.1	32.1	32.1	32.1
Other: 1007 I/A Receipts						
TOTAL	64.2	64.2	64.2	64.2	64.2	64.2

Estimate of current year (FY96) cost: See AK Postsecondary Education Commission

POSITIONS:

FULL-TIME						
PART-TIME	1					
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary) The transfer of this responsibility to the Department of Education will require a part-time Program Coordinator to support the activities of the Commission. During the transition year, general funds will be necessary to support staff, travel, planning and meeting costs. The Commission will be implementing regulations to charge fees for institutional authorization and a portion of those fees may be used to support these activities in the out years, depending upon the receipts generated and the level of participation in the program.

Prepared by: Karen J. Rehfeld, Director
Division: Administrative Services
Approved by Commissioner: Shirley J. Holloway, Ph.D.
Agency: Department of Education

Phone: 465-8650
Date: April 2, 1996
Date: April 2, 1996

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FISCAL NOTE

No. 4

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: CS SB 301(FIN)

(S) Publish Date: 4/19/96

Revision Date: 4/1/96

Dept. Affected: EDUCATION

Title: An act relating to postsecondary education

BRU: Teaching & Learning Support

Component: Institutional Authorization

Sponsor: Senate Health, Education & Social Services

Requester: Senate HESS

COMPONENT SERIAL NO. new

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	95.5	95.5	95.5	95.5	95.5	95.5
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	27.5	27.5	27.5	27.5	27.5	27.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	125.0	125.0	125.0	125.0	125.0	125.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	125.0					
1005 GF/Program Receipts		125.0	125.0	125.0	125.0	125.0
Other: 1007 I/A Receipts						
TOTAL	125.0	125.0	125.0	125.0	125.0	125.0

Estimate of current year (FY96) cost: \$125.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary) The transfer of this function to the Department of Education will require the transfer of a full-time Program Coordinator and a part-time Compliance Auditor, currently in the Program Administration component of the Alaska Postsecondary Education Commission to the Division of Teaching & Learning Support. The positions will remain in Anchorage and will perform the function of institutional authorization and compliance. During the transition year, general funds will be necessary to support these activities. This will allow the newly appointed Commission to promulgate regulations to institute a self-supporting fee structure for this function in FY98.

Prepared by: Karen J. Rehfeld, Director *Karen Rehfeld*
Division: Administrative Services

Phone: 465-8650
Date: April 2, 1996

Approved by Commissioner: Shirley J. Holloway, Ph.D. *Shirley Holloway*
Agency: Department of Education

Date: April 2, 1996

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FISCAL NOTE

No. 3

Bill Version: CS SB 301 (HES)

(S) Publish Date: 4-2-96

STATE OF ALASKA

1996 LEGISLATIVE SESSION

Revision Date: 4/1/96

Title: relating to postsecondary education

Sponsor: (S)HES

Requester: (S)FIN

Department Affected: Education

BRU: Alaska Commission on Postsecondary Education

Component: Program Administration

COMPONENT SERIAL NO. 212

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL	(20.0)					
CONTRACTUAL	(2.0)					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	(22.0)	-0-	-0-	-0-	-0-	-0-

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
---------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other: Corporate Receipts	(22.0)					
TOTAL	(22.0)	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ (11.5)

ANALYSIS: Provisions in this bill transfers the Institutional Authorization functions to the Department of Education with oversight from a five-member Commission; requires legislative confirmation of Commission members; and transfers student loan program administration to the Alaska Student Loan Corporation in the Department of Revenue. There would be a reduction in costs associated with the preparation of quarterly Commission meetings, and travel and per diem for 14 members. Because the staff perform the Institutional Authorization functions and student loan compliance audits simultaneously in the office and out in the field, staffing levels would remain the same. This would allow for an increase in focus on the auditing of the student loan funds distributed to students through institutions.

Prepared by: Gillian R. Hays, Legislative Liaison

Phone: 465-6718

Division: Alaska Commission on Postsecondary Education

Date: _____

Approved by Executive Director: Diane Barrans

Date: 4/1/96

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STATE OF ALASKA

TONY KNOWLES, GOVERNOR

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

3030 VINTAGE BLVD.
JUNEAU, ALASKA 99801-7109
VOICE (800) 441-2962
In Juneau 465-6740
TDD (907) 465-3143
FAX (907) 465-3293

MEMORANDUM

TO: Members, Finance Committee
Alaska State Legislature

FROM: Diane Barrans, Executive Director *DB*

DATE: April 25, 1996

RE: SB 301
Alaska Student Loan Program

I am writing to you about the continuing efforts to provide for the long-term stability of the Alaska Student Loan programs through SB 301. Our commitment is to making changes necessary for the financial success of the loan program, the goal of which is to support all Alaskans in lifelong learning and workforce preparation.

Many provisions in the legislation were first proposed in Executive Order 97 (see attached comparison sheet). The governor's plan called for elimination of a nearly redundant board and consolidation of all student financial aid functions under an expanded, special interest-free corporation board. The primary goal was to create and maintain a clear and distinct focus on the general welfare of our programs and customers.

This legislation would also make some positive changes--separating the institutional authorization activity and assigning it to the Department of Education while moving the administration of the loan fund and the loan programs, within the Alaska Student Loan Corporation, to the Department of Revenue; eliminating special interest representation on the board; and, repealing unnecessary or redundant statutes.

However, this bill still leaves in its wake the inefficiencies of a state agency having to run two separate boards when only one is needed. Also, the corporation's bond counsel, Ken Vassar, Wohlforth, Argetsinger, Johnson and Brecht, has reviewed the legislation and has expressed serious concerns about the proposed composition of the corporation board. His letter is attached.

In our current climate of budget reduction and restraint an obvious solution to the first issue would be to eliminate the Commission altogether and let the State Board of Education accept, amend or reject the recommendations of the Institutional Authorization staff. Secondly, to address bond counsel's concerns, the bill could be amended to remove the nonvoting legislative members. I urge you to consider these options in your effort to ensure that the best interest of the programs and the Alaskan people can continue to be served.

As you deliberate over this legislation, I would appreciate your input on this or any other matter involving the student loan programs.

Attachments

**COMPARISON OF EXECUTIVE ORDER 97 AND RELATED LEGISLATION
ALASKA COMMISSION ON POSTSECONDARY EDUCATION**

Feature	Executive Order 97	CS HB 535	CSSB 301(FIN) am
ASL Fund Stability	<p>Eliminates 14 member Commission;</p> <p>Transfers agency to the Department of Revenue;</p> <p>ASL program governed by a single group of 7 members instead of two groups totaling 17 members.</p>	<p><u>Transfers Commission to the Department of Education for oversight of Institutional Authorization;</u></p> <p><u>Transfers administration of the loan fund and ASL programs, to the Department of Revenue;</u></p> <p><u>ASL programs governed by ASL Corporation of 10 members (3 are ex officio, non voting members);</u></p> <p><u>Provides authority to adopt regulations under general provisions for all programs.</u></p>	<p><u>Transfers Commission to the Department of Education for oversight of Institutional Authorization;</u></p> <p><u>Transfers administration of the loan fund and ASL programs, to the Department of Revenue;</u></p> <p><u>ASL programs governed by ASL Corporation of 10 members (3 are ex officio, non voting members);</u></p> <p><u>Provides authority to adopt regulations under general provisions for all programs.</u></p>
Administrative Efficiency	<p><i>Eliminates costs associated with a 14 member commission meeting 4 times a year;</i></p> <p><i>Streamlines the investment functions of the student loan fund;</i></p>	<p>Reduces, but does not eliminate, costs associated with a 14 member commission meeting 4 times a year;</p> <p>Streamlines the investment functions of the student loan fund;</p> <p><u>Replaces Commissioner of C & ED with representative from Department of Education;</u></p> <p><u>Transfers authority to receive GF funds for WAMI program to the University of Alaska;</u></p>	<p>Reduces, but does not eliminate, costs associated with a 14 member commission meeting 4 times a year;</p> <p>Streamlines the investment functions of the student loan fund;</p> <p><u>Replaces Commissioner of C & ED with representative from Department of Education;</u></p>

BOLD TEXT indicates Administration's concerns
Underlined text indicates language *not* included in EO

Feature	Executive Order 97	CS HB 535	CS SB 301(FIN)
<p>Constitutional and Legal Authority Clarifications</p>	<p>Resolves constitutional issue that exists with two legislators sitting on a regulatory commission;</p> <p>The staff of the corporation transfer to the Department of Revenue for administrative support purposes only;</p> <p>Expands scope of policy and planning by the Department of Education to include postsecondary education;</p>	<p><u>Does not resolve constitutional issue that exists with legislative representation on a public Corporation:</u></p> <p>The staff of the corporation transfer to the Department of Revenue for administrative support purposes only;</p> <p><u>Leaves legislative confirmation of Commission members:</u></p> <p><u>Requires membership of the Corporation to also serve on Commission:</u></p> <p><u>Expands scope of policy and planning by the Department of Education to perform Institutional Authorization functions:</u></p>	<p><u>Does not resolve constitutional issue that exists with legislative representation on a public Corporation:</u></p> <p>The staff of the corporation transfer to the Department of Revenue for administrative support purposes only;</p> <p><u>Leaves legislative confirmation of Commission members:</u></p> <p><u>Requires membership of the Commission to also serve on Corporation:</u></p> <p><u>Expands scope of policy and planning by the Department of Education to perform Institutional Authorization functions:</u></p>
<p>Technical Changes</p>	<p>none</p>	<p><u>Corrects errors found in SB 123 regarding half-time loan amounts and length of study for half-time career education programs.</u></p> <p><u>Cleans up archaic language and modifies agency statutes so that focus is on perpetuating a healthy loan fund.</u></p>	<p><u>Corrects errors found in SB 123 regarding half-time loan amounts and length of study for half-time career education programs.</u></p> <p><u>Cleans up archaic language and modifies agency statutes so that focus is on perpetuating a healthy loan fund.</u></p>

BOLD TEXT indicates Administration's concerns
Underlined text indicates language *not* included in EO

WOHLFORTH, ARGETSINGER, JOHNSON & BRECHT

A PROFESSIONAL CORPORATION

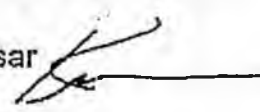
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MEMORANDUM

TO: Diane Barrans
Executive Director
Alaska Student Loan Corporation

Teresa E. Williams
Assistant Attorney General
Attorney General's Office

FROM: Ken Vassar 

DATE: April 4, 1996

SUBJECT: Comments Regarding CS for Senate Bill No. 301 (HES) (Legislative Affairs Work Draft 9-LS1748\F Dated 3/29/96) and CS for House Bill No. 535 (HES) (Legislative Affairs Work Draft 9-851748\K Dated 3/27/96)
Our File No. 4908.0213

As we discussed over the telephone yesterday, I have reviewed the above-referenced draft legislation. The two bills are similar in most respects, although there are some differences. I offer the following comments for your consideration.

My first, and most serious, concern arises on page 3, lines 8 through 11, of the Senate Bill and at page 3, lines 9 through 12, of the House Bill. Under these provisions, two legislators would be included as members of the board of directors of the Alaska Student Loan Corporation. Even though these members would be nonvoting, I am very concerned that inclusion of legislators on the governing board of an executive branch agency may violate the separation of powers concept of the Alaska Constitution.

This concern is particularly serious because it goes to the validity of the Corporation's decision-making process. Any issuance of bonds by the Corporation must be approved by its board of directors, and the validity of any such approval by the board of directors depends upon the validity of the board's membership. I fear that the inclusion of legislators on the board may constitutionally taint the

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board's validity. If there is any reasonable possibility that this is the case, it would be difficult, if not impossible, for us to provide an approving opinion in connection with an attempt by the Corporation to issue bonds. This issue will certainly require further research and consultation with the Department of Law if it remains a part of the legislation.

Also relating to the membership of the board of directors, I note that the language contained on page 3, lines 14 through 16, of the Senate Bill, relating to the student members of the board, is an improvement over the corresponding language contained in the House Bill (page 3, lines 15 through 17). The previous version would have specified certain existing universities from which the student members would be chosen. The current version calls for selection of the members from colleges in Alaska without naming particular colleges. In the interest of avoiding questions of special or local legislation under Article II, Section 19, of the State Constitution, I think the current version is far preferable.

As a new bill section to be added at page 5 before the existing section 3 at line 2 of the Senate Bill and line 6 of the House Bill, we discussed amending AS 14.42.200(9). This paragraph, as it currently reads, gives the Corporation the power to "collect from a borrower amounts owed with respect to a student loan the corporation has purchased". Under the proposed legislation, the Corporation will make loans directly rather than purchasing them from another entity. Accordingly, AS 14.42.200(9) should more appropriately read: "collect from a borrower amounts owed with respect to a student loan held by the corporation".

Finally, this legislation would also shift many of the duties of the Alaska Commission on Postsecondary Education over to the Corporation and (at page 21, line 2 of the Senate Bill and line 4 of the House Bill) would repeal AS 14.43.090 (establishing the scholarship revolving loan fund and describing how that fund can be used). Since the Corporation would be taking on many of the Commission's responsibilities, it should be given adequate powers to accomplish those duties as well. Accordingly, I would suggest borrowing from AS 14.43.090 the phrase "to pay the costs of administering the fund" and add it to the proposed amendment of AS 14.42.210(b) on page 5, at lines 18 through 21 of the Senate Bill and lines 22 through 25 of the House Bill.

I hope these comments are helpful. I am happy to review further drafts as you consider appropriate.