

## CHAPTER 42

### POSTSECONDARY EDUCATION

#### Article

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#### Article 1. ALASKA COMMISSION ON POSTSECONDARY EDUCATION

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The uncodified law of the State of Alaska was amended effective July 4, 2001, to read:

FINDINGS: The legislature finds and declares that

(1) it is essential for the ongoing economic health and well being of the state and its citizens and families for the state to develop coordinated programs to more efficiently and fully use federal and state financial resources in

(A) making postsecondary educational opportunities more accessible to its citizens;

(B) supporting recruitment and retention of students to support the state's postsecondary education system;

(C) creating statewide comprehensive planning for postsecondary education, including postsecondary educational institutions and related agencies; and

(D) creating a centralized information and financial aid center to provide a "one-stop" postsecondary educational information and financial aid services center;

(2) it is essential that this and future generations of Alaskans be given the fullest opportunity to access and benefit from postsecondary education, and that the state as a whole be enabled to provide and reap the benefits of a well-trained and educated citizenry;

(3) citizens of this state and students attending postsecondary institutions in this state, and their parents and others responsible for paying those postsecondary education expenses, should be provided with financial assistance at a lower cost in order to provide for those expenses;

(4) institutions of postsecondary education in the state should be provided with financial aid tools to assist in the admission and retention of qualified students; and

(5) benefits of the postsecondary programs, including the changes made by this Act, accrue to the Alaska public as a whole. (sec. 1 ch 85, Temporary and Special Acts and Resolves)

The uncodified law of the State of Alaska was amended effective May 1, 2009, to read:

AS 14.43.172(c), as amended by sec. 1 of this Act [HB109]), and AS 14.43.740(c), as repealed and reenacted by sec. 2 of this Act [HB109], first apply to loans made for a school year that begins on or after July 1, 2009, and apply thereafter.

**Sec. 14. 42. 010. Purpose, intent.** (a) [*Repealed*, sec. 42 ch 85 SLA 2001.]

(SB61 Revisor's Bill 5/19/11)

(b) The legislature affirms that the legal authority for the operation and management of the statewide university system remains with the Board of Regents of the University of Alaska and the legal authority for the operation and management of other postsecondary educational programs remains with the governing boards of the other private nonprofit and proprietary institutions in the state. (sec. 4 ch 78 SLA 1974; am sec. 42 ch 85 SLA 2001)

**Sec. 14.42.015. Creation, composition, appointment of members.** (a) There is in the Department of Education and Early Development the Alaska Commission on Postsecondary Education consisting of

(1) two members of the Board of Regents of the University of Alaska designated by the members of that body;

(2) one person representing private higher education in the state selected by the Board of Trustees of Alaska Pacific University from among its membership;

(3) one person representing the Department of Education and Early Development selected by the state Board of Education;

(4) four persons broadly and equitably representative of the general public appointed by the governor;

(5) one member of the Alaska Workforce Investment Board established by AS 23.15.550 designated by the members of that body;

(6) one person from the members of the local community college advisory councils appointed by the governor;

(7) two members from the legislature, one of whom shall be appointed by the president of the senate and one by the speaker of the house of representatives;

(8) one person appointed in accordance with (e) of this section who is a full-time student as defined in AS 14.43.160;

(9) one administrator appointed by the governor from a proprietary institution of postsecondary education that has an authorization to operate in the state issued under AS 14.48.

(b) No governing body member, trustee, official, or employee of either a public, private, or proprietary institution of postsecondary or higher education in the state may be appointed to membership on the commission as representative of the general public for the purpose of (a)(4) of this section.

(c) The governor's appointees are subject to confirmation by the legislature and shall serve at the pleasure of the governor for four-year staggered terms. Members appointed or designated by bodies or agencies other than the governor serve at the pleasure of the appointing authority. Vacancies shall be filled in the same manner as original appointment.

(d) A full-time postsecondary student shall be appointed to the Alaska Commission on Postsecondary Education from a list of nominees submitted to the governor. The governor shall make the appointment from the list within 60 days after it is submitted. The list must consist of the names of two nominees from Alaska Pacific University and two nominees from each campus of the University of Alaska. The nominees shall be selected by the students at Alaska Pacific University and each campus of the University of Alaska by an election held on each campus. Elections under this subsection shall be held concurrently with student regent elections required under AS 14.40.150(b) and conducted under rules established by the Office of the Governor. The term of office of the student member of the commission is two years and begins June 1 of the year in which the appointment is made. Membership on the commission is immediately forfeited by a student member who ceases to be a full-time student. Within 60 days after a vacancy occurs, the governor shall appoint a successor from those students appearing on the list of nominees to serve for the unexpired term of the original appointee. The term "campus" used in this subsection means a portion of the University of Alaska designated as a "campus" by the Board of Regents.

(e) For the purpose of (a)(4) of this section, "broadly and equitably representative of the general public" means that the public membership of the commission shall include adequate representation both on the basis of sex and on the basis of the significant racial, ethnic, geographic, and economic groups in the

state. (sec. 4 ch 78 SLA 1974; am sec. 1 - 3 ch 64 SLA 1982; am sec. 56 ch 6 SLA 1984; am sec. 1 ch 64 SLA 1986; am sec. 1 ch 41 SLA 1990; am sec. 3 ch 61 SLA 1995; am sec 12 ch 58 SLA 1999; am sec 2 ch 86 SLA 2002; am sec 8 ch 11 SLA 2011)

**Sec. 14.42.020. Officers.** The chairman and vice-chairman shall be elected from among the members of the commission for a one-year term. A member of the commission may not serve as chairman for more than two consecutive one-year terms. (sec. 4 ch 78 SLA 1974)

**Sec. 14.42.025. Meetings, rules, votes required.** The commission shall prescribe its own rules of procedure. The commission shall meet once quarterly at a time and place determined by the chairman, and at other times and places as the chairman, or a majority of the members of the commission, consider necessary. A quorum is a majority of the members of the commission. The votes of the commission members shall be recorded, and effective action requires the affirmative vote of a majority of the commission members present. A commission member may not, with respect to a matter before the commission, vote for or on behalf of, or in any way exercise the vote of, another member of the commission. (sec. 4 ch 78 SLA 1974)

**Sec. 14.42.030. Functions, duties, and powers of the commission.** (a) The commission has the following functions, advisory to the governing boards of institutions of public and private higher education in this state, to the governor, the legislature, and to other appropriate state and federal officials:

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

(2) review and advise as to the efficiency and effectiveness of all consortia and other cooperative agreements between the institutions of public and private higher education in the state that are parties to them.

(b) The commission shall

(1) administer the financial aid and interstate education compact programs under AS 14.43.091 – 14.43.920 and 14.43.990, and AS 14.44;

(2) administer the provisions of AS 14.48 concerning regulation of postsecondary educational institutions;

(3) resolve disputes under a consortium or other cooperative agreement between institutions of public and private higher education in the state; and

(4) serve as the state agency required under 20 U.S.C. 1001 – 1155.

(c) *[Repealed, sec. 42 ch 85 SLA 2001.]*

(d) *[Renumbered as AS 14.42.033.]*

(e) The commission may

(1) adopt regulations under AS 44.62 (Administrative Procedure Act) to

(A) carry out the purposes of

(i) AS 14.43.091 – 14.43.849, 14.43.990, AS 14.44, and AS 14.48; and

(ii) AS 14.43.910 and 14.43.920 as they relate to the purposes of AS

14.43.091 – 14.43.849, 14.43.990, AS 14.44, and AS 14.48;

(B) ensure compliance with the requirements imposed by state and federal statutes and regulations governing the guaranty, insurance, purchase, or other dealings in eligible loans by federal agencies, instrumentalities, or corporations; and

(C) establish standards for the

(i) administration of hearings conducted under AS 14.43.153; and

(ii) administrative enforcement of collection orders under AS 14.43.151-14.43.155;

(2) delegate to the executive director of the commission or a subcommittee of the

commission any duty imposed on or power granted to the commission by this chapter, AS 14.43, AS 14.44, or AS 14.48, except its power to adopt regulations and its duty to consider appeals under AS 14.43.100(b) and AS 14.48.120;

(3) establish task forces, committees, or subcommittees, not necessarily consisting of commission members, to advise and assist the commission in carrying out its functions;

(4) contract with or use existing institutions of postsecondary education or other individuals or organizations to make studies, conduct surveys, submit recommendations, or otherwise contribute to the work of the commission;

(5) establish fees for the review of an out-of-state institution that

(A) requests approval for participation in the programs under AS 14.43.091 – 14.43.750, 14.43.990, and AS 14.44; and

(B) is not accredited by a national or regional accreditation association recognized by the Council on Higher Education Accreditation; and

(6) collect all fees and costs incurred in collection of the amount owed on a loan or repayment obligation if the loan or repayment obligation becomes delinquent or in default; in this paragraph, fees and costs include attorney fees, court costs, and collection fees charged by a collection agency. (sec. 4 ch 78 SLA 1974; am sec. 2 ch 25 SLA 1976; am sec. 24 ch 14 SLA 1987; am sec. 1 ch 15 SLA 1987; am sec. 1 ch 43 SLA 1991; am sec. 35 ch 126 SLA 1994; am sec. 1 ch 54 SLA 1998; am sec. 1 ch 23 SLA 1999; am sec. 2-4 42 ch 85 SLA 2001; am sec. 1 ch 63 SLA 2004; am sec. 1 ch 5 SLA 2007; am sec 2 ch 14 SLA 2010)

**Sec. 14.42.032. Limitation on awarding loans.** *[Repealed, sec. 26 ch 5 SLA 1996.]*

**Sec. 14.42.033. Agreements for medical education.** The commission shall enter into agreements with government or postsecondary education officials of this state or other states to provide postsecondary educational services and programs to Alaska residents pursuing a medical education degree sufficient to accommodate at least 20 new program participants each year. An agreement with another state must be limited to services and programs that are unavailable in Alaska. The commission shall require a person participating in a medical education program offered under this subsection to agree to the repayment condition imposed under AS 14.43.510. (sec. 1 ch 15 SLA 1987; am sec. 1 ch 54 SLA 1998; am sec. 1 ch 23 SLA 1999; am sec. 1 ch 5 SLA 2007)

**Sec. 14.42.035. Collection of data.** The commission may require the institutions of public and private higher education and other institutions of postsecondary education, in the state to submit data on costs, selection and retention of students, enrollments, plant capacities and use, and other matters pertinent to effective planning and coordination, and shall furnish information concerning these matters to the governor, to the legislature, and to other state and federal agencies as requested by them. (sec. 4 ch 78 SLA 1974)

**Sec. 14.42.040. Executive officer and staff; administration.** (a) The commission may appoint an executive director as the commission's executive officer. The executive officer is a member of the exempt service under AS 39.25.110, serves at the pleasure of the commission, and receives compensation fixed by the commission. The executive officer appoints persons to the staff positions authorized by the commission, and staff compensation is fixed by the commission. Each employee of the commission shall elect membership either in the state teachers' retirement system (AS 14.25), if qualified, or in the public employees' retirement system (AS 39.35).

(b) The Alaska Commission on Postsecondary Education is not a division in the Department of Education and Early Development. The commission, its members, executive officer, and staff are in the Department of Education and Early Development for administrative support services only, and they are not subject to the direction of the commissioner of education or the state Board of Education. (sec. 4 ch 78 SLA

1974; am sec. 2 ch 43 SLA 1991)

**Sec. 14.42.045. Compensation and per diem.** Members of the commission serve without compensation but are entitled to per diem and travel expenses as may be authorized by law for boards and commissions. (sec. 4 ch 78 SLA 1974)

**Sec. 14.42.050. Legal counsel.** (a) The attorney general is legal counsel for the commission. The attorney general shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party. If, in the opinion of the commission, the public interest is not adequately represented by counsel in a proceeding, the attorney general, upon request of the commission, shall represent the public interest.

(b) The commission may employ temporary legal counsel from time to time in matters in which the commission is involved. (sec. 3 ch 25 SLA 1976)

**Sec. 14.42.055. Consortia.** All parties that are signatory to a consortium agreement between the University of Alaska and a private university or college must abide by a decision rendered by the commission when disagreements arise or exist between the parties. For purposes of this section and AS 14.42.030, "consortium" means a cooperative arrangement between two or more public or private institutions of postsecondary education specified in agreements or memoranda of understanding to permit sharing of facilities, instructional opportunities, and other educational services in such a way that the integrity of each institution party to the consortium is preserved while at the same time the institutions cooperatively plan the academic calendar, scheduling, use of personnel and facilities, and educational programs and offerings to the maximum advantage of the students and faculties of the institutions that are parties to a consortium. (sec. 8 ch 246 SLA 1976; am sec. 5 ch 85 SLA 2001)

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## Article 2. ALASKA STUDENT LOAN CORPORATION

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**Sec. 14.42.100. Creation of Alaska Student Loan Corporation.** There is created the Alaska Student Loan Corporation. The corporation is a public corporation and government instrumentality within the Department of Education and Early Development but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes, or other obligations outstanding. Upon termination of the corporation, its rights and property pass to the state. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.110. Purpose of corporation.** [Repealed, Sec.31 ch63 SLA 2004]

**Sec. 14.42.120. Corporation governing body.** (a) The corporation shall be governed by a board of directors appointed by the governor consisting of two members of the Alaska Commission on Postsecondary Education, each of whom is selected for the commission under AS 14.42.015(a)(1) - (2), (4) - (6), (8), or (9) and the commissioner of revenue, the commissioner of administration, and the commissioner of Commerce, Community, and Economic Development. Members of the board serve without compensation but the members who are also members of the Alaska Commission on Postsecondary Education are entitled to per diem and travel expenses authorized by law for boards and commissions under AS 39.20.180.

(b) The board shall elect a chairman from among its membership at its annual meeting each year. A majority of the members constitute a quorum for organizing the board, conducting its business, and exercising the powers of the corporation. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.130. Meetings of the board.** (a) The board shall meet at the call of its chairman and at other times as the board may determine in accordance with its regulations.

(b) Public notice of a meeting of the board at which the issuance of corporation bonds is authorized shall be provided at least 24 hours before the meeting. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.140. Minutes of meetings.** The board shall keep minutes of each meeting and send a certified copy to the governor and to the Legislative Budget and Audit Committee. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.150. Administration of affairs.** The board shall manage the assets and business of the corporation and may adopt bylaws and regulations, in accordance with AS 44.62 (Administrative Procedure Act), governing the manner in which the business of the corporation is conducted and the manner in which

its powers are exercised. The board shall delegate supervision of the administration of the corporation to the executive officer of the corporation. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.160. Executive officer.** The executive officer of the Commission on Postsecondary Education appointed under AS 14.42.040(a) shall serve as executive officer of the corporation. The board shall prescribe the duties of the executive officer. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.170. Staff.** The employees of the Alaska Commission on Postsecondary Education shall serve as staff for the corporation. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.190. Budget.** The operating budget of the corporation is subject to AS 37.07 (Executive Budget Act). (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.200. General powers.** In addition to other powers granted in this chapter, the corporation may

- (1) sue and be sued in its own name;
- (2) adopt an official seal;
- (3) adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the purposes of this chapter;
- (4) make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the corporation, including contracts with a person or governmental entity;
- (5) receive, take, hold, and administer, on behalf of the corporation and for any of its purposes, any appropriation, gift, grant, bequest, devise, or donation of real property or personal property if that obligation of the corporation is not a debt of the state; in this paragraph, "property" includes
  - (A) money; and
  - (B) life estates, leases, or other interests in property;
- (6) borrow money as provided in this chapter to carry out its corporate purposes and issue its obligations as evidence of the borrowing;
- (7) include in a borrowing the amounts to pay financing charges, interest on the obligations for a period not exceeding one year after the date on which the corporation estimates funds will otherwise be available to pay the interest, consultant, advisory, and legal fees, and other expenses necessary or incident to the borrowing;
- (8) invest or reinvest, subject to its contracts with noteholders and bondholders, money held by the corporation as set out in AS 37.10.071;
- (9) set and collect interest, fees, and charges in connection with education loans or repayment obligations held by the corporation and its servicing agents; in this paragraph, "charges" includes costs of financing by the corporation, service charges, insurance premiums, and other costs incurred by the corporation in carrying out its corporate purposes;
- (10) gather information on postsecondary education financial resources available to residents of this state and disseminate the information to reasonably assure that qualified residents are aware of those financial resources;
- (11) service education loans and repayment obligations held by the corporation;
- (12) purchase or participate in the purchase of education loans;
- (13) contract in advance for the purchase or sale of education loans;
- (14) sell or participate in the sale, either public or private and on terms authorized by the board, of education loans to the Student Loan Marketing Association or to other purchasers;
- (15) collect and pay reasonable fees and charges in connection with the purchase, sale, and servicing

of education loans and repayment obligations;

(16) enter into agreements with the federal government, including guaranty agreements and supplemental guaranty agreements as described in 20 U.S.C. 1001 – 1155, as amended, as necessary to provide for the receipt by the corporation of administrative allowances and other benefits available under 20 U.S.C. 1001 – 1155, as amended;

(17) administer federal money allotted to the state involving insured education loans and related administrative costs and other matters;

(18) enter into agreements with the commission relating to education loans and repayment obligations, the administration of the financial aid and loan programs under AS 14.43.091 – 14.43.750, 14.43.990, and AS 14.44, and the payment of and security for bonds of the corporation;

(19) to the extent permitted under contracts with bondholders, consent to the modification of the rate of interest, time of payment of an installment of principal or interest, or other terms of an education loan or repayment obligation held by the corporation;

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

(21) provide advisory services to borrowers and other participants in the corporation's programs;

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

(23) develop and implement education financing programs; in this paragraph, “programs” includes

(A) programs listed in AS 14.42.030(b)(1);

(B) programs for the guaranteeing, servicing, originating, and financing of education loans for borrowers located both inside and outside the state; and

(C) federal financial aid programs made under federal law; and

(24) perform acts that may be necessary or appropriate to carry out effectively the general objectives and purposes of the corporation under AS 14.42.100 – 14.42.990. (sec. 2 ch 92 SLA 1987; am sec. 10 ch 141 SLA 1988; am sec.1 ch. 54 SLA 1997; am sec. 7ch 85 SLA 2001)

**Sec. 14.42.205. Supplemental education loans: financing program.** (a) The purpose of this section is to provide for supplemental education loan program financing to assist qualified borrowers in meeting postsecondary education costs for which federal and private financial aid may be insufficient.

(b) The corporation may develop and establish a financing program for the Alaska supplemental education loan program administered by the commission under AS 14.43.170 – 14.43.175.

(c) The financing program established under (b) of this section

(1) shall

(A) provide that loans under the Alaska supplemental education loan program are

(i) Medium-range and long-range fixed-rate and variable-rate loans; and

(ii) structured to operate as lines of credit;

(B) require terms and conditions for loans under the Alaska supplemental education loan program as the corporation determines are useful and feasible;

(C) be designed to

(i) assist postsecondary institutions in this state in attracting and retaining students;

(ii) maximize the amount of financing available by using private activity tax-exempt bond capacity as may be allocated by the state; and

(2) except as limited by (1)(B) of this subsection, may provide for terms and conditions that are more attractive than prevailing terms and conditions available to students from other supplemental education lenders. (sec. 8 ch 85 SLA 2001)

**Sec. 14.42.210. Education loan fund and program administration.** (a) The education loan fund is established in the corporation. The education loan fund is a trust fund to be used to carry out the purposes of AS 14.42.100 - 14.42.990, AS 14.43.091 - 14.43.175, 14.43.400 - 14.43.420, 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, 14.43.990, and AS 14.44.025. The fund consists of money or assets appropriated or transferred to the corporation for the fund and money or assets deposited in it by the corporation. The corporation may establish separate accounts in the fund.

(b) Money and other assets of the education loan fund may be used to

- (1) secure bonds of the corporation;
- (2) pay the costs of administration of the fund;
- (3) invest in education loans and investments under AS 37.10.071;
- (4) finance programs approved under AS 14.43.091 - 14.43.175, 14.43.400 - 14.43.420, 14.43.600 - 14.43.700, 14.43.710 - 14.43.750, or AS 14.44.040; and
- (5) pay the costs of administering and collecting the loans and repayment obligations under the financial aid programs listed in (4) of this subsection..

(c) The financial aid programs listed in (b)(4) of this section shall be administered by the commission. The corporation and the commission may enter into agreements relating to the administration of the programs. The corporation may assign its rights under the agreements for the benefit and security of holders of its bonds. (sec. 2 ch 92 SLA 1987; am sec. 11 ch 141 SLA 1988; am sec. 2, 3 ch. 54 SLA 1997; am sec. 2 ch 23 SLA 1999; am sec. 9 ch 85 SLA 2001; am sec. 2-3 ch 63 SLA 2004)

**Sec. 14.42.220. Bonds of the corporation.** (a) The corporation may borrow money and may issue bonds, on which the principal and interest are payable from its income and receipts or other assets or a designated part or parts of them. The corporation may use the proceeds of its bonds for any purposes that the corporation considers appropriate, including providing money to

- (1) make or purchase education loans;
- (2) finance programs identified in AS 14.42.210;
- (3) finance projects of the state as those projects may be identified by law; and
- (4) pay for any other purpose or program of the corporation that is authorized in AS 14.42.100 - 14.42.310.

(b) Bonds may be authorized only by resolution of the board. Bonds shall be dated, bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, be subject to the terms of redemption, and mature as provided by the resolution or a subsequent resolution. However, a bond may not mature more than 40 years after the date it is issued.

(c) Bonds of the corporation, regardless of form or character, are negotiable instruments for all the purposes of AS 45.01 - AS 45.08, AS 45.12, AS 45.14, and AS 45.29 (Uniform Commercial Code).

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

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

(f) *[Repealed, sec 31 ch 63 SLA 2004.]*

(g) The corporation may not issue bonds to finance projects under (a)(3) of this section in an aggregate amount that exceeds \$280,000,000. (sec. 2 ch 92 SLA 1987; am sec.12, 13 ch 85 SLA 2001; am sec. 4 ch 63 SLA 2004)

**Sec. 14.42.230. Trust indentures and trust agreements.** An issue of bonds by the corporation may be secured by a trust indenture or trust agreement between the corporation and a corporate trustee,

which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state, or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the corporation may

(1) enter into agreements with the trustee or the bondholders that the board determines to be necessary or desirable, including covenants, provisions, limitations, and other agreements as to the

(A) application, investment, deposit, use, and disposition of the proceeds of bonds of the corporation or of money or other property of the corporation or in which it has an interest;

(B) fixing and collecting of payments and other consideration for an education loan or repayment obligation;

(C) assignment by the corporation of its rights in an education loan or repayment obligation or in a mortgage or other security interest created with respect to an education loan or repayment obligation to a trustee for the benefit of bondholders;

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

(E) vesting in a trustee of rights, powers, duties, funds, or property in trust for the benefit of bondholders, including the right to enforce payment, performance, and other rights of the corporation or of the bondholders, under an education loan or repayment obligation or a security interest created with respect to an education loan or repayment obligation;

(2) pledge, mortgage, or assign money, agreements, property, or other assets of the corporation either presently in hand or to be received in the future, or both; and

(3) provide for other matters that in any way affect the security or protection of the bonds. (sec. 2 ch 92 SLA 1987; am sec. 14 ch 85 SLA 2001)

**Sec. 14.42.240. Reserves and capital reserves.** (a) For the purpose of securing one or more issues of bonds of the corporation, the board may establish one or more special funds, called "capital reserve funds," and may pay into those capital reserve funds the proceeds of the sale of bonds and other money available to the corporation from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the board determines that the establishment of the fund would enhance the marketability of the bonds. Money in a capital reserve fund, except as provided in this section, may be used as required only for the (1) payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) purchase or redemption of the bonds; or (3) payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve fund requirement, except for the purpose of making payment, when due, of principal, interest, or redemption premiums on the bonds when other money of the corporation is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the corporation to other funds or accounts of the corporation if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the board decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless the corporation, at the time of issuance of the bonds, pledges to deposit in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount that, together with the amount then in the fund, is not less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested and credit facilities deposited in or credited to a capital reserve fund under (f) of this section shall be valued by a reasonable method established by the board by resolution. Valuation shall include the amount of interest earned or accrued as of the date of valuation.

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

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

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

(g) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the board. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.250. Validity of pledge.** It is the intention of the legislature that a pledge made in respect to bonds of the corporation shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the corporation shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the corporation irrespective of whether the parties have notice. Neither the resolution, trust agreement, nor other instrument by which a pledge is created need be recorded or filed under the provisions of AS 45.01 - AS 45.09, AS 45.12, and AS 45.14 (Uniform Commercial Code) to be valid, binding, or effective. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.260. Nonliability on bonds.** (a) The members of the board and individuals executing the bonds of the corporation are not liable personally on the bonds or subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the corporation do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the corporation, but shall be payable solely from the income and receipts or other funds or property of the corporation. The corporation may not pledge the faith or credit of the state, or of a political subdivision of the state, except the corporation, to the payment of a bond. Issuance of a bond by the corporation does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.265. Underwriters.** The board may select one or more underwriters for its bonds in accordance with procedures

- (1) for the award of a contract under AS 36.30.200 - 36.30.260; or
- (2) adopted by regulations of the board that are based on the competitive principles of AS 36.30.200 - 36.30.260 and are adapted to the special needs of the corporation in the selling of its bonds as determined by the board. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.270. Pledge and agreement of state.** The state pledges to and agrees with holders of bonds issued by the corporation that the state will not limit or alter the rights and powers vested in the corporation under AS 14.42.100 - 14.42.990 to fulfill the terms of a contract made by the corporation with

the bondholders or in any way impair the rights and remedies of the bondholders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the bondholders, are fully met and discharged. The corporation may include this pledge and agreement of the state in a contract with bondholders. (sec. 2 ch 92 SLA 1987; am sec. 15 ch 85 2001)

**Sec. 14.42.280. Exemption from taxation.** The real and personal property of the corporation and its assets, income, and receipts are declared to be the property of a political subdivision of the state and devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, and other interests of the corporation are exempt from all taxes and special assessments of the state or a political subdivision of the state, including municipalities, school districts, public utility districts, and other governmental units. Bonds of the corporation are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose, and the bonds, interest on them, income from them, and transfer of them, and all assets, income, and receipts pledged to pay or secure the payment of the bonds, or interest on them, are exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.290. Bonds legal investments for fiduciaries.** The bonds of the corporation are securities in which public officers and bodies of the state, municipalities, insurance companies, insurance associations, other persons carrying on an insurance business, banks, bankers, trust companies, savings banks, savings associations, building and loan associations, investment companies, other persons carrying on a banking business, administrators, guardians, executors, trustees, other fiduciaries, and other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the corporation are also securities that may be deposited with and may be received by public officers and bodies of the state and municipalities for any purpose for which the deposit of bonds or other obligations of the state is not or may be authorized. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.295. Payment to state.** (a) The board may elect to pay the state a return of contributed capital, or a dividend, for each base fiscal year that the corporation's net income equals or exceeds \$2,000,000. The payment may not be less than 10 percent nor more than 35 percent, as approved by the board, of the corporation's net income for the base fiscal year, and is subject to the provisions of any applicable bond indentures of the corporation. If a payment is authorized under this section, payment must be made available by the corporation before the end of the fiscal year in which payment has been authorized. The corporation shall notify the commissioner of revenue when the amount of the payment authorized under this section is available for appropriation.

(b) In this section,

(1) "base fiscal year" means the fiscal year ending two years before the end of the fiscal year in which a payment under this section is to be made available;

(2) "contributed capital" means the assets appropriated by sec. 2, ch. 93, SLA 1987, in the form of unrestricted receipts of loans;

(3) "dividend" means return of surplus as reflected in the equity section of the corporation's audited financial statements for the education loan fund (AS 14.42.210);

(4) "net income" means the corporation's net income as set out in the audited financial statements of the corporation for the base fiscal year. (sec. 1 ch 98 SLA 2000)

**Sec. 14.42.300. Operation of certain statutes excepted.** (a) The corporation is not a municipality as the term is defined in AS 01.10.060. Except as provided in AS 14.42.190, the corporation is not subject to AS 37. For all other purposes the corporation is a political subdivision and an instrumentality of the state.

(b) The funds, income, and receipts of the corporation are not money of the state, nor may real property in which the corporation has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way land belonging to the state, or state land referred to in art. VIII of the Alaska Constitution. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.310. Annual audit.** The financial records of the corporation shall be audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the corporation and shall have access to these records at any time. (sec. 2 ch 92 SLA 1987)

**Sec. 14.42.390. Definitions.** [*Repealed, sec. 42 ch 85 SLA 2001.*]

### Article 3. GENERAL PROVISIONS

Section  
990. Definitions

**Sec. 14.42.990. Definitions.** In this chapter, unless the context requires otherwise,

- (1) “board” means the board of directors of the corporation;
- (2) “commission” means the Alaska Commission on Postsecondary Education created in AS 14.42.015;
- (3) “corporation” means the Alaska Student Loan Corporation created in AS 14.42.100;
- (4) “education loan” means a loan that is eligible for financing or is financed from the education loan fund established in AS 14.42.210;
- (5) “eligible student” means an individual who meets the eligibility requirements established by the federal guaranteed student loan program or as otherwise set out in this chapter;
- (6) “federal guaranteed student loan program” means the programs of the United States government that make postsecondary educational financial aid available under 20 U.S.C. 1070 – 1099c-2, as amended.
- (7) “repayment obligation” means an obligation to repay financial support that is financed from the education loan fund established in AS 14.42.210 or otherwise administered by the commission. (sec. 16 ch 85 SLA 2001)

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## CHAPTER 43

### FINANCIAL AID PROGRAMS FOR POSTSECONDARY STUDENTS

#### Article

1. University of Alaska Scholarships for High School Graduates (Secs. 14.43.010 – 14.43.030)
2. University of Alaska Scholarships for Natives (Secs. 14.43.050 – 14.43.075)
3. Free Tuition and Fees for Spouse and Children of Certain, Police, Fire or Military Personnel (Sec. 14.43.085)
4. Education Loan Program (Secs. 14.43.091 – 14.43.160)
5. AlaskAdvantage Loan Program (Secs. 14.43.161 – 14.43.168)
6. Alaska Supplemental Education Loan Program (Secs. 14.43.170 – 14.43.175)
7. Memorial Education Revolving Loan Fund (Secs. 14.43.250 – 14.43.325)
8. AlaskAdvantage Education Grant Program (Sec. 14.43.400 – 14.43.420)
9. Medical Education Support (Sec. 14.43.510)
10. Teacher Education Loan Program (Secs. 14.43.600 – 14.43.700)
11. Alaska Family Education Loan Program (Secs. 14.43.710, 14.43.750)
12. Alaska Merit Scholarship Program (Secs. 14.43.810 – 14.43.849)
13. General Provisions (Secs. 14.43.910 – 14.43.990)

[Articles 1-3 are not set out herein]

#### Article 4. EDUCATION LOAN PROGRAM

##### Section

- |  |   |
|--|---|
| 91. Education loan program                           | 149. Lien   |
| 100. Applications                                    | 150. Order to assign wages for defaulted loan   |
| 105. Administration of program                       | 151. Authority and procedure to administratively establish and enforce a collection order |
| 110. Education loans                                 | 152. Initiation of administrative action to establish a collection order; required notice |
| 120. Conditions of loans                             | 153. Hearings in administrative action to establish a collection order; burden of proof   |
| 122. Consolidation of loans                          | 154. Collection orders as judgments   |
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| 135. Discrimination prohibited                       | 160. Definitions  |
| 140. Enforceability of certain contracts with minors |   |
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| 147. Order to withhold and deliver                   |   |
| 148. Nonrenewal of license                           |   |

**Sec. 14.43.090. Scholarship revolving loan fund.** *[Repealed, sec. 42 ch 85 SLA 2001.]*

**Sec. 14.43.091. Education loan program.** (a) There is created the education loan program to provide loans to individuals who are students to assist in paying the costs of postsecondary education. The provisions of this section, AS 14.43.100 – 14.43.160, 14.43.910, 14.43.920, and 14.43.990 apply to the loans.

(b) Upon approval by the commission of an education loan, the corporation shall finance a loan disbursement, subject to any limit that the corporation sets on the total amount of loans that the corporation

will finance in a school year. A loan financed under this section becomes an asset of the corporation.

(c) Repayments of principal and interest on a loan are paid into the education loan fund established in AS 14.42.210. If money made available by the corporation is inadequate to fully finance eligible loan applications, additional financing from the general fund may be requested and appropriated for that year. (sec. 17 ch 85 SLA 2001)

**Sec. 14.43.095. Financial aid committee.** [*Repealed*, sec. 29 ch 43 SLA 1991.]

**Sec. 14.43.100. Applications.** (a) Applications shall be submitted to the executive director of the commission.

(b) A person whose loan application is not approved by the executive director of the commission may appeal to the commission and the commission shall consider the application. (sec. 1 ch 98 SLA 1971; am sec. 3 ch 156 SLA 1972; am sec. 4 ch 136 SLA 1974; am sec. 58 ch 6 SLA 1984; am sec. 4, 5 ch 43 SLA 1991)

**Sec. 14.43.105. Administration of program.** The executive director shall administer the programs subject to review by the commission and in accordance with the regulations adopted by the commission. The adoption of these regulations is subject to AS 44.62 (Administrative Procedure Act). A summary of the regulations shall be distributed to each applicant. (sec. 1 ch 98 SLA 1971; am sec. 5 ch 136 SLA 1974; am sec. 6 ch 43 SLA 1991)

**Sec. 14.43.110. Education loans.** (a) In a school year, the commission may make a loan not to exceed

(1) \$8,500 to a full-time undergraduate student or \$5,000 to a half-time undergraduate student attending a college or university if the full- or half-time student is otherwise eligible under AS 14.43.125;

(2) \$9,500 to a full-time graduate student or \$4,500 to a half-time graduate student attending a college or university if the full- or half-time graduate student is otherwise eligible under AS 14.43.125;

(3) \$5,500 to a full-time student or \$2,000 to a half-time student if the full- or half-time student is attending a career education program that is at least six weeks in length and is otherwise eligible under AS 14.43.125.

(b) The commission may make a loan for a summer term, even if the total loan for the school year exceeds the limit imposed under (a) of this section if the loan for the summer term is counted against the limit imposed under (a) of this section for the following school year.

(c) The commission shall adopt regulations establishing a minimum amount for which a loan may be made. (sec. 1 ch 98 SLA 1971; am sec. 6 ch 136 SLA 1974; am sec. 1 ch 153 SLA 1978; am sec. 1 ch 89 SLA 1981; am sec. 1 ch 34 SLA 1985; am sec. 1 ch 65 SLA 1986; am sec. 7 ch 43 SLA 1991; am sec. 1 ch 5 SLA 1996)

**Sec. 14.43.115. Graduate loans.** [*Repealed* sec. 26 ch 5 SLA 1996.]

**Sec. 14.43.120. Conditions of loans.** (a) Proceeds from an education loan to a full-time student may only be used for books and supplies, tuition and required fees, loan origination fees, and room and board. Proceeds from an education loan to a half-time student may only be used for books and supplies, tuition and required fees, and loan origination fees.

(b) Education loans may only be used to attend a

(1) career education program operating on a sound fiscal basis that has

(A) operated for two years before the borrower attends; and

(B) submitted an executed program participation agreement as required by the commission; or

(2) a college or university that

(A) has operated for at least two years before the borrower attends;

(B) is accredited by a national or regional accreditation association recognized by the Council on Recognition of Postsecondary Accreditation or is approved by the commission;

(C) if the loans are federally insured, is approved by the United States Secretary of Education;

(D) is a degree granting institution; and

(E) has submitted an executed program participation agreement as required by the commission.

(c) To maintain a loan awarded to a full-time student the student must continue to be enrolled as a full-time student in good standing in a career education program, college, or university that meets the requirements under (b) of this section. To maintain a loan awarded to a half-time student, the student must continue to be enrolled as a half-time student in good standing in (1) a career education program, college, or university in the state that meets the requirements under (b) of this section, or (2) a career education program, college, or university that meets the requirements under (b) of this section, and be physically present in the state while attending the career education program, college, or university. The commission shall adopt regulations defining "good standing" for purposes of this subsection.

(d) Education loans may not be made to a student

(1) for more than a total of \$42,500 for undergraduate study,

(2) for more than a total of \$47,500 for graduate study;

(3) for more than a combined total of \$60,000 for undergraduate and graduate study;

(4) to attend an institution if the total amount of education loans made to students to attend that institution exceeds \$100,000 and the default rate on those loans is (A) greater than 20 percent but less than 25 percent, and the institution is unable to reduce its default rate within 24 months after the rate determination; or (B) equal to or greater than 25 percent for two consecutive calendar years; for purposes of this paragraph, the default rate shall be determined by the commission for each annual group of loans required to be repaid under (g) of this section on or after July 1, 1996; if a education loan is refused based on the provisions of this paragraph and, under a subsequent default rate determination, an institution's default rate does not exceed the limits established under this paragraph, the commission may not refuse to issue an education loan to attend that institution based on the provisions of this paragraph.

(e) Interest on an education loan accrues from the time the loan is disbursed; however, the state shall pay the interest while the borrower continues to be enrolled under (c) of this section.

(f) Interest on a loan made under AS 14.43.091 - 14.43.160 is equal to the interest rate

(1) paid in each year on bonds issued by the Alaska Student Loan Corporation under AS 14.42.220; and

(2) necessary to pay the administrative cost of the education loan program that is represented by the loan.

(g) A borrower's obligation to commence repayment of the principal and interest on the loan begins six months after the borrower is no longer enrolled under (c) of this section. The borrower shall repay the total amount owed in periodic installments of at least \$50 a month over a period of not more than 15 years from the commencement of the repayment obligation. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement. A borrower may make payments earlier than required by this subsection or the agreement.

(h) Security may not be required for a loan; however, a loan origination fee, as specified in (u) of this section, shall be deducted at the time that the loan is disbursed. Additionally, the borrower shall pay all fees and costs incurred in collection on the loan if it becomes delinquent or in default.

(i) [Repealed, sec. 18 ch 54 SLA 1997.]

(j) [Repealed, sec. 19 ch 92 SLA 1987.]

(k) A borrower's obligation to make periodic payments of principal shall be deferred, but the borrower's obligation to pay interest shall continue, unless the state pays the interest by appropriation under (t) of this section, during any of the following periods:

(1) return to full-time student status in good standing in a career education program, college, or university that meets the requirements under (b) of this section;

(2) if the borrower received a loan to attend as a half-time student, return to

(A) half-time student status in good standing in a career education program, college, or university in the state that meets the requirements under (b) of this section;

(B) at least half-time student status in good standing in a career education program, college, or university that meets the requirements under (b) of this section, and the borrower is physically present in the state while attending the career education program, college, or university; a borrower is not eligible for deferral under this paragraph for a period longer than eight years; or

(C) full-time student status in good standing in a career education program, college, or university that meets the requirements under (b) of this section;

(3) serving an initial period of up to three years on active duty as a member of the armed forces of the United States;

(4) serving, for up to three years, as a full-time volunteer under the Peace Corps Act;

(5) serving, for up to three years, as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(6) serving, for up to two years, as a full-time volunteer under the National and Community Service Trust Act of 1993 (AmeriCorps);

(7) for a one-time period up to 12 months in which the borrower is seeking and unable to find employment in the United States; or

(8) during the period of disability if, after the loan is disbursed, the borrower becomes totally disabled as certified by competent medical authority.

(l) The state shall pay the interest on that portion of a loan that is not federally insured during

(1) the period while the borrower continues to be enrolled under (c) of this section; and

(2) deferments under (k) of this section.

(m) In case of hardship, the commission may extend repayment of a loan for an additional period of up to five years.

(n) [Repealed, sec. 11 ch 89 SLA 1981.]

(o) [Repealed, sec. 19 ch 92 SLA 1987.]

(p) [Repealed, sec. 102 ch 21 SLA 2000.]

(q) [Repealed, sec. 18 ch 54 SLA 1997.]

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

(s) A portion of a loan shall be forgiven by the state if, after being enrolled in the course of study for which the loan was granted, the borrower is a student who is unable to complete the school term as a result of serving on active duty as a member of the armed forces of the United States. The portion of the loan that shall be forgiven by the state is equal to the amount borrowed by the student for the school term in which the borrower's studies are terminated.

(t) Payment of interest under (l) of this section and forgiveness under (s) of this section are subject to appropriation by the legislature. Money obtained from the sale of bonds by the Student Loan Corporation under AS 14.42.220 may not be appropriated for the payment of interest or the forgiveness of loans.

(u) The corporation by regulation shall set a loan origination fee, not to exceed five percent of the total education loan amount, to be assessed upon an education loan that is funded from the education loan fund of the corporation. The loan origination fee shall be deducted by the commission at the time the loan is disbursed. The loan origination fees shall be deposited into an origination fee account within the education loan fund of the corporation, and subsequently used by the corporation to offset losses incurred as a result of death, disability, default, or bankruptcy of the borrower.

(v) In determining a rate of interest under (f)(2) of this section,

(1) the commission shall use a method that ensures that the rate of interest is as low as possible without precluding the ability of the commission to administer loans made under AS 14.43.091 - 14.43.160; and

(2) the total amount charged for administrative costs of the education loan program may not exceed three percent above the amount determined under (f)(1) of this section. (sec. 1 ch 98 SLA 1971; am sec. 4 ch 156 SLA 1972; am sec. 6 ch 78 SLA 1974; am sec. 8 ch 136 SLA 1974; am sec. 1 - 4 ch 99 SLA 1977; am sec. 3 - 8 ch 87 SLA 1979; am sec. 3 - 9, 11 ch 89 SLA 1981; am sec. 2 - 4 ch 158 SLA 1984; am sec. 3 ch 34 SLA 1985; am sec. 3, 4 ch 65 SLA 1986; am sec. 5 - 9, 19 ch 92 SLA 1987; am sec. 2 ch 26 SLA 1989; am sec. 9 - 15 ch 43 SLA 1991; am sec. 1 ch 44 SLA 1991; am sec. 36 - 38 ch 63 SLA 1993; am sec. 2 - 4 ch 112 SLA 1994; am sec. 2 - 14 ch 5 SLA 1996; am sec. 18 ch 32 SLA 1997; am sec. 4 - 5, 18 ch. 54 SLA 1997; am sec. 1 ch 112 SLA 1997; am sec. 102 ch 21 SLA 2000; am sec. 18-20 ch 85 2001; am sec. 6 ch 63 SLA 2004)

**Sec. 14.43.122. Consolidation of loans.** (a) The commission may offer

(1) a borrower who has received more than one education loan the option of consolidating the multiple loans into a single loan; or

(2) to consolidate education loans made to married borrowers if the married borrowers agree to be jointly and severally liable for repayment of the consolidated loan, regardless of the borrowers' future marital status or the death of one of the borrowers.

(b) *[Repealed, sec 31 ch 63 SLA 2004]* (sec. 5 ch 112 SLA 1994; am sec. 21 ch 85 SLA 2001; am sec. 7 ch 63 SLA 2004)

**Sec. 14.43.125. Eligibility of students.** (a) A person is eligible for a loan if the person

(1) is

(A) enrolled as a full-time student in a career education, associate, baccalaureate, or graduate degree program;

(B) enrolled as a half-time student in a career education, associate, baccalaureate, or graduate degree program

(i) in the state; or

(ii) out of the state and is physically present in this state while attending that program; or

(C) a graduate of a high school or the equivalent, or scheduled for graduation from a high school within six months, who, at the time of loan disbursement, will be enrolled in compliance with (A) or (B) of this paragraph;

(2) is not delinquent and has never been in default on a loan previously awarded by the commission;

(3) is a resident of the state at the time of application for the loan; for purposes of this section, a person qualifies as a resident of the state if at the time of application for the loan the person

(A) has been physically present in the state for at least one year immediately before the time of application for the loan with the intent to remain indefinitely;

(B) is dependent on a parent or guardian for care, the parent or guardian has been present in the state for at least one year immediately before the time of application for the loan with the intent to remain indefinitely, and the person has been present in the state for at least one year of the immediately preceding five years except that the commission may by a two-thirds vote, acting upon a written appeal by the person, grant an exemption to the requirement that the person has been present in the state for one year of the immediately preceding five years;

(C) has been physically present in the state for at least one year immediately before the applicant was absent from the state, the person intends to return permanently to the state, and the absence is due solely to

(i) serving an initial period of up to three years on active duty as a member of the armed forces of the United States;

(ii) serving for up to three years as a full-time volunteer under the Peace Corps Act;

(iii) serving for up to three years as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(iv) required medical care for the applicant or the applicant's immediate family;

(v) being a person who otherwise qualifies as a resident and is accompanying a spouse who qualifies as a resident under (i) - (iv) of this paragraph;

(vi) an absence allowed under (D)(i) - (iv) of this paragraph; or

(D) is a dependent of a parent or guardian who has been physically present in the state for at least one year immediately before the parent or guardian was absent from the state, the parent or guardian intends to return permanently to the state, and the absence is due solely to

(i) participating in a foreign exchange student program recognized by the commission;

(ii) attending a school as a full-time student;

(iii) full-time employment by the state;

(iv) being a member of or employed full-time by the state's congressional delegation;

(v) being a person who otherwise qualifies as a resident and is accompanying a spouse who qualifies as a resident under (i) - (iv) of this paragraph;

(4) does not have a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220 at the time of application or loan disbursement;

(5) has not, within the previous five years, had a loan discharged or written off by the commission for any reason;

(6) does not have a status, at the time of the application for a loan or disbursement of loan funds, that would prevent the person from repaying the loan as it becomes due;

(7) has not within the previous seven years defaulted on another loan made to the person by a lending entity unless the person can show good faith efforts to repay the loan and extraordinary circumstances that led to the default;

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

(9) has complied with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the

person.

(b) A person does not qualify as a resident of the state under this section if the person declares or establishes residence in another state during an absence from Alaska.

(c) A person may not be awarded an education loan under AS 14.43.091 - 14.43.160 if that person receives a teacher education loan under AS 14.43.600 - 14.43.700 for the same period of attendance.

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

(e) The commission may withhold disbursement of a loan if the borrower becomes ineligible under this section. (sec. 1 ch 98 SLA 1971; am sec. 10 ch 89 SLA 1981; am sec. 9 ch 67 SLA 1983; am sec. 4 ch 34 SLA 1985; am sec. 2 ch 116 SLA 1986; am sec. 10 ch 92 SLA 1987; am sec. 16 ch 43 SLA 1991; am sec. 6 ch 112 SLA 1994; am sec. 15, 16 ch 5 SLA 1996; am sec. 6 - 7 ch. 54 SLA 1997; am sec. 22 ch 85 SLA 2001; am sec. 1 ch 89 SLA 2002)

**Sec. 14.43.130. Selection criteria.** [*Repealed*, sec. 19 ch 67 SLA 1983.]

**Sec. 14.43.135. Discrimination prohibited.** The programs established under this chapter shall be carried out without regard to the applicant's or participant's race, creed, sex, color ancestry, national origin, or membership in fraternal or political organizations. (sec. 1 ch 98 SLA 1971; am sec. 23 ch 85 2001)

**Sec. 14.43.140. Enforceability of certain contracts with minors.** A written obligation entered into by a minor at least 16 years of age, evidencing a loan or other assistance received by the minor from any person for the purpose of furthering the minor's education in a career education program or an institution of higher learning, is enforceable against the minor with the same effect as if the minor were, at the time of its execution, 18 years of age, if the person making the loan has before making the loan a certification from the institution that the minor is enrolled in the institution or has been accepted for enrollment. (sec. 1 ch 98 SLA 1971; am sec. 17 ch 32 SLA 1997)

**Sec. 14.43.145. Default.** (a) For the purposes of this chapter, a loan is in default after a loan payment has become 180 or more days past due or, for a loan under AS 14.43.161 – 14.43.168 or 14.43.170 – 14.43.175, the default requirements established by the commission have been met. Upon default,

- (1) repayment of the remaining balance is accelerated and due;
- (2) the commission may take the borrower's permanent fund dividend under AS 43.23.067;
- (3) the commission may issue an order to withhold and deliver under AS 14.43.147; and
- (4) the commission may provide notice of the default to a licensing entity for nonrenewal of the license under AS 14.43.148;
- (5) the commission may record the lien created under AS 14.43.149; and
- (6) the commission may establish an administrative collection order under AS 14.43.151 – 14.43.155.

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

(c) A borrower may appeal a notice of default by filing a statement with the executive director, within 30 days after the date of the notice, requesting that the loan status be reviewed. AS 44.62 (Administrative Procedure Act) does not apply to the review of default under this section. The borrower has the burden to show that, at the time of the notice of default, (1) no loan payment was more than 180 days past due or, for a loan under AS 14.43.161 – 14.43.168 or 14.43.170 – 14.43.175, the default requirements established by the commission had not yet been met; or (2) that the borrower entered into, and was in compliance with, a default forbearance agreement with the commission. Within 40 days after receiving a

written request for review, the director shall inform the borrower in writing of the executive director's decision. The decision of the executive director is a final decision that may be appealed to the superior court under the Alaska Rules of Appellate Procedure. (sec. 8 ch. 54 SLA 1997; am sec. 24 ch 85 SLA 2001; am sec. 8 ch 63 SLA 2004)

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## RELATED PROVISION

**Sec. 43.23.067. Claims of defaulted education loans.** (a) AS 09.38 does not apply to a permanent fund dividend taken under AS 14.43.145. Notwithstanding AS 09.35, the Alaska Commission on Postsecondary Education may take a permanent fund dividend under AS 14.43.145 by delivering a claim to the department certifying the following information:

- (1) the name and social security number of the individual whose dividend is being claimed;
- (2) the amount the individual owes on a loan awarded under AS 14.43; and
- (3) a statement that the loan is in default under AS 14.43.145, or, if the individual has requested review of the status of the loan under AS 14.43.145(c), that a final determination has been made that the loan is in default.

(b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

- (1) the amount of the claim;
- (2) notice that the amount of the permanent fund dividend up to the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education to be credited against the individual's loan balance; and
- (3) the individual's right to a hearing under (c) of this section.

(c) Within 30 days after the date of the notice under (b) of this section, the individual may request a hearing. AS 44.62.330 - 44.62.630 apply to a hearing under this section. At the hearing, the borrower has the burden to show that

- (1) the commission has not sent a notice of default in compliance with AS 14.43.145(b);
- (2) the notice of default has been rescinded after review under AS 14.43.145(c); or
- (3) the amount owed by the borrower is less than the amount claimed from the permanent fund dividend.

(d) If the amount owed by the borrower is determined under (c) of this section to be some amount greater than \$0, but less than the amount claimed, the commission may amend its claim to the amount determined to be owing. (am sec. 17 ch. 54 SLA 1997)

**Sec. 14.43.147. Order to withhold and deliver.** (a) Thirty days after the date a notice of default under AS 14.43.145(b) is mailed or the date of the decision of the executive director under AS 14.43.145(c), whichever is later, the commission may issue an order to withhold and deliver property to a person, or agency or political subdivision of the state, who the commission has reason to believe possesses property due, owing, or belonging to the borrower.

(b) The order to withhold and deliver shall be served personally or by certified mail, return receipt requested, upon the person, or agency or political subdivision of the state, possessing the property. The order must state the amount of the borrower's liability and include notice of the terms of this section. All real and personal property, including earnings, that are due, owing, or belonging to the borrower are subject to an order to withhold and deliver.

(c) A person, or agency or political subdivision of the state, served with an order to withhold and deliver, is required to make true answers under oath and in writing to inquiries contained in the order within three weeks after service of the order and to all inquiries subsequently made.

(d) Upon receipt of the order, the person, or agency or political subdivision of the state, shall immediately withhold property due, owing, or belonging to the borrower and shall deliver the property to the commission after three weeks have expired from the date of the service of the order. Money shall be delivered by remittance payable to the order of the commission.

(e) An employer shall withhold the earnings of a borrower subject to an order at each succeeding interval of payment until the entire amount of the debt stated in the order has been withheld. An employer may, for each payment made under an order to withhold and deliver, deduct \$5 from other wages or salary

owed to the borrower.

(f) If a borrower who is subject to an order terminates employment, the employer shall promptly notify the commission and provide the borrower's last known home address and the name and address of the borrower's new employer, if known. The employer shall keep a record of the order for two years after the borrower terminates employment. If the employer reemploys the borrower within that two-year period, the employer shall immediately reimplement the order unless the employer has received notice of satisfaction under (j) of this section.

(g) An employer may not discharge, discipline, or refuse to employ a borrower on the basis of an order issued under this section. A person who violates this subsection or a regulation adopted to implement it is liable for a civil penalty of not more than \$10,000. The employee may seek restitution or reinstatement from the employer.

(h) A person, or agency or political subdivision of the state, who complies with an order to withhold and deliver that is regular on its face is not subject to civil liability to an individual or agency for conduct in compliance with the notice. A state agency that complies with an order to withhold and deliver that is regular on its face is not required to pay interest under AS 37.05.285 for failure to make timely payment to the borrower.

(i) An order to withhold and deliver under this section is subject to the exemptions under AS 09.38.

(j) Upon satisfaction of a loan obligation, the commission shall, within 15 working days, notify all persons served with an order under this section that the order is no longer in force. If the commission receives money under an order after satisfaction of the loan, the commission shall within 15 working days return the overpayment to the borrower. If the commission fails to return an overpayment as required under this subsection, the commission is liable to the borrower for the amount of the overpayment, plus legal interest under AS 45.45.010.

(k) If a person, or agency or political subdivision of the state, knowingly fails to make an answer to an order under this section within the time prescribed, or knowingly fails to honor an order under this section, the person, or agency or political subdivision of the state, is liable to the commission in an amount equal to 100 percent of the amount that is the basis of the order, together with costs, interest, and reasonable attorney fees. In this subsection, "knowingly" has the meaning given in AS 11.81.900.

(l) A borrower against whom an order has been served under this section may apply for relief to the superior court. (sec. 8 ch. 54 SLA 1997)

**Sec. 14.43.148. Nonrenewal of license.** (a) Notwithstanding any other provision of law, a licensing entity may not renew a license issued to a borrower if the licensing entity has received notice from the commission that the licensee is in default on a loan made by the commission. If the licensee has appealed the determination of default status, the commission shall notify the licensing entity and renewal may not be denied under this section unless and until the appeal has been concluded and the default status affirmed. Unless a temporary license is issued under (c) of this section, the denial of renewal is effective at the beginning of that renewal period. Denial of renewal of a license shall continue until the licensing entity receives notice of a release from the commission. If a license is denied under this section, the licensing entity shall refund the renewal fee less the temporary license fee, if any.

(b) The licensing entity shall provide written notice of the denial of renewal of the license by giving written notice to the licensee or sending the notice to the licensee's last known mailing address on file with the licensing entity. The licensing agency shall include with the notice a form to request review under (d) of this section; the form must include the commission's address and telephone number. The notice must inform the licensee of the temporary license granted under (c) of this section if the applicant is otherwise eligible and that, upon expiration of that time period, renewal of the license will be denied unless the licensing entity receives a notice of release under (f) of this section from the commission.

(c) A licensing entity shall issue a temporary license valid for the first 150 days of the renewal

period to a licensee whose license renewal is denied under this section if the licensee is otherwise eligible for renewal. Only one temporary license may be issued during a renewal period. The licensing entity shall adopt by regulation a fee for issuance of a temporary license under this section; the amount of the fee shall be set so that the fees collected under this section, to the extent reasonable, cover the costs of implementing and administering this section.

(d) Within 30 days after receiving the notice under (b) of this section, the licensee may request review by the commission. AS 44.62 (Administrative Procedure Act) does not apply to the denial of renewal of a license under this section. Within 30 days after receiving a written request for review, the executive director shall inform the applicant in writing of the executive director's findings. The executive director's finding is a final decision that may be appealed to the superior court under the Alaska Rules of Appellate Procedure.

- (e) For the purpose of review under (d) of this section, the licensee has the burden to show that
- (1) the commission has not sent a notice of default in compliance with AS 14.43.145(b);
  - (2) the notice of default has been rescinded after review under AS 14.43.145(c); or
  - (3) the licensee has met the requirements of (f) of this section.

(f) The commission shall provide a notice of release to the licensing entity if the licensee

- (1) pays all costs of collection and the interest and principal that would have been due if the loan had not been accelerated; or
- (2) has negotiated a payment schedule with the commission after the loan is in default and has made complete and timely payments under the negotiated agreement for the four most recent and consecutive months.

(g) Notwithstanding (a) of this section, the denial of renewal of a teacher's certificate is effective not sooner than the end of the contract year after the commission has notified the teacher of the default status of the loan as provided under AS 14.43.145.

(h) In this section,

(1) "license"

(A) means, except as provided in (B) of this paragraph, a license, certificate, permit, registration, or other authorization that, at the time of issuance, will be valid for more than 150 days and that may be acquired from a state agency to perform an occupation, including the following:

- (i) license relating to boxing or wrestling under AS 05.10;
- (ii) authorization to perform an occupation regulated under AS 08;
- (iii) teacher certificate under AS 14.20;
- (iv) authorization under AS 18.08 to perform emergency medical services;
- (v) asbestos worker certification under AS 18.31;
- (vi) boiler operator's license under AS 18.60.395;
- (vii) certificate of fitness under AS 18.62;
- (viii) hazardous painting certification under AS 18.63;
- (ix) certification as a municipal correctional, correctional, probation, or parole officer under

AS 18.65.245;

- (x) security guard license under AS 18.65.400 - 18.65.490;
  - (xi) license relating to insurance under AS 21.27;
  - (xii) employment agency permit under AS 23.15.330 - 23.15.520;
  - (xiii) registration as a broker-dealer, an agent, a state investment adviser, or an investment adviser representative under AS 45.55.030;
  - (xiv) certification as a pesticide applicator under AS 46.03.320;
  - (xv) certification as a storage tank worker or contractor under AS 46.03.375;
  - (xvi) certification as a water and wastewater works operator under AS 46.30; and
- (B) does not include

license;

- (i) a commercial fishing license under AS 16.05.480, including a crewmember fishing license;
- (ii) a vessel license issued under AS 16.05.490 or 16.05.530;
- (iii) [*Repealed, sec 43 ch 57 SLA 2005.*]
- (iv) a business license issued under AS 43.70;
- (v) an entry permit or interim-use permit issued under AS 16.43; or
- (vi) a driver's license issued under AS 28.15;

(2) "licensee" means a person holding a license or applying to renew a license;

(3) "licensing entity" means the state agency that issues or renews a license; in the case of a license issued or renewed by the Department of Commerce, Community, and Economic Development after an applicant's qualifications are determined by another agency, "licensing entity" means the Department of Commerce, Community, and Economic Development. (sec. 8 ch. 54 SLA 1997; am sec. 1 ch 126 SLA 1998; am sec 13 ch 58 SLA 1999; am sec 1 ch 76 SLA 1999; am sec 8 ch 99 SLA 2004; am sec 43 ch 57 SLA 2005)

**Sec. 14.43.149. Lien.** (a) The amount owing on a loan that is in default under the chapter, including principal, interest, and collection costs, is a lien upon all property and right to property, real or personal, belonging to the borrower. The lien arises at the time that the commission mails or otherwise delivers a notice of default under AS 14.43.145(b) and continues until the balance of the loan, including principal, interest, and collection costs, is paid in full.

(b) A lien created under (a) of this section is

- (1) not valid against a mortgagee or other leinholder, pledgee, purchaser, or judgment creditor until notice of the lien is recorded in the records of the recording district where the property subject to the lien is situated; and
- (2) subject to AS 40.19.040(d). (sec. 27 ch 85 SLA 2001)

**Sec. 14.43.150. Order to assign wages for defaulted loan.** (a) In a court proceeding regarding a defaulted loan under this chapter in which the court has entered judgment in favor of the commission, the court may, on its own motion or motion of the commission, after notice and an opportunity for hearing, order the loan recipient to assign to the commission that portion of salary or wages due the loan recipient currently and in the future in an amount sufficient to pay the amount ordered by the court to be repaid to the commission.

(b) The order of assignment is binding upon an employer upon service of a copy of the order upon the employer and until further order of the court or until the employment of the obligee is terminated. The employer may, for each payment made under the order, deduct \$1 from other wages or salary owed to the employee.

(c) An employer may not terminate an employee's employment because wages of the employee are subject to an order under this section.

(d) An assignment of wages authorized under this section that is made under court order has priority as against an attachment, execution, or other assignment, except for an assignment for payment of child support under AS 25.27.070, restitution to a crime victim authorized under AS 12.55.045, or as otherwise ordered by the court. (sec. 7 ch 112 SLA 1994; am sec. 17 ch 5 SLA 1996)

**Sec. 14.43.151. Authority and procedure to administratively establish and enforce a collection order.** If a judgment in favor of the commission has not been entered by the court regarding a defaulted loan awarded under this chapter, the commission may establish a duty to repay the defaulted loan through a collection order using the procedures prescribed in AS 14.43.152 – 14.43.155 and may enforce the collection order. Action under this section may be undertaken at the commission's discretion if the borrower is in

default under AS 14.43.145. (sec. 9 ch 63 SLA 2004)

**Sec. 14.43.152. Initiation of administrative action to establish a collection order; required notice.** (a) An action to establish a collection order authorized under AS 14.43.151 is initiated by the commission's serving on the borrower a notice of establishment of collection order. The notice shall be served by mailing the notice to the borrower at

- (1) the borrower's most recent address provided to the commission by the borrower; or
- (2) another address known to the commission.

(b) The notice served under (a) of this section must state

(1) the amount of the liability for default under AS 14.43.145 for which the borrower is found to be responsible; the amount stated under this paragraph shall include all principal, interest, and collection fees;

(2) that a lien may be recorded against the borrower's property as authorized under AS 14.43.145(a)(5);

(3) that the borrower may appear at a hearing held by the commission and show cause that a collection order should not be entered because, at the time of the notice,

(A) no loan payment was more than 180 days past due or, for a loan under AS 14.43.161 – 14.43.168 or 14.43.170 – 14.43.175, the default requirements established by the commission had not yet been met; or

(B) the borrower had entered into, or was in compliance with, an agreement to forbear default with the commission; and

(4) that, if the borrower served with the notice does not request a hearing within 30 days after the date of mailing of the notice, a collection order will be entered and the property of the borrower will be subject to a lien under AS 14.43.149 in the amount stated in the collection order without further notice or hearing. (sec. 9 ch 63 SLA 2004)

**Sec. 14.43.153. Hearings in administrative action to establish a collection order; burden of proof.** (a) A borrower served with a notice of establishment of collection order under AS 14.43.152 is entitled to a hearing before the commission if the request for a hearing is served on the commission by registered mail, return receipt requested, within 30 days after the date the notice is mailed to the borrower.

(b) If a request for a hearing in accordance with (a) of this section is made, the issuance of a collection order is automatically stayed pending the decision of the hearing officer for the commission. If a request for a hearing is not made, the collection order is final at the expiration of the 30-day period specified in (a) of this section.

(c) A borrower claiming that the notice is incorrect has the burden at hearing to document the existence of one of the conditions described in AS 14.43.152(b)(3)(A) and (B).

(d) Within 60 days after the date of the hearing, the hearing officer shall enter a decision determining whether default has occurred and, if default has occurred, specifying the amount of the collection order and declaring that the property of the borrower is subject to a lien under AS 14.43.149 in the amount of the collection order.

(e) If the borrower who requested the hearing fails to appear at the hearing, the hearing officer shall enter a decision

- (1) confirming that a default has occurred;
- (2) confirming the amount of the collection order;

(3) declaring that the property of the borrower is subject to a lien under AS 14.43.149 in the amount stated under (2) of this subsection.

(f) The decision of the hearing officer is a final decision that may be appealed to the superior court under the Alaska Rules of Appellate Procedure. (sec. 9 ch 63 SLA 2004)

**Sec. 14.43.154. Collection orders as judgments.** A collection order is equivalent to a judgment and becomes vested

(1) at the expiration of the 30-day period described in AS 14.43.153(b) if a hearing is not requested; or

(2) on the date the hearing officer enters a decision in favor of the commission if a hearing was requested by the borrower. (sec. 9 ch 63 SLA 2004)

**Sec. 14.43.155. Nature of remedies.** AS 14.43.154 provides a remedy in addition to and not as a substitute for any other remedies available to the commission. (sec. 9 ch 63 SLA 2004)

**Sec. 14.43.160. Definitions.** In AS 14.43.091 - 14.43.160, unless the context otherwise requires,

(1) "career education" means a course or program in vocational-technical training or education approved by the commission;

(2) "federally insured" means a loan covered by the provisions of 20 U.S.C.1001 – 1155, as amended;

(3) "full-time student" means an undergraduate or career education student who is enrolled and is in regular attendance at classes for at least 12 semester hours of credit or the equivalent during the semester or a graduate student who is enrolled and is in regular attendance at classes for at least nine semester hours of credit or the equivalent; any combination of semester hours of credit, or the equivalent, aggregating to the requisite number of semester hours and undertaken during a semester at two or more public or private institutions of higher education constitutes full-time student status;

(4) "half-time student" means an undergraduate, graduate, or career education student who during the semester is enrolled and is in regular attendance at classes at one or more public or private institutions of higher education for at least a total of six semester credit hours or an equivalent of six semester credit hours, and includes a career education student enrolled and in regular attendance in classes for at least 15 hours a week;

(5) "school year" means an academic period that is a minimum of 30 weeks of instructional time that begins between September 1 of one year and August 31 of the following year;

(6) "summer term" means the period from June 1 through August 31. (sec. 5 ch 156 SLA 1972; am sec. 8 ch 78 SLA 1974; am sec. 18 - 20 ch 136 SLA 1974; am sec. 5 ch 136 SLA 1975; am sec. 7 ch 246 SLA 1976; am sec. 5 - 7 ch 99 SLA 1977; am sec. 9 ch 87 SLA 1979; am sec. 11 ch 89 SLA 1981; am sec. 59 ch 6 SLA 1984; am sec. 5 ch 34 SLA 1985; am sec. 1 ch 52 SLA 1985; am sec. 17, 29 ch 43 SLA 1991; am sec. 1 ch 58 SLA 2000; am sec. 28 ch 85 SLA 2001)

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## Article 5. ALASKADVANTAGE LOAN PROGRAM.

### Section

161. Purpose; creation	165. Interest
162. Eligibility	166. Repayment of loans
163. Restrictions on award	167. Consolidation of loans
164. Use of Loan	168. Default

**Sec. 14.43.161. Purpose; creation.** There is established the AlaskAdvantage loan program to provide postsecondary educational financial assistance through the federal guaranteed student loan program. The AlaskAdvantage loan program is the primary source for financial aid to eligible borrowers under this chapter. (sec. 29 ch 85 SLA 2001; am sec. 10 ch 63 SLA 2004)

**Sec. 14.43.162. Eligibility.** For a borrower to be eligible for a loan under AS 14.43.161 – 14.43.168, the borrower must meet the eligibility requirements established by the federal guaranteed student loan program and must be

- (1) a resident of the state as determined under (b) of this section; or
- (2) physically present in this state and attending an institution that is physically located in this state.

(b) To meet the residency requirement of (a) of this section, the borrower

(1) must physically reside in this state and maintain a domicile in this state during the 12 consecutive months before the date of application for the program, except that the borrower may be absent from this state for no more than a total of 60 days during that 12-month period; and

(2) may not have

(A) declared or established residency in another state; or

(B) received residency or a benefit based on residency from another state.

(c) To continue to meet the residency requirement of (a) of this section for each year that a loan is received or subsequently applied for, the borrower must meet the requirements of (b) of this section, except for

(1) full-time attendance at an educational or training institution;

(2) military service; or

(3) demonstrated good cause as determined by the commission. (sec. 29 ch 85 SLA 2001)

**Sec. 14.43.163. Restrictions on award.** Under AS 14.43.161 – 14.43.168, the commission may make loans subject to the following restrictions;

(1) a loan amount awarded may not exceed the maximum amount for the school year as established by the federal guaranteed student loan program;

(2) a borrower may not be awarded a loan amount that would, when aggregated with other loans awarded to the student under the federal guaranteed student loan program, exceed the maximum total amount allowable for each borrower that is established by the federal guaranteed student loan program;

(3) the loan award may not exceed the total cost of attendance at the postsecondary institution less other forms of financial aid awarded to the borrower to pay for those costs. (sec. 29 ch 85 SLA 2001)

**Sec. 14.43.164. Use of Loan.** A borrower may use a loan under AS 14.43.161 – 14.43.168 only for postsecondary education and reasonably related purposes as authorized by the federal guaranteed student loan program. (sec. 29 ch 85 SLA 2001)

**Sec. 14.43.165. Interest.** (a) The corporation shall set the rate of interest on a loan made under AS 14.43.161 – 14.43.168 in accordance with federal and state law. Interest on a loan made under AS 14.43.161 – 14.43.168 may not exceed the rate specified by the applicable provisions of the federal guaranteed student loan program. Interest on a loan made under AS 14.43.161 – 14.43.168 accrues from the time that the loan is disbursed.

(b) A borrower may elect to make payments of interest that is payable during the borrower's term of attendance at the postsecondary institution or during certain deferment periods authorized by the commission; however, the commission shall capitalize any unpaid interest as part of the principal to be repaid as agreed, or upon graduation, withdrawal, or completion of the deferment period.

(c) Notwithstanding the provisions of (b) of this section, if a borrower qualifies for a subsidized loan under the federal guaranteed student loan program, the interest on the loan is paid by the federal government during the borrower's term of attendance and any qualifying deferment and grace periods authorized under the loan. (sec. 29 ch 85 SLA 2001)

**Sec. 14.43.166. Repayment of loans.** A borrower's obligation to commence repayment of the principal and interest on a loan under AS 14.43.161 – 14.43.166 and 14.43.168 begins six months after the borrower's completion or other termination of the postsecondary education program. The commission may accelerate the repayment of any loan made in error or in reliance upon a false statement made by the borrower. The commission shall determine the period over which loans are repaid; however, the maximum period of repayment of loans may not exceed the maximum period permitted under applicable provisions of the federal guaranteed student loan program. (sec. 29 ch 85 SLA 2001; am sec. 11 ch 63 SLA 2004)

**Sec. 14.43.167. Consolidation of loans.** The commission may offer

(1) an eligible borrower who has received more than one loan under the federal guaranteed student loan program the option of consolidating the multiple loans into a single loan; or

(2) to consolidate loans made to married borrowers if the married borrowers agree to be jointly and severally liable for repayment of the consolidated loan, regardless of the borrowers' future marital status or the death of one of the borrowers. (sec. 29 ch 85 SLA 2001)

**Sec. 14.43.168. Default.** (a) The commission shall establish the default requirements for loans made under AS 14.43.161 – 14.43.168; however, the requirements may not be less restrictive than those established by the federal guaranteed student loan program.

(b) The provisions of AS 14.43.145 – 14.43.155 apply to loans under AS 14.43.161 – 14.43.168 that are in default. (sec. 29 ch 85 SLA 2001; am sec. 12 ch 63 SLA 2004)

**Article 6. ALASKA SUPPLEMENTAL EDUCATION LOAN PROGRAM.**

Section

170. Creation; purpose	173. Loan award maximums, use of loans award
171. Applicability of other laws	174. Interest
172. Eligibility	175. Repayment of loans

**Sec. 14.43.170. Creation; purpose.** There is created the Alaska supplemental education loan program to provide postsecondary educational supplemental financial assistance. Supplemental financial assistance is available only if the financial aid available through the AlaskAdvantage loan program is insufficient to cover the costs of attendance at a postsecondary institution or if the borrower does not qualify for financial aid under the federal guaranteed student loan program. The commission shall make the public aware of the Alaska supplemental education loan program to facilitate providing loans to as many eligible borrowers as possible. (sec. 29 ch 85 SLA 2001; am sec. 13 ch 63 SLA 2004)

**Sec. 14.43.171. Applicability of other laws.** The provisions of AS 14.43.120(d)(4), 14.43.122; 14.43.135, 14.43.140, 14.43.145 – 14.43.160, 14.43.164, 14.43.166, and 14.43.168 apply to the loans made under AS 14.43.170 – 14.43.175 as if the loans were made under those applicable provisions. (sec. 29 ch 85 SLA 2001; am sec. 14 ch 63 SLA 2004)

**Sec. 14.43.172. Eligibility.** (a) For a borrower to be eligible for a loan under AS 14.43.170 – 14.43.175, the borrower must be, or be about to be, enrolled in a postsecondary institution on at least a half-time basis and must be

(1) a resident of this state

(A) attending or about to attend a postsecondary institution that has been approved by and has executed a program participation agreement with the commission; or

(B) attending or about to attend an approved federal family education loan institution; or

(2) physically present in this state and attending or about to attend an approved federal family education loan institution located in this state.

(b) To meet the residency requirement of (a) of this section, the borrower must meet the standards set out in AS 14.43.162(b).

(c) In addition to the provisions of (a) of this section, a borrower is eligible for a loan under AS 14.43.170 – 14.43.175 if the borrower

(1) is not delinquent in payment on a loan previously awarded by the commission;

(2) at the time of application or loan disbursement does not have a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220;

(3) has not, within the previous five years, had a loan discharged or written off by the commission for any reason;

(4) does not have a status, at the time of application for a loan or disbursement of loan money, that would prevent the borrower from repaying the loan as it becomes due;

(5) has not, within the previous five years, defaulted on another loan made to the borrower by a lending entity unless the borrower can show good faith efforts to repay the loan and extraordinary circumstances that led to the default;

(6) has a credit history, at the time of application for a loan, that demonstrates an ability to pay an extension of credit or loan as it becomes due; and

(7) has complied with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the person.

(d) The commission may not make a loan to a borrower who has been in default on a loan previously awarded by the commission unless the previously awarded loan has been paid in full.

(e) Notwithstanding (c)(4)-(6) of this section, the commission may make a loan to a borrower if another individual who satisfies the requirements of (c) of this section cosigns the loan.

(f) The commission may withhold disbursement of a loan if the borrower no longer meets the eligibility standards set out in this section.

(g) A borrower who is attending a postsecondary institution in this state that has been approved by the commission but is not an approved federal family education loan institution must also comply with and meet any other requirements established by the commission. (sec. 29 ch 85 SLA 2001; am sec. 2 ch 89 SLA 2002; am sec. 15-16 ch 63 SLA 2004; am sec. 1 ch 7 SLA 2009)

**Sec. 14.43.173. Loan award maximums; use of loan award.** (a) In a school year, the commission may make a loan to an eligible borrower under AS 14.43.170 – 14.43.175 attending an eligible postsecondary institution not to exceed

- (1) \$8,500 to an eligible undergraduate student attending a college or university;
- (2) \$9,500 to an eligible graduate student attending a college or university;
- (3) \$6,500 to an eligible student attending a career education program.

(b) The commission may not award loans made under AS 14.43.170 – 14.43.175 to a borrower for more than

- (1) a total of \$42,500 for undergraduate study;
- (2) a total of \$47,500 for graduate study; or
- (3) a combined total of \$60,000 for undergraduate and graduate study.

(c) To maintain a loan award under AS 14.43.170 – 14.43.175, the borrower must continue to be in good standing as determined by the institution and approved by the commission. (sec. 29 ch 85 SLA 2001)

**Section 14.43.174. Interest.** (a) The interest rate on a loan made under AS 14.43.170 – 14.43.175 shall be set by the corporation, but the annual rate may not exceed 8.25 percent. Interest on a loan made under AS 14.43.170 – 14.43.175 accrues from the time the loan is disbursed.

(b) A borrower may elect to make payments of interest that is payable during the borrower's term of attendance at the postsecondary institution or during certain deferment periods authorized by the commission; however, the commission shall capitalize any unpaid interest as part of the principal to be repaid as agreed, or upon graduation, withdrawal, or completion of the deferment period. (sec. 29 ch 85 SLA 2001)

**Section 14.43.175. Repayment of loans.** A borrower's obligation to commence repayment of the principal and interest on a loan under AS 14.43.170 – 14.43.175 begins six months following the borrower's completion or other termination of the postsecondary program or the date that the borrower ceases to be enrolled on at least a half-time basis. The commission shall set the repayment terms of a loan under AS 14.43.170 – 14.43.175. (sec. 29 ch 85 SLA 2001)

## Article 7. MEMORIAL EDUCATION REVOLVING LOAN FUND

### Section

250. Declaration of purpose	310. Selection
255. Fund created	315. [Repealed]
300. Limits and conditions of loans	320. Administering authority
305. Repayment of loans	325. Funding

**Sec. 14.43.250. Declaration of purpose.** (a) The legislature may pay tribute to the memory of Alaskans who, by the example of their lives, or by their distinguished contribution and service to this state, their community or their profession, exemplified the best that is the challenge of "The Great Land" by the creation of memorial education loans as a part of a general memorial education revolving loan fund, setting out the purpose for which each is created, and the conditions applicable to each loan.

(b) The purposes of the several memorial education loan accounts in the memorial education revolving loan fund are as follows:

(1) the Michael Murphy memorial education loan perpetuates the memory of Michael Murphy, a member of the Alaska State Troopers, who, while on leave from that division, gave his life for his adopted country in Vietnam on May 22, 1968;

(2) the Carroll L. "Butch" Swartz memorial education loan perpetuates the memory of Carroll L. "Butch" Swartz, of Juneau, who was a student intern with the Criminal Justice Planning Agency and the Governor's Commission on the Administration of Justice during the summer months of 1972 and 1973 and whose accidental and untimely death in November 1973 occurred while completing his undergraduate education at Yale University, thus never realizing his educational goals or career objective;

(3) the Harvey Golub memorial education loan perpetuates the memory of Harvey Golub, of Juneau, who was chief engineer of the bridge design section of the Department of Highways of the State of Alaska and whose accidental and untimely death September 13, 1971, cut short a widely-respected career in civil engineering;

(4) the Robert L. Thomas memorial education loan perpetuates the memory of Robert L. Thomas, of Juneau, who as Deputy Commissioner of Education, and for 13 years as a member of the professional staff of that department contributed significantly to the creation, operation, and administration of a sound system of public education in Alaska and whose tragic and untimely death March 12, 1974, terminated a distinguished career in education and public administration that long will be exemplary for those who aspire to service in that profession;

(5) the A.W. (Winn) Brindle memorial education loan perpetuates the memory of A.W. (Winn) Brindle, who was the president of the Wards Cove Packing Company and Columbia-Wards Fisheries and whose death July 4, 1977, terminated a distinguished career dedicated to the development of the Alaska seafood industry; and

(6) the Nick Begich memorial education loan perpetuates the memory of Nick Begich, teacher and school superintendent at Fort Richardson, father of the Alaska kindergarten program, state senator, and member of the United States House of Representatives, whose accidental and untimely death in October of 1972 cut short a productive and distinguished career in education and public service. (sec. 21 ch 136 SLA 1974; am sec. 1 ch 78 SLA 1986; am sec. 1 ch 13 SLA 1991)

**Sec. 14.43.255. Fund created.** (a) There is created a memorial education revolving loan fund. The fund shall be used to provide education loans to students selected under AS 14.43.250 - 14.43.325. Repayments of a loan shall be deposited into the memorial education revolving loan fund and shall be used to make new loans.

(b) Each memorial education loan, the purpose of which is set out in AS 14.43.250(b), is a separate

account in the memorial education revolving loan fund created under (a) of this section.

(c) [*Repealed, sec. 42 ch 85 SLA 2001.*] (sec. 21 ch 136 SLA 1974; am sec. 2 ch 78 SLA 1986; am sec. 11, 12 ch 92 SLA 1987; am sec. 18 ch 43 SLA 1991; am sec. 30, 42 ch 85 SLA 2001)

**Sec. 14.43.300. Limits and conditions of loans.** (a) An education loan to a recipient under AS 14.43.250(b)(1) - (4) or (6) may not exceed \$2,500 a school year for an undergraduate student or \$5,000 a school year for a graduate student and may not be made to a student for more than six years. An education loan to a recipient under AS 14.43.250(b)(5) may not exceed the cost of tuition and required fees, books and educational supplies, room and board, and transportation for two round trips between the recipient's home and school each year. A loan under AS 14.43.250(b)(5) may not be made for more than five years of undergraduate study, five years of graduate study, or a combined maximum of eight years of study.

(b) A loan made under AS 14.43.250 - 14.43.325 may be used only as follows:

(1) a Michael Murphy memorial education loan may be used only to pursue a certificate or degree program in an accredited college or university in law enforcement, law, probation and parole, or penology, or closely related fields;

(2) a Carroll L. "Butch" Swartz memorial education loan may be used only to pursue a degree program in an accredited college or university in criminal law, criminology, corrections, police science and administration, juvenile justice, or other fields closely related to criminal justice;

(3) a Harvey Golub memorial education loan may be used only to pursue a degree program in an accredited college or university in civil, mechanical, electrical, electronic, petroleum, mining, traffic and transportation, sanitary, chemical, or other recognized field of engineering;

(4) a Robert L. Thomas memorial education loan may be used only to pursue a degree program in an accredited college or university that will lead to a career in education or public administration, or other closely related field;

(5) an A.W. (Winn) Brindle memorial education loan may be used only to pursue a certificate or degree program in an accredited school, college, or university in fisheries, fishery science, fishery management, seafood processing, food technology, or other closely related field; and

(6) a Nick Begich memorial education loan may be used only to pursue a degree program in an accredited college or university that will lead to a career in education, public administration, government, or other closely related field.

(c) The recipient of a memorial education loan must be a resident of Alaska and enrolled or eligible for enrollment as a full-time student in a certificate or degree program in a field listed in (b) of this section that is appropriate to the memorial education loan received.

(d) The recipient must at all times continue to be enrolled as a full-time student in good standing at an accredited postsecondary institution that is appropriate to the memorial education loan received.

(e) In any year in which the memorial education revolving loan fund created under AS 14.43.255 has inadequate receipts to fund a loan in one of the loan categories listed in AS 14.43.250(b), no loan in that loan category may be offered and the receipts shall be added to the amount available for that category in the succeeding year.

(f) The administering authority may provide conditions in the note signed by the recipient or in a separate document or communication that will help it carry out the provisions of AS 14.43.250 - 14.43.325.

(g) [*Repealed, sec. 31 ch 63 SLA 2004*] (sec. 21 ch 136 SLA 1974; am sec. 3 - 5 ch 78 SLA 1986; am sec. 3 ch 168 SLA 1990; am sec. 2, 3 ch 13 SLA 1991; am sec. 39, 40 ch 63 SLA 1993; am sec. 1 ch 20 SLA 1995; am sec. 18 ch 5 SLA 1996; am sec. 17 ch 63 SLA 2004)

**Sec. 14.43.305. Repayment of loans.** (a) Memorial education loans under AS 14.43.250(b)(1) - (4) or (6) shall be noninterest-bearing and security for the loan may not be required. However, the note signed by the recipient shall provide for the payment of attorney fees, costs of court, and skip-tracing fees if any are incurred in collection of the unpaid amount owed on the loan.

(b) No part of a loan made under AS 14.43.250 - 14.43.325 need be repaid during an academic year in which the student is attending an accredited college or university as a full-time student.

(c) Loans may be repaid at an accelerated rate at the option of the recipient.

(d) If a loan is in default, the administering authority shall notify the recipient that repayment of the remaining balance is accelerated and due by sending the recipient a notice of registered or certified mail.

(e) A recipient of a memorial education loan under AS 14.43.250(b)(1) - (4) or (6) who graduates from a degree program, or for a loan under AS 14.43.250(b)(1) from a certificate program, shall receive forgiveness of one-fifth of loan principal for each one-year period the recipient is employed full time in Alaska in

(1) law-enforcement or related fields, if a recipient of a Michael Murphy memorial education loan;

(2) criminal law, criminal justice, or other closely related fields, if a recipient of a Carroll L. "Butch" Swartz memorial education loan;

(3) a recognized branch of the engineering profession or other closely related fields, if a recipient of a Harvey Golub memorial education loan;

(4) education or public administration, or other closely related field, if a recipient of a Robert L. Thomas memorial education loan; or

(5) education, public administration, government, or other closely related field, if a recipient of a Nick Begich memorial education loan.

(f) That portion of the loan that is forgiven under (e) or (j) of this section shall be considered a grant to the recipient.

(g) A recipient who does not qualify for forgiveness of all or a part of the loan made under AS 14.43.250(b)(1) - (4) or (6) shall begin repayment of the unforgiven portion within six months after leaving employment or terminating studies in

(1) law enforcement or related fields, if a recipient of a Michael Murphy memorial education loan;

(2) criminal law, criminal justice, or other closely related fields, if a recipient of a Carroll L. "Butch" Swartz memorial education loan;

(3) a recognized branch of the engineering profession or other closely related fields, if a recipient of a Harvey Golub memorial education loan;

(4) education or public administration, or other closely related field, if a recipient of a Robert L. Thomas memorial education loan; or

(5) education, public administration, government, or other closely related field, if a recipient of a Nick Begich memorial education loan.

(h) The unforgiven portion of a loan under (g) of this section shall be repaid in an amount, and at a monthly rate, to be determined by the administering authority after consultation with the recipient, but in any event not less than \$50 a month.

(i) To the extent they are not in conflict with terms and conditions under AS 14.43.250 - 14.43.325, the terms and conditions of a memorial education loan made under AS 14.43.250(b)(5) are the same as the terms and conditions for an education loan under AS 14.43.091 - 14.43.160, except that the interest on the loan is equal to five percent.

(j) A recipient of a memorial education loan under AS 14.43.250(b)(5) who graduates from a certificate or degree program shall receive forgiveness of 10 percent of loan principal, up to a maximum of 50 percent of loan principal, for each one-year period during the first five years following graduation that the

recipient is employed full time in the state in fisheries, fishery science, fishery management, seafood processing, food technology, or other closely related field. (sec. 21 ch 136 SLA 1974; am sec. 6 - 9 ch 78 SLA 1986; am sec. 4 - 6 ch 13 SLA 1991; am sec. 2 - 5 ch 20 SLA 1995; am sec. 31 ch 85 SLA 2001)

**Sec. 14.43.310. Selection.** (a) In selecting from among eligible applicants a person who will be granted a loan under AS 14.43.250 - 14.43.325, the administering authority shall consider the following:

- (1) the applicant's career goals and aspirations;
- (2) the applicant's prior academic record;
- (3) the financial need of the applicant; and
- (4) other items that may be considered relevant by the administering authority to determine

whether an applicant will receive a loan.

(b) To assist the administering authority in selecting eligible applicants for award of each of the memorial education loans under AS 14.43.250 - 14.43.325 and in reviewing the memorial education loan program, the following advisory committees are established:

(1) three Alaska state troopers, each one to be selected from and to represent a state trooper region of the state by the regional commander to serve for three years, for the Michael Murphy memorial education loan;

(2) *[Repealed, sec. 24 ch 22 SLA 2001.]*

(3) three members of the state Board of Registration for Architects, Engineers and Land Surveyors selected annually by the board from among its engineer members, for the Harvey Golub memorial education loan; and

(4) three members of the state Board of Education and Early Development, or of the staff of the Department of Education and Early Development, or any combination of these, selected annually by the board, for the Robert L. Thomas memorial education loan.

(c) In selecting from among eligible applicants for award of a memorial education loan under AS 14.43.250(b)(5), the administering authority shall give preference to applicants nominated by private donors to the A.W. (Winn) Brindle memorial education loan account in the memorial education revolving loan fund.

(d) In selecting from among eligible applicants for award of a memorial education loan under AS 14.43.250(b)(6), the administering authority shall give preference to applicants nominated by the board members of the Nick Begich Scholarship Intern Fund, Inc. (sec. 21 ch 136 SLA 1974; am sec. 10 ch 78 SLA 1986; am sec. 7 ch 13 SLA 1991; am sec. 24 ch 22 SLA 2001)

**Sec. 14.43.315. Discrimination prohibited.** *[Repealed, sec. 42 ch 85 2001.]*

**Sec. 14.43.320. Administering authority.** (a) The memorial education loans provided for under AS 14.43.250 - 14.43.325 shall be administered by the executive director of the commission, subject to review by the commission and to those regulations the commission may prescribe to carry out the purposes of AS 14.43.250 - 14.43.325.

(b) To the extent that they are not in conflict with the provisions of AS 14.43.250 - 14.43.325, the provisions of AS 14.43.091 - 14.43.160 relating to education loans are applicable to loans made under AS 14.43.250 - 14.43.325. (sec. 21 ch 136 SLA 1974; am sec. 19 ch 43 SLA 1991; sec. 32 ch 85 SLA 2001)

**Sec. 14.43.325. Funding.** (a) The memorial education revolving loan fund created under AS 14.43.255 shall be funded by voluntary contributions by state employees who may contribute the value of one or more days of annual leave a year to the memorial education revolving loan fund to be credited to any one or more of the education loan accounts listed in AS 14.43.250(b) at the discretion of the donor.

(b) The Department of Administration shall pay to the account of the memorial education revolving

loan fund established under AS 14.43.255 an amount equal to the value of the total number of days of annual leave contributed by state employees under (a) of this section.

(c) The administering authority may accept contributions from private sources for the memorial education revolving loan fund created under AS 14.43.255. These contributions shall be deposited in the memorial education revolving loan fund created under AS 14.43.255 to be credited to any one or more of the education loan accounts listed in AS 14.43.250(b) at the discretion of the donor. For the purpose of this subsection, "private sources" means private individuals, corporations, foundations, or other philanthropic or charitable organizations. (sec. 21 ch 136 SLA 1974)

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## Article 8. ALASKADVANTAGE EDUCATION GRANT PROGRAM

### Section

400. Purpose; creation  
405. Administration  
406. Applicability of other laws

### Section

410. Distribution of funds  
415. Eligibility; priority  
420. Limitation on grants

**Sec. 14.43.400. Purpose, creation.** There is created the AlaskAdvantage education grant program to provide financial assistance to eligible students to enable them to attend, or continue their attendance at, postsecondary educational institutions. Funds designated by the corporation or appropriated for this program may be used as matching funds for the state's participation in the federal grant program under 20 U.S.C. 1070c – 1070c-4. (sec 1 ch 51 SLA 1978; am sec. 18 ch 63 SLA 2004)

**Sec. 14.43.405. Administration.** (a) The AlaskAdvantage education grant program created under AS 14.43.400 – 14.43.420 shall be administered by the executive director of the commission.

(b) *[Repealed, sec. 31 ch 63 SLA 2004]* (sec 1 ch 51 SLA 1978; am sec 20 ch 43 SLA 1991; am sec 33 ch 85 SLA 2001; am sec. 19 ch 63 SLA 2004)

**Sec. 14.43.406. Applicability of other laws.** (a) To the extent they are not in conflict with the provisions of AS 14.43.400 – 14.43.420, the provisions of AS 14.43.162(b), 14.43.910, and 14.43.920 apply to a grant made under AS 14.43.400 – 14.43.420.

(b) In determining a student's eligibility for a grant under AS 14.43.400 – 14.43.420, the executive director of the commission shall apply the standards contained in the definitions of "full-time student," "half-time student," and "school year" in AS 14.43.160 as if those provisions were applicable to application for the grant. (sec. 20 ch 63 SLA 2004)

**Sec. 14.43.410. Distribution of funds.** The funds for the AlaskAdvantage education grant program may be allocated to eligible students in accordance with the provisions of the federal grant program under 20 U.S.C. 1070c – 1070c-4 and regulations adopted under AS 14.43.105 and 14.43.405.

(b) The commission may set aside a portion of grant awards for otherwise eligible applicants whose employment prevents them from attending school on a full-time basis. The commission shall adopt regulations to carry out the purposes of this subsection. (sec 1 ch 51 SLA 1978; am sec. 21 ch 63 SLA 2004)

**Sec. 14.43.415. Eligibility; priority.** (a) For an applicant to be eligible for a grant under AS 14.43.400 – 14.43.420, the applicant must be

- (1) a resident of this state;
- (2) enrolled or about to be enrolled

(A) at an institution approved to participate in federal financial aid programs under 20 U.S.C. 1070 – 1099c-2, as amended, located in this state; and

(B) on at least a half-time basis; and

(3) able to demonstrate financial need in accordance with standards for determining financial need established by the commission under 20 U.S.C. 1070c-2, as amended.

(b) The commission shall give an applicant eligible under (a) of this section priority for a grant award if that applicant is, or is about to be, enrolled in a program of study that is preparatory for employment in an occupation or profession for which the Department of Labor and Workforce Development, or another

workforce data source selected as reliable by the commission, indicates there is a severe shortage of trained individuals in this state. Additionally, the commission may give an applicant priority for a grant award if that applicant has participated in a secondary education program of study that can be demonstrated to the commission to be a predictor for success at the postsecondary education level for a program of study described in this subsection. For purposes of this subsection,

(1) “occupation or profession” means a job for which specific postsecondary certification is a prerequisite for entry-level placement;

(2) “severe shortage” means a current or recurring job vacancy rate of 15 percent or greater, as determined by the Department of Labor and Workforce Development or by another workforce data source determined reliable by the commission.

(c) The commission shall adopt regulations to establish a prioritization process for awarding grants under AS 14.43.400 – 14.43.420. (sec 1 ch 51 SLA 1978; am secs. 21, 22 ch 43 SLA 1991; am sec. 23 ch 63 SLA 2004)

**Sec. 14.43.420. Limitation on grants.** (a) A grant made under AS 14.43.400 – 14.43.420 may not be in an amount less than \$500 nor more than \$3,000 for each school year.

(b) *[Repealed, sec 31 ch 63 SLA 2004.]*

(c) A student may receive not more than a total of \$12,000 in grants awarded under AS 14.43.400 – 14.43.420. (sec 1 ch 51 SLA 1978; am sec. 24-25 ch 63 SLA 2004; am sec 3,4 ch 14 SLA 2010)

*Sec. 14.43.500. Definitions. [Repealed, sec 31 ch63 SLA 2004.]*

## Article 9. MEDICAL EDUCATION SUPPORT.

### Section

#### 510. Repayment condition for medical education program participants

**Sec. 14.43.510. Repayment condition for medical education program participants.** (a) Except as provided under (b) and (c) of this section, as a condition of participating in a medical education program under AS 14.42.030(d), a program participant shall agree to either return to the state and actively engage in professional medical practice or repay financial support provided by the state on behalf of the program participant. The financial support to be repaid is equal to 50 percent of the amount paid for each program participant by the state to the contracting postsecondary institution, plus interest. The rate of interest is equal to the 12<sup>th</sup> Federal Reserve District discount rate in effect on March 1 of the year in which the financial support is provided plus two percentage points. Interest imposed under this subsection begins to accrue when the person terminates studies under the medical education program. Accrued interest shall be added to the principal balance of the repayment obligation at the time the borrower is obligated to commence repayment and at the end of a deferment period.

(b) If a program participant under (a) of this section has graduated from the medical education program for which the financial support was received and is employed in the state in the field for which the person received the financial support, including employment in the state in a medical residency program, the repayment obligation shall be forgiven and considered a grant in an amount equal to the following percentages plus accrued interest:

- (1) for employment in rural areas of the state,
  - (A) one year employment, 33 1/3 percent;
  - (B) two years employment, an additional 33 1/3 percent;
  - (C) three years employment, an additional 33/ 1/3 percent;
- (2) for employment in areas of the state that are not rural,
  - (A) one year employment, 20 percent;
  - (B) two years employment, an additional 20 percent;
  - (C) three years employment, an additional 20 percent;
  - (D) four years employment, an additional 20 percent;
  - (E) five years employment, an additional 20 percent.

(c) Repayment under (a) of this section is required to begin not later than six months after the person terminates studies under the medical education program, except that repayment shall be deferred for a person who (1) qualifies for forgiveness under (b) of this section for as long as the person remains qualified for forgiveness under (b) of this section; (2) is employed in a medical residency program for as long as the person remains in the medical residency program; or (3) is performing a service obligation imposed by the National Health Service Corps, the Indian Health Service, or the Uniformed Service Scholarship Program for as long as the person is performing the service. Forgiveness under (b) of this section only applies to that portion of the repayment obligation that has not been repaid to the state.

(d) If a person meets the qualifying conditions under this section for forgiveness after beginning repayment, the repayment requirement is deferred in the month following qualification for forgiveness. Repayment shall be deferred as long as the person remains qualified or until the balance of the repayment obligation has been fully forgiven. If the person is delinquent or in default on the person's regular repayment schedule, repayment shall continue until the person is current in payments. A period of time during which the person is making past due payments may not be considered as a qualifying period for the purpose of calculating forgiveness benefits.

(e) For purposes of qualifying for forgiveness under this section, a person must be a full-time

employee for a period of at least six months in order to qualify for a prorated forgiveness benefit. In this subsection, “full-time employee does not include seasonal or temporary employment.

(f) A person’s obligation to repay under this section ends if the person dies and is deferred during any period in which a physician certifies that the person is totally disabled.

(g) This section does not apply to loans received by a person under AS 14.43.010 – 14.43.160 or 14.43.710 – 14.43.750.

(h) The commission may adopt regulations to implement this section. Except as provided in this section, regulations adopted under this subsection may not exempt or defer a repayment required under this section.

(i) In this section, “rural” means a community with a population of 7,500 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 3,500 or less that is connected by road or rail to Anchorage or Fairbanks. (sec. 3 ch 23 SLA 1999; am secs. 2 – 5 ch 5 SLA 2007)

## Article 10. TEACHER EDUCATION LOAN PROGRAM

600. Findings and intent	630. Administration
610. Program established	640. Conditions of and limitations on loans
620. Teacher education revolving loan fund	650. Selection criteria
	700. Definition

**Sec. 14.43.600. Findings and intent.** (a) The legislature finds that there is a wide and unacceptable disparity between the distribution of Native teachers and Native students in rural elementary and secondary schools in the state. Many rural schools have virtually no Native teachers and no non-Native students. The undesirable effects of this disparity include the following:

- (1) there is a serious weakness in the ability of teaching staffs in rural schools to foster a sense of Native traditions and cultures in the Native students;
- (2) many rural students are forced to exist in two entirely separate situations: the essentially traditional atmosphere of many Native homes, and the essentially modern atmosphere of the classroom;
- (3) almost no Native students return to rural schools to teach, continuing the imbalance and exacerbating its effects; and
- (4) there is an annual turnover of 40 percent among teachers in regional educational attendance areas in the state.

(b) The legislature further finds that existing programs have failed to increase the proportion of Natives teaching in rural schools. Therefore, it is the intent of the legislature to establish the teacher education loan program to encourage rural high school graduates to return to rural schools as teachers and relieve the conditions described in this section. (sec. 1 ch 121 SLA 1984)

**Sec. 14.43.610. Program established.** There is established the teacher education loan program to provide an incentive for rural high school graduates to pursue teaching careers in rural elementary and secondary schools in the state. (sec. 1 ch 121 SLA 1984)

**Sec. 14.43.620. Teacher education revolving loan fund.** (a) There is created a teacher education revolving loan fund. The fund shall be used to make education loans to students selected under AS 14.43.600 - 14.43.700. Unless the instrument evidencing the teacher education loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on a teacher education loan shall be paid into the teacher education revolving loan fund and shall be used to make new teacher education loans. If estimated funds available are inadequate to fully fund estimated teacher education loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The commission may sell or assign notes and other instruments evidencing teacher education loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the education loan fund created under AS 14.42.210 and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of the notes or other instruments shall be deposited in the teacher education revolving loan fund. (sec. 1 ch 121 SLA 1984; am sec. 13, 14 ch 92 SLA 1987; am sec. 23 ch 43 SLA 1991)

**Sec. 14.43.630. Administration.** (a) The teacher education loan program shall be administered by the commission in accordance with regulations adopted by the commission. The commission shall

- (1) allocate the loan awards available for teacher education loans annually to local school boards giving a preference to rural school districts; and
- (2) develop and distribute to the local school boards an application form for teacher

education loans; the form must include a requirement that the applicant supply a high school academic transcript and a statement of intent to enter a teaching career at the elementary or secondary school level in the state.

(b) The local school boards shall select the recipients of the teacher education loans according to the criteria in AS 14.43.650. (sec. 1 ch 121 SLA 1984; am sec. 24 ch 43 SLA 1991)

**Sec. 14.43.640. Conditions of and limitations on loans.** (a) To the extent that they are not in conflict with the provisions of AS 14.43.600 - 14.43.700, the provisions of AS 14.43.100 - 14.43.160 are applicable to loans made under AS 14.43.600 - 14.43.700.

(b) If a borrower meets the conditions provided in (a) of this section and is employed as a teacher in a rural elementary or secondary school, the portion of the loan that shall be paid by the state is the following percentages of the total loan received plus interest up to a total of 100 percent of the total loan:

- (1) one year employment, 15 percent;
- (2) two years employment, an additional 15 percent;
- (3) three years employment, an additional 15 percent;
- (4) four years employment, an additional 25 percent;
- (5) over four years employment, an additional 30 percent.

(c) A loan may not exceed \$7,500 in a school year, exclusive of loan guarantee fees.

(d) Proceeds from a teacher education loan may be used only for undergraduate expenses of books, tuition, required fees, loan guarantee fees, room and board, and the transportation expense for two round trips between the loan recipient's home and school.

(e) Teacher education loans made to a student may not exceed a total of \$37,500.

(f) Notwithstanding (b) of this section, a borrower who fails to qualify for loan payment by the state because the borrower is required to reside in an urban area of the state in order to receive medical treatment is still entitled to receive loan payments by the state under (b) of this section if the medical condition for which the borrower is receiving treatment did not exist before the borrower received the teacher education loan and the borrower is employed as a teacher in an urban elementary or secondary school. (sec. 1 ch 121 SLA 1984; am sec. 15 ch 92 SLA 1987; am sec. 41, 42 ch 63 SLA 1993; am sec. 19 ch 5 SLA 1996; am sec. 9 ch. 54 SLA 1997; sec. 1 ch 57 SLA 1998)

**Sec. 14.43.650. Selection criteria.** (a) To be eligible for a teacher education loan, a student must

- (1) be a graduate of a public or private high school in the state, with sufficient credits to be admitted to an accredited college or university;
- (2) be enrolled in or show evidence of intent to enroll in a degree program directed at a teaching career at the elementary or secondary school level;
- (3) meet the conditions set by the student's local school board with respect to the district's requirements for teachers in particular subject areas;
- (4) submit to the local school board an application provided by the commission under AS 14.43.630(a)(2); an application may be submitted six months before graduation from high school; and
- (5) not have a past due child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220 at the time of application.

(b) A local school board shall award teacher education loans giving a preference to applicants from rural schools who meet the qualifications for a loan and taking into account the applicants' academic records.

(c) A student may not be awarded a teacher education loan under AS 14.43.600 - 14.43.700 if the student receives an education loan under AS 14.43.170- 14.43.175 for the same period of attendance.

History - (sec. 1 ch 121 SLA 1984; am sec. 3 ch 116 SLA 1986; am sec. 16 ch 92 SLA 1987; am sec. 25 ch 43 SLA 1991; am sec. 20 ch 5 SLA 1996; am sec. 34 ch 85 SLA 2001)

**Sec. 14.43.700. Definition.** In AS 14.43.600 - 14.43.700, "rural" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks or with a population of 1,500 or less that is connected by road or rail to Anchorage or Fairbanks. (sec. 1 ch 121 SLA 1984; am sec. 3 ch 105 SLA 1992)

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## Article 11. ALASKA FAMILY EDUCATION LOAN PROGRAM

Section	750. Eligibility
710. Program established	
720. Family education loan account	
740. Loan terms and conditions	

**Sec. 14.43.710. Program established.** The Alaska family education loan program is established to provide low interest loans to families to assist in paying the costs of postsecondary education for family members. (sec. 17 ch 92 SLA 1987)

**Sec. 14.43.720. Family education loan account.** (a) The family education loan account is created within the education loan fund (AS 14.42.210). The account shall be used to make family education loans to families selected under AS 14.43.710 - 14.43.750, to pay the costs of collecting family education loans that are in default if those costs are not recovered from the family, and to pay the costs of administering the account. Unless the instrument evidencing the family education loan has been sold or assigned to the Alaska Student Loan Corporation, repayments of principal and interest on family education loans shall be paid into the family education loan account. If estimated funds available from family education loan repayments are inadequate to fully fund estimated family education loans in a fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) The commission may sell or assign notes and other instruments evidencing family education loans to the Alaska Student Loan Corporation and enter into agreements with the corporation relating to loans, the administration of the education loan fund created under AS 14.42.210, and the payment of and security for bonds of the corporation. Proceeds from the sale or assignment of notes and other instruments shall be deposited in the family education loan account. (sec. 17 ch 92 SLA 1987; am sec. 26 ch 43 SLA 1991; am sec. 10 ch. 54 SLA 1997; am sec. 36 ch 85 SLA 2001)

**Sec. 14.43.730. Administration.** [*Repealed, sec. 42 ch 85 SLA 2001.*]

**Sec. 14.43.740. Loan terms and conditions.** (a) The provisions of AS 14.43.100, 14.43.120(a) – (c), (m), and (r) – (u), 14.43.122, 14.43.135, 14.43.145 – 14.43.155 and 14.43.910 - 14.43.990 apply to a loan made under AS 14.43.710 - 14.43.750.

(b) [*Repealed, sec. 18 ch 54 SLA 1997.*]

(c) The corporation shall set the interest rate on a loan made under AS 14.43.710 – 14.43.750, but the annual rate may not exceed 8.25 percent.

(d) Repayment of the principal and interest on a loan made under AS 14.43.710 - 14.43.750 begins on the first of the month immediately following loan disbursement. The loan may be canceled without prejudice at any time before actual disbursement. The loan shall provide for repayment of the total amount owed in periodic installments in not more than 10 years from the commencement of repayment. If the commission and the borrower agree to a different repayment schedule, the borrower shall repay the loan in accordance with the agreement.

(e) Provision shall be made for payment by the borrower of fees and costs incurred in collection of delinquent or defaulted loans.

(f) The commission may withhold disbursement of a loan if the borrower or family member is no longer eligible under AS 14.43.750.

(g) The commission may, by regulation, set loan limits for loans made under AS 14.43.710 – 14.43.750. (sec. 17 ch 92 SLA 1987; am sec. 2 ch 44 SLA 1991; am sec. 43 ch 63 SLA 1993; am sec. 8 ch 112 SLA 1994; am sec. 21 ch 5 SLA 1996; am sec. 11 - 14, 18 ch. 54 SLA 1997; am sec. 26 ch 63 SLA 2004; sec 2 ch 7 SLA 2009)

**Sec. 14.43.750. Eligibility.** (a) A person may apply for and obtain a family education loan on behalf of a family member if

(1) the borrower

(A) is a resident of the state at the time of application for the loan; for purposes of this paragraph, a borrower qualifies as a resident of the state if the borrower has been physically present in the state for at least one year immediately before the time of application for the loan with the intent to remain indefinitely or, if not physically present in the state, the borrower has not declared or established residency in another state, intends to return permanently to the state, and the absence meets the requirements imposed under AS 14.43.125(a)(3)(C)(i) - (vi);

(B) satisfies the requirements of AS 14.43.125(a)(6) - (9);

(2) the family member

(A) is enrolled as a full-time student in a career education, associate, baccalaureate, or graduate degree program; or

(B) is a graduate of a high school or the equivalent, or scheduled for graduation from a high school within six months, who, at the time of loan disbursement, will be enrolled in compliance with (A) of this paragraph; and

(3) neither the borrower nor the family member

(A) is delinquent or has ever been in default on a loan previously awarded by the commission;

(B) is past due on a child support obligation established by court order or by the child support services agency under AS 25.27.160 - 25.27.220 at the time of application or loan disbursement;

(C) has, within the previous five years, had a loan discharged or written off by the commission for any reason.

(b) [Repealed, sec. 26 ch 5 SLA 1996.] (sec. 17 ch 92 SLA 1987; am sec. 9 ch 112 SLA 1994; am sec. 26 ch 5 SLA 1996; am sec. 15 ch. 54 SLA 1997; am sec. 3 ch 89 SLA 2002)

**Sec. 14.43.790. Definitions.** [Repealed, sec. 18 ch 54 SLA 1997.]

**Article 12. ALASKA MERIT SCHOLARSHIP PROGRAM.**

Section

810. Alaska merit scholarship program established; regulations	830. Qualified postsecondary institutions
820. Alaska merit scholarship program; eligibility	840. Report to the legislature
825. Maximum annual awards	850. Definitions

**Sec. 14.43.810. Alaska merit scholarship program established; regulations.** (a) The Alaska merit scholarship program is established to provide scholarships for high school graduates who are Alaska residents to attend a qualified postsecondary institution in the state.

(b) The department shall, in consultation with the commission, adopt regulations necessary to implement the program. The commission shall administer the daily operations of the program and financing of the program, including the procedures for applying for the scholarships, establishing standards for and ensuring continuing compliance with programmatic standards, and requiring students to apply for other non loan financial aid, consistent with federal law. (sec 5 ch 14 SLA 2010)

**Sec. 14.43.820. Alaska merit scholarship program; eligibility.** (a) Subject to appropriation, the commission shall award an Alaska merit scholarship program scholarship to an applicant who

- (1) is a resident of the state as defined in AS 01.10.055;
- (2) graduated or will graduate within six months from a high school in the state;
- (3) has completed a core academic curriculum in high school that includes

(A) four years of mathematics, four years of language arts, four years of science, and four years of social studies, one year of which may include a foreign language, an Alaska Native language, fine arts, or cultural heritage; or

(B) three years of mathematics, four years of language arts, three years of science, four years of social studies, and two years of a foreign language or an Alaska Native language;

(4) has a minimum grade-point average in high school of 2.5 or higher; the department shall set by regulation minimum requirements based on a substantially similar standard for districts that do not assign grades;

(5) has achieved a minimum score on a

(A) college entrance examination; or

(B) standardized examination designed to measure a student's level of preparedness to make the transition to work, as selected by the department; and

(6) is enrolled in good standing in a course of study at a qualified postsecondary institution in this state that is intended to result in the award of a certificate or degree.

(b) The commission shall establish in regulation standards for continuing and regaining eligibility for a scholarship. (sec 5 ch 14 SLA 2010)

**Sec. 14.43.825. Maximum annual awards.** (a) The maximum annual awards for the Alaska merit scholarship program scholarships are as follows:

(1) the first award level is \$4,755 and requires a 3.5 grade-point average or above and a very high minimum score on a college entrance examination;

(2) the second award level is \$3,566 and requires a 3.0 grade-point average or above and a high minimum score on a college entrance examination;

(3) the third award level is \$2,378 and requires a 2.5 grade-point average or above and a

moderately high minimum score on a college entrance examination.

(b) A student's eligibility for a scholarship terminates six years after the date the student graduated from high school unless the student qualifies for an extension of time allowed by the department by regulation.

(c) Except as provided in (b) of this section, a student receiving a scholarship may remain eligible for up to eight semesters of enrollment in good standing at a qualified university or college, which may include graduate courses.

(d) Scholarships may be awarded to a full-time student or, if a student is enrolled part time, prorated based on the number of credits. In this subsection, "full time" means enrollment in a course of study that is not less than 12 credits and "part time" means enrollment in a course of student that is not less than six credits but less than 12 credits.

(e) The amount of a scholarship award may not exceed the amount of the student's costs of attendance as certified by the postsecondary institution for the purposes of federal financial aid, less any other scholarship or non-loan financial aid awarded to the student.

(f) Payment of a scholarship is subject to appropriation. If insufficient funds are appropriated to pay all eligible scholarships, the commission shall pay existing awards on a pro rata basis. (sec 5 ch 14 SLA 2010)

**Sec. 14.43.830. Qualified postsecondary institutions.** (a) The following institutions are qualified postsecondary institutions for purposes of awarding an Alaska merit scholarship program scholarship:

(1) a university or college physically located in the state that is

(A) authorized to operate in the state under AS 14.48.020, or is exempt from authorization under AS 14.48.030(b)(1); and

(B) accredited by a regional accreditation association;

(1) a career and technical school program physically located in the state that has been included on a list of certified career and technical school programs received from the Department of Labor and Workforce Development; the commission shall publish the list on or before June 30 of the year preceding enrollment.

(b) The Department of Labor and Workforce Development shall, in consultation with the Department of Education and Early Development, adopt regulations under AS 44.62 (Administrative Procedure Act) establishing criteria under which the Department of Labor and Workforce Development shall certify career and technical school programs in the state as eligible to participate in the Alaska merit scholarship program. (sec 5 ch 14 SLA 2010)

**Sec. 14.43.840. Report to the legislature.** (a) To the extent permitted under law, the department, the commission, the University of Alaska, and the Department of Labor and Workforce Development shall share data necessary to prepare public reports regarding the program.

(b) No more than 10 days after the convening of each regular legislative session, the department, the commission, the University of Alaska, and the Department of Labor and Workforce Development shall present an annual report to the public, the governor, and the legislature containing information of public interest regarding the program, including

(1) the number of applicants and number or types of scholarships awarded;

(2) the dollar amount of scholarships awarded in past years and the dollar amounts expected to be awarded for the next year; and

(3) data and trends in the data regarding high school and postsecondary student performance, programmatic changes, and retention and graduation rates over time. (sec 5 ch 14 SLA 2010)

**Sec. 14.43.849. Definitions.** In AS 14.43.810 – 14.43.849, unless the context requires otherwise,

(1) “department” means the Department of Education and Early Development;

(2) “grade-point average” means the average of all grades on a four-point scale, or five-point scale for advanced placement classes, obtained by the student in high school;

(3) “high school” means a public or accredited secondary school in the state and a home school program that is approved by the department;

(4) “program” means the Alaska merit scholarship program established under AS 14.43.810 – 14.43.849;

(5) “school district” means a borough school district, a city school district, a regional educational attendance area, and a state boarding school. (sec. 5 ch 14 SLA 2010)

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## Article 13. GENERAL PROVISIONS

### Section

910. Confidentiality of financial need information

930. Scholarship program information

920. Repayment by ineligible recipient

990. Definitions

**Sec. 14.43.910. Confidentiality of financial need information.** All information submitted in support of a determination of financial need as provided in this chapter is confidential. However, an applicant may inspect or copy information from the applicants' application, or records relating to the applicant's own application, or authorize release of the application or records to designated individuals or organizations. (sec. 1 ch 51 SLA 1978)

**Sec. 14.43.920. Repayment by ineligible recipient.** If a person receives a scholarship, loan, or grant under this title for which the person is not eligible under the provisions of this title, the scholarship, loan, or grant is void and the entire balance of money paid is immediately due to the scholarship, loan, or grant fund. This section is in addition to any penalty that may be imposed according to another provision of law. (sec. 23 ch 5 SLA 1996)

**Sec. 14.43.930. Scholarship program information.** *[EED and Board of Regent direction]*. (a) The board shall make information about scholarship programs available in each school district in the state and at each campus of the University of Alaska.

(b) By September 15 before each annual graduation, a qualified high school in the state with a high school graduating class shall provide.

(1) to the board a list of the names and addresses of students in the graduating class who meet scholarship eligibility requirements for each scholarship program; and

(2) a notice of eligibility for the scholarship program to those students on the list prepared under (1) of this subsection.

(c) A school district shall amend its policies, including those applying to student directory information, as necessary to comply with this section.

(d) A qualified high school may not provide to the board the name of a student if the parent of the student objects to the disclosure.

(3) In this section,

(1) "board" means the Board of Regents of the University of Alaska;

(2) "qualified high school" means a public high school, a high school accredited by the Northwest Association of Accredited Schools, or a high school registered with the department. (sec 3 ch 90 SLA 1999; am sec 12 ch 58 SLA 2010)

**Sec. 14.43.990. Definition.** In this chapter,

(1) "AlaskAdvantage" means the service mark registered by the commission under 15 U.S.C. 1051 (Trademark Act) that is used to describe financial aid and higher education outreach programs and services provided by the commission;

(2) "approved federal family education loan institution" means a postsecondary education institution in this state or outside of this state that is approved for participation in the federal guaranteed student loan program;

(3) "commission" means the Alaska Commission on Postsecondary Education;

(4) "corporation" means the Alaska Student Loan Corporation created in AS 14.42.100;

(5) “education loan” means a loan made to finance the cost of attendance in a postsecondary education program that is made by the commission or is a loan received through the federal guaranteed student loan program.

(6) “federal guaranteed student loan program” means the programs of the United States government making postsecondary educational financial aid available under 20 U.S.C. 1070 – 1099c-2, as amended. (sec. 28 ch 43 SLA 1991; am sec. 37, 38 ch 85 SLA 2001; am sec. 28 ch 63 SLA 2004)

## Chapter 44

### INTERSTATE EDUCATION COMPACTS

#### Article

1. Western Regional Higher Education Compact (Secs. 14.44.010 – 14.44.040)
2. Compact for Education (Secs. 14.44.050 – 14.44.060)

#### Article 1. WESTERN REGIONAL HIGHER EDUCATION COMPACT

##### Section

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|---|--|
| 10. Ratification, approval, and adherence | 30. Members of the commission                    |
| 15. Terms and provisions of Compact       | 35. Administration                               |
| 20. Execution of Compact by governor      | 40. Repayment condition for program participants |
| 25. Provisions of services                |  |

**Sec. 14.44.010. Ratification, approval, and adherence.** The Western Regional Higher Education Compact, recommended by the Western Governors' Conference on November 10, 1950, for adoption by the states or territories of Alaska, Arizona, California, Colorado, Idaho, Hawaii, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, is ratified and approved and the adherence of this state to this Compact, upon its ratification and approval by four or more of these states or territories in addition to this state, is declared. (sec. 1 ch 164 SLA 1955)

**Sec. 14.44.015. Terms and provisions of compact.** The terms and provisions of the Compact referred to in AS 14.44.010 are as follows:

#### WESTERN REGIONAL HIGHER EDUCATION COMPACT

##### Article 1

Whereas, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

Whereas, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor all of the States have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

Whereas, it is believed that the Western States, or groups of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof:

Now, therefore, the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territories of Alaska and Hawaii do hereby covenant and agree as follows:

## **Article II**

Each of the compacting states and territories pledge to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this Compact.

## **Article III**

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and to be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

## **Article IV**

The Commission shall consist of three resident members from each compacting state or territory. At all times one Commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which the commissioner is appointed.

The Commissioners from each state and territory shall be appointed by the Governor thereof as provided by law in such state or territory. Any Commissioner may be removed or suspended from office as provided by the law of the state or territory from which the commissioner shall have been appointed.

The terms of each Commissioner shall be four years; provided however, that the first three Commissioners shall be appointed as follows; one for two years, one for three years, and one for four years. Each Commissioner shall hold office until a successor shall be appointed and qualified. If any office becomes vacant for any reason, the Governor shall appoint a Commissioner to fill the office for the remainder of the unexpired term.

## **Article V**

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories. One or more Commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business. Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

## **Article VI**

The Commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be required to carry out the purpose of this Compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The Commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

## **Article VII**

The Commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The Chairman may call such additional meetings and upon the request of a majority of the Commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the Governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the Governors and Legislatures of the compacting states and territories a report of its activities for the preceding calendar year. The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the Governor of any compacting state or territory or designated representatives of the Governor. The Commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

## **Article VIII**

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine, and may undertake similar activities in other professional and graduate fields. For this purpose the Commission may enter into contractual agreements -

(a) with the governing authority of any educational institution in the Region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) with the governing authority of any educational institution in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe. It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources for meeting such needs, and the long-range effects of the Compact on higher education; and from time to time prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the

compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the Governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this Compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

#### **Article IX**

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

#### **Article X**

This Compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1955. This Compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

#### **Article XI**

This Compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and Governor of such terminating state. Any state or territory may at any time withdraw from this Compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the Governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two-year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

#### **Article XII**

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this Compact, all rights, privileges and benefits conferred by this Compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the Commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this Compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by:

- (a) performing all acts and obligations upon which it has heretofore defaulted, and

(b) application to and the approval by a majority vote of the Commission.

### Article XIII

(a) The Western Interstate Commission for Higher Education is authorized to act on behalf of this state in making arrangements for the placement of students in institutions and programs of higher learning outside the states which are parties to the Compact for establishing the Commission. For that purpose, the Commission may negotiate and enter into arrangements and contracts with this state or any appropriate agency of it, with public and private educational institutions and agencies, and with states and other governmental entities. These arrangements and contracts may provide for the obtaining of one or more places for students on either a special or continuing basis; the payment of partial or full tuition and other charges; and the furnishing of reciprocal, compensating or other advantages and benefits in support of the educational program involved.

(b) The authority conferred by (a) of this article shall be exercised only pursuant to written agreement between the Commission and an agency of this state having responsibility for or duties with respect to programs for assisting residents of this state to obtain higher education. Any such agreements shall include provisions for the payment of tuition and any other costs, and no such agreement shall be made which commits this state or any agency or officer of it to any obligation for which funds have not been appropriated or otherwise made available in accordance with law.

(c) Nothing contained in this article alters any of the obligations or restricts or impairs any rights which this state may have under the Compact establishing the Commission. (sec. 2 ch 164 SLA 1955; am sec. 1 ch 70 SLA 1971; am sec 7 ch 71 SLA 1972)

**Sec. 14.44.020. Execution of compact by governor.** Upon ratification and approval of the Western Regional Higher Education Compact by four or more of the specified states or territories in addition to this state, the governor shall execute the Compact on behalf of the state and perform other acts requisite to its formal ratification and promulgation. (sec. 3 ch 1964 SLA 1955)

**Sec. 14.44.025. Provisions of services.** State participation under Articles VIII and XIII of the Western Regional Higher Education Compact shall be limited to the provision of adequate services and facilities in the professional fields of study available through the Professional Student Exchange Program administered by the Western Interstate Commission on Higher Education. The Alaska Commission on Postsecondary Education shall establish funding priorities under AS 14.44.035 for the available fields of study by analyzing student access and state labor needs.

(b) Notwithstanding the funding priorities established under (a) of this section, the Alaska Commission on Postsecondary Education shall provide adequate funding for not fewer than five students each year to attend four-year programs in each of the following fields:

(1) dentistry;

(2) optometry; and

(3) pharmacy. (sec. 2 ch 70 SLA 1971; am sec. 1 ch 96 SLA 1972; am sec. 1 ch 78 SLA 1974; am sec. 1 ch 85 SLA 1977; am sec. 1 ch 102 SLA 1981; am sec. 24 ch 5 SLA 1996; am sec 6 ch 14 SLA 2010)

**Sec. 14.44.030. Members of the commission.** (a) The governor, with the advice and consent of the legislature, shall appoint the members for this state of the Western Interstate Commission for Higher Education, created under the provisions of Article III of the Western Regional Higher Education Compact.

(b) The qualifications and terms of office of the members of the commission of this state shall conform with the provisions of Article IV of the Compact.

(c) The commissioners shall serve without compensation and shall be reimbursed for actual and necessary expenses by the Western Interstate Commission for Higher Education. (sec. 4 ch 164 SLA 1955)

**Sec. 14.44.035. Administration.** The Alaska Commission on Postsecondary Education shall administer the state's participation in the Western Regional Higher Education Compact. The Alaska Commission on Postsecondary Education may adopt regulations to implement AS 14.44.010 – 14.44.040. (sec. 2 ch 78 SLA 1974; am sec. 4 ch 23 SLA 1999)

**Sec. 14.44.040. Repayment condition for program participants.** (a) As a condition of eligibility for receiving financial support from the state under the Professional Student Exchange Program of the Western Interstate Commission on Higher Education, a program participant shall agree to repay to the state the support provided by the state on behalf of that person, plus interest.

(b) A repayment under this section shall be paid into the education loan fund created under AS 14.42.210.

(c) If a program participant defaults on the repayment obligation, the provisions of AS 14.43.145 – 14.43.155 apply to collect on the obligation as if it were a defaulted loan under AS 14.43. (sec. 2 ch. 54 SLA 1998; am sec. 5 ch 23 SLA 1999; am sec. 39, 40 ch 85 SLA 2001; am sec. 29 ch 63 SLA 2004)

## **Article 2. COMPACT FOR EDUCATION**

**Sec. 14.44.050. Entry into compact.** The Compact for Education is enacted into law and entered into in behalf of the State of Alaska with all other states and jurisdictions legally joining in it in a form substantially as contained in AS 14.44.055. (sec. 1 ch 168 SLA 1980)

**Sec. 14.44.055. Terms and provisions of compact.** The terms and provisions of the compact referred to in AS 14.44.050 are as follows:

### **COMPACT FOR EDUCATION.**

#### **Article I. Purpose and Policy.**

**Section A.** It is the purpose of this compact to:

(1) establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels;

(2) provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education;

(3) provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education;

(4) facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

**Section B.** It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

**Section C.** The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

#### **Article II. The Commission.**

**Section A.** The Education Commission of the States, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education and lay and professional public and nonpublic educational leadership. In addition to the members of the commission representing the

party states, there may be not to exceed 10 nonvoting commissioners selected by the steering committee for the terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

**Section B.** The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article III and adoption of the annual report pursuant to Article II (J).

**Section C.** The commission shall have a seal.

**Section D.** The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

**Section E.** Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

**Section F.** The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

**Section G.** The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

**Section H.** The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

**Section I.** The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

**Section J.** The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

### **Article III. Powers.**

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

- (1) collect, correlate, analyze and interpret information and data concerning educational needs and resources;
- (2) encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems;
- (3) develop methods for adequate financing of education as a whole and at each of its many levels;
- (4) conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private;
- (5) formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials;
- (6) do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

### **Article IV. Cooperation with Federal Government.**

**Section A.** If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

**Section B.** The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

### **Article V. Committees.**

**Section A.** To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall have a steering committee of 32 members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that

members elected to the first steering committee of the commission shall be elected as follows: 16 for one year and 16 for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

**Section B.** The commission may establish advisory and technical committees composed of state, local and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

**Section C.** The commission may establish such additional committees as its bylaws may provide.

#### **Article VI. Finance.**

**Section A.** The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

**Section B.** The total amount of appropriation requests under any budget shall be apportioned among the party states as follows: one-third in equal shares; and the remainder in proportion to the population of each party state as shown in the most recent decennial census of population taken by the United States Bureau of the Census, or any agency successor thereto.

**Section C.** The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article II of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to article II (G) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

**Section D.** The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

**Section E.** The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

**Section F.** Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

## **Article VII. Eligible Parties: Entry Into and Withdrawal.**

**Section A.** This compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this compact, shall mean the closest equivalent official of such jurisdiction.

**Section B.** Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

**Section C.** Any party state or jurisdiction may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state or other jurisdiction has given notice in writing of the withdrawal to the governors of all other party states and jurisdictions. No withdrawal shall affect any liability already incurred by or chargeable to a party state or jurisdiction prior to the time of such withdrawal.

## **Article VIII. Construction and Severability.**

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

## **Article IX. State Defined.**

As used in this compact, "state," means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico. (sec. 1 ch 168 SLA 1980)

**Sec. 14.44.060. Members of the commission.** (a) One of the commission members shall be the governor; one shall be the state commissioner of education; two shall be members of the state legislature selected by its respective houses and serving in the manner the legislature may determine; one shall be the president of the state Board of Education; and two shall be appointed at large by and serve at the pleasure of the governor.

(b) The terms of office of the at-large members shall be four years; however, the first members shall be appointed as follows: one for two years, and one for four years. Each member shall hold office until a successor is appointed and qualified.

(c) The legislative and at-large members of the commission serve without compensation but are entitled to per diem and travel expenses provided by law for other state boards and commissions. (sec. 1 ch 168 SLA 1980)

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## CHAPTER 48

### REGULATION OF POSTSECONDARY EDUCATIONAL INSTITUTIONS

Section	Section
010. Purposes	130. Complaints
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**Sec. 14.48.010. Purposes.** (a) It is the purpose of this chapter to provide for the protection, education, and welfare of the citizens of the state, its postsecondary educational institutions, and its students, by

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

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

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

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

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

(6) providing certain rights and remedies to the public and the commission necessary to carry out the purposes of this chapter.

(b) This chapter may not be construed to preclude the development of innovative, alternative postsecondary educational delivery systems or programs if their purposes and their administration, operation, or management are in the public interest and do not conflict with those purposes set out in (a) of this section. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.020. Authorization and permits required.** A person may not

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

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

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

(4) instruct or educate, or offer to instruct or educate, enroll or offer to enroll, contract or offer to contract or award an educational credential, or contract with an institution or person to do so, in or outside the state, unless that person is in compliance with the minimum standards set out in AS 14.48.060, the criteria established by the commission under AS 14.48.050(1), and the regulations adopted by the commission under AS 14.48.050(7);

(5) use the term "university" or "college" without authorization to do so from the commission;

(6) grant, or offer to grant, educational credentials, without authorization to do so from the commission. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.030. Exemptions.** (a) The following educational programs, and institutions providing only the following educational programs, are exempt from the provisions of this chapter:

(1) instruction provided at a level from preschool through grade 12, including preparation for general equivalency diploma examinations;

(2) a program operated by the United States;

(3) a program that does not offer educational credentials and is provided only to prepare individuals to take graduate examinations; and

(4) a program that does not offer educational credentials and is only avocational or recreational in nature.

(b) Except as provided under AS 14.48.165, the commission may exempt the following educational programs, and educational institutions only providing programs exempt under (a) of this section and this subsection, from some or all of the provisions of this chapter:

(1) a program operated by a state or a political subdivision of a state;

(2) instruction sponsored by a bona fide trade, business, labor, professional, or fraternal association or organization, recognized by the commission, and conducted only for that association's or organization's membership;

(3) nonprofit postsecondary educational institutions offering undergraduate or graduate educational programs, from a facility in this state, that are acceptable for credit toward an associate, bachelor's, or graduate degree;

(4) a program that is provided without a fee, other than the actual cost of materials, to students;

(5) a program that does not offer education credentials;

(6) a short course of study that is not more than 10 days or 80 hours in duration;

(7) a program offered within the state by an out-of-state institution that is authorized to operate by the state in which it is located and is nationally or regionally accredited;

(8) a program or institution that is regulated by another agency or political subdivision of the state regarding the quality of course contents, facilities, and operation.

(c) In this section, "nonprofit" means an organization that is exempt under 26 U.S.C. 501(c)(3). (sec. 1 ch 25 SLA 1976; am sec. 1 ch 50 SLA 1977; am sec. 1 ch 12 SLA 1992; am sec.2 ch 112 SLA 1997; am sec 1 ch 21 SLA 2005)

**Sec. 14.48.040. Commission to administer chapter.** The Alaska Commission on Postsecondary Education shall administer this chapter and may hire necessary personnel. The commission may obtain from departments, commissions, and other state agencies information and assistance needed to carry out the provisions of this chapter. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.050. Powers and duties of commission.** The commission shall

- (1) establish minimum criteria consistent with AS 14.48.060 including quality of education, ethical and business practices, health and safety, and fiscal responsibility that applicants for authorization to operate, or for an agent's permit, must meet before the authorization or permit is issued;
- (2) receive, investigate, and act upon applications for authorization to operate postsecondary educational institutions and applications for agent's permits;
- (3) maintain a list of postsecondary educational institutions and agents authorized to operate in the state under this chapter;
- (4) keep current and make available as public information the list of institutions and agents;
- (5) enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the commission the agreements will be helpful in carrying out the purposes of this chapter;
- (6) receive and maintain as a permanent file, copies of academic records maintained in accordance with AS 14.48.060(b)(6);
- (7) adopt regulations and procedures necessary or appropriate for the conduct of its work and the implementation of this chapter under AS 44.62 (Administrative Procedure Act);
- (8) investigate on its own initiative or in response to a complaint lodged with it, persons subject to, or reasonably believed by the commission to be subject to, the jurisdiction of this chapter; and in connection with the investigation subpoena persons, books, records, or documents related to the investigation; require answers in writing under oath to questions propounded by the commission and administer oaths or affirmations to persons in connection with the investigation; and, for the purpose of examination at all reasonable times, shall have access to, and the right to copy, documentary evidence of a corporation that is under investigation or being proceeded against;
- (9) exercise other necessary powers and duties in conformity with the provisions of this chapter that, in the judgment of the commission, are necessary to carry out the provisions of this chapter. (sec. 1 ch 25 SLA 1976; am sec. 25 ch 5 SLA 1996; am sec. 43 ch 85 SLA 2001)

**Sec. 14.48.060. Minimum standards.** (a) In establishing the criteria required by AS 14.48.050(1), the commission shall require compliance with the minimum standards set out in (b) of this section.

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

- (1) the quality and content of each course or program of instruction, training, or study are such as may reasonably and adequately achieve the stated objective for which the course or program is offered;
- (2) the institution has or has access to adequate space, equipment, instructional materials, and personnel where applicable to achieve the stated objective of the course or program of study and to provide education of good quality;
- (3) the education or experience qualifications of directors, administrators, supervisors, and instructors are such as may reasonably ensure that the students will receive education consistent with the objectives of the course or program of study;
- (4) the institution provides a catalog or brochure containing information describing the programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll, together with any other disclosures specified by the commission by regulation; and that this information is provided to prospective students before enrollment;
- (5) upon satisfactory completion of training, the student is given appropriate educational credentials by the institution, indicating that the course of instruction or study has been satisfactorily completed by the student;

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

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

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

(9) neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices which are false, deceptive, misleading, or unfair;

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

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

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

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

(c) Accreditation by national or regional accrediting agencies recognized by the commission may be accepted by the commission as evidence of compliance with the minimum standards established by this section and the criteria established under AS 14.48.050(1). However, the commission may require further evidence and make further investigation as may be necessary. Accreditation by a recognized, specialized accrediting agency may be accepted as evidence of compliance only as to the portion or program of an institution accredited by the accrediting agency if the institution as a whole is not accredited. (sec. 1 ch 25 SLA 1976; am sec. 2 ch 64 SLA 1986)

**Sec. 14.48.070. Authorization to operate.** (a) Each postsecondary educational institution desiring to operate in this state shall apply to the commission, upon forms provided by the commission. The application shall be accompanied by a catalog or brochure published, or proposed to be published by the institution, containing the information specified in AS 14.48.060(b)(4). The application shall also be accompanied by evidence of a surety bond or other deposit as required by AS 14.48.100, and by the required fees.

(b) Following review of the application and after necessary investigation of the applicant the commission shall either grant or deny authorization to operate to the applicant. A grant of authorization to operate may be on those terms and conditions the commission may prescribe.

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

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

(2) the name and address of the institution;

(3) the authority for approval;

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

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

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

(f) At least 60 days before the expiration of an authorization to operate, the institution shall

complete and file with the commission an application form for renewal of its authorization to operate. The renewal application shall be reviewed and acted upon as provided for an original application.

(g) An institution not yet in operation when its application for authorization to operate is filed may not begin operation until receipt of authorization. An institution in operation when its application for authorization to operate is filed may continue operation until its application is acted upon by the commission. The commission may issue provisional authorization to operate, containing limitations as to time, procedures, functions, or other conditions as the commission considers necessary. (sec. 1 ch 25 SLA 1976; am sec. 2 ch 50 SLA 1977)

**Sec. 14.48.080. Agent's permit.** (a) A person desiring to solicit or perform the services of an agent, in this state, shall apply to the commission upon forms provided by the commission. The application shall be accompanied by evidence of the good reputation and character of the applicant and must state the institution that the applicant intends to represent. An agent representing more than one institution must obtain a separate agent's permit for each institution represented. However, when an agent represents institutions having a common ownership, only one agent's permit is required. If an institution that the applicant intends to represent does not have authorization to operate in this state, the application shall be accompanied by the information required of institutions making application for authorization. The application for an agent's permit shall also be accompanied by evidence of a surety bond or other deposit as required by AS 14.48.100, and by payment of the required fees.

(b) An applicant for an agent's permit shall be an individual of good reputation and character and shall represent only a postsecondary educational institution or institutions that meet the minimum standards established in AS 14.48.060 and the criteria established under AS 14.48.050(1).

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

(d) The agent's permit must be in a form approved by the commission and must include

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

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

(f) At least 60 days before the expiration of an agent's permit, the agent shall complete and file with the commission an application form for renewal. The renewal application shall be reviewed and acted upon as provided for an original application. (sec. 1 ch 25 SLA 1976; am sec. 3 ch 50 SLA 1977; am sec. 12 ch 30 SLA 1992)

**Sec. 14.48.090. Fees.** The commission shall adopt regulations that establish the amount and manner of payment of fees for applications, authorizations, permits, and renewals under this chapter. (sec. 1 ch 25 SLA 1976; am sec. 24 ch 138 SLA 1986; am sec. 28 ch 90 SLA 1991; am sec. 3 ch 112 SLA 1997)

**Sec. 14.48.100. Bonds.** (a) At the time application is made for authorization to operate, or for renewal of an authorization to operate the commission may require the postsecondary educational institution to file a surety bond in the amount determined by the commission. The amount shall be determined by the number of students the institution seeks to enroll. The amount of the surety bond shall be reexamined by the commission upon each renewal of the authorization to operate to determine if a larger or smaller bond would be appropriate to ensure adequate protection for the students or enrollees, or their parents or guardians, or classes thereof. The bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state and shall be conditioned to provide indemnification to any student

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

(b) An application for an agent's permit shall be accompanied by a surety bond in the amount determined by the commission to be necessary for the protection of the students or enrollees, or their parents or guardians, or classes of these, or to reflect an institution's volume of business in the state. The bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond shall be conditioned to provide indemnification to any student or enrollee or the student's or enrollee's parents or guardian, or class of these, determined to have suffered loss or damage as a result of an act or practice which is a violation of this chapter by the agent.

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

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

(e) In lieu of the surety bond required in (a) and (b) of this section, the applicant may file with the commission a cash deposit or other negotiable security, acceptable to the commission, in the amount specified for bonds. (sec. 1 ch 25 SLA 1976; am sec. 4, 5 ch 50 SLA 1977)

**Sec. 14.48.110. Denial.** If the commission, upon review of an application for authorization to operate, or an application for an agent's permit determines that the application should be denied, the commission shall notify the applicant, setting out the reasons in writing. AS 44.62 (Administrative Procedure Act) governs the review of a denial under this section. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.120. Sanctions; cessation of operation.** (a) An authorization to operate or an agent's permit may be revoked, suspended, or conditioned if the commission has reasonable cause to believe that the holder of the authorization or permit has violated this chapter, AS 45.50.471, or regulations adopted under this chapter or under AS 45.50.491. Except as provided in (c) and (d) of this section, AS 44.62 (Administrative Procedure Act) governs the procedure for a revocation, suspension, or other sanction under this section.

(b) In addition to the sanctions imposed under (a) of this section, the commission may assess a civil fine, not to exceed \$5,000, for costs of investigating and adjudicating a matter under this section if the commission finds that a violation has occurred.

(c) Authorization for an institution to operate and a permit for an agent representing that institution are canceled 30 days after the institution ceases to operate as a postsecondary educational institution. The commission shall give the institution and the agent 15 days' written notice, by certified mail, sent return receipt requested, to the last known address of the institution and agent.

(d) The institution or the agent may appeal a cancellation under (c) of this section by filing an appeal in writing with the commission within 30 days after the cancellation showing that the institution has not ceased operating as a postsecondary educational institution. (sec. 1 ch 25 SLA 1976; am sec. 3, 4 ch 64 SLA 1986; am sec. 4 ch 112 SLA 1997)

**Sec. 14.48.130. Complaints.** (a) A person claiming damage or loss as a result of an act or practice by a postsecondary educational institution or its agent, or both, which is a violation of this chapter or of the regulations adopted under this chapter may file with the commission a complaint against the institution or against its agent or both. The complaint must set out the alleged violation and must contain other information as may be required by the commission. A complaint may also be filed by the commission on its own motion or the attorney general. A complainant may file with the commission as a representative of a class of complainants.

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

(c) If, based on the evidence at a hearing, the commission finds that a postsecondary educational institution or its agent, or both, has engaged in an act or practice that violates this chapter or regulations adopted under this chapter, the commission

(1) shall serve on the institution or agent, or both, an order requiring the institution or agent, or both, to cease and desist from the act or practice;

(2) may award the individual or class of individuals named in the complaint full or partial restitution for damage or loss if the commission finds that the individual or class of individuals has suffered loss or damage as a result of the act or practice;

(3) may impose the penalties provided for in AS 14.48.190;

(4) may assess a civil fine, not to exceed \$5,000, for costs of investigating and adjudicating a matter under this section; and

(5) may, based on its own investigation and the evidence presented at the hearing, begin an action to revoke an institution's authorization to operate or an agent's permit.

(d) If the commission makes an award under (c)(2) of this section to an individual who owes principal or interest to a lender for a loan received for the purpose of financing education provided by the institution, the institution, or surety, if applicable, shall pay the amount of the award that does not exceed the outstanding loan balance to the lender to be credited against the loan. Notwithstanding this subsection, the commission may, for good cause shown, order that all of the award be paid to an individual who receives an award from the commission. (sec. 1 ch 25 SLA 1976; am sec. 13 ch 30 SLA 1992; am sec. 5, 6 ch 112 SLA 1997; am sec 31 ch 163 SLA 2004)

**Sec. 14.48.140. Judicial review.** A final administrative order issued by the commission is subject to judicial review under AS 44.62 (Administrative Procedure Act). (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.150. Preservation of records.** (a) If a postsecondary educational institution proposes to discontinue its operation, the chief administrative officer of the institution shall file with the commission the original or legible true copies of academic records of the institution as specified by the commission. The records must include that academic information customarily required by colleges when considering students for transfer or advanced study and the academic record of each former student.

(b) If it appears to the commission that records of an institution discontinuing its operations are in danger of being destroyed or otherwise made unavailable to the commission, the commission may seize the records, under an order of the superior court. The commission shall maintain a permanent file of records

coming into its possession under this section. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.160. Enforceability of notes and contracts; student loans.** (a) If a person to whom educational services are to be furnished by a postsecondary educational institution is a resident of this state at the time a contract relating to payment for the services, or a note, instrument, or other evidence of indebtedness relating to the services, is entered into, the provisions of this section govern the rights of the parties to the contract or evidence of indebtedness. The following agreements or provisions of an agreement entered into in connection with the contract or the giving of evidence of indebtedness are invalid:

- (1) that the law of another state shall apply;
- (2) that the maker or person liable on the contract or evidence of indebtedness consents to the jurisdiction of another state;
- (3) that another person is authorized to confess judgment on the contract or evidence of indebtedness;
- (4) that venue is fixed in a particular place.

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

(c) A lending agency extending credit or loaning money to a person for tuition, fees, or other charges of a postsecondary educational institution for educational or other services or facilities to be rendered by the institution, shall conspicuously mark "student loan" on the face of a note, instrument, or other evidence of indebtedness taken in connection with the loan or extension of credit. If the lending agency fails to do so, it is liable for loss or damage suffered by a subsequent assignee, transferee, or holder of the evidence of indebtedness because of the absence of the notation. Notwithstanding the presence or absence of the notation, and notwithstanding an agreement to the contrary, the lending agency making the loan or extending the credit, and a transferee, assignee, or holder of the evidence of indebtedness is subject to all defenses and claims that could be asserted against the postsecondary educational institution that was to render the services or facilities, by any party to the evidence of indebtedness or by the person to whom the services or facilities were to be rendered, up to the amount remaining to be paid. For purposes of this section, "lending agency" means postsecondary educational institution, or a person controlling, controlled by, or held in common ownership with, a postsecondary educational institution, or regularly loaning money to, or to students of, a postsecondary educational institution. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.165. Immunization of postsecondary students.** (a) A postsecondary educational institution in this state shall provide written notice to each student who intends to reside in campus housing before the student's initial period of residence that includes the following information:

- (1) meningococcal disease
  - (A) is a serious illness that can cause death within a few hours of onset; one in 10 cases is fatal, and one in seven survivors of the illness is left with severe disability;
  - (B) is a contagious but also largely preventable infection of the spinal cord fluid and the fluid surrounding the brain;
- (2) scientific evidence suggests that college students living in campus housing are at a moderately increased risk of contracting meningococcal disease; and
- (3) immunization against meningococcal disease decreases the risk of contracting the illness.

(b) A student attending a postsecondary educational institution shall sign a document provided by

the institution indicating that the student has received

- (1) an immunization against meningococcal disease; or
- (2) the notice described under (a) of this section.

(c) Nothing in this section may be construed to require a postsecondary educational institution to provide or pay for immunization against meningococcal disease. (sec 2 ch 21 SLA 2005)

**Sec. 14.48.170. Jurisdiction.** A postsecondary educational institution that is not exempt from the provisions of this chapter, whether or not a resident of, or having a place of business in, this state, which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, contracts or offers to contract, to provide instructional or educational services in this state, whether the instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards educational credentials to a person in or resident of this state, submits the institution, and, if a natural person the personal representative of the institution, to the jurisdiction of the courts of this state concerning a cause of action arising from these activities and for the purpose of enforcement of this chapter by injunction under AS 14.48.180. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.180. Enforcement; injunction.** (a) The attorney general at the request of the commission or on motion of the attorney general, may bring an action or proceeding in a court of competent jurisdiction for the enforcement of the provisions of this chapter.

(b) When it appears to the commission that a person is, is about to, or has violated a provision of this chapter or a regulation adopted under this chapter, the commission may, on its own motion or on the written complaint of any person, file a petition for injunction in the name of the commission in a court of competent jurisdiction against the person for the purpose of enjoining the violation or for an order directing compliance with the provisions of this chapter. It is not necessary that the commission allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to other legal remedies available to the commission and is in addition to the right of criminal prosecution. However, the commission may not obtain a temporary restraining order without notice to the person affected. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.190. Civil penalty.** A person who violates the provisions of AS 14.48.020, or who fails or refuses to deposit with the commission the records required by AS 14.48.150 is subject to a civil penalty of not more than \$1,000 for each violation. Each day's failure to comply with the provisions of AS 14.48.020 and 14.48.150 constitutes a separate violation. The fine may be imposed by the commission in an administrative proceeding or by a court of competent jurisdiction. (sec. 1 ch 25 SLA 1976; am sec 2 ch 20 SLA 2002)

**Sec. 14.48.200. Criminal violation.** A person who willfully violates the provisions of AS 14.48.020 or who willfully fails or refuses to deposit with the commission the records required by AS 14.48.150 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both. Each day's failure to comply is a separate violation. (sec. 1 ch 25 SLA 1976)

**Sec. 14.48.210. Definitions.** In this chapter

(1) "agent" or "agents" mean persons owning an interest in, employed by, or representing for remuneration, a postsecondary educational institution in or outside the state who, by solicitation made in the state, enroll or seek to enroll residents of the state for education offered by the institution, or offer to award educational credentials for remuneration, on behalf of the institution, or who hold themselves out to residents of the state as representing a postsecondary educational institution for any purpose;

(2) "agent's permit" means a nontransferable written authorization issued to a natural person by the commission which allows that person to solicit or enroll a resident of the state for education in a postsecondary educational institution;

(3) "authorization to operate" means approval of the commission to operate or to contract to operate a postsecondary educational institution that provides education or grants educational credentials in the state;

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

(5) "education," "educational program or services," "instruction," or "instructional program" includes any class, course, or program of training, instruction, or study;

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

(7) "owner"

(A) means

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

(ii) a partner of a postsecondary educational institution that is a partnership; or

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

(B) does not include a financial institution holding a mortgage on some or all of the real property or a security interest in some or all of the personal property of a postsecondary educational institution;

(8) "postsecondary educational institution" means academic, vocational, technical, home study, business, professional, or other school, college, or university offering education primarily to persons who have completed or terminated their secondary education, or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives;

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

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

(11) "to operate a postsecondary institution" means to establish or maintain a facility or location where education is provided or postsecondary educational credentials are granted to persons in the state and includes contracting with any person, group, or entity to operate such an educational institution. (sec. 1 ch 25 SLA 1976; am sec. 7 - 10 ch 112 SLA 1997)