

**SB**

**189**

CS FOR SENATE BILL NO. 189(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE BY  
REQUEST  
A BILL

FOR AN ACT ENTITLED

1 "An Act relating to eligibility for and default, collection, and repayment of  
2 student loans; relating to nonrenewal of certain occupational licenses for default  
3 on a student loan; and providing for an effective date."

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

5 \* Section 1. AS 14.42.200(10) is amended to read:

6 (10) gather information on student loans available to residents of  
7 Alaska and disseminate the information to reasonably assure that qualified residents  
8 are aware of financial resources available to those attending or desiring to attend  
9 institutions for which loans may be made under AS 14.43.090 - 14.43.325, 14.43.600 -  
10 14.43.700, or 14.43.710 - 14.43.750 [14.43.710 - 14.43.790];

11 \* Sec. 2. AS 14.42.210(a) is amended to read:

12 (a) The student loan fund is established in the corporation. The student loan  
13 fund is a trust fund to be used to carry out the purposes of AS 14.42.100 - 14.42.390,  
14 AS 14.43.090 - 14.43.325, 14.43.600 - 14.43.700, and 14.43.710 - 14.43.750

1 and

2 (8) does not have a credit history, at the time of application for a  
 3 loan, that demonstrates chronic inability or unwillingness to pay an extension of  
 4 credit or loan as it becomes due.

5 \* Sec. 7. AS 14.43.125 is amended by adding new <sup>Sub</sup> sections to read:

6 (d) Notwithstanding (a)(6) - (8) of this section, the commission may issue a  
 7 loan to a person if another person who satisfies the requirements of (a)(2) and (a)(4) -  
 8 (8) of this section cosigns the loan.

9 (e) The commission may withhold disbursement of a loan if the borrower  
 10 becomes ineligible under this section.

11 \* Sec. 8. AS 43.43 is amended by adding new sections to read:

12 Sec. 14.43.145. Default. (a) For the purposes of this chapter, a loan is in  
 13 default if a loan payment has become 180 or more days past due. Upon default,

14 (1) repayment of the remaining balance is accelerated and due;

15 (2) the commission may take the borrower's permanent fund dividend  
 16 under AS 43.23.067;

17 (3) the commission may issue an order to withhold and deliver under  
 18 AS 14.43.147; and

19 (4) the commission may provide notice of the default to a licensing  
 20 entity for nonrenewal of the license under AS 14.43.148.

21 (b) The commission shall notify the borrower of the default, and the  
 22 consequences of default imposed under (a) of this section, by mailing a notice to the  
 23 borrower's most recent address provided to the commission by the borrower or  
 24 obtained by the commission.

25 (c) A borrower may appeal a notice of default by filing a statement with the  
 26 executive director, within 30 days after the date of the notice, requesting that the loan  
 27 status be reviewed. AS 44.62 (Administrative Procedure Act) does not apply to the  
 28 review of default under this section. The borrower has the burden to show that, at the  
 29 time of the notice of default, no loan payment was more than 180 days past due or that  
 30 the borrower entered into, and was in compliance with, a default forbearance  
 31 agreement with the commission. The decision of the executive director is a final

# Alaska State Legislature

Senator Gary Wilken, Chairman  
Senator Loren Leman, Vice Chairman  
Senator Lyda Green  
Senator Jerry Ward  
Senator Johnny Ellis



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## Senate Committee on Health, Education and Social Services

### SPONSOR STATEMENT

#### SB 189 – Repayment of Student Loans

Currently the default rate of the student loans issued by the Alaska Commission of Postsecondary Education is unacceptable. Senate Bill 189 provides the Commission with the necessary financial tools to effectively and efficiently reduce the number of loans which are in default.

The ultimate goal of this legislation is to create a financially solvent Alaska student loan program that will be available to the next generation of Alaskan postsecondary students. SB 189 will (1) improve the credit rating of the Alaska Student Loan Program, (2) lower the loan program default rate, (3) improve the return rate on funds loaned to borrowers, and (4) increase the recovery rate on defaulted loans.

With the huge jump in loan demand that this program is now experiencing (20% – 25%), it is vital that the Commission be given the tools and authority to operate on a business-basis. Passage of Senate Bill 189 will be a step in the right direction.

**ALASKA COMMISSION ON POSTSECONDARY EDUCATION**

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**SB 189-- "An act relating to eligibility for and default, collection and repayment of student loans; relating to nonrenewal of certain occupational licenses for default on a student loan; and providing for an effective date."**

- Allows the Alaska Student Loan Programs (ASLP) administrators to assess applicants' credit history to identify chronic bad debt. This provides an indicator of a borrower's potential ability to repay their debts;
- Provides applicants, found to have chronic bad debt, with an opportunity to obtain a credit worthy co-signer;
- Provides cost-effective, relevant sanctions that will be imposed when borrowers default and which will motivate borrowers to repay to avoid sanctions;
- Provides an increased rate of return on funds loaned to offset current interest losses to the fund;
- Provides for issuance of a temporary occupational/professional license during a borrower appeal of the nonrenewal of a license.

The ultimate goal of this legislation is to create a financially solvent Alaska student financial aid resource that will, without further assistance from the State coffers, still be available to the next generation of Alaskan postsecondary students. This bill contains a number of tools which are necessary to achieve specific objectives: improving the credit rating of the Alaska Student Loan Program; lowering the loan program default rate; improving the return rate on funds loaned to borrowers; and, increasing the recovery rate on defaulted loans.

These objectives are measurable and should be measured. If this bill is enacted, it would be with the intent that the Commission, in its annual report to the Governor and the Legislature, include these statistics as a report card on the effectiveness of these tools and to insure accountability on the part of program administrators. This bill supports this legislature's and the administration's goals for self-sustaining government operations.

**Are These Legislative Changes Really Necessary?**

The Alaska Student Loan Corporation is in critical need of assistance through legislative changes to the programs it funds. These are changes that would have been prudent to make at the point in time when the General Fund subsidy was eliminated, thereby funding the programs solely with private capital. The following are fund loss statistics.

- The total amount of forgiveness granted from 1972 to June 30, 1996 was approximately \$70 million. Of that amount, over \$57.3 million has been granted since the Corporation was created in 1987. Staff estimate that the Corporation will have to pay another \$8.7 million as these older loans are retired. Had the Corporation

continued to receive General Funds to offset these losses, it would have had a retained earnings balance of \$19.1 million at the end of the FY96 instead of the current deficit balance of \$47.3.

- Losses due to loans written-off (death, disability, bankruptcy and lack of payment activity) since the Corporation's creation total approximately \$47.8 million at 6/30/96. Staff estimate that another \$97.1 million, of the current loan portfolio, will be written-off in the future.
- Another 'public policy' loan issue is interest accrual. The September 30, 1996, unaudited financial statements indicated that loans totaling \$122,662,495, or 23% of the portfolio at September 30, 1996, were not accruing interest because they were in an interest-free period. Of these loans, approximately 60% were financed with bond proceeds. From a purely business perspective, any interest-free period on these student loans results in a loss to the Corporation as it pays interest on outstanding bonds from issuance until retirement of the bond debt and forgoes interest income on funds used to originate the loans.

At the time the Corporation was created, the ASLP was overcapitalized to a significant extent. Additionally, the Corporation adopted, and the legislature initially funded, the "Millennium Plan", a capitalization plan that assumed yearly influxes of General Funds leaving little concern that the Corporation would not be able to easily meet the debt service coverage ratio of 150% stipulated in its master bond indenture. The unanticipated elimination of General Fund support caused the abrupt curtailment of that plan in 1991, leading to several years of large bond issues to keep up with student borrowing needs. As a result, the Corporation is now very close to the minimal level of debt service coverage required by the master bond indenture.

With the huge jump in loan demand that the program is now experiencing (20% - 25%), it is vital that the Commission be given the tools and authority to operate on a business-basis. Alaska can no longer afford to characterize and consider this student aid source as simply a social service.

#### **What Methods Will be Used to Measure the Success of these Changes, if Enacted?**

The Commission/Corporation provides a variety of indicators that will reflect the effectiveness of program changes. They include: program default rate, annual audited financial statements, default recovery statistics, etc.

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Sectional Analysis

An act relating to eligibility for and default, collection, and repayment of student loans.

Sections 1- 3: Technical conforming amendments to reflect the appropriate citation referencing the Family Education Loan Program (FELP).

Section 4: Provides for deferment of Half-Time Alaska Student Loans for borrowers who are in full-time student status at postsecondary institutions outside of Alaska.

Section 5: Increases by one-half of one percent the interest rate allowance to be used to offset costs of administering corporation and commission.

Section 6: Borrower eligibility section is amended to clarify that borrower must be eligible not only at the time of application but also at the time the funds are received (may be several intervening months). Places the residency criteria in the appropriate section of statute (currently set out in AS 14.43.120(p)) and clarifies language relating to residency eligibility.

- **Substantive change is addition of (a)(6-8), page 5, beginning on line 26. Allows for assessment of applicants' credit history to identify chronic bad debt. Will allow program administrators to determine inability to repay.**

Section 7: Provides for loan eligibility if applicant obtains a credit-worthy cosigner.

Section 8: Expands tools for collecting on defaulted loans (Six months or more in arrears).

- **Page 6, line 12 – Page 7, line 2, (AS 14.43.145) describes the sanctions that will be imposed when a borrower defaults.**
- **Page 6, line 3 – Page 9, line 1, (AS 14.43.147) authorizes administrative wage garnishment and describe the legal process. (Modeled after Child Support Enforcement's garnishment in AS 25.27.070.)**
- **Page 9, line 2 – Page 12, line 9, (AS 14.43.148) expands existing authority to intervene in the renewal of professional or occupational licenses and provides for issuance of a temporary license during a period when the licensee may dispute that agency's action. Excludes those licenses which may be jointly owned or which are not centrally controlled. Exclusion will eliminate potential damage to non-borrowers and avoids targeting licenses that would require intensive manual intervention to administer.**

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**Sections 9-15:** Technical changes amending citation of FELP and making eligibility criteria consistent among Alaska Student Loans, Teacher Scholarship Loans and Family Education Loans.

**Section 16:** Clarifies that certain temporary licenses issued during a loan default appeal process are not eligible for transfer to a spouse of a deceased licensee.

**Section 17:** Re-states an existing Revenue statute to conform to this legislation (re: PFD garnishment).

**Section 18:** Technical conforming repealers. Specifically, AS 08.02.025 is replaced by new AS 14.43.148; AS 14.43.120(i) and (q) are replaced by new AS 14.43.145; 14.43.740(b) is replaced by amended AS 14.43.720(a); and, AS 14.43.790 is replaced by amended AS 14.43.740(a).

**Section 19:** Authority to promulgate regulations prior to effective date of this act, but which may not be in effect prior to the effective date of the act.

**Section 20:** Providing for an immediate effective date for Section 19.

**Section 21:** Providing for an effective date of July 1, 1997 for the act.