

**CS FOR SENATE BILL NO. 70(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/23/11

Referred: Finance

Sponsor(s): SENATORS FRENCH, Davis, Ellis

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing the Alaska Health Benefit Exchange; and providing for an effective**  
2 **date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 INTENT. It is the intent of the legislature in this Act

7 (1) to facilitate the purchase and sale of qualified health plans in the individual  
8 market in this state;

9 (2) to establish a small business health options program exchange to assist  
10 qualified small employers in the state in enrolling employees in qualified health plans offered  
11 in the small group market;

12 (3) to provide consumer education and assist individuals with access to  
13 programs, credits, and cost-sharing reductions;

14 (4) to reduce the number of uninsured Alaskans by creating an organized,

1 transparent, and easy-to-navigate health insurance marketplace that offers a choice of high  
2 value health plans with low administrative costs for individuals and employers; and

3 (5) that the Alaska Health Benefit Exchange Board recommend to the  
4 legislature and the Office of the Governor methods to keep premium costs low and risk pools  
5 strong in the health insurance market place.

6 \* **Sec. 2.** AS 21.54 is amended by adding new sections to read:

7 **Article 2A. Alaska Health Benefit Exchange.**

8 **Sec. 21.54.200. Alaska Health Benefit Exchange.** The Alaska Health Benefit  
9 Exchange is established as a public corporation of the state in the Department of  
10 Commerce, Community, and Economic Development but with separate and  
11 independent legal existence.

12 **Sec. 21.54.210. Alaska Health Benefit Exchange Board.** (a) The Alaska  
13 Health Benefit Exchange Board is established to manage the exchange.

14 (b) The board consists of eight members, including six members appointed by  
15 the governor, the commissioner of health and social services or the commissioner's  
16 designee, serving ex officio, and the director, serving ex officio, without the power to  
17 vote. The members of the board appointed by the governor are

18 (1) a representative of small business employers;

19 (2) a representative of the health care insurance business;

20 (3) a person with expertise in health plan finance;

21 (4) a person with expertise in health plan administration;

22 (5) an actuary or a person with a background in health care actuarial or  
23 economic principles; and

24 (6) a health care consumer representative.

25 (c) Except for the commissioner or the commissioner's designee and the  
26 director, who serve ex officio, each board member serves for a term of three years  
27 beginning on January 1 and until a successor has been appointed. A member is eligible  
28 for reappointment.

29 (d) The board shall select a member to serve as chair and a member to serve as  
30 vice-chair for a term and with duties and powers necessary to perform their functions.

31 (e) A majority of the board constitutes a quorum for transacting business.

1 (f) If a vacancy occurs, the governor shall make an appointment, effective  
2 immediately, for the balance of the unexpired term.

3 (g) Board members and the executive director hired under (j) of this section  
4 shall comply with the requirements of AS 39.50 (public official financial disclosure)  
5 and shall disclose an affiliation with an insurer, agent, broker, or other representative  
6 of an insurer, a health care provider, or a health care facility.

7 (h) Members of the board are entitled to per diem and transportation costs  
8 under AS 39.20.180.

9 (i) A member of the board of directors of the exchange may not be held civilly  
10 or criminally liable for an act or omission if the act or omission was in good faith and  
11 within the scope of the director's duties.

12 (j) The board shall employ an executive director to administer the exchange.  
13 The executive director shall perform duties as prescribed by the board and may  
14 employ a staff to assist in the performance of the duties of the executive director. The  
15 executive director and staff employed under this subsection are in the partially exempt  
16 service under AS 39.25.120.

17 **Sec. 21.54.220. Duties and powers of the Alaska Health Benefit Exchange;**  
18 **limitation.** (a) The Alaska Health Benefit Exchange Board shall

19 (1) facilitate the purchase and sale of qualified health plans;

20 (2) establish a small business health options program exchange to  
21 assist qualified small employers in the state in enrolling employees in a qualified  
22 health plan;

23 (3) provide for the operation of a toll-free telephone hotline to respond  
24 to requests for assistance;

25 (4) provide for enrollment periods under sec. 1311(c)(6), P.L. 111-148  
26 (Patient Protection and Affordable Care Act), as amended, and regulations adopted  
27 under that Act;

28 (5) maintain an Internet website through which enrollees and  
29 prospective enrollees of qualified health plans may obtain standardized comparative  
30 information on those plans;

31 (6) implement procedures for the certification, recertification, and

1 decertification of qualified health plans according to the determination of the division  
2 consistent with guidelines developed by the United States Secretary of Health and  
3 Human Services under sec. 1311(c), P.L. 111-148 (Patient Protection and Affordable  
4 Care Act), as amended, and regulations adopted under that Act;

5 (7) assign a rating to each qualified health plan offered through the  
6 exchange according to the determination of the division in accordance with the criteria  
7 developed by the United States Secretary of Health and Human Services under sec.  
8 1311(c)(3), P.L. 111-148 (Patient Protection and Affordable Care Act), as amended,  
9 and regulations adopted under that Act;

10 (8) determine the level of coverage of each qualified health plan  
11 according to the determination of the division under regulations issued by the United  
12 States Secretary of Health and Human Services under sec. 1302(d)(2)(A), P.L. 111-  
13 148 (Patient Protection and Affordable Care Act), as amended, and regulations  
14 adopted under that Act;

15 (9) use a standardized format for presenting health benefit options in  
16 the exchange, including the use of the uniform outline of coverage established under  
17 42 U.S.C. 300gg et seq. (sec. 2715, Part A, subpart II, title XXVII, Public Health  
18 Service Act);

19 (10) in accordance with sec. 1413, P.L. 111-148 (Patient Protection  
20 and Affordable Care Act), as amended, and regulations adopted under that Act, inform  
21 individuals of title XIX, Social Security Act eligibility requirements for the Medicaid  
22 program under 42 U.S.C. 1396 - 1396w-2, the Children's Health Insurance Program  
23 under 42 U.S.C. 1397aa - 1397mm (title XXI of the Social Security Act), or any  
24 applicable state or local public program; and, if the exchange determines that any  
25 individual is eligible for a program, enroll that individual in that program;

26 (11) establish and make available by electronic means a calculator to  
27 determine the actual cost of coverage after application of any premium tax credit  
28 under 26 U.S.C. 36B (Internal Revenue Code of 1986), and any cost-sharing reduction  
29 under sec. 1402, P.L. 111-148 (Patient Protection and Affordable Care Act), as  
30 amended, and regulations adopted under that Act;

31 (12) establish a small business health options program exchange

1 through which qualified employers may access coverage for their employees and  
 2 which shall enable a qualified employer to specify a level of coverage so that any of  
 3 its employees may enroll in any qualified health plan offered through the small  
 4 business health options program exchange at the specified level of coverage;

5 (13) subject to sec. 1411, P.L. 111-148 (Patient Protection and  
 6 Affordable Care Act), as amended, and regulations adopted under that Act, grant a  
 7 certification attesting that, for purposes of the individual responsibility penalty under  
 8 26 U.S.C. 5000A (Internal Revenue Code of 1986), an individual is exempt from the  
 9 individual responsibility requirement or from the penalty imposed by that section  
 10 because

11 (A) an affordable qualified health plan covering the individual  
 12 is not available through the exchange or through the individual's employer; or

13 (B) the individual meets the requirements for another  
 14 exemption from the individual responsibility requirement or penalty;

15 (14) provide the following information to the United States Secretary  
 16 of the Treasury:

17 (A) the name and taxpayer identification number of each  
 18 individual issued a certification under (13) of this subsection;

19 (B) the name and taxpayer identification number of each  
 20 individual who was an employee but who was determined to be eligible for the  
 21 premium tax credit under 26 U.S.C. 36B (Internal Revenue Code of 1986)  
 22 because

23 (i) the employer did not provide minimum essential  
 24 coverage; or

25 (ii) the employer provided the minimum essential  
 26 coverage, but it was determined under 26 U.S.C. 36B(c)(2)(C) (Internal  
 27 Revenue Code of 1986), to be unaffordable to the employee or not to  
 28 provide the required minimum actuarial value; and

29 (C) the name and taxpayer identification number of each  
 30 individual who

31 (i) notifies the exchange under sec. 1411(b)(4), P.L.

1 111-148 (Patient Protection and Affordable Care Act), as amended, and  
 2 regulations adopted under that Act, that the individual has changed  
 3 employers; and

4 (ii) ceases coverage under a qualified health plan during  
 5 a plan year and the effective date of that cessation;

6 (15) provide to each employer the name of each employee of the  
 7 employer described in (14)(B) of this subsection who ceases coverage under a  
 8 qualified health plan during a plan year and the effective date of the cessation;

9 (16) perform duties required of the exchange by the United States  
 10 Secretary of Health and Human Services or the United States Secretary of the  
 11 Treasury related to determining eligibility for premium tax credits, reduced cost-  
 12 sharing, or individual responsibility requirement exemptions;

13 (17) select entities qualified to serve as navigators as determined by  
 14 the division in accordance with sec. 1311(i), P.L. 111-148 (Patient Protection and  
 15 Affordable Care Act), as amended, and regulations adopted under that Act, and  
 16 standards developed by the United States Secretary of Health and Human Services and  
 17 award grants to enable navigators to

18 (A) conduct public education activities to raise awareness of  
 19 the availability of qualified health plans;

20 (B) distribute fair and impartial information concerning  
 21 enrollment in qualified health plans, the availability of premium tax credits  
 22 under 26 U.S.C. 36B (Internal Revenue Code of 1986), and the availability of  
 23 cost-sharing reductions under sec. 1402, P.L. 111-148 (Patient Protection and  
 24 Affordable Care Act), as amended, and regulations adopted under that Act;

25 (C) facilitate enrollment in qualified health plans;

26 (D) provide referrals to the division for consumer assistance for  
 27 a person with a grievance, complaint, or question regarding the person's health  
 28 benefit plan or coverage, or a determination under that plan or coverage; and

29 (E) provide information in a manner that is culturally and  
 30 linguistically appropriate to the needs of the population being served by the  
 31 exchange;

1 (18) review the rate of premium growth within the exchange and  
2 outside the exchange as determined by the division and rely on the information  
3 developed by the division on whether to continue limiting qualified employer status to  
4 small employers;

5 (19) rely on policies and procedures developed by the division to  
6 minimize adverse selection among plans sold within the exchange and review policies  
7 within the exchange and outside the exchange to monitor the effect of adverse  
8 selection between the two marketplaces;

9 (20) credit the amount of any free choice voucher to the monthly  
10 premium of the plan in which a qualified employee is enrolled, in accordance with sec.  
11 10108, P.L. 111-148 (Patient Protection and Affordable Care Act), as amended, and  
12 regulations adopted under that Act, and collect the amount credited from the offering  
13 employer;

14 (21) consult with persons having an interest in the activities of the  
15 exchange, including

16 (A) health care insurers;

17 (B) health care consumers who are enrollees in qualified health  
18 plans;

19 (C) individuals and entities with experience in facilitating  
20 enrollment in qualified health plans;

21 (D) representatives of small businesses and self-employed  
22 individuals;

23 (E) the division in the Department of Health and Social  
24 Services responsible for administering Medicaid; and

25 (F) advocates for enrolling hard-to-reach populations;

26 (22) establish one or more advisory groups to consult with the board to  
27 provide expertise on and input into operations of the exchange; the membership of an  
28 advisory group may include health care providers, hospitals, and persons identified in  
29 (21) of this subsection;

30 (23) maintain an accurate accounting of all activities, receipts, and  
31 expenditures;

1 (24) submit an annual accounting report to the United States Secretary  
 2 of Health and Human Services, the governor, the director and the legislature; the  
 3 report must include the following information described by insurer by benefit plan:

4 (A) the number of covered persons;

5 (B) the number of covered persons receiving free choice  
 6 vouchers and the amount of free choice vouchers credited;

7 (C) the number of individuals exempted from individual  
 8 responsibility requirements by reason;

9 (D) the number of individuals eligible for premium tax credit;

10 (E) the number of employees who terminated coverage and the  
 11 number of individuals obtaining coverage through the exchange who were  
 12 covered under an employer health plan in the preceding six months; and

13 (F) other data specified by the director;

14 (25) cooperate with an investigation conducted by the division or the  
 15 United States Secretary of Health and Human Services under the Secretary's authority  
 16 under P.L. 111-148 (Patient Protection and Affordable Care Act), as amended, and  
 17 regulations adopted under that Act, and allow the division or the Secretary, in  
 18 coordination with the Inspector General of the United States Department of Health and  
 19 Human Services, to

20 (A) investigate the affairs of the exchange;

21 (B) examine the properties and records of the exchange;

22 (C) require periodic reports in relation to the activities  
 23 undertaken by the exchange;

24 (26) allow a health care insurer to offer a plan that provides limited  
 25 scope dental benefits under 26 U.S.C. 9832(c)(2)(A) (Internal Revenue Code of 1986),  
 26 through the exchange, either separately or in conjunction with a qualified health plan,  
 27 if the plan provides pediatric dental benefits under sec. 1302(b)(1)(J), P.L. 111-148  
 28 (Patient Protection and Affordable Care Act), as amended, and regulations adopted  
 29 under that Act;

30 (27) apply for planning and establishment grants made available to the  
 31 exchange under sec. 1311, P.L. 111-148 (Patient Protection and Affordable Care Act),

1 as amended, and regulations adopted under that Act;

2 (28) rely on the division's determination relating to the potential for  
3 interstate compacts that would permit the sale and purchase of health care insurance  
4 across state borders and recommend particular compact arrangements for legislative  
5 approval; and

6 (29) submit to the director a plan of operation to ensure the fair,  
7 reasonable, and equitable administration of the exchange; the plan of operation  
8 becomes effective on approval in writing by the director, subject to the following:

9 (A) if the exchange fails to submit a suitable plan under this  
10 paragraph, the director may adopt reasonable regulations necessary or  
11 advisable to carry out the provisions of AS 21.54.200 - AS 21.54.270; the  
12 regulations adopted by the director under this subparagraph must continue in  
13 force until modified by the director or superseded by a plan submitted by the  
14 exchange and approved by the director;

15 (B) the plan of operation must

16 (i) establish procedures for the performance of the  
17 duties and powers of the exchange;

18 (ii) establish procedures for handling assets of the  
19 exchange;

20 (iii) establish the amount and method of reimbursing  
21 members of the board of directors;

22 (iv) establish regular places and times for meetings of  
23 the board of directors;

24 (v) establish procedures for records to be kept of all  
25 financial transactions of the exchange, its agents, and the board of  
26 directors;

27 (vi) contain any additional provisions necessary or  
28 proper for the execution of the powers and duties of the exchange.

29 (b) The exchange may

30 (1) enter into a contract for the performance of the exchange's duties  
31 with the Department of Health and Social Services or another entity that has

1 experience in individual and small group health insurance or benefit administration, or  
 2 other experience relevant to the responsibilities to be assumed by the entity, except  
 3 that the exchange may not contract for the performance of its duties with a health care  
 4 insurer or an affiliate of a health care insurer;

5 (2) enter into information-sharing agreements with federal and state  
 6 agencies and other state exchanges to carry out its duties if the agreements include  
 7 adequate protections with respect to the confidentiality of the information to be shared  
 8 and comply with all state and federal laws and regulations; and

9 (3) apply for and receive grants or donations from federal, state, local  
 10 government, foundation, or private entities; the exchange shall make records of  
 11 application for or receipt of grants or donations under this paragraph available to the  
 12 public on the exchange's Internet website within 30 days after application or receipt.

13 (c) The exchange may not use money intended for the administrative and  
 14 operational expenses of the exchange for staff retreats, promotional giveaways, or  
 15 excessive executive compensation.

16 (d) Neither the exchange nor a health care insurer offering a health benefit  
 17 plan through the exchange may charge an individual a fee or penalty for termination of  
 18 coverage if the individual enrolls in another type of minimum essential coverage  
 19 because

20 (1) the individual has become newly eligible for that coverage; or

21 (2) the individual's employer-sponsored coverage has become  
 22 affordable under the standards of 26 U.S.C. 36B(c)(2)(C) (Internal Revenue Code of  
 23 1986).

24 **Sec. 21.54.230. Health benefit plan certification.** (a) The exchange may  
 25 certify a health benefit plan as a qualified health plan if

26 (1) the plan provides the essential health benefits described in sec.  
 27 1302(a), P.L. 111-148 (Patient Protection and Affordable Care Act), as amended, and  
 28 regulations adopted under that Act, except that the plan is not required to provide  
 29 essential benefits that duplicate the minimum benefits of qualified dental plans if

30 (A) the exchange has determined that at least one qualified  
 31 dental plan is available to supplement the plan's coverage; and

1 (B) the health care insurer makes prominent disclosure at the  
2 time it offers the plan, in a form approved by the exchange, that the plan does  
3 not provide the full range of essential pediatric benefits, and that qualified  
4 dental plans providing those benefits and other dental benefits not covered by  
5 the plan are offered through the exchange;

6 (2) the premium rates and contract language have been approved by  
7 the director;

8 (3) the plan provides at least a bronze level of coverage under  
9 AS 21.54.220(a)(7) unless the plan is certified as a qualified catastrophic plan, meets  
10 the requirements of P.L. 111-148 (Patient Protection and Affordable Care Act), as  
11 amended, and regulations adopted under that Act, for catastrophic plans, and will only  
12 be offered to individuals eligible for catastrophic coverage;

13 (4) the cost-sharing requirements of the plan do not exceed the limits  
14 established under sec. 1302(c)(1), P.L. 111-148 (Patient Protection and Affordable  
15 Care Act), as amended, and regulations adopted under that Act, and, if the plan is  
16 offered through the small business health options program exchange, the deductible  
17 for the plan does not exceed the limits established under sec. 1302(c)(2), P.L. 111-148  
18 (Patient Protection and Affordable Care Act), as amended, and regulations adopted  
19 under that Act;

20 (5) the health care insurer offering the plan

21 (A) is licensed and in good standing to offer health insurance  
22 coverage in the state;

23 (B) offers at least one qualified health plan that provides a  
24 silver level of coverage under AS 21.54.220(a)(7) and at least one plan that  
25 provides a gold level of coverage through each small business health options  
26 program exchange and exchange for individual coverage in which the health  
27 care insurer participates;

28 (C) charges the same premium rate for each qualified health  
29 plan without regard to whether the plan is offered through the exchange and  
30 without regard to whether the plan is offered directly from the health care  
31 insurer or through an insurance producer;

1 (D) does not charge cancellation fees or penalties in violation  
2 of AS 21.54.220(d); and

3 (E) complies with the regulations developed by the United  
4 States Secretary of Health and Human Services under sec. 1311(d), P.L. 111-  
5 148 (Patient Protection and Affordable Care Act), as amended, and regulations  
6 adopted under that Act, and other requirements the exchange establishes;

7 (6) the plan meets the requirements of certification as adopted by  
8 regulation under AS 21.54.250 and by the United States Secretary of Health and  
9 Human Services under sec. 1311(c), P.L. 111-148 (Patient Protection and Affordable  
10 Care Act), as amended, and regulations adopted under that Act, which include  
11 minimum standards in the areas of marketing practices, network adequacy, essential  
12 community providers in underserved areas, accreditation, quality improvement,  
13 uniform enrollment forms, and descriptions of coverage and information on quality  
14 measures for health benefit plan performance; and

15 (7) the exchange determines that making the plan available through the  
16 exchange is in the interest of qualified individuals and qualified employers in this  
17 state.

18 (b) The exchange may not exclude a health benefit plan

19 (1) because the plan is a fee-for-service plan;

20 (2) by imposing premium price controls; or

21 (3) because the plan provides treatments necessary to prevent patients'  
22 deaths that the exchange determines are inappropriate or too costly.

23 (c) The exchange shall require each health care insurer seeking certification of  
24 a plan as a qualified health plan to

25 (1) submit to the exchange a justification for any premium increase  
26 before implementation of that increase; the health care insurer shall prominently post  
27 the justification information on the health care insurer's Internet website; the exchange  
28 shall consider the information submitted, along with the information and the  
29 recommendations provided to the exchange by the director under 42 U.S.C. 300gg-94  
30 (sec. 2794(b), Part C, title XXVII, Public Health Service Act) when determining  
31 whether to allow the health care insurer to make plans available through the exchange;

1 (2) make available to the public in plain language, as defined in sec.  
2 1311(e)(3)(B), P.L. 111-148 (Patient Protection and Affordable Care Act), as  
3 amended, and regulations adopted under that Act, and submit to the exchange, the  
4 United States Secretary of Health and Human Services, and the director accurate and  
5 timely disclosure of the following:

6 (A) claims payment policies and practices;

7 (B) periodic financial disclosures;

8 (C) data on enrollment;

9 (D) data on disenrollment;

10 (E) data on the number of claims that are denied;

11 (F) data on rating practices;

12 (G) information on cost-sharing and payments with respect to  
13 any out-of-network coverage;

14 (H) information on enrollee and participant rights under Title I  
15 of P.L. 111-148 (Patient Protection and Affordable Care Act), as amended, and  
16 regulations adopted under that Act; and

17 (I) other appropriate information as determined by the United  
18 States Secretary of Health and Human Services.

19 (3) permit individuals to learn, in a timely manner on the request of the  
20 individual, the amount of cost-sharing, including deductibles, copayments, and  
21 coinsurance, under the individual's plan or coverage that the individual would be  
22 responsible for paying with respect to the furnishing of a specific item or service by a  
23 participating provider; a minimum, that information must be made available to the  
24 individual through an Internet website and through other means for individuals  
25 without access to the Internet.

26 (d) The exchange may not exempt a health care insurer seeking certification of  
27 a qualified health plan from state licensure or solvency requirements, regardless of the  
28 type or size of the health care insurer, and shall apply the criteria of this section in a  
29 manner that ensures equality between or among health care insurers participating in  
30 the exchange.

31 (e) The provisions of AS 21.54.200 - 21.54.270 that are applicable to qualified

1 health plans also apply, to the extent relevant, to qualified dental plans, except as  
 2 modified under (1) - (3) of this subsection or by regulations adopted by the exchange.  
 3 Under this subsection,

4 (1) the health care insurer shall be licensed to offer dental coverage,  
 5 but need not be licensed to offer other health benefits;

6 (2) the plan must be limited to dental and oral health benefits, without  
 7 substantially duplicating the benefits typically offered by a health benefit plan without  
 8 dental coverage and must include, at a minimum, the essential pediatric dental benefits  
 9 prescribed by the United States Secretary of Health and Human Services under sec.  
 10 1302(b)(1)(J), P.L. 111-148 (Patient Protection and Affordable Care Act), as amended,  
 11 and regulations adopted under that Act, and other dental benefits as the exchange or  
 12 the Secretary may specify by regulation; and

13 (3) the health care insurer may jointly offer a comprehensive plan  
 14 through the exchange in which the dental benefits are provided by a health care insurer  
 15 through a qualified dental plan and the other benefits are provided by a health care  
 16 insurer through a qualified health plan if the plans are priced separately and are also  
 17 made available for purchase separately at the same price.

18 **Sec. 21.54.240. Exchange funding; publication of costs of the exchange.** (a)  
 19 The exchange may charge assessments or user fees to a health care insurer offering a  
 20 health benefit plan or otherwise generate funding necessary to support its operations  
 21 provided under AS 21.54.200 - 21.54.270.

22 (b) The exchange shall publish the average costs of licensing, regulatory fees,  
 23 and any other payments required by the exchange, and the administrative costs of the  
 24 exchange, on its Internet website. That information must include information on  
 25 money lost to waste, fraud, and abuse.

26 **Sec. 21.54.250. Regulations.** The division or the exchange may adopt  
 27 regulations to implement their respective authority under the provisions of  
 28 AS 21.54.200 - 21.54.270. Regulations adopted under this section may not conflict  
 29 with or prevent the application of regulations adopted by the United States Secretary  
 30 of Health and Human Services under P.L. 111-148 (Patient Protection and Affordable  
 31 Care Act), as amended, and regulations adopted under that Act.

1           **Sec. 21.54.260. Relation to other laws.** Provisions of AS 21.54.200 -  
 2 21.54.270, and actions taken by the exchange under AS 21.54.200 - 21.54.270 may  
 3 not be construed to preempt or supersede the authority of the director to regulate the  
 4 business of insurance in the state. Except as expressly provided to the contrary in  
 5 AS 21.54.200 - 21.54.270, all health care insurers offering qualified health plans in the  
 6 state shall comply fully with all applicable health insurance laws of the state and  
 7 regulations adopted and orders issued by the director.

8           **Sec. 21.54.270. Definitions.** In AS 21.54.200 - 21.54.270,

9           (1) "board" means the Alaska Health Benefit Exchange Board  
 10 established AS 21.54.210;

11           (2) "exchange" means the Alaska Health Benefit Exchange established  
 12 under AS 21.54.200;

13           (3) "health benefit plan" has the meaning given in AS 21.54.500,  
 14 except that, notwithstanding AS 21.54.500, it does not include

15                   (A) coverage only for accident or disability income insurance,  
 16 or any combination of accident or disability income insurance;

17                   (B) coverage issued as a supplement to liability insurance;

18                   (C) liability insurance, including general liability insurance and  
 19 automobile liability insurance;

20                   (D) workers' compensation insurance or similar insurance;

21                   (E) automobile medical payment insurance;

22                   (F) credit-only insurance;

23                   (G) coverage for on-site medical clinics;

24                   (H) insurance coverage specified in federal regulations issued  
 25 under the P.L. 104-191 (Health Insurance Portability and Accountability Act of  
 26 1996), under which benefits for health care services are secondary or incidental  
 27 to other insurance benefits;

28                   (I) the following benefits if they are provided under a separate  
 29 policy, certificate, or contract of insurance or are otherwise not an integral part  
 30 of the plan:

31                           (i) limited scope dental or vision benefits;

1 (ii) benefits for long-term care, nursing home care,  
 2 home health care, community-based care, or any combination of long-  
 3 term care, nursing home care, home health care, or community based  
 4 care;

5 (J) limited benefits specified in federal regulations issued under  
 6 P. L. 104-191 (Health Insurance Portability and Accountability Act of 1996);

7 (K) the following benefits if the benefits are provided under a  
 8 separate policy, certificate, or contract of insurance; there is no coordination  
 9 between the provision of the benefits and any exclusion of benefits under any  
 10 group health plan maintained by the same plan sponsor; and the benefits are  
 11 paid with respect to an event without regard to whether benefits are provided  
 12 with respect to an event under any group health plan maintained by the same  
 13 plan sponsor:

14 (i) coverage for only a specified disease or illness; or

15 (ii) hospital indemnity or other fixed indemnity  
 16 insurance;

17 (L) the following benefits if offered as a separate policy,  
 18 certificate, or contract of insurance:

19 (i) Medicare supplemental health insurance as defined  
 20 in 42 U.S.C. 1395ss(g)(1) (sec. 1882(g)(1) ch. 7, Subchapter XVIII,  
 21 Part E, Social Security Act);

22 (ii) coverage supplemental to the coverage provided 10  
 23 U.S.C. 1071 - 1110a (Civilian Health and Medical Program of the  
 24 Uniformed Services (CHAMPUS)); or

25 (iii) similar supplemental coverage provided to  
 26 coverage under a group health plan;

27 (4) "qualified dental plan" means a limited scope dental plan that has  
 28 been certified under AS 21.54.230(e);

29 (5) "qualified employer" means a small employer that elects to make  
 30 its full-time employees and, at the option of the employer, some or all of its part-time  
 31 employees, eligible for one or more qualified health plans offered through the small

1 business health options program exchange if the employer

2 (A) has its principal place of business in this state and elects to  
3 provide coverage through the small business health options program exchange  
4 to all of its eligible employees, wherever employed; or

5 (B) elects to provide coverage through the small business  
6 health options program exchange to all of its eligible employees who are  
7 principally employed in this state;

8 (6) "qualified health plan" means a health benefit plan that has in effect  
9 a certification that the plan meets the criteria for certification described in sec.  
10 1311(c), P.L. 111-148 (Patient Protection and Affordable Care Act), as amended, and  
11 regulations adopted under that Act, and AS 21.54.230;

12 (7) "qualified individual" means an individual, including a minor, who

13 (A) is seeking to enroll in a qualified health plan offered to  
14 individuals through the exchange;

15 (B) resides in this state;

16 (C) at the time of enrollment, is not incarcerated, other than  
17 incarceration pending the disposition of charges; and

18 (D) for the entire period for which enrollment is sought, is and  
19 is reasonably expected to be a citizen or national of the United States or an  
20 alien lawfully present in the United States;

21 (8) "small business health options program exchange" means the small  
22 business health options exchange under AS 21.54.220(a)(12) and sec. 1321, P.L. 111-  
23 148, (Patient Protection and Affordable Care Act), as amended, and regulations  
24 adopted under that Act;

25 (9) "small employer," notwithstanding AS 21.54.500, means an  
26 employer that employed an average of not more than 50 employees during the  
27 preceding calendar year; for purposes of this paragraph,

28 (A) a person treated as a single employer under 26 U.S.C. 414  
29 (b), (c), (m), or (o) (Internal Revenue Code of 1986), shall be treated as a  
30 single employer;

31 (B) an employer and any predecessor employer shall be treated

1 as a single employer;

2 (C) all employees shall be counted, including a part-time  
3 employee and an employee who is not eligible for coverage through the  
4 employer;

5 (D) if an employer was not in existence throughout the  
6 preceding calendar year, the determination of whether that employer is a small  
7 employer shall be based on the average number of employees the employer is  
8 reasonably expected to employ on business days in the current calendar year;  
9 and

10 (E) an employer that makes enrollment in qualified health plans  
11 available to its employees through the small business health options program  
12 exchange and that would cease to be a small employer because of an increase  
13 in the number of its employees, shall continue to be treated as a small  
14 employer for purposes of AS 21.54.200 - 21.54.270 as long as the employer  
15 continuously makes enrollment through the small business health options  
16 program exchange available to its employees.

17 \* **Sec. 3.** AS 39.25.120(c) is amended by adding a new paragraph to read:

18 (21) the executive director and employees of the Alaska Health Benefit  
19 Exchange Board employed under AS 21.54.210(j).

20 \* **Sec. 4.** AS 39.50.200(a)(9) is amended to read:

21 (9) "public official" means

22 (A) a judicial officer;

23 (B) the governor or the lieutenant governor;

24 (C) a person hired or appointed in a department in the  
25 executive branch as

26 (i) the head or deputy head of the department;

27 (ii) the director or deputy director of a division;

28 (iii) a special assistant to the head of the department;

29 (iv) a person serving as the legislative liaison for the  
30 department;

31 (D) an assistant to the governor or the lieutenant governor;

- 1 (E) the chair or a member of a state commission or board;
- 2 (F) state investment officers and the state comptroller in the  
3 Department of Revenue;
- 4 (G) the chief procurement officer appointed under  
5 AS 36.30.010;
- 6 (H) the executive director of the Alaska Workforce Investment  
7 Board;
- 8 (I) each appointed or elected municipal officer; [AND]
- 9 (J) the members of the board of trustees, the executive director,  
10 and the investment officers of the Alaska Permanent Fund Corporation; **and**
- 11 **(K) the executive director of the Alaska Health Benefit**  
12 **Exchange employed under AS 21.54.210;**

13 \* **Sec. 5.** AS 39.50.200(b) is amended by adding a new paragraph to read:

14 (64) the Alaska Health Benefit Exchange Board (AS 21.54.210).

15 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 TRANSITIONAL PROVISIONS. Notwithstanding AS 21.54.210(c), enacted by sec.  
18 2 of this Act, the initial terms for members of the Alaska Health Benefit Exchange Board  
19 appointed by the governor are as follows:

20 (1) three members shall be appointed to serve for terms ending December 31,  
21 2011;

22 (2) three members shall be appointed to serve for terms ending December 31,  
23 2012.

24 \* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 TRANSITION: REGULATIONS. The Alaska Health Benefit Exchange Board  
27 established under AS 21.54.200, enacted by sec. 2 of this Act, and the director of insurance  
28 may adopt regulations necessary to implement their respective powers and duties created by  
29 this Act under AS 21.54.250, enacted by sec. 2 of this Act. The regulations take effect under  
30 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory  
31 changes.

1     \* **Sec. 8.** AS 21.54.200, 21.54.210, 21.54.220, 21.54.250, and 21.54.270, enacted by sec. 2  
2 of this Act, and secs. 3 - 6 of this Act take effect July 1, 2011.

3     \* **Sec. 9.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

4     \* **Sec. 10.** Except as provided in secs. 8 and 9 of this Act, this Act takes effect July 1, 2012.